



NATIONAL CAMPAIGN AGAINST TORTURE

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10th December 2020

NO EXCUSE OF KLEPTOMANIA:

Poverty, Prejudices and Torture in India





**NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India**

Table of Contents

ABBREVIATIONS	3
EXECUTIVE SUMMARY & RECOMMENDATIONS	5
1. QUANTIFYING THE VULNERABILITY OF THE POOR AND WEAKER SECTIONS TO TORTURE	8
1.1 NATIONAL AND INTERNATIONAL FINDINGS ON LINKAGE BETWEEN POVERTY AND TORTURE	8
1.2 NHRC'S ANNUAL REPORTS: 72.34% VICTIMS OF THE ILLUSTRATIVE CASES BELONG TO THE POOR AND VULNERABLE	10
1.3 NCAT FINDINGS FOR 2019: AT LEAST 60% CUSTODIAL DEATH VICTIMS BELONGED TO POOR AND MARGINALISED GROUPS	11
1.4 HOW THE VULNERABLE ARE TARGETED: NCRB FINDINGS	27
1.5 THE CASE OF THE CHAKMAS AND HAJONGS OF ARUNACHAL PRADESH	30
2. DENIAL OF ACCESS TO JUSTICE TO THE POOR AND VULNERABLE	34
3. FAILURE OF THE LEGAL AID SYSTEM	45
4. HOW TORTURE CONTRIBUTES TO FURTHER DESTITUTION	48
4.1 CASES OF SOLE BREAD EARNERS KILLED IN CUSTODY	48
ANNEXURE 1: LIST OF THE ILLUSTRATIVE CASES OF CUSTODIAL DEATHS/RAPES CITED IN THE NHRC ANNUAL REPORTS FROM 1996-97 TO 2017-18	58
ANNEXURE 2: EXCERPTS OF THE ILLUSTRATIVE CASES OF CUSTODIAL DEATHS CITED IN THE NHRC ANNUAL REPORTS FROM 1996-97 TO 2017-18	64
ANNEXURE-3: LIST OF THE ILLUSTRATIVE CASES OF CUSTODIAL DEATHS NOT LEADING TO DEATH CITED IN THE NHRC ANNUAL REPORTS FROM 1996-97 TO 2017-18	165
ANNEXURE-4: EXCERPTS OF THE ILLUSTRATIVE CASES OF CUSTODIAL DEATHS NOT LEADING TO DEATH CITED IN THE NHRC ANNUAL REPORTS FROM 1996-97 TO 2017-18	169



ABBREVIATIONS

ACHR	Asian Centre for Human Rights
ADM	Additional District Magistrate
AIGP	Additional Inspector General of Police
AIIMS	All India Institute of Medical Sciences
ASI	Assistant Sub Inspector
BSF	Border Security Force
CAT	Campaign Against Torture
CB-CID	Crime Branch-Criminal Investigation Department
CHC	Community Health Centre
CIA	Crime Investigation Agency
CID	Criminal Investigation Department
CJM	Chief Judicial Magistrate
Cr.P.C.	Code of Criminal Procedure
CRPF	Central Reserve Police Force
CSO	Civil Society Organization
DCP	Deputy Commissioner of Police
DIG	Deputy Inspector General
DG	Director General
DGP	Director General of Police
DM	District Magistrate
FIR	First Information Report
Govt.	Government
GRP	Government Railway Police
GRPS	Government Railway Police Staff
IGP	Inspector General of Police
IMA	Indian Medical Association
IPC	Indian Penal Code



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

IO	Investigating Officer
IRBn	Indian Reserve Battalion
MASUM	Banglar Manabadhikar Suraksha Mancha
MHA	Ministry of Home Affairs
NCAT	National Campaign Against Torture
NCRB	National Crime Records Bureau
NGO	Non-governmental organization
NHRC	National Human Rights Commission
No.	Number
NoK	Next of kin
PC	Police Constable
PHRA	Protection of Human Rights Act
PMR	Post mortem report
P.S.	Police Station
Rs.	Rupees
SC	Scheduled Caste
SDM	Sub Divisional Magistrate
SDPO	Sub Divisional Police Officer
SHO	Station House Officer
S.I.	Sub Inspector
s/o	Son of
SP	Superintendent of Police
SSB	Sashastra Seema Bal
SSP	Senior Superintendent of Police
ST	Scheduled Tribe
TV	Television
UP	Uttar Pradesh
u/s	Under Section
UTP	Under trial prisoner
UNCAT	United Nations Convention Against Torture



EXECUTIVE SUMMARY & RECOMMENDATIONS

“It is the poor who are at the receiving end of the excesses by law enforcement authorities. A man without property and without a regular income is always under suspicion of being a thief or a person out to commit some offence.” – Law Commission of India¹

If a poor lifts something unauthorisedly, he/she is immediately accused as a thief and often subjected to beatings at the hands of the public or the police. However, if a celebrity or a rich person lifts, she/he may claim to suffer from kleptomania i.e. an illness. This class division has devastating impact on the administration of criminal justice system in India.

Poor are the worst victims of custodial violence without access to the rule of law. The poor can be identified easily often with the nature of the offences they are accused of - theft, burglary, selling of liquor illegally, gambling, etc while the economically erll off sections are charged with forgery, cheating and fraud and other white color offences like bribery, cybercrime, money laundering, tax evasion etc.

In India, a country ridden with caste and religious prejudices, the poor mainly come from the lower castes, known as the Dalits, Adivasis and the religious minority groups, mainly Muslims. That the poor and those belong to vulnerable sections of the society suffer from poverty is quantifiable in India.

In its annual reports from the year 1996-97 to 2017-18, the National Human Rights Commission (NHRC) cited 95 illustrative cases of torture and rape leading to death. An analysis of these 95 cases show that 95 persons died in police custody across the country as a result of torture and/or rape. Out of these 95 victims, 68 comprising 71.58% have been found to be from poor socio-economic background or marginalised section of the society while socio-economic background of 24 victims constituting 25.26% could not be ascertained and three victims comprising 3.19% were found to be from middle class families.²

In its annual reports from the year 1996-97 to 2017-18, the NHRC also gave a total of 84 emblematic cases victims of illegal detention and police torture not resulting into

¹.177th Report of the Law Commission of India on Law Relating to Arrest, December 2001; available at: <http://lawcommissionofindia.nic.in/reports/177rptp1.pdf>

².Analysis of cases of deaths in police custody illu`strated by the NHRC in its Annual Reports from 1996-97 to 2017-2018 by NCAT



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

death. An analysis of these emblematic cases shows that a total of 125 victims were subjected to torture.³

In 2019, the National Campaign Against Torture⁴ (NCAT) in its “*India Annual Report on Torture–2019*” documented deaths of 125 persons in 124 cases in police custody in the country. Out of the 125 persons who died in police custody, 75 persons or 60% belonged to the poor and marginalised groups. These included 13 victims from Dalit and tribal communities, 15 victims belonged to Muslim minority community, 37 victims were picked up for petty crimes such as theft/burglary/cheating/selling of liquor illegally, gambling, etc, three were farmers, one was labourer, one was a refugee, two were security guards, one was a rag-picker and two worked as drivers.

The NCAT’s “*India Annual Report on Torture–2019*” ascertained the socio-economic status of 95 victims in 68 cases. Out of the 95 victims, about 75 victims or 78% of the total identified victims were from poor socio-economic background or marginalized section of the society. The victims included 27 children including girls (comprising 28.42% of the total 126 victims); 14 poor people accused of theft/robbery/selling of illicit liquor, etc (comprising 14.74%); 14 were from religious minority communities including 13 Muslims and one Jain (comprising 14.74%); 12 were women (comprising 12.63%); and eight were Scheduled Tribe/Scheduled Caste persons (comprising 8.42%). The rest of the identified victims (19 or 20%) belonged to middle class families or upper castes.⁵

Vulnerable groups of India i.e. Muslims, Dalits (Scheduled Castes) and Adivasis (Scheduled Tribes) have been the worst victims of the criminal justice system. It is not because persons belonging to these groups commit more crimes but simply because of the prejudices in the law enforcement make them usual suspects in any crime. Economic conditions i.e. inability to avail competent legal representation makes the matter worse.

As per *Prison Statistics India 2019* of the National Crime Records Bureau, in 2019 there were total 1,44,125 convicted prisoners in Indian prisons. Of these, 75,002 comprising 52% were found to be from three communities i.e. Muslims (23,962), Scheduled Castes (31,342) and Scheduled Tribes (19,698) although their combined share to India’s total population stood only at 39% as per 2011 census. Further, the Muslims, SCs and STs constituted 50% of the total 3,30,487 under trial prisoners in India as of 31 December 2019 despite being about 39% of the total population.

³. Analysis of cases of custodial torture not resulting in death illustrated by the NHRC in its Annual Reports from 1996–97 to 2017–2018

⁴. National Campaign Against Torture is an initiative of the Asian Centre for Human Rights.

⁵. Analysis of cases of custodial torture not resulting in death illustrated by the NHRC in its Annual Reports from 1996–97 to 2017–2018



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

Persons belonging to discriminated groups have also been disproportionate victims of torture and custodial deaths.

A specific community study show that in Arunachal Pradesh where the Chakma and Hajong tribes face serious discrimination as descendants of migrants from East Pakistan, the NHRC recorded a total of 15 deaths in police custody during 2014-2015 to 2018-2019 in the State.⁶ Out of these 15 deaths, three victims were from the Chakma community i.e. Raj Kumar Chakma who died on 3 September 2019, Subash Chakma who died on 19 April 2015 and Pintu Chakma who died on 30 April 2014. As per 2011 census of Arunachal Pradesh, the Chakma population was about 47,730 persons⁷ against total population of 1,383,727 persons⁸ in the State. Although the Chakmas represents only about 3% of the total population of the state, they constituted about 20% of the deaths in police custody recorded by the NHRC from 2014-2015 to 2018-2019.

A large number of victims of custodial death are also the sole earning member of the family and the family members of the deceased are left to lead a pathetic life in penury after the death of bread earners in police custody.⁹

There is a need to break the linkages between poverty and torture and the NCAT makes the following recommendations:

- Provide legal aid the moment a person taken into custody is produced before the Magistrate and does not have a lawyer;
- Determine the quantum of compensation to be awarded based on economic criteria and award higher compensation if torture and deaths reduced the family members to lead a pathetic life in penury; and
- Provide legal support for prosecution of the culprits in case of violations of rights of the poor.

⁶. See Annual Reports of the NHRC, 2008–2009 to 2015–2016, & Lok Sabha Unstarred Question No.218 answered by Minister of State for Home Affairs, Hansraj Gangaram Ahir on 11 December 2018, <https://mha.gov.in/MHA1/Par2017/pdfs/par2018-pdfs/ls-11122018/218.pdf>

⁷. RTI Reply dated 24.10.2018 by the Office of the Registrar General, India, Language Division, Kolkata on “District Wise Population of Male & Female Growth Rate of Chakma (2011 CENSUS)

⁸. Arunachal Pradesh Population 2011, Census of India,
<https://www.census2011.co.in/census/state/arunachal+pradesh.html>

⁹. 152nd Report of the Law Commission of India titled, “Custodial Crimes,” as available at: <http://lawcommissionofindia.nic.in/101-169/Report152.pdf>



1. QUANTIFYING THE VULNERABILITY OF THE POOR AND WEAKER SECTIONS TO TORTURE

That poverty makes people vulnerable to torture is universally known. It is often the poor and the persons belonging to the vulnerable groups who suffer from prejudices and discrimination are the most vulnerable to torture. Poverty and prejudices make a lethal combination.

1.1 National and international findings on linkage between poverty and torture

This issue has been highlighted by the Law Commission of India in its 152nd Report titled, “Custodial Crimes” published in 1994. The Law Commission, *inter alia*, stated “*The victims of custodial crimes, torture, injury or death, mostly belong to the weaker section of our society, the Law Commission considered it necessary to take up this matter sou moto for an in-depth study.*”¹⁰

The Law Commission noted that generally, the victims of custodial crimes, torture, injury or death belong to weaker sections of society. The poor, the downtrodden and the ignorant with little or no political or financial power are unable to protect their interests. The affluent members of the society are generally not subjected to torture as the police is afraid of their resources as such resourceful persons immediately approach higher authorities and courts to regain their freedom. Members of the weaker or poorer sections of society are arrested informally and kept in police custody for days together without any entry of such arrests in the police records. During the informal detention they are subjected to torture, which at times results in death. In the event of death in custody, the body of the deceased is disposed of stealthily or thrown to a public place making out a case of suicide or accident. Records are manipulated to shield the police personnel. The relatives or friends of the victim are unable to seek protection of law on account of their poverty, ignorance and illiteracy. But even if some voluntary organizations take up their case or public interest litigation is initiated against the erring public officers, no effective or speedy remedy is available to them, as a result of which erring public officers go scot-free. The situation gives rise to a belief that the laws' protection is meant for the rich and not for the poor. If the incidents of custodial crimes are not controlled or eliminated, the Constitution, the

¹⁰. 152nd Report of the Law Commission of India titled, “Custodial Crimes,” as available at: <http://lawcommissionofindia.nic.in/101-169/Report152.pdf>



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

law, and the State would have no meaning to the people which may ultimately lead to anarchy destabilizing the society.¹¹

The Law Commission pointed out that in the event of death of the earning member of a poor family in custody; the family members of the deceased are left to lead a pathetic life in penury. It said that various enquiry commissions appointed by the Government to enquire into custodial deaths have recommended the amendment of the law, providing for relief and rehabilitation to the family members of the deceased. The existing law does not adequately provide for the grant of compensation or damages to the affected family members, nor are there provision for granting interim relief. Though relief for damages may be claimed in tort through a civil suit but the legal position in this respect is unclear and the process of civil suit is too cumbersome, making it illusory.¹²

The Law Commission concluded, *“Invariably, the victims of torture and death in custody are poor persons who do not have adequate resources or finances to protect their life and liberty. In many cases the sole bread earner of a poor family is the victim of custodial death leaving the entire family in a State of penury and starvation.”* Stressing on the indispensability to prevent recurrence of such incidents and to provide for punishment of the guilty persons and also for grant of pecuniary relief to the victims and their dependents, the Law Commission considered it necessary to take up this matter by way of a report for consideration suo moto so that adequate steps are taken by amending laws.¹³

Individuals who are poor and socially or politically marginalised are particularly vulnerable to police torture and mistreatment. Poor criminal suspects are unable to bribe police to secure their release and are unlikely to have connections to local political figures who can intervene. As a result, they are most often subjected to prolonged detention and repeated violence.

The Law Commission of India in its 177th Report on “Law Relating to Arrest” published in December 2001, stated that *“it is the poor who are at the receiving end of the excesses by law enforcement authorities. A man without property and without a regular income is always under suspicion of being a thief or a person out to commit some offence.”*¹⁴

¹¹.152nd Report of the Law Commission of India titled, “Custodial Crimes,” as available at: <http://lawcommissionofindia.nic.in/101-169/Report152.pdf>

¹².152nd Report of the Law Commission of India titled, “Custodial Crimes,” as available at: <http://lawcommissionofindia.nic.in/101-169/Report152.pdf>

¹³.152nd Report of the Law Commission of India titled, “Custodial Crimes,” as available at: <http://lawcommissionofindia.nic.in/101-169/Report152.pdf>

¹⁴.177th Report of the Law Commission of India on Law Relating to Arrest, December 2001; available at: <http://lawcommissionofindia.nic.in/reports/177rptp1.pdf>



**NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India**

In his report of 2000 on the question of torture presented to the UN General Assembly, Sir Nigel Rodley, Special Rapporteur of the Commission on Human Rights, observed that the overwhelming majority of those subjected to torture and ill-treatment are ordinary common criminals from the lowest strata of society. He noted that they are often members of the lowest level of an underclass that is disconnected from all opportunity of leading decent lives as productive economic citizens.¹⁵

1.2 NHRC's Annual Reports: 72.34% victims of the illustrative cases belong to the poor and vulnerable

In its annual reports from the year 1996-97 to 2017-18, the National Human Rights Commission (NHRC) cited 95 illustrative cases of torture and rape leading to death. An analysis of these 95 cases show that 95 persons died in police custody across the country as a result of torture and/or rape. Out of these 95 victims, 68 comprising 71.58% have been found to be from poor socio-economic background or marginalised section of the society while socio-economic background of 24 victims constituting 25.26% could not be ascertained and three victims comprising 3.19% were found to be from middle class families.¹⁶

Of the 68 victims with poor socio-economic background or marginalized section of the society, 15 constituting 22.05% of the total 94 victims were from religious minority groups including 14 Muslims and 1 Jain; 10 Scheduled Castes constituting 14.70%; 10 Scheduled Tribes comprising 14.70%; five children comprising 7.35%; four women comprising 5.88% while in respect of 24 victims (35.29%) their caste/community could not be ascertained.¹⁷

The list of the illustrative cases of custodial deaths cited in the NHRC Annual Reports from 1996-97 to 2017-18 are presented as **ANNEXURE-1**.

In its annual reports from the year 1996-97 to 2017-18, the NHRC also gave a total of 84 emblematic cases victims of illegal detention and police torture not resulting into death. An analysis of these emblematic cases shows that a total of 125 victims were

¹⁵.U.N. Doc. No. A/55/290 "Question of torture and other cruel, inhuman or degrading treatment or punishment" available at:

<http://www.un.org/documents/ga/docs/55/a55290.pdf>

¹⁶.Analysis of cases of deaths in police custody illustrated by the NHRC in its Annual Reports from 1996-97 to 2017-2018 by NCAT

¹⁷.Analysis of cases of deaths in police custody illustrated by the NHRC in its Annual Reports from 1996-97 to 2017-2018

subjected to torture.¹⁸ The socio-economic status of 95 victims in 68 cases was ascertained while it could not be ascertained in respect of 31 victims in 17 cases. Out of the 95 victims, about 75 victims or 78% of the total identified victims were from poor socio-economic background or marginalized section of the society. The victims included 27 children including girls (comprising 28.42% of the total 126 victims); 14 poor people accused of theft/robbery/selling of illicit liquor, etc (comprising 14.74%); 14 were from religious minority communities including 13 Muslims and one Jain (comprising 14.74%); 12 were women (comprising 12.63%); and eight were Scheduled Tribe/Scheduled Caste persons (comprising 8.42%). The rest of the identified victims (19 or 20%) belonged to middle class families or upper castes.¹⁹

The list of the illustrative cases of custodial deaths not leading to deaths cited in the NHRC Annual Reports from 1996-97 to 2017-18 are presented as **ANNEXURE-2**.

1.3 NCAT Findings for 2019: At least 60% custodial death victims belonged to poor and marginalised groups

In 2019, the NCAT documented death of 125 persons in 124 cases in police custody across the country. Out of the 125 persons who died in police custody, 75 persons constituting 60% belonged to the poor and marginalised communities. These included 13 victims from Dalit and tribal communities, 15 victims belonged to Muslim minority community, 37 victims were picked up for petty crimes such as theft/burglary/cheating/selling of liquor illegally, gambling, etc, three were farmers, one was labourer, one was a refugee, two were security guards, one was a rag-picker and two worked as drivers.

Table 1: Socio-economic background of the deaths in police custody in 2019

Sl No	Name	Community/social status/reason for arrest
1	17-year-old boy	Theft
2	17-year-old boy	Theft
3	17-year-old boy	Theft
4	Ms Leelabai	Dalit

¹⁸. Analysis of cases of custodial torture not resulting in death illustrated by the NHRC in its Annual Reports from 1996–97 to 2017–2018

¹⁹. Analysis of cases of custodial torture not resulting in death illustrated by the NHRC in its Annual Reports from 1996–97 to 2017–2018



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

5	Mr Abhishek alias Ramkishore Gond	Tribal
6	Mr Swamidin Baiga	Tribal
7	Mr Leela Adivasi	Tribal
8	Mr Ganesh Ravidas	Dalit
9	Mr Pankaj Kumar Bek	Tribal
10	Mr Harichandra Marabi	Tribal
11	Mr Hira Bajania	Denotified tribe
12	Mr Pika alias Pike	Dalit
13	Mr R. Murugan	Theft
14	Mr Srinivasulu alias Srinappa	Farmer
15	Mr Mohemmed Abdul Lakhani	Muslim
16	Mr Bechan Ganju	Tribal
17	Mr Mangal Das	Theft
18	Mr Mitthu Patel	Consuming alcohol
19	Mr Pradeep Tomar	Security guard
20	Mr Aynul Khan	Muslim
21	Mr Brijpal Maurya	Farmer
22	Mr Sushant Behera alias Manguli	Selling of illegal liquor
23	Mr Mani alias Kundumani	Theft
24	Mr Lokeshan Yadav	Theft
25	Mr Reyaz Ahmad Thekri	Muslim
26	Mr Nesar Ansari	Muslim
27	Mr Shivam	Theft
28	Mr Ram Avtar	Dalit
29	Mr Shrikant Singh	Theft



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

30	Mr Aarzudin	Muslim
31	Mr V Balakrishna	Sale of liquor
32	Mr Suresh Rawat	Farmer
33	Mr Ratikanta Das	Illegal liquor trade
34	Mr Jaspreet Singh	Illicit liquor smuggling
35	Mr Chotu alias Vinay	Illicit liquor trade
36	Mr Baljinder Singh	Theft
37	Mr Sanjay Rai	Cheating
38	Mr Rajkumar	Cheating
39	Mr Gobardhan Bindhani	Gambling
40	Mr Govinda	Illegal liquor smuggling
41	Mr Ashok Soni	Theft
42	Mr Sumit Massey	Cheating
43	Mr Omprakash Pandey	Burglary
44	Mr Balraj Singh	Labourer
45	Mr R Narayanan	Theft
46	Mr S Ramachandran	Theft
47	Mr Gautam Mondal	Dalit
48	Mr Vinod Verma	Cheating
49	Mr Bhoopathy	Sri Lanka Tamil refugee
50	Mr Avinash	Theft
51	Mr Sanju	Theft
52	Mr Manoj Prasad alias Manoj Jayaswal	Selling liquor
53	Mr Karan Kumar	Theft
54	Mr Sampath	Rag picker
55	Mr Md Manjur Ahamad	Muslim



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

56	Mr Rizwan Asad Pandit	Muslim
57	Mr Gufran Alam (30 years) and Taslim Ansari	Muslims
58	Mr Muneshwar	Theft
59	Mr Ramkelawan	Selling illegal liquor
60	Mr Dinesh Kumar	Theft
61	Mr Abdul Rahim	Muslim
62	Mr Baleswar	e-rickshaw driver
63	Mr Brijesh Savaliya	Theft
64	Mr Charanjeetsingh Gurmelsingh Jat	Truck driver
65	Mr Ashish Tudu	Tribal
66	Mr Vinod	Theft
67	Mr Md. Jasim Ansari	Muslim
68	Mr Mangilal	Theft
69	Mr Sunil Shrivastava	Cheating
70	Mr Sopan Madhukar Deokar	Selling liquor illegally
71	Mr Mohammad Shakil	Muslim
72	Ms Fameeda	Muslim
73	17-year-old minor boy	Theft
74	Ms Sakina @ Hinesh	Muslim
75	Mr Tayyab	Muslim

A few recent em

blematic cases of torture of poor and marginalised people are highlighted below:

Case 1: Tortured to death of Chirag Chauhan (17-year old) in police custody at Mehsana Civil Hospital in Mehsana district of Gujarat on 13 February 2020

On 13 February 2020, Chirag Chauhan (17 years), who was detained for various offences including murder and robbery, died while in police custody at Mehsana civil hospital. Mukesh Chauhan, father of the deceased juvenile alleged that his son was



assaulted at a juvenile remand home during wee hours on 13 February. He said he was informed about his son's death at 3.30 am. He claimed that Chirag's body had signs of torture all over it. There were marks around his neck and left arm was broken and there were beating marks on the back. According to Superintendent of the observation home in Mehsana, Amit Limchiya the health of the deceased deteriorated around 10.30 pm after he was handed over to police and he was rushed to hospital where he died at about 3am on 13 February.²⁰

Case 2: Suspicious death of a minor Dalit boy in custody of Kagdapith police station in Ahmedabad, Gujarat on 24 February 2020

On 24 February 2020, a 17-year-old Dalit boy died at Kagdapith police station in Ahmedabad, Gujarat hours after he was picked up by police and detained at the police station lock up. The victim, son of a widow who works as a domestic help and resident of Hiralal Chawl in the Raipur area of Ahmadabad was picked up following a minor quarrel. Police claimed that the victim committed suicide inside the lock-up with the shawl provided to him to put at night. However, the deceased's family members rejected the police theory and alleged that the minor boy was tortured to death in police custody. They alleged that the victim's body bore marks of beatings with stick.²¹ They also alleged that the deceased was first thrashed near the house and beaten up inside the police station.²²

Case 3: Death of Ibrahim Shaikh in custody of Government Railway Police station attached to Surat Railway Station, Gujarat on 20 March 2020

On 19 March 2020, Ibrahim Shaikh (39 years), a resident of Bagampura area under Surat district of Gujarat, was arrested along with one Altaf by the local Crime Branch police in connection with an alleged involvement in a mobile phone theft case at Surat Railway Station. After arrest, the duo was kept in the lock-up room at Government Railway police station, Surat where the deceased died on 20 March 2020 under mysterious circumstances. The police claimed that the deceased had epilepsy fit and was taken to the hospital where he died.²³

²⁰. Gujarat: Juvenile dies in custody; father alleges torture, Times of India, 14 February 2020; <https://timesofindia.indiatimes.com/city/rajkot/juvenile-dies-in-custody-father-alleges-torture/articleshowprint/74124996.cms>

²¹. Dalit youth hangs himself in police custody, 26 February 2020; Ahmedabad Mirror; https://ahmedabadmirror.indiatimes.com/ahmedabad/crime/dalit-youth-hangs-himself-in-police-custody/articleshow/74308520.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst

²². Ahmedabad Youth hangs self on lockup bars in presence of cop, Times of India, 26 February 2020; http://timesofindia.indiatimes.com/articleshow/74309390.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst

²³. Theft suspect dies in Surat railway police station, Times of India, 22 March 2020; <https://timesofindia.indiatimes.com/city/surat/theft-suspect-dies-in-surat-railway-police-stn/articleshowprint/74753704.cms>



Case 4: Illegal detention and torture of eight Dalit farm labourers at Dhhasa police station in Botad district of Gujarat in March 2020

On 25 March 2020, police personal from Dhhasa police station chased a teenage Dalit boy for violating Covid-19 lock down norms when he went to the village market at Vikaliya village in Botad district of Gujarat to fetch milk. Two days later, on 28 March, a police team lead Assistant Sub-Inspector A A Khuman and two Gram Rakshak Dal Jawans from Dhasa police station suddenly arrived at Vikaliya village and picked up eight Dalit youths from their houses. The victims were taken to the police station and were booked for violation of the police notification in respect of lock down. All of them were allegedly brutally beaten in detention. On the intervention of local Congress MLA from Dasada Naushad Solanki, Botad district Superintendent of Police ordered an inquiry and ASI Khuman was transferred from Dhhasa police station to district police headquarters as a disciplinary action.²⁴

Case 5: Suspicious death of a 20-year-old man Haryana police's CIA station in Kurukshetra on 4 June 2020

On 4 June 2020, a 20-year-old man died under suspicious circumstances inside the lock-up of Haryana Police's Crime Investigation Agency (CIA)-II police station in Kurukshetra. The deceased was arrested on 3 June in connection with thefts of motor vehicles.²⁵

Case 6: Torture of tribal man, Rewa Ratadia by forest officials at Leriya village in Junagadh district of Gujarat on 6 June 2020

On 6 June 2020, Rajpara range forest officer identified as Vikram Shyora and his two subordinate's colleagues brutally tortured Rewa Ratadia (34 years), a Scheduled Tribe belonging to Maldhari herdsmen community at Leriya village under Visavadar police station in Junagadh district of Gujarat. The victim stated that the incident happened when he and his nephew Govind were shifting their families from Leria village to Dhandha village when they were stopped by the forest officials. While his nephew fled due to fear, the victim was tied to a tree and brutally beaten up by the three accused forest officials. The victim sustained serious injuries and required hospitalization at a hospital in Junagadh.²⁶

²⁴. Gujarat: Probe ordered into 'police brutality' on Dalits during lockdown, available at: <https://www.justicenews.co.in/gujarat-probe-ordered-into-police-brutality-on-dalits-during-lockdown/>

²⁵. Theft accused ends life in Kurukshetra police custody, Hindustan Times, 5 June 2020; <https://www.hindustantimes.com/chandigarh/theft-accused-ends-life-in-kurukshetra-police-custody/story-swUm9l6ilxf0e6eP1kkUOL.html>

²⁶. Maldhari tied to tree, thrashed by 3 foresters, Times of India, 7 June 2020; <https://timesofindia.indiatimes.com/city/rajkot/maldhari-tied-to-tree-thrashed-by-3-foresters/articleshow/76238977.cms>



Case 7: Tortured to death of Sauvik Gorai at Lokpur police station in Birbhum district of West Bengal on 21 July 2020

On 20 July 2020, the police arrested Sauvik Gorai (22 years), a migrant labourer who returned from Gujarat during the COVID -19 lockdown to his home at Rupaspur village in Birbhum district of West Bengal, following theft of a bicycle and a gas cylinder from the home of a local shopkeeper Shibu Rai. After arrest, Sauvik was detained at Lokpur police station. The police claimed that the deceased was found hanging by his neck in the police station next day i.e. on 21 July 2020. But, the family members of the deceased alleged that Sauvik was arrested by the police over a false complaint of theft and he was brutally tortured to death in police custody. The father of the deceased Nadugopal Gorai alleged that his son was kept in illegal custody till his death and there was no complaint against his son.²⁷

Case 8: Torture and abetment of suicide of Srinivasan by inspector Sam Benson of Puzhal police station in Chennai district, Tamil Nadu on 1 August 2020

On 1 August 2020, inspector Sam Benson of Puzhal police station barged into the house of Srinivasan, a local painter and brutally beat him in front of his wife and two children pursuant to a complaint by his landlord Rajendran, a ruling party member, over not payment of rent for the last few months due to COVID-19 lockdown. Humiliated, Srinivasan took the extreme step by setting himself on fire. He was rushed to Kilpauk Medical College hospital by his family members, but he succumbed to his injuries on the next day i.e. 2 August. Inspector Sam Benson was placed under suspension.²⁸

Case 9: Tortured to death of Narayan Ladia (21 years) in custody of Barman Chowki under Suatala Police station in Narsinghpur district, Madhya Pradesh on 2 August 2020

The deceased, a resident of Pithehara Bandhi village under Suatala Police station in Narsinghpur district of Madhya Pradesh, was picked up few days earlier and detained at the Barman police chowki along with his father Amar Ladia and mother Uma Bai Ladia for interrogation in a kidnapping and murder case. Police claimed that the deceased consumed toxic substances while in detention at the Barman police chowki, after which he was taken to a private hospital in Jabalpur where he died in the morning of 2 August 2020. But, the deceased's parents who were detained along with him alleged that the deceased was tortured in the police custody and forced to drink

²⁷ . Migrant labourer kills self, family blames Bengal cops for torture in custody over cycle theft, India Today, 23 July 2020; <https://www.indiatoday.in/india/story/migrant-labourer-kills-self-family-blames-bengal-cops-for-torture-1703587-2020-07-23>

²⁸. Beaten up by police, TN man sets himself on fire, dies at hospital, The Week, 2 August 2020; <https://www.theweek.in/news/india/2020/08/02/beaten-up-by-police-tn-man-sets-himself-on-fire-dies-at-hospital.html#:~:text=Srinivasan%2C%20a%20local%20painter%2C%20immolated,he%20succumbed%20to%20his%20injuries.>



poisonous liquid, after which his condition deteriorated leading to his death. Five police officials viz. Suatara police station Incharge Ashok Dahiya, Barman Chowki in-charge OP Sharma, ASI GS Rajput, Constable Abhisek Pasi and Ruchi Shukla were suspended in connection with the case.²⁹

Case 10: Torture of three minor Dalit children and their mother at Ajitwal police station in Moga district of Punjab on 7 August 2020

On 7 August 2020, Station House Officer Jaswinder Singh and Assistant Sub-Inspector Balwinder Singh picked up three minor children of Jagjit Singh, a Dalit daily wage, on accusation of stealing and detained them inside the lock-up at Ajitwal police station under Moga district of Punjab. The accused police officers allegedly removed the clothes of the children and beat them up. When their mother went to the police station for enquiry, she was also assaulted by the police personnel. In a written police complaint, Jagjit Singh who lives in Ajitwal police station area demanded action against the accused police personnel.³⁰

Case 11: Mysterious death of Ansari in custody of Fort Police Station in Thiruvananthapuram, Kerala on 16 August 2020

On 16 August 2020, Ansari (38 years), a resident of Poonthura in coastal Thiruvananthapuram, Kerala, died at Fort Police Station within a few hours of arrest in connection with theft of a mobile. The deceased was allegedly found dead inside the toilet at Janamaitri Kendram police center inside the police station complex where he was detained during the night. The magistrate and a team of officers, who conducted the inquest, found that neither an FIR was registered nor a General Diary entry recorded with regard to arrest and detention of the deceased. The Kerala State Human Rights Commission registered a case and sought detailed report from the state police.³¹

Case 12: Death of Naushad due to torture at Burmamines police station in Jamshedpur in Jharkhand on 21 August 2020

On 10 August 2020 at about noon, police personnel from Burmamines Police station and Golmuri Police Station picked up Mohammad Naushad (45 years) from his

²⁹. Police hirashat me acid pine wale ke aaropi ke maut, TI sahit paanch nilombit Patrika.com, 2 August 2020; <https://www.patrika.com/narsinghpur-news/death-of-acid-drinking-murder-in-police-custody-five-suspended-includ-6313774/>

³⁰. Three Dalit children beaten up over theft, Tribune.com, 8 August 2020; <https://www.tribuneindia.com/news/punjab/three-dalit-children-beaten-up-over-theft-124099>

³¹. Theft accused mysteriously dies in police custody, Kerala Crime Branch to probe, The News Minute, 18 August 2020; <https://www.thenewsminute.com/article/theft-accused-mysteriously-dies-police-custody-kerala-crime-branch-probe-131037#:~:text=Ansari%2C%2038%2C%20was%20found%20dead,Police%20Station%20premises%20on%20Sunday.&text=Multiple%20media%20reports%20have%20stated,premises%20as%20the%20police%20station>



NO EXCUSE OF KLEPTOMANIA: Poverty, Prejudices and Torture in India

residence at Golmuri area of Jamshedpur in Jharkhand stating that he was needed to be interrogated in connection with buying of stolen auto parts. His family members immediately rushed to Golmuri police station but did not find Naushad there. Later, they went to Burmamines Police station but the policemen there did not allow them to meet him stating that he was not in their custody. However, at about 3:30 pm on the same day Naushad's family members received a call from a policeman from Burmamines police station saying that "your patient is in serious condition in MGM hospital." Naushad's brother-in-law Yusuf Patel who rushed to MGM hospital said at the hospital they found two policemen from Burmamines police station. According to Yusuf, the doctor told them that Naushad was paralyzed from one side and had bruises all over his body of which they took video recording as well as photos. For better medical treatment his family shifted Naushad to TMH hospital, Jamshedpur where he remained under treatment for a few days before being forcefully discharged on 16 August. Though his family took Naushad to Rajendra Institute of Medical Sciences, Ranchi but brought him back home on 21 August as there was no doctor at RIMS. Naushad's condition deteriorated and he was taken to a local doctor in Jamshedpur, where he succumbed to his injuries that day.³² A Special Investigation Team was constituted to investigate the tortured to death of Naushad and the Officer-in-charge of Burmamines police station Vinodanand Singh was suspended and attached to police lines till the outcome of the SIT investigation.³³

Case 13: Tortured to death of a 19-year-old Dalit youth at Lalganj Police Station in Raebareli district, Uttar Pradesh on 29 August 2020

On 28 August 2020, police picked up Mohit, a Dalit youth from Behta Kalan village under Lalganj Police Station in Raebareli district of Uttar Pradesh, along with his brother Sonu in connection with the theft of a bike. Police claimed that Mohit's health suddenly deteriorated, after which he was taken to the district hospital where he died on the next day. However, the family members of the deceased alleged that deceased was brutally tortured in the police custody which led to his death. The deceased's brother Sonu alleged that he and his brother were brutally tortured in detention at Lalganj Police Station. The family members and the villagers protested over the incident and demanded strict action against the accused police personnel. Raebareli district administration ordered a magisterial inquiry into the incident and the station house officer (SHO) of Lalganj police station was suspended for unlawful detention. A departmental inquiry was also ordered into the incident.³⁴

³². Man dies after released from police custody in Jamshedpur, family alleges 'custodial torture', August 24, 2020; available at: <https://twocircles.net/2020aug24/438708.html>

³³. Golmuri ke naushad ki maut ka mamla: Burmamines thana prabhari line hajir, Jagran.com, 14 September 2020; <https://www.jagran.com/jharkhand/jamshedpur-burmamines-police-station-incharge-line-spot-in-golmuris-naushad-death-case-20746443.html>

³⁴. Dalit, 19, dies in Uttar Pradesh police custody; family alleges torture, The Hindustan Times, 31 August 2020; [https://www.hindustantimes.com/india-news/dalit-19-dies-in-uttar-pradesh-police-custody-family-alleges-torture/story-BHjaMUObVTs6tLi852UuML.html#:~:text=The%20station%20house%20officer%20\(SHO,been%20susp](https://www.hindustantimes.com/india-news/dalit-19-dies-in-uttar-pradesh-police-custody-family-alleges-torture/story-BHjaMUObVTs6tLi852UuML.html#:~:text=The%20station%20house%20officer%20(SHO,been%20susp)



Case 14: Alleged custodial torture of Jagrup Singh at the Wahabwala police station in Abohar Tehsil of Firozpur district, Punjab on 2 September 2020

On 2 September 2020, Jagrup Singh, a farmer and resident of Kala Tibba village in Abohar Tehsil under Firozpur district of Punjab, was arrested by Head Constable Raj Kumar of Wahabwala police station in connection with a case of alleged domestic violence. He was taken to Wahabwala police station where he was tortured by Head Constable Raj Kumar. He sustained injuries and required medical treatment at Firozpur Civil Hospital after his release from police custody. Senior Superintendent of Police ordered an investigation into the matter.³⁵

Case 15: Mysterious death of Balwan Mahto under mysterious circumstances at Madhuban police station in Giridih district, Jharkhand on 5 September 2020

In the morning of 5 September 2020, 42-year-old tribal man identified as Balwan Mahto was allegedly found dead hanging with a wire inside the lock-up at Madhuban police in Giridih district of Jharkhand. The deceased, a resident of Madhuban village under Dumri sub division of the same district was arrested during the previous night along with another person identified as Bablu Sonar (41 years) in connection with a case of stealing a goat. After arrest both of them were kept in the police station lock up. The police was not able to satisfactorily respond as to how the deceased got the wire inside the lock-up as well as how he hanged himself in the same room without the knowledge of the co-detenu. Giridih police suspended two police officers including the Madhuban Police Station in-charge while Giridih deputy commissioner has set up a magisterial inquiry.³⁶

Case 16: Custodial torture of three Dalit men at Limbdi police station in Surendranagar district of Gujarat on 6 September 2020

On 6 September 2020, three Dalit men identified as Prakash Chavda, Devraj Chavda and Has Mukh Chavda were tortured at Limbdi police station in Surendranagar district of Gujarat by Police Sub-Inspector Sanjay Varu and two of subordinate officials. The three victims arrested on accusation of selling and consuming country liquor were first flogged with his belt by SI Varu and thereafter whipped by two of his subordinate police personnel who also passed casteist remarks at them. Surendranagar's Deputy Superintendent of Police SJ Pawar confirmed to media persons that Prakash Chavda

[ended%20for%20unlawful%20detention.&text=While%20Sonu%20was%20released%20after.died%20at%20around%2011%20am](#)

³⁵. Abohar resident 'tortured' by policeman, probe marked, Tribune, 3 September 2020; <https://www.tribuneindia.com/news/punjab/man-tortured-by-policeman-probe-marked-135893>

³⁶. Two police officers suspended in Giridih over custodial death, 5 September 2020; <https://www.telegraphindia.com/jharkhand/two-police-officers-suspended-in-giridih-over-custodial-death/cid/1791064#:~:text=Bablu%20Sonar%2C%2041%2C%20and%20Balwan,duo%20was%20tortured%20in%20custody.>



lodged a complaint against police SI Varu and two others under IPC sections 323 and 504 of IPC and sections of SC/ST (Prevention of Atrocities) Act and that he was investigating the matter.³⁷

Case 17: Tortured to death of Baleswar, Uttar Pradesh

On 1 January 2019, Baleswar, a 45-year-old e-rickshaw driver, was allegedly tortured to death in the custody of Azizganj police post in Shahjahanpur district of Uttar Pradesh. Baleswar was forcibly taken to Azizganj police post by police personnel for refusing to pay *hafta* (bribe). The police illegally detained him and seized his e-rickshaw. They beat up Baleswar brutally and when his condition deteriorated, he was taken to a hospital where the deceased died in the night of 1 January 2019.³⁸ Ms Geeta Devi, the deceased's wife, claimed that the police tortured her husband in custody for refusing to pay bribes and he died due to injuries sustained due to beatings by the police. The Police department suspended two constables viz. Tauseem Haider and Gaurav Kumar in connection with the custodial death.³⁹

Case 18: Tortured to death of Gufran Alam and Taslim Ansari, Bihar

On 7 March 2019, Gufran Alam (30 years) and Taslim Ansari (32 years) died due to alleged torture at Dumra police station in Sitamarhi district, Bihar. Both the deceased were picked up by police on 6 March 2019 from Ramdiha village in East Champaran district in connection with a case of robbery and murder. Gufran's father stated that five police jeeps from the Chakiya police station stopped at his house when they were all asleep and asked for his son. The police said they wanted to question him in connection with a case. Before the family members could ask anything, the police took Gufran away and thereafter the police picked up fellow villager Ansari. When the families reached Dumra police station, they were told to visit Sadar hospital. At the hospital, they were told that both were dead and their postmortem examination had been conducted. But they were not allowed to see the bodies, which were handed over to them next morning. When the bodies were being washed for the burial, relatives said they noticed the injuries and the extent of torture. According to the family members of the deceased persons, the injury marks were caused by iron nails being

³⁷. Gujarat cops thrash 3 Dalits, land in soup, Free Press Journal, 8 September 2020; <https://www.freepressjournal.in/india/gujarat-cops-thrash-3-dalits-land-in-soup>

³⁸. Beaten by policemen for not paying bribe, e-rickshaw driver dies; two cops suspended, The Times of India, 2 January 2019, <https://timesofindia.indiatimes.com/city/bareilly/beaten-by-policemen-for-not-paying-bribe-e-rickshaw-driver-dies-two-cops-suspended/articleshowprint/67355271.cms>

³⁹. Beaten by policemen for not paying bribe, e-rickshaw driver dies; two cops suspended, The Times of India, 2 January 2019, <https://timesofindia.indiatimes.com/city/bareilly/beaten-by-policemen-for-not-paying-bribe-e-rickshaw-driver-dies-two-cops-suspended/articleshowprint/67355271.cms>



hammered into their thighs, soles and wrists. Further, the legs of both the deceased were severely injured.⁴⁰

Case 19: Tortured to death of de-notified nomadic tribeman Hira Bajania, Gujarat

On 15 August 2019, Hira Bajania (65 years), a de-notified nomadic tribe man belonging to the Nat Bajania de-notified tribe of Gujarat, was tortured to death at C Division police station in Gandhigram area in Junagadh District, Gujarat. The police personnel picked up 12 men from Nat Bajaniya tribe including the deceased on the night of 14 August 2019 on the suspicion of being involved in theft of cellphones and tortured them in custody. During their detention, all the suspects were allegedly subjected to torture and forced to perform oral sex among themselves and asked them to admit to theft of 12 cellphones. One of the victims identified as Shankar Bajania speaking to the media stated, *"On August 14, police came and clicked three people's photograph, including mine. Then, they came at about 2 in the night on Independence Day and took us all to the police station. There they took us one by one and began beating us, Hirabapa most of all. By morning, when they came to take him again for another round of thrashing, he was dead."* After the death of Hira Bajania due to torture, the police hurriedly cremated his body allegedly to destroy evidence of the torture. The rest of the victims were released from illegal detention after taking their signatures on blank papers on 17 August.⁴¹

Case 20: Tortured to death of R. Murugan, Tamil Nadu

On 15 December 2019, R. Murugan (55 years) died due to alleged torture in police custody at Samayapuram police station in Tiruchirappalli district in Tamil Nadu. The deceased, a resident of E.B. Road in the district, was arrested on 14 December 2019 for interrogation in connection with a case of theft of gold jewellery from a jeweller. The police claimed that on 14 December 2019 when the deceased was being taken to Preambulur, he suddenly developed chest pain and was taken to a private hospital in Preambulur where the doctors declared him brought dead. However, the family members of the deceased alleged that Murugan died due to torture in police custody.⁴²

⁴⁰. Nails 'hammered' into them, two men 'tortured' to death in Bihar police custody, probe ordered, The Indian Express, 12 March 2019, <https://indianexpress.com/article/india/bihar-police-custody-nails-hammered-into-them-two-men-tortured-to-death-probe-ordered-5621645/>

⁴¹. 12 nomadic tribesmen thrashed, one dead, Ahmedabad Mirror, 23 August 2019, <https://ahmedabadmirror.indiatimes.com/ahmedabad/crime/12-nomadic-tribesmen-thrashed-one-dead/articleshow/70794081.cms>

⁴². Death of suspect in custody triggers protest, The Hindu, 17 December 2019, <https://www.thehindu.com/news/cities/Tiruchirappalli/death-of-suspect-in-custody-triggers-protest/article30324072.ece>



Case 21: Illegal detention and torture of Ashok Kumar, a school bus conductor by Gurgaon police, Haryana

In the morning of 8 September 2017, a seven-year-old student, Pradyuman Thakur, was found murdered inside a ground floor bathroom of Ryan International School, Bhondsi, in Haryana' Gurgaon district. A school bus conductor Ashok Kumar — initially arrested for the crime — claimed he was tied up, slapped, beaten, brutally tortured, and threatened by Gurgaon Police personnel.⁴³

A teacher had called Kumar for help to take the body of Pradyuman Thakur to hospital. Kumar said that he rushed to the bathroom where the murder took place. *“The boy was lying in the bathroom’s corridor. Teachers told me he had injured his head and had to be carried to the car, so he could be transported to the hospital,”* he claimed.⁴⁴

Thereafter, police reached the school and took Kumar into custody. The police took him to Sohna police station, tied up his hands and legs and beat him up. They also administered electric shocks to extract a confession that he killed the seven year-old student.⁴⁵

Kumar stated he was repeatedly beaten and the policemen who beat him up kept changing. When he moaned with pain in the evening, he claimed he was given injections that would “numb the pain” only to beat him up again. The police also deprived him of food for two days.⁴⁶

On 22 September 2017, the Central Bureau of Investigation (CBI) took over the Pradyuman Thakur murder case.⁴⁷ Investigation by the CBI revealed that Pradyuman was murdered by a class 11 student of the Ryan International School and not by

⁴³.Ryan School murder case: Tied me up, gave electric shocks, says bus conductor, Indian Express, 25 November 2017; available at: <https://indianexpress.com/article/india/ryan-school-murder-case-tied-me-up-gave-electric-shocks-says-bus-conductor-4951808/>

⁴⁴.Ryan School murder case: Tied me up, gave electric shocks, says bus conductor, Indian Express, 25 November 2017; available at: <https://indianexpress.com/article/india/ryan-school-murder-case-tied-me-up-gave-electric-shocks-says-bus-conductor-4951808/>

⁴⁵.Ryan School murder case: Tied me up, gave electric shocks, says bus conductor, Indian Express, 25 November 2017; available at: <https://indianexpress.com/article/india/ryan-school-murder-case-tied-me-up-gave-electric-shocks-says-bus-conductor-4951808/>

⁴⁶.Ryan School murder case: Tied me up, gave electric shocks, says bus conductor, Indian Express, 25 November 2017; available at: <https://indianexpress.com/article/india/ryan-school-murder-case-tied-me-up-gave-electric-shocks-says-bus-conductor-4951808/>

⁴⁷.CBI Takes Over Probe Into Ryan School Student Pradhuman's Killing, NDTV, 22 September 2017, available at: <https://www.ndtv.com/gurgaon-news/cbi-takes-over-probe-into-ryan-school-student-pradhumans-killing-1754023>



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

Ashok Kumar, whom Gurgaon police tortured brutally to extract a confession. The CBI arrested the class 11 student on 8 November 2017.⁴⁸

In June 2018, the CBI filed a 5,000-page chargesheet stating that in the Pradyuman Thakur murder case, a Class 11 student of the same school in a bid to postpone exams in the school had committed the crime.⁴⁹

The CBI also gave a clean chit to school bus conductor Ashok Kumar and made him one of the prime witnesses in the case. The charge sheet said: *"During CBI investigation, no evidence has come on record to substantiate involvement of conductor Ashok Kumar in committing the murder of Prince in the ground floor washroom/toilet of the school or having attempted to commit sexual assault on the victim before committing murder."*⁵⁰

The chargesheet further stated, *"No blood stain was found on his clothes or his person before he had lifted the victim. Ashok Kumar's presence inside the washroom has been explained and found to be justified and true based on independent version of several witnesses and minute analysis of CCTV footages."*⁵¹

Case 22: Tortured-to-death of Agnelo Valdaris by GRP, Maharashtra

On 17 April 2014, three youths identified as Mohammad Irfan, Sufiyan Khan and a minor were detained along with one Agnelo Valdaris by the Wadala Government Railway Police (GRP), Mumbai, Maharashtra in connection with a case of chain (gold) snatching. When Agnelo's body was found on the railway tracks three days later, the police termed it a train accident. Unconvinced by the GRP's version, Leonard Valdaris, father of the deceased, moved the Bombay High Court after three

⁴⁸.Twist in Ryan school murder case: CBI apprehends class XI student for allegedly killing Pradyuman, Indian Express, 8 November 2017; available at:
<https://indianexpress.com/article/india/ryan-international-school-murder-gurugram-cbi-4927608/>

⁴⁹.Gurugram school murder: CBI chargesheets 16-yr-old, says accused googled ways to remove bloodstains, fingerprints, 8 June 2018, First Post, available at:
<https://www.firstpost.com/india/ryan-school-case-cbi-files-5000-page-chargesheet-against-class-xi-student-for-pradyuman-thakurs-murder-4336373.html>

⁵⁰.Gurugram school murder: CBI chargesheets 16-yr-old, says accused googled ways to remove bloodstains, fingerprints, 8 June 2018, First Post, available at:
<https://www.firstpost.com/india/ryan-school-case-cbi-files-5000-page-chargesheet-against-class-xi-student-for-pradyuman-thakurs-murder-4336373.html>

⁵¹.Gurugram school murder: CBI chargesheets 16-yr-old, says accused googled ways to remove bloodstains, fingerprints, 8 June 2018, First Post, available at:
<https://www.firstpost.com/india/ryan-school-case-cbi-files-5000-page-chargesheet-against-class-xi-student-for-pradyuman-thakurs-murder-4336373.html>



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

boys arrested along with Agnelo alleged that they had all been sexually abused and tortured in custody.⁵²

Irfan had said in his statement that the accused policemen inserted lathis into their anus to make them confess to the crime while Agnelo was hung upside down and tortured. He stated that while questioning the four, the accused policemen forced them to perform oral sex on each other and tortured them. In order to extract confession, the accused policemen kept torturing them on the next day after which Agnelo had to be hospitalised. He had told his father a day before his death in the hospital about the torture in police custody.⁵³

“The officers were holding his hands and getting him out but Richie (Valdaris) just could not walk as he was in severe pain,” a witness stated. He claimed that Agnelo kept asking for medicines but was told that he should die a painful death. He also stated that the deceased had fallen unconscious after the torture.⁵⁴

All three co-accused also said that while they were produced before a court and remanded to police custody, the deceased Agnelo Valdaris was never produced before a court. *“The entire incident of assault and severe beating took place in front of me. It was not possible for Richie to run from custody since he was severely beaten. The police are trying to cover up the entire beating by making a false claim of this train accident,”* one witness stated.⁵⁵

On 9 June 2014, the Bombay High Court directed the Mumbai crime branch to lodge an FIR against Wadala railway police officers over the alleged custodial death of 25-year-old Agnelo Valdaris.⁵⁶ On 17 June 2014, the Bombay High Court transferred the

⁵².Kin of Wadala GRP custodial death victim reject Rs 3L relief, Times of India, 28 June 2018; available at: <https://timesofindia.indiatimes.com/city/mumbai/kin-of-wadala-grp-custodial-death-victim-reject-rs-3l-relief/articleshow/64770676.cms>

⁵³.Policemen face unnatural sex, abetment to unnatural sex charge in custodial death of Agnelo Valdaris, Indiatoday, 13 February 2017; available at: <https://www.indiatoday.in/india/story/mumbai-agnelo-valdaris-unnatural-sex-custodial-death-960490-2017-02-13>

⁵⁴.Mumbai custodial death: Witnesses tell CBI Agnelo Valdaris tortured to death, Indian Express, 24 January 2017; available at: <https://indianexpress.com/article/cities/mumbai/cbi-chargesheet-in-custodial-death-witnesses-tell-cbi-valdaris-tortured-to-death-4488486/>

⁵⁵.Mumbai custodial death: Witnesses tell CBI Agnelo Valdaris tortured to death, Indian Express, 24 January 2017; available at: <https://indianexpress.com/article/cities/mumbai/cbi-chargesheet-in-custodial-death-witnesses-tell-cbi-valdaris-tortured-to-death-4488486/>

⁵⁶.Bombay high court orders FIR to be lodged in Wadala custodial death case, Times of India, 10 June 2014, available at: <https://timesofindia.indiatimes.com/city/mumbai/Bombay->



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

case to the CBI. Unhappy with the investigation being conducted by the Mumbai Crime branch, a division bench of the Bombay High Court comprising Justices V M Kanade and P D Kode directed the CBI to investigate the circumstances surrounding the death of Agnello and torture and sexual abuse of three others, including a minor boy.⁵⁷

Expressing disappointment over the nature of the investigation by the Mumbai Crime branch, the bench remarked: *“The investigation does not inspire confidence. Attempts are being made to fabricate evidence to protect the accused. The state is trying to shield the accused.”* It noted that no attempt was made to procure the railway CCTV footage from the day of Agnello’s arrest. The court expressed shock on being shown the photos of the bodies: *“We cannot believe this is happening in a civilized society and a progressive state”*.⁵⁸

The CBI filed the FIR against 11 GRP men but only eight were chargesheeted for kidnapping, falsifying evidence, negligence and wrongful confinement against the policemen.⁵⁹

In December 2017, the CBI filed a second charge sheet against three police constables namely Suresh Mane, Vikas Suryawanshi and Satyajit Kamble adding sections under the POCSO Act. The charges under Section 377 of IPC with section 108 of IPC for abetment to unnatural sex were registered against all the eight accused constables in the case, which led to charges under section 6 and 12 of the POCSO Act and section 23 of the Juvenile Justice Act against three policemen.⁶⁰

In a report submitted on 13 February 2017 before the High Court, the CBI reportedly suggested that no evidence of murder or homicide was found against the accused

[high-court-orders-FIR-to-be-lodged-in-Wadala-custodial-death-case/articleshow/36361352.cms](https://timesofindia.indiatimes.com/city/mumbai/Bombay-high-court-orders-CBI-probe-into-Wadala-custodial-death/articleshow/36361352.cms)

⁵⁷.Bombay high court orders CBI probe into Wadala ‘custodial death,’ Times of India, 18 June 2014; available at: <https://timesofindia.indiatimes.com/city/mumbai/Bombay-high-court-orders-CBI-probe-into-Wadala-custodial-death/articleshow/36726931.cms>

⁵⁸.Bombay high court orders CBI probe into Wadala ‘custodial death,’ Times of India, 18 June 2014; available at: <https://timesofindia.indiatimes.com/city/mumbai/Bombay-high-court-orders-CBI-probe-into-Wadala-custodial-death/articleshow/36726931.cms>

⁵⁹.Policemen face unnatural sex, abetment to unnatural sex charge in custodial death of Agnello Valdaris, Indiatoday, 13 February 2017; available at: <https://www.indiatoday.in/india/story/mumbai-agnello-valdaris-unnatural-sex-custodial-death-960490-2017-02-13>

⁶⁰.Policemen face unnatural sex, abetment to unnatural sex charge in custodial death of Agnello Valdaris, Indiatoday, 13 February 2017; available at: <https://www.indiatoday.in/india/story/mumbai-agnello-valdaris-unnatural-sex-custodial-death-960490-2017-02-13>



policemen while Section 377 and several sections under POCSO Act were added in the case.⁶¹

In June 2018, the family of custodial death victim, Agnelo Valdaris, rejected a compensation of Rs 300,000 awarded by the National Human Rights Commission. Agnelo's father Leonard stated that his family was fighting for justice and were not interested in money.⁶²

On 19 December 2019, the Bombay High Court directed a trial court to book eight police officials from GRP in the custodial death. The Court allowed the petition filed by Agnelo's father and directed the trial court to book the eight policemen under Section 302 (murder), Section 201 (Causing disappearance of evidence of offence, or giving false information to screen offender) and Section 295A (Deliberate and malicious acts, intended to outrage religious feelings or any class by insulting its religion or religious beliefs) of IPC.⁶³ Earlier on 19 November 2019, the Bombay High Court pulled up the CBI for not conducting the investigation into the custodial death in 'an impartial way'.⁶⁴

1.4 How the vulnerable are targeted: NCRB findings

It has been an open secret in India that vulnerable groups of India i.e. Muslims, Dalits (Scheduled Castes) and Adivasis (Scheduled Tribes) have been the worst victims of the criminal justice system. It is not because persons belonging to these groups commit more crimes but simply because of the prejudices in the law enforcement make them usual suspects in any crime. Economic conditions i.e. inability to avail competent legal representation makes it worse.

These vulnerable groups are unable to defend themselves even in false cases. It is so much so that Section 3(1)(P) of the Scheduled Castes and the Scheduled Tribes

⁶¹. Policemen face unnatural sex, abetment to unnatural sex charge in custodial death of Agnelo Valdaris, Indiatoday, 13 February 2017; available at:

<https://www.indiatoday.in/india/story/mumbai-agnelo-valdaris-unnatural-sex-custodial-death-960490-2017-02-13>

⁶². Kin of Wadala GRP custodial death victim reject Rs 3L relief, Times of India, 28 June 2018; available at: <https://timesofindia.indiatimes.com/city/mumbai/kin-of-wadala-grp-custodial-death-victim-reject-rs-3l-relief/articleshow/64770676.cms>

⁶³. Valdaris Custodial Death: Bombay HC Directs Trial Court To Book Cops For Murder Of 25-yr old, Live Law, 20 December 2019, <https://www.livelaw.in/news-updates/valdaris-custodial-death-150962?infinitescroll=1>

⁶⁴. HC pulls up CBI over custodial death probe, The Hindu, 20 November 2019, <https://www.thehindu.com/news/cities/mumbai/hc-pulls-up-cbi-over-custodial-death-probe/article30021021.ece>



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

(Prevention of Atrocities) Act, 1989 as amended makes instituting “false, malicious or vexatious suit or criminal or other legal proceedings against a member of a Scheduled Caste or a Scheduled Tribe” while Section 3(1)Q makes giving “any false or frivolous information to any public servant and thereby causes such public servant to use his lawful power to the injury or annoyance of a member of a Scheduled Caste or a Scheduled Tribe”. A false case is to be established at the end of a case up to the Supreme Court and in the meanwhile, persons belonging to SCs and STs can be denied access to justice.

The latest report, *Prison Statistics India 2019*, provides that as of 31 December 2019, there were total 1,44,125 convicted prisoners in Indian prisons. Of these, 75,002 comprising 52% were found to be from three communities i.e. Muslims (23,962), SCs (31,342) and STs (19,698) although their combined share to India’s total population stood only at 39% as per 2011 census.

Table2: Percentage of convicts among Dalits, indigenous peoples and minorities⁶⁵

SL No	Categories	No. of convicts	% of total convicts	% India’s total population
1	Muslims	23962	16.6%	14.2%
2	Dalits (SC)	31342	21.7%	16.6%
3	Adivasis (ST)	19698	13.6%	8.2%
	Total	75002	51.9%	39%

Similarly, the Muslims, SCs and STs constituted 50% of the total 3,30,487 under trial prisoners in India as of 31 December 2019 despite being about 39% of the total population. The combined proportion of SCs and STs was about 25% of India’s total population as per 2011 census but they constituted about 31% of the total 3,30,487 under trial prisoners. Similarly, Muslims who make up about 14% of India’s population constituted about 18.7% (61,900) of all under trials prisoners as on 31 December 2019.

⁶⁵. Demography of Convicts as on 31 December 2019; https://ncrb.gov.in/hi/table-and-chapter-contents-of-psi-reports?field_date_value%5Bvalue%5D%5Byear%5D=2019&field_select_psi_table_content_t_value=All&items_per_page=50

Table 3: Percentage of undertrials among Dalits, indigenous peoples and minorities⁶⁶

SL No	Categories	No. of under trial prisoners	% of total under trial prisoners	% India's total population
1	Muslims	61900	18.7	14.2%
2	Dalits (SC)	69302	20.9%	16.6%
3	Adivasis (ST)	34756	10.5%	8.2%
	Total	165958	50.1%	39%

The three marginalized categories also comprised 59.5% of the total 3,223 detainees lodged in different prisons across the country as of 31 December 2019. A total 1,155 of them constituting 35.8% were Muslims, 585 SCs comprising 18.1% and 183 STs comprising 5.6%.

Table 4: Percentage of detainees among Dalits, indigenous peoples and minorities⁶⁷

SL No	Category	No. of detainees	% of total detainees	% India's total population
1	Muslims	1155	35.8%	14.2%
2	Dalits (SC)	585	18.1%	16.6%
3	Adivasis (ST)	183	5.6%	8.2%
	Total	1923	59.5%	39%

⁶⁶. Demography of Convicts as on 31 December 2019; https://ncrb.gov.in/hi/table-and-chapter-contents-of-psi-reports?field_date_value%5Bvalue%5D%5Byear%5D=2019&field_select_psi_table_content_t_value=All&items_per_page=50

⁶⁷. Demography of Convicts as on 31 December 2019; https://ncrb.gov.in/hi/table-and-chapter-contents-of-psi-reports?field_date_value%5Bvalue%5D%5Byear%5D=2019&field_select_psi_table_content_t_value=All&items_per_page=50



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

Of the total 765 “Other prisoners” category, 404 prisoners constituting 52.8% were Muslims while 100 of them constituting 13% were SCs and 34 STs consisting of 4.4.% of the other prisoners.

Table: Percentage of Other Prisoners%⁶⁸

SL No	Category	No. of other prisoner	% of other prisoners	% India's total population
1	Muslims	404	52.8%	14.2%
2	Dalits (SC)	100	13%	16.6%
3	Adivasis (ST)	34	4.4%	8.2%
	Total	538	70.2%	39%

1.5 The case of the Chakmas and Hajongs of Arunachal Pradesh

In Arunachal Pradesh, majority of the Chakmas and Hajongs face serious discrimination as descendants of migrants. The Chakmas and Hajongs had migrated from East Pakistan (now Bangladesh) during 1964-1969 and were settled by the Government of India following the 1962 Indo-China war. The government of India treated the Chakmas and Hajongs as citizens and provided employment in the government and enrolled them into the voter lists. However, once the anti-foreigner agitation swept Assam in 1979, Arunachal Pradesh suddenly disrobed the Chakmas and Hajongs of all entitlements one after another. For instance, the State Government vide order No. Pol 21/81 dated 29 September 1980, banned employment and vide order No. FPSO-3/90-91 dated 31 October 1991 withdrew rations under the Public Distribution System. Thereafter, the Chakmas and Hajongs formed the Committee for Citizenship Rights of the Chakmas and Hajongs of Arunachal Pradesh on 2 October 1991. The State government of Arunachal Pradesh effectively enforced lawless law enforcement in which torture and harassment became an instrument. Though the Supreme Court has declared the Chakmas and Hajongs as citizens in its judgment in the case of *National Human Rights Commission (NHRC) Vs State of Arunachal Pradesh* on 6 January 1996 and many of the descendents of the migrants have been voting as citizens, the methods of law enforcement has not changed.

⁶⁸. Demography of Convicts as on 31 December 2019; https://ncrb.gov.in/hi/table-and-chapter-contents-of-psi-reports?field_date_value%5Bvalue%5D%5Byear%5D=2019&field_select_psi_table_content_t_value=All&items_per_page=50



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

The members of the Chakma community remain extremely vulnerable to torture as it is known to the law enforcement personnel that neither the State authorities nor the State political leaders shall ever intervene for them.

As per the National Human Rights Commission, 15 deaths in police custody took place during 2014-2015 to 2018-19 in Arunachal Pradesh.⁶⁹ Out of these, three victims belonged to the Chakma community i.e. Raj Kumar Chakma who died on 3 September 2019, Subash Chakma who died on 19 April 2015 and Pintu Chakma who died on 30 April 2014.

As per 2011 census of Arunachal Pradesh, the Chakma population was about 47,730 persons⁷⁰ against total population of 1,383,727 persons⁷¹ in the State. Although the Chakmas represents only about 3% of the total population of the state, they constituted about 20% of the deaths in police custody recorded by the NHRC from 2014-2015 to 2018-2019.

The police also found out an ingenious way to extort money in the name of so-called bail bond. Once detained, each individual is required to pay bail bond for release. Those unable to pay bribes are held in prolong detention in police lock up at Diyun police station. For example, Pintu Chakma was arrested on 30 April 2014 under the Narcotic Drugs and Psychotropic Substances Act, 1985 for consumption of drugs [Section 27(1)] along with four other persons who were released on bail within few days except Pintu Chakma. Pintu Chakma was denied bail as he allegedly could not pay bribe to the police. He was sent to judicial custody but not shifted to jail, and kept in prolong detention in sub-human condition at the Diyun police lock-up and died there on 16 October 2014.⁷²

Even children are not spared. On 2 August 2012, a minor (name withheld), son of Bisnu Chakma and three others identified as Balo Kumar Chakma (57 years), s/o Lt. Chidilya Chakma, Nama Chandra Chakma (56 years), s/o Lt. Lolit Kumar Chakma and Bimal Chandra Chakma (37 years), son of Prana Dhan Chakma were arbitrarily picked up from their houses and taken to Diyun police station. The victims, all residents of Sukhanala village under Diyun circle, were picked up on mere suspicion

⁶⁹. See Annual Reports of the NHRC, 2008–2009 to 2015–2016, & Lok Sabha Unstarred Question No.218 answered by Minister of State for Home Affairs, Hansraj Gangaram Ahir on 11 December 2018, <https://mha.gov.in/MHA1/Par2017/pdfs/par2018-pdfs/ls-11122018/218.pdf>

⁷⁰. RTI Reply dated 24.10.2018 by the Office of the Registrar General, India, Language Division, Kolkata on “District Wise Population of Male & Female Growth Rate of Chakma (2011 CENSUS)

⁷¹. Arunachal Pradesh Population 2011, Census of India, <https://www.census2011.co.in/census/state/arunachal+pradesh.html>

⁷². See NHRC Case No. 157/2/4/2014–AD



**NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India**

in connection with a theft case. They were allegedly not produced before the Court as required under the law and illegally detained for four days at the lock up of the police station. They were also not medically examined. The victims were produced before the local Magistrate only on 6 August 2012 at about 4 pm. According to the relatives of the victims and local villagers, the victims were subjected to physical and mental torture during interrogation to extract confession. As the minor was detained at the police station in violation of the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2000 which was not noted by the Magistrate, the NHRC held it a case of human rights violation and recommended the Arunachal Pradesh government to pay Rs. 50,000 as compensation to the minor victim.⁷³

It is not only the police, even civil officials resort to torture of the Chakmas and Hajongs. On 29 March 2016, Adesh Chandra Hajong, a village Headman and Vice President of the Citizenship Committee for the Chakmas and Hajongs of Arunachal Pradesh (CCRCHAP), was brutally beaten by Executive Magistrate cum Extra Assistant Commissioner (EAC) at his office chamber at Diyun. Mr Hajong was summoned by the Magistrate in connection with a dispute pertaining to erection of fencing over some land in his village. Once he entered the office room, the Magistrate closed the door and rained blows with a cricket stump on him. The Magistrate kept on hitting him till he fell down and then dragged him to the bath room attached to his office chamber and directed him to clean the blood oozing out from the wounds. Mr Hajong sustained injuries all over his body. His left arm was fractured and received several deep wounds on his chest and stomach; his private parts were swollen and bruised. He was taken to Community Health Centre, Diyun but was referred to District Hospital, Changlang for expert treatment. It led to massive public protest and personnel of the Indian Reserve Battalion had to be deployed. On 8 April 2016, the NHRC directed the Chief Secretary and Director General of Police, Arunachal Pradesh to submit responses. In response, Superintendent Police (Crime), Arunachal Pradesh denied the allegations of torture by the EAC despite medical and photographic evidence. The police report further falsely claimed that 45 police personnel sustained injuries in mob violence without submitting the medical reports. Based on the police report, the NHRC closed the case asking the complainant to approach forum of law for redressal.⁷⁴

Torture and harassment of Chakmas and Hajongs by law enforcement personnel were also reported at regular interval.

On the night of 7 September 2019, four students identified as Chiko Chakma (21 years), Subash Chakma (22 years), Premojyoti Chakma (21 years) and Jyoti Chakma were subjected to custodial torture at Chongkham police station in Namsai district, Arunachal Pradesh. They were taken into custody and tortured for protesting against

⁷³. See NHRC Case No.18/2/4/2012

⁷⁴. See NHRC Case No. 5/2/4/2016



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

manhandling and attempt to arrest a woman and her 14-year-old son by a police team led by Officer-in-Charge (OC) Ajay Kumar at night. They were slapped and beaten with sticks and as a result they sustained injuries in their bodies, including in the back, head, temple, etc. They were released allegedly on payment of Rs. 5000/- each as bribe. Later, the victims were admitted to the local hospital, where the doctors confirmed the torture on the victims.⁷⁵

On 12-13 September 2019, Lokhi Dhan Chakma, son of Nagendra Lal Chakma (36 years) was allegedly tortured by the in-charge of IRBn (Indian Reserve Battalion) outpost at Kokila in Papum Pare district. The victim, a resident of Chakma Block No. 9 under Balijan police station in the district, had a quarrel with his brother regarding a land dispute on 12 September. In a fit of rage, he attacked his brother with a dao and surrendered to the nearest IRBn outpost located at Kokila. No complaint was filed by his brother or his family against him. Without conducting any investigation into the claims of Lokhi Dhan Chakma who voluntarily surrendered, the IRBn personnel led by outpost incharge allegedly tied up Lokhi Dhan Chakma and brutally tortured him at the IRBn outpost. Later on the same day, Lokhi Dhan's father Nagendra Lal Chakma went to the IRBn outpost and Lokhi Dhan was allowed to go home with his father, after signing a bond that he will not commit any mischief and will present himself at the IRBn outpost next morning. The next morning (13 September), Lokhi Dhan Chakma and his father, Nagendra Lal Chakma came to the IRBn outpost. The outpost in-charge allegedly extorted Rs 1,000/- from Nagendra Lal Chakma. Nagendra Lal Chakma was allowed to go home after agreeing to the demand that his son (Lokhi Dhan) shall come to the IRBn outpost every day and render free labour for 15 days for the IRBn. IRBn outpost in-charge further asked Nagendra Lal Chakma to pay a fine of Rs 4,000 more at the earliest. Fearing more punishment, Nagendra Lal agreed to all the demands and returned home silently. Lokhi Dhan Chakma was kept in the custody and forced to work in the IRBn outpost for the whole day on 13 September and in the evening he begged to go home. Angered by this request to go home, the IRBn outpost in-charge started torturing the victim who was already exhausted due to forced labour. The victim was kicked on the chest repeatedly, beaten up with stick all over the body including on the leg bones. He was released after his condition deteriorated and he collapsed after reaching home. But he was poor and too frightened even to go to a doctor/hospital or report the matter to the police.⁷⁶

⁷⁵. See NHRC Diary No. 10823/IN/2019

⁷⁶ . Information received by the Campaign Against Torture from local contacts on 15 September 2019



2. DENIAL OF ACCESS TO JUSTICE TO THE POOR AND VULNERABLE

In his Interim Report of 2000, on the question of torture presented to the General Assembly, Sir Nigel Rodley, Special Rapporteur of the Commission on Human Rights, observed that *“the overwhelming majority of those subjected to torture and ill-treatment are ordinary common criminals from the lowest strata of society”*.

The Special Rapporteur also noted: *“They poor are the ones who cannot afford good lawyers, or who may have access only to less-than-diligent lawyers provided, in some instances, by the State, or who may not have access to any lawyer at all; whose families do not have the connections to be taken seriously by the police, prosecutors or judges, or even the means of securing life-saving health care that may be obtained outside the place of detention, or of providing food fit to eat when the detaining authorities and institutions fail to make these available; and who do not have any idea of what their rights are, even the right not to be tortured, or how those rights may be secured. Indeed, they are often members of the lowest level of an underclass that is disconnected from all opportunity of leading decent lives as productive economic citizens”*.⁷⁷

The 152nd Report of the Law Commission of India titled, *“Custodial Crimes”* published in 1994, noted that generally, the victims of custodial crimes, torture, injury or death belong to weaker sections of society. The poor, the downtrodden and the ignorant with little or no political or financial power are unable to protect their interests. Members of the weaker or poorer sections of society are arrested informally and kept in police custody for days together without any entry of such arrests in the police records. During the informal detention they are subjected to torture, which at times results in death. In the event of death in custody, the body of the deceased is disposed of stealthily or thrown to a public place making out a case of suicide or accident. Records are manipulated to shield the police personnel. The relatives or friends of the victim are unable to seek protection of law on account of their poverty, ignorance and illiteracy.⁷⁸

The problems start with inability to register the FIRs.

⁷⁷U.N. Doc. No. A/55/290 “Question of torture and other cruel, inhuman or degrading treatment or punishment” available at:

<http://www.un.org/documents/ga/docs/55/a55290.pdf>

⁷⁸152nd Report of the Law Commission of India titled, *“Custodial Crimes,”* as available at:

<http://lawcommissionofindia.nic.in/101-169/Report152.pdf>



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

On 26 October 2017, a Dalit couple, both senior citizens, made a call to the police helpline number when their neighbour quarreled with them under the influence of liquor. However, the accused fled the spot before the police arrived. The police asked the couple to come to the Dujana police post under Jhajjar district of Haryana to lodge a complaint next day. The 60-year-old Dalit woman, accompanied by her husband who had retired from the Central Reserve Police Force (CRPF), and their minor grandson and granddaughter went to the Dujana police post on the next day. The officer-in-charge was present at the outpost and they sat on chairs waiting for him. After 15 minutes, the officer-in-charge came and started abusing them and making casteist remarks on seeing them sitting on chairs. The aged Dalit woman said the officer-in-charge hit her husband with a baton, while other policemen thrashed him as well. When the woman tried to save her husband, the policemen thrashed her and tried to sexually assault her. The police detained the husband of the woman. The next day, the police registered a false case against the woman's husband. The woman approached the Superintendent of Police, Jhajjar, and other senior police officers, but no one paid heed to her request. Thereafter, she approached the court. In December 2017, the police booked seven policemen under Section 294 (obscene act), 354 and 354-B (assault or criminal force on woman with intent to outrage modesty), 323 and 324 (voluntarily causing hurt) and 506 (criminal intimidation) of the IPC and under the SC/ST Act on the direction of the Judicial Magistrate First Class. The accused were Dujana police post in-charge Pawanveer, ASIs Anil Kumar and Naresh Kumar, Munshi Harish Kumar, Head Constable Praveen Kumar and Constables Yashinder and Ravinder.⁷⁹

Similarly, in the custodial death case of Pradeep Tomar, an FIR was registered against four policemen only after the National Human Rights Commission took note of the case. On 13 October 2019, Pradeep Tomar, a security guard, was summoned for interrogation in connection with a murder case at Pilkhua police station in Hapur district of Uttar Pradesh. In compliance, Pradeep Tomar had gone to the police station along with his 10-year-old son. The son later said that his father was brutally tortured by the police in front of him for hours. When Tomar's condition deteriorated he was rushed to hospital, where he died.⁸⁰

Destruction of evidence by the police is common.

On 6 July 2020, an FIR against six policemen was lodged after seven months of the custodial death of Babu Shaikh (62 years) that took place at Fatehgunj police station in Vadodara in Gujarat on 10 December 2019. The six policemen were booked for allegedly torturing and killing Babu Shaikh, a theft suspect and destroying evidence.

⁷⁹.Seven cops booked for torturing Dalit woman, The Tribune, 27 December 2017; available at: <https://www.tribuneindia.com/news/haryana/seven-cops-booked-for-torturing-dalit-woman/511681.html>

⁸⁰. Reducing custodial deaths, The Hindu, 7 February 2020, <https://www.thehindu.com/opinion/op-ed/reducing-custodial-deaths/article30756407.ece>



NO EXCUSE OF KLEPTOMANIA: Poverty, Prejudices and Torture in India

According to the FIR, after his death, the accused disposed of the body of the suspect at an undisclosed location. It also stated that the accused made a false entry into the police station diary stating that Babu Shaikh was released after preliminary questioning, and that he walked out by himself. The police also deleted the soft copy of that complaint regarding a theft case.⁸¹

On 20 March 2019, a Delhi court sentenced five policemen identified as Sub inspectors Hindveer Singh and Mahesh Mishra, and constables Pradeep, Pushpender and Haripal to 10 years of rigorous imprisonment for torturing Sonu to death in custody.⁸² Pronouncing the verdict, the additional sessions judge Sanjeev Kumar Malhotra said, *“The police play a major role in the administration of criminal justice. One of the reasons for custodial death is that the police feel that they have a power to manipulate evidence as the investigation is their prerogative and with such manipulated evidence, they can bury the truth..... They are confident that they will not be held accountable even if the victim dies in custody and even if the truth is revealed.”*⁸³ Sonu @ Somveer was allegedly abducted from his village by police officials in plain clothes at Hazrat Pur in Uttar Pradesh on the suspicion of being involved in a robbery in September 2006. He was taken to a police station and implicated in a ‘false case’ of robbery after which he was tortured to death by the officers. Sonu’s father claimed that his son was murdered by the police after being tortured and they had tried to pass it off as a suicide. The police manipulated records to obliterate all evidence of custodial death and closed it as a case of suicide. In January 2011, the Supreme Court transferred the case from Gautam Budh Nagar in Uttar Pradesh to Delhi after Sonu’s father moved the apex court. While transferring the trial, the Supreme Court had observed that the manner in which the investigation was conducted after registration of the case unmistakably shows that ‘free and fair trial of the case will not be possible within the state more so because the accused are members of the police force’.⁸⁴

Medical records are often doctored.

⁸¹. Guj: 6 Vadodara cops booked for custodial death after 7 months, Outlook, 7 July 2020, <https://www.outlookindia.com/newscroll/guj-6-vadodara-cops-booked-for-custodial-death-after-7-months/1888379>

⁸². 5 Uttar Pradesh cops get 10-year rigorous jail term over custodial death, Hindustan Times, 21 March 2019, <https://www.hindustantimes.com/delhi-news/5-uttar-pradesh-cops-get-10-year-rigorous-jail-term-over-custodial-death/story-xIC4IUCRjE4Kn9bm7VHToL.html>

⁸³. Reducing custodial deaths, The Hindu, 7 February 2020, <https://www.thehindu.com/opinion/op-ed/reducing-custodial-deaths/article30756407.ece>

⁸⁴. 5 Uttar Pradesh cops get 10-year rigorous jail term over custodial death, Hindustan Times, 21 March 2019, <https://www.hindustantimes.com/delhi-news/5-uttar-pradesh-cops-get-10-year-rigorous-jail-term-over-custodial-death/story-xIC4IUCRjE4Kn9bm7VHToL.html>



Case of Somla Naik:⁸⁵

Somla Naik, a resident of Gundlasingaram village in Hanamkonda mandal, Warangal district of Telangana was arrested by the Excise Police on 16.04.2013 on charges of selling illicit distilled liquor. He was remanded to judicial custody on the same day and released on 17.04.2013 and succumbed to his injuries within two hours of his release. The NHRC took cognizance of the matter pursuant to a complaint filed by ACHR on 23.04.2013 and registered it as Case No.511/1/23/2013. The health screening report of the deceased dated 17.04.2013 as submitted by the Superintendent of Warrangal Central Prison indicated that the deceased had a history of being alcoholic withdrawal symptoms and severe alcoholic intoxication and that deceased before being admitted in the prison was examined by the Doctor of MGM Hospital Warangal. After admission in the prison he was admitted in the central prison hospital and was provided treatment for withdrawal symptoms till his release. The medical certificate dated 16.4.2013 issued by MGM Hospital did not show any external Injury on the body of the deceased. The Superintendent, Warangal Central Prison also reported that the deceased died outside after his release from the jail hence no postmortem inquest and magisterial enquiry was conducted. The cause of death was not known.

A magisterial enquiry into the matter was conducted by the SDM and RDO, Warrangal and it stated that the deceased was suffering with illness right from his admission in the jail till his discharge. According to him on the date of release he was under treatment and was capable to walk only with the help of some assistance. Till he borrowed an auto to go to his village Gundlasingam he was alive. But when the auto reached his village he was found dead.

The NHRC referred the records of the death of Somla Naik to the medical experts on its panel for examination and opinion. The expert after examining the material on record opined as follows: - *"Several Inconsistencies are noted in the treatment record of the MGM Hospital and also Prison Hospital. The possibility of the fabricated medical treatment record at the Prison Hospital cannot be ruled out and the same may be investigated. The observation that the deceased at the time of his release was unable to walk on his own also suggest the possibility of him to sustain the injuries while in the custody."* Based on the opinion and findings of the expert, the Commission held: *"Admitted the deceased was in the care and custody of the state. During his custody in the prison the deceased did not lose his right to life as guaranteed under Article 21 of the constitution. But the circumstances established on record indicated that the deceased did not have a normal and natural right to life and the nature of his death did not rule out torture of the deceased while in the judicial custody. The torture meted out to him resulted in the cardiac arrest and ultimately the*

⁸⁵. NHRC's proceedings in Case No. 511/1/23/2013



death of the deceased. The inconsistency noticed in the treatment record itself testified that the prison authorities wanted to suppress the truth. Therefore there was a clear case of foul play in the death of the deceased.” The NHRC has since concluded the case after the Director General of Prison & Correctional Services, Hyderabad, Telangana informed that compensation of Rs.5,00,000/- vide cheque bearing no.676365 dated 12.07.2019 was paid to deceased’s wife Smt. Daravath Kamala with proper acknowledgement.

Case of Saukhi Lal Kushwah⁸⁶:

On 2 August 2013, the Asian Centre for Human Rights submitted a complaint to the NHRC regarding the custodial death of Saukhi Lal Kushwah due to alleged torture in Satna district of Madhya Pradesh on 30 July 2013. The deceased was picked up by the police on 16 July 2013 for interrogation in connection with the whereabouts of his son Kamendra Kushwah who was allegedly involved in a kidnapping and murder case. The body of Saukhi Lal was later found near Lahiti on 30 July 2013 and the villagers alleged that he died due to police torture (electric shock) and his body was dumped there. The NHRC registered the case (Case No. 1640/12/38/2013-AD) and issued notice to the State Government of Madhya Pradesh. Pursuant to the NHRC directives, the State Government of Madhya Pradesh submitted the medical reports including two post-mortem reports and histopathological report of the deceased.

The NHRC sought opinion of the Medical Expert on the Panel of NHRC i.e. Dr. Anil Aggarwal, Director, Professor Forensic Medicine, Maulana Azad Medical College, New Delhi. Dr Aggarwal’s report made stunning revelations that both the post mortem reports conducted by three doctors each were “cooked up”.

The first post mortem (PM) report was conducted by a panel of three doctors namely MM Panday, KK Suryavanshi, Amar Singh and the second PM was conducted by another three doctors namely CM Tiwari, SK Mirani, Arun Trivedi. Dr Aggarwal stated that none of these doctors was a forensic expert and therefore not competent to conduct post mortem. The first PM found (i) Mild bluish tinge on nails, (ii) Small abrasion on left parietal region (iii) no other injuries while the second PM found (i) Hands pale, (ii) Skin wrinkled over both palms, (iii) Abrasion on left parietal region as mentioned in first PM report, (iv) Spleen enlarged and (v) no other external injuries. Both the PM reports stated the cause of death as acute myocardial infarctions (or heart attack).

Dr Aggarwal stated that both the PM reports were of “extremely poor quality” and none of the six doctors was a forensic expert. He stated, *“It appears that by employing more and more doctors, the police was trying to find a cause of death. What they could not get in quality, they tried to substitute by adding quantity. Like trying to give 6 rotten apples to a patient, instead of just 1 fresh apple. The situation is also similar*

⁸⁶. NHRC’s proceedings in Case No.1640/12/38/2013-AD



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

to trying to get, say a brain surgery by employing more and more doctors none of whom is a brain surgeon. One can employ hundreds of doctors in such cases, and no one will ever discover the cause of death because none of them is a forensic expert.”

Regarding the histopathological examination conducted at the Gandhi Medical College, Dr Aggarwal stated, *“The file shows a report by the doctor in Gandhi Medical College, who has not written his name anywhere. So, it cannot be determined who that doctor was. But what is most shocking is that the doctor has commented on the state of occlusion of anterior left descending artery. This is simply not possible after two postmortems. In such suspicious deaths, the doctors at the first PM itself, should have dissected all the 3 coronary arteries to see blocks. If that did not occur, the team of second PM should have done that. If none of the 6 doctors had dissected the arteries of heart during 2 postmortems. It is virtually clear that none of them did any postmortem and simply cooked up the PM report. This is not so far-fetched and inconceivable. In most such cases, where non forensic specialists are employed to conduct postmortems, they are known to indulge in this practice. But this case virtually proves it.”*

Based on the report of Dr Aggarwal, the NHRC’s Investigation Division stated, *“the opinion of the forensic expert is a severe indictment of the doctors who conducted the post-mortem examinations. It is clear that they wrongly manipulated the PMRs. The only inference it leads to is that there was a gross human rights violation which was sought to be covered up in the PMRs”.*

On the basis of this report, the NHRC held that “a case of violation of the human rights of the deceased Saukhilal Kushwah has been made out” and the Commission (i) directed the Director General of Police, Government of Madhya Pradesh to take legal action against the erring police personnel of P.S. Kolgawan, Satna, and (ii) directed the Secretary, Department of Health, Government of Madhya Pradesh to take disciplinary action against the doctors who conducted post mortem examination of the deceased and were responsible for preparing concocted post mortem reports.

In a response dated 19.11.2018, the Under Secretary (Home), Government of Madhya Pradesh stated that as per the opinion of the medical team the death of the deceased was due to heart attack and no police officer/official was found guilty in the matter. The NHRC rejected this submission and held that the State Government is vicariously liable to pay monetary compensation to the next of kin of the deceased children and directed the State of Madhya Pradesh to pay compensation of Rs. 3,00,000/- to the next of kin of the deceased within six weeks. The Commission also issued the Secretaries, Ministry of Health, Ministry of Home Affairs and Ministry of Law and Justice, Government of India to submit a report whether the post mortems are conducted by the forensic experts in the country and if not, what measures are being taken to appoint the forensic experts for conducting the post mortems and medico-legal examination and whether any guidelines have been issued regarding proper conducting of the post-mortem examinations.



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

The compensation had been paid and a report dated 6 May 2020 was submitted by the Additional Director General of Police (Human Rights), Police headquarters, Bhopal, MP stating that an enquiry into the matter conducted by Superintendent of Police in headquarters, Satna found that no police official was found to be negligent in the matter. The NHRC stated that the report submitted is not satisfactory and further directed the Director General of Police, MP to get a thorough enquiry conducted into the matter by the CBCID.

In the said case, the NHRC directed the Secretaries, Ministry of Health, Ministry of Home Affairs, and Ministry of Law and Justice Government of India to submit their reports whether the postmortems are conducted by the Forensic Experts of the country and measures taken for conducting the postmortem and medico-legal examination by the Forensic Experts. No report has been submitted by the Secretary, Ministry of Health & Family Welfare, Govt. of India despite warning of coercive process. In its latest proceedings dated 21.07.2020, the NHRC gave one more opportunity to the Secretary of the Ministry of Health and Family Welfare to submitted within eight weeks positively failing which the Commission shall be constrained to take coercive steps U/S 13 of the Protection of Human Rights Act, 1993 for his personal appearance.

Emblematic case: Delhi High Court constituted SIT shielded delinquent officers, the case transferred to the CBI for further investigation⁸⁷

On 7 September 2015 at about 04.30 pm, Shahnawaz Chaudhari and his wife Rabia @ Mamta (the petitioner No.1) accompanied by their 3 and half month baby were on their way to Karuna Hospital at Dilshad Garden, east Delhi. On the way they noticed a couple quarrelling with each other and police officers present trying to intervene.

According to Rabia @ Mamta, since late Shahnawaz Chaudhari was acquainted with the lady concerned, he stopped and made enquiries as to what the trouble was. The policemen are alleged to have asked him to stay out of it. Shahnawaz Chaudhari, however, insisted that since it was an ordinary matrimonial disagreement between the quarrelling couple, it would be best to let them sort it out amongst themselves. The policemen are alleged to have taken umbrage at Shahnawaz Chaudhari's persistent and purportedly uncalled for intervention as they perceived his actions to be an invasion by a busy body interloper into their domain and started roughing up Shahnawaz Chaudhari. When Shahnawaz Chaudhari objected to the treatment meted out to him, policemen were stated to have not only rebuked them but also snatched the keys of the motorcycle on which the family was travelling. At this juncture, it is alleged that another vehicle belonging to the police drove up and all the policemen who had

⁸⁷. Rabia @ Mamta & Anr vs Nct Of Delhi & Ors on 3 December, 2015;
<https://indiankanoon.org/doc/64655183/>



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

assembled there ganged up and repeatedly kicked, punched and beat up Shahnawaz Chaudhari. Despite the entreaties in this regard by Rabia @ Mamta, the police persisted with their assault on Shahnawaz Chaudhari and even assaulted him with dandas. The three and half month old child was separated from Shahnawaz Chaudhari and Rabia @ Mamta and the latter were bundled into a police vehicle. The torture and brutality intensified in the police vehicle and three policemen climbed on to the chest of Shahnawaz Chaudhari and sat on him while the fourth continued giving persistent blows on his torso. The entreaties of Shahnawaz Chaudhari and Rabia @ Mamta to the policemen to stop and desist from beating them further, fell on deaf ears. Upon reaching Nand Nagri Police Station, Shahnawaz Chaudhari was taken inside. Rabia @ Mamta was subsequently informed that Shahnawaz Chaudhari was being taken to hospital since his health had deteriorated. According to Rabia @ Mamta Shahnawaz Chaudhari was unconscious at that time.

Rabia @ Mamta was made to wait at the Police Station till 02.00 am next morning without being informed of the status of the health and well-being of her husband. Rabia @ Mamta was finally asked by the concerned Metropolitan Magistrate who arrived to record her statement. Rabia @ Mamta stated that policemen present there exerted pressure on her with respect to her statements to the Magistrate and threatened her that the well-being of her husband could be jeopardized if she were to implicate them in any manner. Rabia @ Mamta was finally dropped at her parents' house at 03.00 am.

Rabia @ Mamta visited GTB Hospital in search of her husband but to no avail. In desperation she went back to the Nand Nagri Police Station and beseeched the policemen to tell her where husband but none informed her about the whereabouts of her husband. She is stated to have spent the night outside the Nand Nagri Police Station waiting and pleading with the policemen to tell her of Shahnawaz's whereabouts.

At 07.00 am on 9 September 2015, she went back to her parents' house and came back to Nand Nagri Police Station once again accompanied by her father (petitioner No.2). It was at this stage that they were informed that her husband was declared dead on arrival by the doctor at the GTB Hospital on the previous day.

Onlookers and passers-by recorded videos of the policemen beating her husband and her on their mobile telephones and same were part of the report of the concerned Sub-Divisional Magistrate.

Rabia @ Mamta and Sant Ram, who are respectively the widow and the father-in-law of the deceased victim Shahnawaz Chaudhari filed a writ petition (W.P. (CRL) 2349/2015 & CRL.M.A.16695/2015) in the Delhi High Court, making a number of prayers, among others, to form a Special Investigation Team preferably comprising of officers from another State to investigate into the incident and prosecute the offending



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

police persons; conduct a departmental enquiry into the incident and terminate the services of the police officers found guilty, and in the meantime suspend them.

A judicial enquiry under section 176(1A) of Criminal Procedure Code was conducted and the concerned Magistrate after inspecting the dead body of the deceased Shahnawaz Chaudhari recorded the statements of witnesses and concluded as under:

“In the light of the examination of witnesses and post mortem report and other documents filed it is evident, that the deceased Shanu died due to asphyxia caused by compression of neck. The internal injuries on the neck of the deceased show that force was applied by the broad object on the neck of the deceased due to which the deceased expired. The medical evidence on record clearly proves that this is not a case of natural death and rather it is a case of homicide. The issue whether it is a case of intentional killing is beyond the scope of this enquiry and can only be ascertained once proper investigation is carried out. The DCP concerned is accordingly directed to take appropriate action for proper investigation is carried out. The DCP concerned is accordingly directed to take appropriate action for proper investigation in the matter by registration of FIR.”

From the PME report dated 09.09.2015, it is clear that there are 23 injuries on the body of deceased Shahnawaz @ Shanu besides significant internal injuries on head & neck region. The statements of witnesses and material evidence have been able to establish.

Yet, the Delhi Police lied to the court. The affidavit signed by Mr. Rajendra Singh Sagar, Additional DCP/North East, Delhi, stated:

“Shahnawaz Chaudhari, the deceased, was in a drunken condition and started quarrelling with the police officials. It is admitted that Shahnawaz Chaudhari was taken in the ERV to the Police Station and on the way he showed signs of physical discomfort and was immediately rushed to GTB Hospital. It is stated that the patient was declared as brought dead by the doctors at GTB Hospital.”

During the course of hearing of the petition on 20.10.2015, Shama Khatoon and Mr. Danish Chaudhary, the sister and brother of deceased Shahnawaz Chaudhari alleged that the police has been approaching and intimidating witnesses to the gory incident that resulted in the unfortunate demise of Shahnawaz Chaudhari and that the CCTV Cameras of the area which are a part of the evidence in the subject FIR have been removed by the official respondents.

Vide order dated 20.10.2015, Justice Siddarth Mridul passed the following directions to the Delhi Police:



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

- “1) The SIT shall immediately secure all evidence related to the subject FIR including the CCTV Cameras footage from the concerned area as well as the concerned Police Station.
- 2) The SIT shall obtain all contemporaneous video recordings alleged to have been made by members of the public on their mobile handsets at the time of the unfortunate incident.
- 3) The SIT shall take into their custody forthwith the Duty Roster and all other relevant documents from the concerned Police Station and clearly define the role of the police personnel who were on duty at the relevant time.
- 4) Since the subject FIR has been registered against "unknown persons", the SIT shall forthwith investigate and ascertain the identity of the said "unknown persons", who perpetrated the unspeakable crime.
- 5) The SIT shall take into custody the report of the concerned Sub Divisional Magistrate qua the inquest into the custodial death of Shahnawaz Chaudhari as well as the video recording of the post-mortem conducted on the body of Shahnawaz Chaudhari.
- 6) The SIT shall file a comprehensive status report before this Court with regard to the unnatural death of Shahnawaz Chaudhari and the circumstances antecedent and attendant thereto, before the next date of hearing.”

The bench also directed, “In the event, it is determined during the ensuing investigation that police officers were complicit in the commission of the offences alleged, the Disciplinary Authority shall initiate appropriate disciplinary action against the said delinquent officers in accordance with law.”

However, the above stated directions were not followed at all by the police. The following observation of the court on the affidavit file by the SIT revealed the shoddy nature of the investigation carried out by the police.

“...A perusal of the same reveals that no information with regard to the perpetrators of the crime has been stated therein. The official respondent is expected to comply with the directions issued by this Court by way of order dated 20th October, 2015 in letter and spirit on or before the next date of hearing....”

The Court noted that the status report filed on behalf of the SIT, its contents and conclusion leads to an impression that the investigating agency has not been able to conduct itself in an impartial and fair manner. The failure on the part of the SIT to record the statement of Subhash despite a passage of three months and their reluctance to record the statement of Zahid Ahmed indicated that all was not well with the investigation.



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

Finally, the Court directed the Delhi Police to hand over the record of the present case to the Central Bureau of Investigation within a week and thereafter the CBI authority shall take up the investigation afresh and conclude the same within a period of six months from the date of taking over the investigation from the police authorities.

The Court remarked, “In the facts and circumstances discussed hereinabove, while concluding with the investigation into the death of Shahnawaz Chaudhari is far from fair, independent, bona fide and prompt and whilst refraining from suggesting with the SIT should or should not have taken a particular line of investigation or apprehended any person, except in accordance with law, it is incumbent and advisable for this Court to transfer the investigation to the Central Bureau of Investigation so as to instill confidence of the general public in the investigation, bearing in mind the seriousness of the allegations leveled against the police officers.”



3. FAILURE OF THE LEGAL AID SYSTEM

Pursuant to persistent efforts made by the National Forum that was formed in the Maharashtra Lawyers Conference in 1975, many lawyers, members of Parliament and outcome of legal aid conference held in various parts of India, the then Congress Government at the Centre headed by Mrs. Indira Gandhi appointed a committee on Constitutional Amendments under the Chairmanship of Mr. Swaran Singh, former Union Minister in 1975. The Swaran Singh Committee accepted the idea of making legal aid a constitutional imperative. The Committee submitted its comprehensive Report in 1976 and recommended the inclusion of legal aid through a new article in the directive principles of the State Policy in the Constitution.⁸⁸ By Forty-Second Constitution Amendment (1976), a new Article 39A was added to the Directive Principles of State Policy.

The new Article reads:

“39A. Equal justice and free legal aid - The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.”

In furtherance of the Constitutional mandate enshrined in Article 39A, the Legal Services Authorities Act 1987 was enacted. Sections 12 and 13 of this Act allow any person to seek legal aid under the Act to defend or file a case and if belonging to any of the specified category viz., member of Scheduled Caste or Scheduled Tribe; or poor (with an annual income of not more than Rs.50000/- for cases in the Supreme Court and Rs.25000/- in other courts); or a victim of human trafficking or a beggar; or a woman or child; or if the individual suffers from any disability; or a victim of mass disaster, ethnic violence, caste atrocity, flood, drought, earthquake, industrial disaster; or an industrial workman; or in custody, including protective custody; or facing a charge which might result in imprisonment.⁸⁹

The Supreme Court in a number of judgments including *Hussainara Khatoon (IV) v. Home Secretary, State of Bihar*, [(1980) 1 SCC 98] held: “... free legal service is an inalienable element of ‘reasonable, fair and just’ procedure for without it a person suffering from economic or other disabilities would be deprived of the opportunity for securing justice. The right to free legal service is, therefore, clearly an essential ingredient of ‘reasonable, fair and just, procedure for a person accused of an offence

⁸⁸. http://shodhganga.inflibnet.ac.in/bitstream/10603/7785/9/09_chapter%202.pdf

⁸⁹. Section 12 of the Legal Services Authorities Act, 1987; available at:
<https://nalsa.gov.in/acts>



NO EXCUSE OF KLEPTOMANIA: Poverty, Prejudices and Torture in India

and it must be held implicit in the guarantee of Article 21. This is a constitutional right of every accused person who is unable to engage a lawyer and secure legal services on account of reasons such as poverty, indigence or incommunicado situation and the State is under a mandate to provide a lawyer to an accused person if the circumstances of the case and the needs of justice so required, provided of course the accused person does not object to the provision of such lawyer.”

Yet, poor and indigent persons accused of offences were denied free legal aid. Section 12 of the Legal Services Authorities Act, *inter alia*, states that “every person who has to file or defend a case shall be entitled to legal services under this Act if that person is - (g) in custody.....” At present, the National Legal Aid Services Authority (NALSA) exclusively focuses on providing legal aid to those sent to judicial custody. The Standard Operating Procedures of the NALSA, *inter alia*, states, “One of the core areas of activity of the Legal Services Institutions is providing legal aid. Under Section 12 of the Legal Services Authorities Act, 1987, all persons in custody are entitled to legal aid. However the system of providing representation to those in custody is not uniform across the country. The frequency of visits by jail visiting lawyers to the jails is also not standardised with lawyers visiting only once a month in some places while at others, they may visit twice a week. The jail visiting lawyers are often not clear what is expected of them to do. Clearly the system of interaction with the inmates in jails and their representation in courts needs to be strengthened.”

As there is no assistance to the persons including those remanded to police custody by courts from 2005 to 2019, torture and custodial deaths have become rampant. As per the National Crime Records Bureau, Ministry of Home Affairs, about 532 persons died in police custody after being remanded by courts from 2005 to 2019 as per **Table 6** given below:

Table 6: Number of cases registered, police men charge sheeted and policemen convicted in cases of death of persons remanded to police custody by courts during 2005 - 2018

Year	Death of persons remanded to police custody by courts	Cases registered in connection with death	Police men Charge Sheeted	Police men convicted
2005	67	48	0	0
2006	38	24	1	0
2007	57	33	7	0
2008	40	22	3	0



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

2009	25	22	0	0
2010	25	15	1	0
2011	29	20	5	0
2012	38	26	1	0
2013	21	13	0	0
2014	32	5	15	0
2015	30	9	4	0
2016	32	6	14	0
2017	42	23	3	0
2018	24	15	0	0
2019	32	15	0	0
Total	532	296	54	0

The Table 6 above further shows that with regard to the death in police custody/lockup of 532 persons remanded to police custody by courts during 2005 to 2019, 296 cases were registered, 54 policemen were chargesheeted but not a single policeman was convicted as on date.

The right of any person arrested or detained to be produced before the courts within 24 hours of arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate is guaranteed under Article 22 of the Constitution of India. It is considered the most sacrosanct right because once a person is brought before the court, judiciary becomes the authority for protection of the right to life of the arrested person and there shall no arbitrary deprivation of the right to life.

However, death in police custody/lockup of 532 persons remanded to police custody by the courts from 2005 to 2019 shows grave crisis of the justice sector. The crisis is aggravated by the failure to prosecute any of accused responsible for the death of 532 persons remanded to police custody by the courts.



4. HOW TORTURE CONTRIBUTES TO FURTHER DESTITUTION

The Law Commission of India had pointed out that in the event of death of the earning member of a poor family in custody; the family members of the deceased are left to lead a pathetic life in penury. It noted that though relief for damages may be claimed in tort through a civil suit but the legal position in this respect is unclear and the process of civil suit is too cumbersome, making it illusory.⁹⁰

The Law Commission concluded, *“Invariably, the victims of torture and death in custody are poor persons who do not have adequate resources or finances to protect their life and liberty. In many cases the sole bread earner of a poor family is the victim of custodial death leaving the entire family in a State of penury and starvation.”*⁹¹

Some of the emblematic cases given below show how police atrocities, including torture caused further destitution among the marginalized people, such as Dalits, Adivasis, religious minorities:

4.1 Cases of sole bread earners killed in custody

Case 1: Tortured to death of Gufran Alam (30) and Taslim Ansari, Bihar

At about 1:30 am on 6 March 2019, police picked up two youths viz. Gufran Alam (30 years) and Taslim Ansari (32 years) from Ramdiha village in Chakiya police station in East Champaran district of Bihar in connection with the theft of a motorcycle and murder of its owner Rakesh Kumar in Muzaffarpur district of the state. Around 3 am Gurfan’s father Munnavar Ali, along with his brother Sanawar Ali and other villagers, reached Chakiya police station in search of Gurfan and Taslim. But they did not find Gufran and Taslim there and a local police a local police informer told them that the duo was detained at Dumra police station in Sitamarhi district. Thereafter, the families of the duo reached Dumra police station at 5 pm on the same day. On asking about the duo, the family members were sent to Sadar Hospital where they were told that both were dead and their postmortem had been conducted. The family members were not even allowed to see the bodies until handed over to them on the next day. When the bodies were being washed for the burial, relatives said they discovered the wounds and the extent of torture. They found that nails were hammered into the thighs, soles and wrists of Gurfan and Taslim. The legs of both victims were severely injured.⁹²

⁹⁰.152nd Report of the Law Commission of India titled, “Custodial Crimes,” as available at: <http://lawcommissionofindia.nic.in/101-169/Report152.pdf>

⁹¹.152nd Report of the Law Commission of India titled, “Custodial Crimes,” as available at: <http://lawcommissionofindia.nic.in/101-169/Report152.pdf>

⁹².Nails ‘hammered’ into them, two men ‘tortured’ to death in Bihar police custody, probe ordered, Indian Express, 12 March 2019; available at:



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

Citing post mortem reports of the victims, Muzaffarpur zonal IG Nayyar Hasnain Khan said prima facie, the victims died as a result of police atrocities while they were in custody.⁹³

Taslim worked as a daily wager and his family lived in 400 sq feet thatched house while Gufran worked as an electrician in Qatar and had returned a year ago. Gurfan's family is marginal farmer owning 14 sq feet of agricultural land. He was the father of two children aged 5 years and 3 years and the sole bread earner.⁹⁴

Altogether eight policemen including Dumra police station's SHO Chandra Bhushan Singh were arrested and suspended after the custodial death. On 7 March 2019, Singh escaped from police custody.⁹⁵

Case 2: Alleged tortured to death of Krishna Badaik, a tribal daily wager, Odisha

On 27 October 2015, police personnel from Jalda police station in Sundergarh district of Odisha allegedly beat up Krishna Badaik, a tribal at his home within the Jalda police station limits. The police had come to the village looking for one Jugnu but not finding him, the police went towards the house of Badaik and after some time neighbors could hear screams of Badaik. The next day, on 28 October, the villagers found the body of Badaik. Badaik was working as a daily wage earner and had no criminal antecedents. Over 400 tribals led by MLA of Biramitrapur, George Tirky gheraoed the police station and told the media that Badaik was the sole bread earner of the family, the government should provide Rs 20 lakh to the bereaved family.⁹⁶

<https://indianexpress.com/article/india/bihar-police-custody-nails-hammered-into-them-two-men-tortured-to-death-probe-ordered-5621645/>

⁹³.Bihar: Custodial death accused SHO flees from police custody, Times of India, 8 March 2019; available at: <https://timesofindia.indiatimes.com/city/patna/bihar-custodial-death-accused-sho-flees-from-police-custody/articleshowprint/68322834.cms>

⁹⁴.Nails 'hammered' into them, two men 'tortured' to death in Bihar police custody, probe ordered, Indian Express, 12 March 2019; available at: <https://indianexpress.com/article/india/bihar-police-custody-nails-hammered-into-them-two-men-tortured-to-death-probe-ordered-5621645/>

⁹⁵.Bihar: Custodial death accused SHO flees from police custody, Times of India, 8 March 2019; available at: <https://timesofindia.indiatimes.com/city/patna/bihar-custodial-death-accused-sho-flees-from-police-custody/articleshowprint/68322834.cms>

⁹⁶.Tribals block police HQ over killing of Badaik, The Statesman, 30 October 2015; available at: <https://www.thestatesman.com/world/tribals-block-police-hq-over-killing-of-badaik-100343.html>



Case 3: Tortured to death of Harbans Lal in police custody, Jammu & Kashmir

On 27 August 2014, Harbans Lal alias Panchi Ram, son of Buti Ram, of Calrian, Gharota in tehsil Akhnoor in Jammu & Kashmir, was allegedly tortured to death during interrogation in the custody at Khour Police Station in connection with a case of murder. The police claimed that during the intervening night of 26 and 27 August, the deceased complained of uneasiness following which he was rushed to Primary Health Centre (PHC), Pallanwala from where he was later referred to GMCH, but he died on the way to GMC Hospital. However, during postmortem it was found that the deceased was having injury marks on his whole body including nose and mouth, which clearly indicated that the deceased was beaten up severely in the police custody.⁹⁷ Deceased's son Naresh Kumar said that his father was earlier was detained for 9 days at Khour Police Station and for another day at Akhnoor Police Station and on 11th day, Harbans Lal was released after his family paid Rs 25,000 to then SHO Surinder Raina and Rs 5,000 to then Munshi of Khour police station.⁹⁸

However, in an attempt to keep Sandhya Devi (33 years), the widow of the deceased in the dark about the reasons of her husband's death, police had not shared the post mortem report with her as of April 2017. Since the cause of her husband's death was uncertain in the absence of the post mortem report, the deceased's wife could not claim the benefits of insurance policies he had bought. Harbans Lal had been earning handsomely from his business in sale and purchase of cattle. But, after his death it had become really difficult for his widow to manage the expenses of the medicines of her ailing father-in-law and mother-in-law and fees of her four sons and daughter studying in school.⁹⁹

Case 4: Tortured to death of Govinda, a daily wager in police custody, Delhi

On 6 June 2019 at around 7 am, Govinda (25 years), a resident of Khoda Colony in Gautam Buddha Nagar district of Uttar Pradesh was arrested with one Naeem around from Sundar Nagri within North East Delhi's Nand Nagri police station while they were allegedly transporting illicit liquor in an autorickshaw. The duo was brought to Nand Nagri police station. Police claimed that at around 9 p.m., Govinda complained

⁹⁷.Man dies in custody, 2 suspended, Daily Excelsior, 28 August 2014; available at:

<https://www.dailyexcelsior.com/man-dies-custody-2-suspended/>

⁹⁸.32 months on, woman awaits husband's post-mortem report, The Newsnow.com, 25 April 2017; available at: <http://www.thenewsnw.co.in/newsdet.aspx?q=27695>

⁹⁹.32 months on, woman awaits husband's post-mortem report, The Newsnow.com, 25 April 2017; available at: <http://www.thenewsnw.co.in/newsdet.aspx?q=27695>



of uneasiness after which he fell unconscious and was taken to Guru Teg Bahadur Hospital where he died soon after.¹⁰⁰

However, Govinda's family claimed that the police beat the deceased to death for failure of his family to pay Rs. 20,000 asked as bribe by the police for his release. Govinda's brother Gopal said that the victim was a labourer and on 6 June, his friend Naeem hired the deceased to unload some material in Sundar Nagri at a daily wage of Rs. 300 per day. He was caught by police from there with Naeem. But, the police released Naeem, whom the illicit liquor belonged to and who hired Govinda to unload it, after taking money. Another relative of the victim, Reshma said that they paid Rs. 10,000 to the police but he was not released as his family could not pay the Rs. 20,000 to release Govinda. She said Govinda's family being very poor was not able to afford Rs. 20,000 to pay as bribe to the police. Govinda had no previous medical history and was healthy.¹⁰¹ Three policemen were suspended in connection with Govinda's death. Additional DCP (North East) R.P. Meena said that the victim had no previous criminal history.¹⁰²

Case 5: Tortured to death of Hasan Ali in police custody, Assam

On 10 January 2018, one Hasan Ali (40 years), the sole bread earner for the family, died in the custody of Assam police. The deceased, a resident of Number 2 Adakata village under Dhula Police Station in Assam's Darrang district died at Mangaldoi Civil Hospital. Hasan, who had been a migrant worker in the southern state of Karnataka, had come back home with his wife and three children, including an infant some days earlier. He was the sole breadwinner for the family.¹⁰³

On 9 January 2018 evening, police raided the house of Hasan suspecting that he was in possession of an illegal weapon but did not get any. They picked him up and detained him at Dhula police station.¹⁰⁴ Hasan's wife Jamiran Nessa alleged that her husband was dragged out of the home and at least four policemen pinned him down in

¹⁰⁰. In Delhi, a 25-year-old man dies in police custody, family suspects foul play, Hindu, 8 June 2019; available at: <https://www.thehindu.com/news/cities/Delhi/25-year-old-man-dies-in-police-custody-family-suspects-foul-play/article27691838.ece>

¹⁰¹. In Delhi, a 25-year-old man dies in police custody, family suspects foul play, Hindu, 8 June 2019; available at: <https://www.thehindu.com/news/cities/Delhi/25-year-old-man-dies-in-police-custody-family-suspects-foul-play/article27691838.ece>

¹⁰². In Delhi, a 25-year-old man dies in police custody, family suspects foul play, Hindu, 8 June 2019; available at: <https://www.thehindu.com/news/cities/Delhi/25-year-old-man-dies-in-police-custody-family-suspects-foul-play/article27691838.ece>

¹⁰³. Assam forces accused of waterboarding detainees, Al Jazeera, 23 January 2018; available at: <https://www.aljazeera.com/indepth/features/assam-forces-accused-waterboarding-detainees-180123063800303.html>

¹⁰⁴. Assam: One killed, several injured in clash with police over custodial death of daily wage, The New Indian Express, 9 January 2018



the courtyard and kicked him indiscriminately. She said the cops covered his face with a cloth and poured cold water on his face. He vomited and fainted after a while and when his condition worsened police took him to hospital, where he died.¹⁰⁵

Darrang Deputy Commissioner A Barman ordered the suspension of the officer in-charge of Dhula police station.¹⁰⁶ On 11 January, a local court in Darrang district sent the officer-in-charge of Dhula police station, Ranjit Hazarika, to judicial custody.¹⁰⁷

On 17 January 2018, Assam government issued a notification to constitute a one-man committee, headed by Additional Chief Secretary M.G.V.K. Bhanu, to conduct a probe into custodial death of Hasan Ali and subsequent protests, leading to another death in police firing.¹⁰⁸

Case 6: Tortured to death of Sompal (25), a fruit seller, in police custody, Delhi

On 28 December 2016, Sompal (25 years), a resident of Azadpur in North West Delhi and a fruit seller by profession, was allegedly beaten to death at Adarsh Nagar Police station, Delhi. He was arrested over a quarrel with a fruit vendor at Azadpur wholesale market. Five policemen and a station house officer (SHO) of Adarsh Nagar police station were suspended for the death of Sompal in custody and later dumping his body in an isolated park to destroy evidence. A whistle-blower from the same police station alerted the Assistant Commissioner of Police (ACP) of the Model Town police subdivision about the incident. The ACP informed DCP (northwest) Milind Dumbre and other higher-ups in the Delhi Police.¹⁰⁹ Investigation had revealed that the SHO had used his official car to dump the victim's body near the Metro station where it was later spotted by a passerby. The five policemen claimed that they did everything on

¹⁰⁵. Assam forces accused of waterboarding detainees, Al Jazeera, 23 January 2018; available at: <https://www.aljazeera.com/indepth/features/assam-forces-accused-waterboarding-detainees-180123063800303.html>

¹⁰⁶. Tension in Assam town over custodial death, United News of India, 10 January 2018; available at: <http://www.uniindia.com/tension-in-assam-town-over-custodial-death/states/news/1101401.html>

¹⁰⁷. Assam custodial death: Police officer arrested, sent to jail, Indian Express, 12 January 2018; available at: <http://www.newindianexpress.com/nation/2018/jan/12/assam-custodial-death-police-officer-arrested-sent-to-jail-1751393.html>

¹⁰⁸. One-man panel formed to probe Dhula incident, The Assam Tribune, 21 January 2018; available at: <http://www.assamtribune.com/scripts/mdetails.asp?id=jan2118/state058>

¹⁰⁹. Six Delhi cops suspended for beating man to death while in custody, DNA India, 2 January 2017, available at: <https://www.dnaindia.com/delhi/report-six-delhi-cops-suspended-for-beating-man-to-death-while-in-custody-2288483>



the directions of the SHO. They claimed that it was the SHO who had asked them to dump the body and destroy evidences such as blood spots from place of occurrence.¹¹⁰

Sompal, who lived with his aged parents, was the sole bread earner. Sompal's uncle Govardhan stated that after the death of the deceased, there is no one to look after his aged parents. Sompal's family had shifted from Indore in Madhya Pradesh to Azadpur Mandi over 30 years back in search of a better livelihood.¹¹¹

Case 7: Custodial death of Pintu Chakma, Arunachal Pradesh

Pintu Chakma (26 years), s/o Golok Basi Chakma of Dumpani village under Diyun Circle in Changlang district of Arunachal Pradesh, was arrested along with four others by police from Dumpathar village in connection with Case FIR No. 18/2004 u/s 27(1) NDPS Act registered at Diyun police station on 30.04.2014. The four other accused were released on bail within few days, but Pintu Chakma was denied bail. He remained in police custody for seven days at the lock-up of Diyun police station. On 06.05.2014, he was sent to judicial custody and but still lodged at the lock-up of the police station until his death under mysterious circumstances on 16.10.2014. He was the sole bread earner of the family.

On 17.10.2014, the Asian Centre for Human Rights filed a complaint with the NHRC alleging that Pintu Chakma died in custody due to torture and denial of proper medical treatment. ACHR also informed the NHRC that despite his failing health the deceased was not shifted to jail but kept in prolong detention in sub-human condition at the police lock-up. Among others, ACHR urged the Commission to recommend adequate compensation to the next of kin of the deceased as he was the only bread earner for his family. The deceased is survived by his wife and two minor children, aged 5 and 3 years respectively.¹¹² The NHRC ordered compensation of Rs 2 lakh to the NoK of the deceased, Pintu Chakma as the panel of medical experts in the NHRC categorically held that there was negligence on the part of the authorities who were in charge of the custody of the prisoner and held the state vicariously liable.¹¹³

Case 8: Custodial death of Shebaram Reang in custody of Mizoram Police¹¹⁴

Shebaram Reang (23 years), son of Sotrogun Reang of Gungajoy Para village under Damcherra police station in North Tripurat district of Tripura was tortured to death in

¹¹⁰. Delhi custodial death: Body was dumped in cop's official car, Hindustan Times, 4 January 2017; available at: <https://www.hindustantimes.com/delhi-news/delhi-custodial-death-body-was-dumped-in-cop-s-official-car/story-OP6KdbCr8bzzPs9WNDxgIJ.html>

¹¹¹. Delhi custodial death: Body was dumped in cop's official car, Hindustan Times, 4 January 2017; available at: <https://www.hindustantimes.com/delhi-news/delhi-custodial-death-body-was-dumped-in-cop-s-official-car/story-OP6KdbCr8bzzPs9WNDxgIJ.html>

¹¹². Based on ACHR's interview with the wife of deceased Pintu Chakma

¹¹³. Proceedings of NHRC in case no. 157/2/4/2014-AD

¹¹⁴. NHRC proceedings in Case No. 10/16/7/2013-AD



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

the custody of Mizoram police and India Reserve Police on 20 April 2013. The deceased was arrested by Mizoram Police and Indian Reserver Battalion (IRBN) personnel headed by Officer-in-Charge of Kanhmum police station in Mamit district of Mizoram on 9 April 2013 in connection with a false robbery case involving Rs. 1,000/- that occurred on 6 April 2013 at Moroicherra village, Zawlnuam police station, Mamit district, Mizoram.

A team of Tripura police headed by 2nd Officer-in-Charge of Damcherra police station Shirsendu Chakrabarty visited Kanhmum police station, Mizoram and requested to release the deceased as he was innocent. But, Mizoram police did not oblige. On 20 April 2013, the dead body of the deceased was found hanging in the forest inside Tripura. The hands of deceased were found cuffed with a handcuff of police. The deceased was the sole bread earner of the family,

On 19.09.2018, the NHRC directed the Chief Secretary, Government of Mizoram to submit compliance report along with proof of payment of compensation of Rs 300,000 to NoK of Shebaram Reang by 31.10.2018. Pursuant to directions of the Commission, Deputy Secretary to the Govt. of Mizoram, Home Department vide letter dated 10.05.19 submitted a copy of proof of payment amount of Rs. Three Lakhs being monetary compensation paid to NoK of the deceased Sebaram Reang.

Case 9: Tortured to death of Uday Narayan Sharma, Jharkhand¹¹⁵

In an order dated 18 July 2012, the High Court of Jharkhand awarded compensation of Rs. 10,00,000 (1 million) to the parents of Udai Narayan Sharma, a victim of torture who was allegedly beaten to death in the custody of Jagannath police station in Ranchi, capital of Jharkhand. The order was delivered in a writ petition preferred by Smt. Badhiya Devi, the aged mother of the deceased for payment of compensation to the extent of Rs. 10,00,000 along with interest to the deceased's family on account of his death due to police torture.

The court held that on the death of the deceased who was the sole bread earner his family has been deprived of the benefits of his income. It stated that the death of the deceased, who was the elder son, caused irreparable sense of loss, mental torture and loss of care and protection to the aged parents, who were dependent upon him and the death of their son has also led to the deprivation of the company of their daughter-in-law, who left them and contracted second marriage leading to further loneliness at fag end of life. It was held that compensation of Rs. 10,00,000 to the petitioner in the circumstances appears to be wholly just and proper.

¹¹⁵.Smt.Badhiya Devi vs State of Jharkhand & Ors. W. P. (C) No. 538 of 2007; judgment delivered on 18 July, 2012; available at: <https://indiankanoon.org/doc/122009310/>



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

Udai Narayan Sharma (24 years) along with two others viz. Wilson @ Pappu and Jonson Kiro died due to alleged torture in police custody. On 27 July 1990, the police caught Udai Sharma, Wilson @ Pappu and Jonson Kiro near Hesag Wine Bhathi under Jagannathpur police station limits in Ranchi, assaulted them with rod and danta and the butt of the rifle and took them on the jeep of Jagannathpur thana and at about 5.30 p.m. they again assaulted the three persons at Birsa Chowk. As S.D.Entry No. 554 dated 27.7.1990 of Jagannathpur PS, the dead body of Udai Sharma was brought to hospital by constable Krishna Yadav which shows that the deceased died due to assault before being taken to hospital. The police personnel who beat the deceased including the son of the petition were tried in Sessions Trial Case no. 551/93 by the court of 2nd Additional Judicial Commissioner, Ranchi, and upon conclusion of trial all the accused persons were convicted to undergo Rigorous Imprisonment for a period of ten (10) years and also to pay a fine of Rs. 20,000/- (twenty thousand), in default of payment of fine further to undergo Simple Imprisonment for two (2) years vide judgment dated 27 March 1996 and order of sentence dated 29 March 1996.

The Court observed that the petitioner's son was killed on account of brutal assault by the accused police personnel while in their custody. The monthly income of the deceased was Rs. 3,000/- as he was an autorickshaw driver and was bread earner of the family. He was aged about 24 years at the time of his death. The court calculated that if life expectancy of the deceased was taken to be 60 years, he had at least 36 years to live. Treating his annual income to be Rs. 36,000/-, the deceased would have earned at least Rs. 10,80,000 (Rs. 3,000x36) by the time he attains 60 years of age and deducting 25% from the above expected income for personal expenses of the deceased the remaining amount of Rs 8,10,000/- have accrued to the family of the deceased had he not been killed by guilty police personnel. It has been observed that the income and earning of the deceased would not remain static as calculated and it would have definitely increased in due course of time. The Court also observed that over and above, the petitioner or her husband being aged parents of the deceased, have been deprived of care and protection of their grown up son at the fag end of their life. The death of son is the biggest punishment to aged parents and the amount of mental torture and the sense of loss is something, which is irreparable and difficult to be quantified.

Applying the above principle the court held that the family of the deceased has been deprived of the benefits of the bread earner because of his untimely death at the prime age due to brutal torture by police leading to irreparable sense of loss, mental torture and loss of care and protection to the aged parents, who were dependent upon him. The death of their son has also led to the deprivation of the company of their daughter-in-law, who left them and contracted second marriage leading to further loneliness at such ripe age. The court opined that there was no reason why the petitioner should not be compensated. In view of the facts and circumstance of the case, the court held that the award of compensation of Rs. 10,00,000 lakhs to the petitioner is wholly just and proper.



Case 10: Award of compensation for illegal detention and custodial death of Sohan Singh @ Sohanjit Singh, Punjab¹¹⁶

The petitioner Bhupinder Kaur filed a writ petition in the Punjab and Haryana High Court praying for issuance of appropriate writ, order or direction for grant of compensation to her from the State of Punjab on account of illegal detention of her husband Sohan Singh @ Sohanjit Singh till his death. According to the petitioner, her husband Sohan Singh @ Sohanjit Singh was picked up on 3.3.2011 by State Operation Cell's Officers namely, Maninder Singh SP/DSP, Balbir Singh Inspector, Sukhbir Singh Sub-Inspector, Nirmal Singh Inspector and one gun man, from his in-laws' house i.e. Village Varpal, District Amritsar at around 2.30-3.00 PM. Later on, his remand was obtained from the Court on 7.3.2011. Thereafter, the husband of the petitioner remained incommunicado for about 10 days after which the petitioner was summoned by SHO, PS State Special Operation Cell, Amritsar and produced her husband Sohan Singh. On 14.3.2011 around 8.56 AM, the petitioner received a phone call from Nirmal Singh, a police officer posted at Police Station SSOC regarding death of her husband stating that he committed suicide. In her petition the petitioner urged that a compensation to the tune of Rs.50 lakhs should be awarded to her being the dependent of deceased Sohan Singh @ Sohanjit Singh.

In its replies, the State had taken the stand that Sohan Singh @ Sohanjit Singh was wanted in No.23 dated 15.6.2010 under Sections 25, 54, 59 of Arms Act and under Sections 17, 18, 19, 20 of the Unlawful Activities Prevention Act and under Section 120-B IPC registered at Police Station State Special Operation Cell, Punjab, Amritsar. It was claimed that the deceased was arrested by the State Special Operation Cell on 6.3.2011 from main Bus stand Amritsar. One .32 bore pistol along with magazines and five live cartridges were also recovered from his possession. On 7.3.2011, he was got medically examined and produced before Shri Rajesh Bhagat, the learned Judicial Duty Magistrate 1st Class Amritsar. He was remanded to police custody till 15.3.2011. He was handed over to Joint Interrogation Centre for interrogation by different agencies. While in custody of Joint Interrogation Cell on 14.3.2011, he was served with morning tea at about 6.30 AM in the interrogation room. Sohan Singh @ Sohanjit Singh took a short bath and asked for some time to perform morning prayers and during this time he committed suicide by hanging himself from the overhead ceiling fan with the help of his Parna (headgear).

The report dated 7.7.2011 of the judicial enquiry conducted by Judicial Magistrate 1st Class, Amritsar concluded that the death of the deceased was suicidal.

¹¹⁶. Bhupinder Kaur vs State Of Punjab And Ors on 25 September, 2017; available at: <https://indiankanoon.org/doc/197018445/>



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

After consideration of evidence such as statements of the various officers, post mortem report, report of the judicial enquiry the court observed that the deceased was physically tortured during the custody and therefore, in addition to physical torture, psychological torture also must be there, which is usually connected with the custodial interrogation and detention. The Court however ruled out the possibility of murder of the deceased and while concurring with the Judicial Magistrate 1st Class, Amritsar concluded that the deceased committed suicide.

On petitioner's claim for compensation, the State of Punjab and the respondent police officials contended that she was not entitled to any compensation on the ground that the petitioner's husband was a terrorist and was required to be interrogated thoroughly. It was stated that the Punjab Police is not at fault and not liable to pay compensation as various agencies of the Central Government also interrogated Sohan Singh @ Sohanjit Singh i.e. Intelligence Bureau, RAW, Military Intelligence as well as Punjab Armed Police. As an alternative plea, the respondents stated that if at all some ex-gratia payment is to be made, the Court may award Rs. 5,00,000 as compensation to the widow of the deceased Sohan Singh @ Sohanjit Singh as ex-gratia payment but without fixing any responsibility for the death of the deceased.

After consideration of the facts, the court observed that even if it was not proved that the respondents were directly responsible for the suicide of the deceased, however, it was proved that he was in their custody and they were duty bound to ensure the proper custody and his safety. There was dereliction of duty, which was even found in the departmental proceedings and the guilty officials/officers were awarded punishment.

The court finally held that though no crime is proved to have been committed by the respondents, even then widow of the deceased namely, Bhupinder Kaur was entitled to compensation on account of torture and custodial death of her husband, as the bread earner of the family was now dead at the age of 56-57 years and now the petitioner has to run the entire family. Therefore, the court awarded a compensation of Rs. 10,00,000 to the petitioner.



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

ANNEXURE 1: List of the illustrative cases of custodial deaths/rapes cited in the NHRC Annual Reports from 1996-97 to 2017-18

Sl No	Name of the victim	NHRC Case No.	Source	State	Economic status/ vulnerable groups	Unknown / General
1	Shri Bondoo	N/A	1996-1997	Uttar Pradesh		Unknown
2	Atal Bihari Mishra	36/24(2)/95-LD	1996-1997	Uttar Pradesh	Student	
3	Shri Udayan	36/11(2)/94-LD	1996-1997	Kerala	Poor	
4	Shri Babulal Dhaniwal alias Bablu Roy	N/A	1996-1997	Assam	Poor	
5	Tirath singh Jija	36/19(14)/95-LD	1996-1997	Punjab	Accused in an excise case/poor	
6	Mohd Mansoor	4/16/94-LD	1996-1997	Bihar	Poor/ Muslim/ robbery	
7	Usman Ansari	n/a in NHRC website	1997-1998	Maharashtra	Muslim/ poor	
8	Vikram Lama	n/a in NHRC website	1997-1998	Arunachal Pradesh	Theft suspect	
9	Hussain Teli	n/a in NHRC website	1997-1998	Rajasthan	Muslim/ Murder suspect	
10	Pinya Hari Kale	294/13/98-99-CD	1998-1999	Maharashtra	DNT Pardhi Tribe	
11	Punjabhai Somabhai Thakor	6123/95-96/NHRC	1998-1999	Gujarat	Poor/Theft suspect	
12	Santosh Kumar Singh	Case No. 2968/4/98-99/ACD	1998-1999	Bihar		Unknown
13	Hamid	1460/95-96/NHRC or 12/91/95-LD	1999-2000	Madhya Pradesh	Muslim/ Theft suspect	



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

14	Rameshwar Jat	351/20/97-98/CD	1999-2000	Rajasthan	Poor	
15	Matloob Hussain	951/96-97/NHRC	1999-2000	Delhi	Muslim/ Fruit vendor	
16	Nageshwar Singh	7482/95-96/NHRC	1999-2000	Bihar		Unknown
17	Thimmaiah	12098/96-97/NHRC or 36/10(23)/96-LD	1999-2000	Karnataka		Unknown
18	Hussain	64/11/1999-2000	1999-2000	Kerala	Muslim/ Labourer	
19	Mohan	4444/95-96/NHRC	1999-2000	Tamil Nadu	Arrack/ country liquor seller	
20	Gothandam	75/32/97-98-CD	2000-2001	Puducherry	Dalit/poor	
21	Shah Mohammed	3855/96-97/NHRC	2000-2001	Madhya Pradesh	Muslim	
22	Kartik Mehto	8903/95-96	2000-2001	Bihar	Scheduled Tribe	
23	Surinder Singh	929/96-97	2000-2001	Uttar Pradesh		Unknown
24	Sanjay Sitaram Mhasker	210/13/98-99-ACD	2001-2002	Maharashtra	Scheduled Tribe	
25	Mohammad Irshad Khan	2387/30/2000-2001-CD	2001-2002	Delhi	Muslim	
26	Ram Kishore	483-LD/93-94	2001-2002	Uttar Pradesh	Driver/poor	
27	Manoj Kumar	7955/96-97/NHRC	2001-2002	Uttar Pradesh	Poor	
28	Shishu Rebe	74/96-97/NHRC	2001-2002	Arunachal Pradesh	Scheduled Tribe	
29	Chuhur Singh	431/19/2000-2001	2002-2003	Punjab		Unknown
30	Bujhai	4238/96-97/NHRC	2002-2003	Uttar Pradesh	Scheduled Tribe	
31	Radhey Shyam	205/20/1999-2000-CD	2002-2003	Rajasthan	Scheduled Caste/poor	
32	Karan Singh	1935/12/2000-2001-CD	2002-2003	Madhya Pradesh	SC/ST	
33	Surendra	13353/96-97/NHRC	2002-2003	Kerala	Scheduled Tribe	



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

34	Zakir	525/30/2001-2002-CD	2003-2004	Delhi	Muslim	
35	Madan Bhilala	71/12/2001-2002-CD	2003-2004	Madhya Pradesh	Scheduled Tribe	
36	Chhigga	1800/12/2000-2001-CD	2003-2004	Madhya Pradesh	Poor	
37	Sher Mohammad	8924/95-96/NHRC	2004-2005	Uttar Pradesh	Muslim	
38	Sh. Kantosh Prahlad Jadhav	5418/95-96/NHRC	2004-2005	Maharashtra		Unknown
39	Haji Mohd. Nabuji Tentwala	7586/95-96/NHRC	2004-2005	Gujarat	Muslim	
40	Sukumar Panja	825/18/97-98-CD	2005-2006	Odisha		Unknown
41	Ram Udit Narayan Singh	263/4/1999-2000-CD	2005-2006	Bihar		Unknown
42	Chityala Sudhakar	381/1/98-99-AD	2005-2006	Andhra Pradesh		Unknown
43	Mohan	137/10/2000-2001	2000-2001	Karnataka		Unknown
44	Revati Prasad	13571/ 24/2003-2004-cd	2003-2004	Uttar Pradesh	Minor/SC	
45	Santaram Nane Wagh	36/13(107)/96-LD	2006-2007	Maharashtra		OBC
46	Prithvi Singh	1112/30/97-98-CD	2006-2007	Delhi	Begger	
47	Bhandas Mahar	145/12/2000-2001-CD	2006-2007	Madhya Pradesh	Scheduled Caste	
48	Munna Kumar Soni	50/12/2001-2002-CD	2006-2007	Madhya Pradesh	Family-less person/poor	
49	Chandrakant	1287/13/2002-2003-CD	2007-2008	Maharashtra	Theft suspect	
50	Kishan Singh	5060/30/2004-2005-CD	2007-2008	Delhi	Driver	
51	Olik Tayeng	14/2/2003-2004-CD	2007-2008	Arunachal Pradesh	Scheduled Tribe	
52	Mugalia	1996/12/1999-2000-CD	2007-2008	Madhya Pradesh	Alleged burglar / poor	



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

53	Shanti Dashrath Naik	2021/13/2000-2001-CD	2007-2008	Maharashtra	Woman/hawker	
54	Ram Chander	12975/24/1999-2000-CD	2007-2008	Uttar Pradesh	Theft suspect	
55	Devendra Nath Dekka	25/3/2002-2003-CD	2007-2008	Assam		Retired police officer
56	Two minors (Chetan, died; Bhola injured)	952/19/2002-2003-CD	2008-2009	Punjab	Theft suspect	
57	Bhagat Ram	376/20/2006-2007-CD	2009-2010	Rajasthan		Unknown
58	Sheroo Khan	250/33/2001-2002-CD	2009-2010	Chhattisgarh	Muslim	
59	Kandula Tirupathi	886/1/2004-2005-CD	2009-2010	Andhra Pradesh	Alleged Maoist	
60	Shiv Raj Dubey	16662/24/2001-2002-AD	2009-2010	Uttar Pradesh		Trade Union Leader
61	Shanno alias Aarti Gopal Kale	187/13/2005-2006-CD	2009-2010	Maharashtra	Woman	
62	A Minor Boy	10/15/2/09-10-AD	2010-2011	Meghalaya	Scheduled Tribe/Alleged robber	
63	Bhuwan Dutt	1771/7/10/07-08-PCD	2010-2011	Haryana	Children	
64	Dharamwati Dayal	20678/24/2004-2005-AD	2010-2011	Uttar Pradesh	Scheduled Caste	
65	Aslam Kamruddin Shaikh	1122/13/2005-2006-CD	2010-2011	Maharashtra	Muslim/Theft suspect	
66	Jyoti Rachna	428/1/17/09-10-PCD	2010-2011	Andhra Pradesh	Poor/Woman	Unknown
67	Arun Kumar Singh	180/4/2002-2003-AD [L/F.188/4/2000-2001-CD]	2010-2011	Bihar	Theft suspect	
68	Motahir Ali	130/3/2/2007-2008-PCD	2010-2011	Assam	Muslim	



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

69	Anil Kumar	53/27/0/07-08-PCD	2010-2011	Chandigarh		Unknown
70	Rama Shanker Ram	30182/24/19/2010-AD	2010-2011	Uttar Pradesh	Scheduled Caste	
71	A Minor	48147/24/7/07-08	2010-2011	Uttar Pradesh	Theft suspect	
72	Bachole	11131/24/43/08-09, L/F 11505/24/43/08-09-FC	2011-2012	Uttar Pradesh	SC/ST	
73	Salim	25919/24/64/07-08-AD (L/F 31809/24/64/07-08 FC	2011-2012	Uttar Pradesh	Muslim	
74	Krishna Murthi	2349/22/36/08-09-AD-FC	2011-2012	Tamil Nadu	Theft suspect	
75	Vinod	11729/24/2003-2004-CD-FC	2011-2012	Uttar Pradesh	Theft suspect/SC/ST	
76	G. Rajendran	4/11/2005-2006-CD-FC	2011-2012	Kerala	Theft suspect	
77	Puttan Majhi	19914/24/05-06-CD	2011-2012	Uttar Pradesh	SC	
78	Seema Devi	262/20/14/2011	2011-2012	Rajasthan	Woman	
79	Rajpal Bawaria	2570/7/16/08-09-AD	2011-2012	Haryana	Theft suspect	
80	Sampath	112/11/10/2010-PCD, L/F 113/11/10/2010-AD	2012-2013	Kerala		Unknown
81	Rishi Kumar	685/34/7/2011-PCD	2012-2013	Jharkhand	Mentally sick	
82	Ghanshyam Lalchand Desani	145/6/2005-2006-CD	2012-2013	Gujarat	Poor	
83	Rajbal s/o Ratiram	14530/24/57/09-10-PCD	2012-2013	Uttar Pradesh	Scheduled Caste	
84	Sandeep Kumar	1969/7/6/2010-PCD	2012-2013	Haryana		Unknown
85	Rama Shankar	30182/24/19/2010-AD	2013-2014	Uttar Pradesh	Scheduled Caste	
86	Ganesh A. Boshle	334/13/2006-2007-PCD	2013-2014	Maharashtra		Unknown



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

87	S. Barla	3/26/0/07-08-PCD	2013-2014	Andaman and Nicobar Islands		Unknown
88	Ajay Mishra	675/12/7/2012-PCD	2013-2014	Madhya Pradesh		Upper caste
89	Satish	898/7/2/2012-PCD	2014-2015	Haryana		Unknown
90	Kamlesh Kumar Singh	16296/24/6/2011-pcd	2014-2015	Uttar Pradesh	Murder accused	Unknown
91	Rupabhai	237/6/4/08-09-PCD	2014-2015	Gujarat		Unknown
92	Witson M. Sangma	40/15/1/2014-AD	2014-2015	Meghalaya	Scheduled Tribe	
92	Devu Sattababu	56/32/4/2011-PCD)	2015-2016	Puducherry		Unknown
94	Madan Bhilala	7030/7/3/2015-PCD	2016-2017	Haryana	Theft suspect	
95	Manoj Rana	2929/30/9/2014-AD	2017-2018	Delhi		Unknown



ANNEXURE 2: Excerpts of the illustrative cases of custodial deaths cited in the NHRC Annual Reports from 1996-97 to 2017-18

Case1: Custodial death of Shri Bundoo in Uttar Pradesh¹¹⁷

The Senior Superintendent of Police, Moradabad vide his fax message dated 14 October, 1985 reported the death of one Bundoo in custody. The Commission took cognizance and called for a report from the Government of Uttar Pradesh. In their report, the Government stated that on 12 October 1995 a case under section 302/301 IPC in crime No. 273195 was registered at Police Station Chandpur, Bijnore District against four named persons. The case came to be investigated by an SHO. Two of the accused persons were arrested in the morning of 13 October and on interrogation one of them described the place of incident. After being handcuffed, he was taken to the site for identification in course of investigation. He had also indicated that he would lead the police to the discovery of weapons used for the offence.

Two police SHOs along with a host of constables proceeded to the place. Suddenly, Bundoo jumped out of the vehicle and came to fall in front of a moving bus. He received serious injuries which ultimately led to his death at Moradabad District Hospital. The SSP indicated that the two Inspectors concerned had been ordered to be present at the roll call and orders for departmental action would soon be initiated.

The long reports and the connected material were scrutinised by the Commission. Accepting the same to be true version of the incident, the Commission held that the deceased sustained grievous injuries when he jumped from a moving jeep and fell before a speeding bus. There was no dispute that a host of constables were also travelling in the jeep along with the deceased who had already been handcuffed. It was the obligation of the constables to ensure that the handcuffed accused would not run away from the jeep. The fact that many police officers were present in the jeep when the deceased jumped out of the vehicle showed gross negligence by the police guard.

The Commission recommended that an enquiry be undertaken immediately and the concerned police officer and the constables, if found guilty of negligence, be adequately punished.

The Commission took the view that compensation should be paid to the next of the kin of the deceased and recommended a compensation of Rs. 1 lakh in this respect. It was stated that the Government would be free to reimburse itself, as it is considered appropriate from the delinquent police officers. It would be open to apportion the amount of recovery.

¹¹⁷. NHRC Annual Report 1996–1997



Case 2: Custodial death of Shti Atal Bihari Mishra, student of Banaras Hindu University, U.P.¹¹⁸

The Commission initially received a report from the Superintendent of Police, Balia District, Uttar Pradesh, on the custodial death of Atal Bihari Mishra on the basis of which it issued notice to the Chief Secretary, UP calling for a report. The Commission also received a joint petition from Shri Shreesh Chander Dixit, Member of Parliament and Dr Vina Pande, Member of UP Legislative Council on this case. The matter was raised in Parliament by the former Prime Minister Shri Chandrashekhar, who urged the Government to refer this case to the Commission.

The Commission directed a team from its own investigating staff to conduct a preliminary enquiry. Upon being informed by the State Government that the State CID was entrusted with the enquiry into the case, the Commission asked it to expedite the investigation.

On perusal of the CID report which was received by the Commission, it observed that this was an instance of police high-handedness at its worst. A young boy, because of political differences between his father and a local politician belonging to the ruling party, was dragged to the police station on 'fictitious and frivolous' charges and was mercilessly roughed up. The Commission felt that unless appropriate punishment was meted out to officers responsible for this kind of dastardly crime, it would be difficult to contain and control custodial torture. The Commission, therefore, took up this matter with the then Governor of UP urging him to ensure that charge-sheets against the errant personnel are filed expeditiously before the Court. Later, the Commission followed this up with another letter expressing serious concern over the delay and urging immediate submission of charge-sheets and departmental action against the delinquent police officers.

As a result, nineteen police officer/officials have been charge-sheeted under various sections of law in the Court of the Chief Judicial Magistrate, Balia for the custodial death of Shri Atal Bihari Mishra, a student of the Banaras Hindu University.

Case 3: Death in police custody of Shri Udayan in Kerala¹¹⁹

The case was brought to the notice of the Commission by Dr Xavier Paul who alleged that Udayan died in police custody in the lockup in Mannarghat Police Station on 20 January 1994. Amnesty International also reported this incident in a publication brought out by it in March 1994.

On the basis of evidence of Shri Rashid, an inmate of the same lock up, the Commission noted that Udayan was beaten up a couple of hours before his suicide in the Sub Inspector's room as also when he was being brought back to his cell. The

¹¹⁸.NHRC Annual Report 1996–1997

¹¹⁹. NHRC Annual Report 1996–1997



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

Commission was of the view that the torture to which Udayan was subjected by the police in the lockup contributed to his committing suicide. The commission recommended that:

A case should be registered against the police officials responsible for torturing Udayan and that they should be prosecuted with utmost expedition.

Payment of compensation of at least Rs, 1,00,000/- to the family of Udayan.

Accordingly compensation of Rs. 1,00,000/- has been paid to the family of Udayan. The Home Department, Government of Kerala has asked the Director General of Police, Kerala to register a case against the police officers responsible for torturing Udayan.

Case 4: Custodial death of Shri Babulal Dhaniwal, Alias Bablu Roy in Assam¹²⁰

On 20 June, 1995 the officer in charge of Bihaguir Outpost under Sonitpur District alongwith some other police personnel took into custody one Babul Rai alias Dhaniwal alongwith six others while they had assembled in the house of one Jagannath to attend a dinner. They brought all the seven persons to the outpost. The police personnel reportedly tortured Babul Rai and others to extort a confession regarding a theft of a fan and thereafter put all the persons in a police lock up. The following morning, at about 04.00 AM, Babul Rai was found dead in the police lock up. The magisterial enquiry confirmed the fact that Babul Rai had died in the lock up due to physical torture by the police personnel. The post mortem report showed no external injury and the cause of death was not ascertainable as indicated therein. In the report of Deputy Secretary, Political (A) Department dated 12 September, 1995 it was stated that departmental proceedings had been drawn up against police personnel and they had been suspended.

On Commission's intervention, the State furnished the report of the magisterial enquiry where the magistrate has observed that he had come to the conclusion that Babul was arrested alongwith other boys on 20.06.1995, brought to the Bihaguri police outpost, severely tortured and beaten by two police officers and that he died on 21.6.1995 in the police lock up. The Commission went by the magisterial enquiry report and recommended immediate prosecution of the police personnel involved in murder.

The Commission recommended that a sum of Rs. 50,000 be paid by way of compensation to the parents of Babul or if there be other dependents then to them. This payment be taken as interim in nature and would not preclude a claim for compensation to be laid in the appropriate forum.

Compliance report awaited.

¹²⁰. NHRC Annual Report 1996–1997



Case 5: Custodial death of Tirath Singh in Punjab¹²¹

This proceeding was initiated on information received from the Senior Superintendent of Police, Ferozpur, Punjab about the death of one Tirath Singh Jija. The District Magistrate also reported the matter vide his letter dated 15 January, 1996.

According to the report, the deceased was produced before the Judicial Magistrate on 1 January, 1996 having been arrested in a case under the Excise Act. The Magistrate remanded him to judicial custody for 15 days and he was taken to the Central Jail, Ferozpur. After he had crossed gate no. 1, before he was actually admitted into the jail, it was stated that he dipped due to an epileptic attack and the jail authorities refused to accept him in judicial custody. The police got him admitted into the Civil Hospital Ferozpur for treatment and later shifted him to Baghi Hospital, Ferozpur where he died on 8 January, 1996.

The Commission was surprised to find that the Judicial Magistrate was not informed about what had happened, particularly when his direction remanding to judicial custody was not carried out. If that had been done, an immediate enquiry would have been undertaken and a clearer picture of the situation would have been available.

There was no material to support the plea that the deceased was subject to epileptic fits. The post mortem related the cause of death to grievous injuries on the head, spleen and other vital parts of the body. The investigation did not show that these injuries were caused by the fall as a result of the alleged epileptic attack. In the absence of clear material, the Commission was not in a position to accept the plea of the police that death occurred on account of the fall as a result of a sudden epileptic attack. The police had to account for the loss of life as the deceased was in their custody.

As ante-mortem report showed that grievous injuries were found on the body and the police are not able to account for them, the Commission inferred that those injuries were caused by torture when the deceased was in police custody resulting in his death. The Commission directed that an interim compensation of Rs. 50,000/- be paid for the loss of life to the next of kin of the deceased.

Compliance report is awaited.

¹²¹. NHRC Annual Report 1996–1997



Case 6: Complaint from Shri P.S. Bhatla regarding alleged death of Shri Mohd Mansoor in police custody at Baliya P.S., Bihar¹²²

The National Minorities Commission forwarded a complaint under a covering letter dated 5 April, 1994 alleging the death of Mohd. Mansoor in police custody at Baliya police station in district Begusarai of Bihar State on 5 February 1994. On issue of notice the Government of Bihar vide their letter dated 15 September 1994, reported to the Commission that one Saiyyad Mohd Kasim was robbed of Rs. 33,105/- which he was carrying while he was travelling on a bicycle. The money was meant for salaries of some school teachers and his own. Three men stopped him at pistol point and threw him on the ground from the bicycle and took away the money. On a written complaint from Shri Kasim, a case under section 392 IPC was registered and investigation undertaken. In the course of investigation the house of Mohd Manroor was searched by the police but he escaped by the back-door. The villagers gathered there on hearing the noise, and caught hold of Mohd Manaoor. He was taken to the police station. He was later sent to the hospital in an injured condition and given first aid. As the condition of Mohd Mansoor was serious he was advised to be sent to the Begusarai hospital where better facilities were available. The deceased is said to have died as a result of the blows he received at the hands of the public.

The matter was inquired into by the IGP Bhagalpur and Divisional Commissioner, Bhagalpur. From the report submitted by them, there did not appear to be any cogent evidence of assault by the members of the public. On the other hand three witnesses spoke of a police assault. Seven more witnesses stated that they saw the beating administered by the police. The mother and the widow of the deceased also spoke about a police beating.

The Commission felt that if the fatal injuries had really been received from the members of the public, the police should have immediately taken Mohd. Mansoor to the hospital instead of keeping him for a long period at the Police Station and only thereafter taking him for treatment. The Commission therefore did not agree with the findings of the investigation that the deceased met his end on account of injuries sustained by him as a result of assault by members of the public. There appeared to be an attempt by the police to shield its own officers at the lower level. The circumstances indicated that he was tortured at the police station and died as a result of the injuries he received.

The Commission called upon the Director General of Police, Bihar to ascertain within one month the names and particulars of the police officers who had taken the deceased into custody and had occasion to handle him at the police station and to prosecute them. It further recommended that an interim compensation of Rs One lakh be paid to

¹²². NHRC Annual Report 1996–1997



the widow of the deceased. The State Government was asked to consider the propriety of taking steps for recovery of the amount from the concerned delinquent police officers.

The Government of Bihar in its letter dated 28 February, 1997 intimated that a sum of Rs One lakh has been sanctioned to the widow of the deceased. The Commission is following up on other aspects of this matter.

Case 7: Custodial death of Usman Ansari – Maharashtra¹²³

Only Hindi version is available.

Case 8: Custodial death of Vikram Lama Arunachal Pradesh¹²⁴

Only Hindi version is available.

Case 9: Custodial death of Hussain Teli – Rajasthan¹²⁵

Only Hindi version is available.

Case 10: Death by torture of Pinya Hari Kale in police custody: Maharashtra (Case No.294/13/98-99/CD)¹²⁶

The Supdt. of Police (Rural), Pune reported to the Commission that on 9 June 1998 the police officials performing night duty noticed the suspect Pinya Hari Kale. On seeing the police officials, Kale, according to the report, ran away and fell down sustaining injuries and became unconscious. The police officials, it is further claimed, got him admitted in the Govt. Hospital, Baramati where he was declared dead.

The Commission also received another petition on the same subject from Prof. G.N. Devy alleging that Kale was taken into police custody on 8 June 1998 and was tortured, resulting in his death in custody. The petitioner apprehended that the post-mortem report may not reflect the real cause of death.

In response to the Commission's directions, the Joint Secretary, Government of Maharashtra, in his letter dated 2 November 1998 sent the report submitted by the Additional Director General of Police, CID (Crime), Maharashtra State. From the report it was revealed that after Kale was declared dead by the hospital, it was P.C. Hinge (Constable) who gave a report to the police station and AD No.37/98 u/s 174 Cr.P.C. was registered at the Baramati Town Police Station which was inquired into by the Circle Police Inspector. The inquest panchnama of the dead body was performed by Shri S.B. More, Tehsildar Taluka Executive Magistrate, Baramati on 9 June 1998 and he claimed that he did not notice any injury on the dead body. The

¹²³. NHRC Annual Report 1997-1998

¹²⁴. NHRC Annual Report 1997-1998

¹²⁵. NHRC Annual Report 1997-1998

¹²⁶. NHRC Annual Report 1998-1999



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

post-mortem was carried out by Dr. Suresh, Medical Officer, Government Hospital, Baramati on 9 June 1998 who gave his opinion that the cause of the death was due to the injuries over the body. He found seven injuries. The wife of the deceased made allegations on 12 June 1998 before the District Administration that Kale died in police custody owing to police torture. She also demanded the exhumation of the dead body and re-post-mortem. Accordingly, on 18 June 1998, the dead body was exhumed and sent to the Sassoon General Hospital, Pune for a second post-mortem which was performed on the same day. According to Dr. R.S. Bangali, who performed the second post-mortem on the dead body, death was due to multiple blunt injuries with evidence of head injury.

Shri B.N. Mane, Police Inspector, CID (Crime), Pune took over the case for investigation on 11 June 1998. The re-investigation established that on 8 June 1998 at about 17.00 hrs Kale was picked up from the flour mill at Tandulwadi Village on suspicion and brought to Baramati Town Police Station by Police Constables Hinge, Marne and Gire on suspicion about his involvement in the Baramati Town PS CR No. 28/98 u/s 395 IPC. Without showing Kale's formal arrest he was illegally detained at the Police Station and was administered a beating on the intervening night of 8 June 1998 and 9 June 1998 with sticks and a belt, to which he succumbed. In the investigation, the I.O. Shri Mane found that the information given by P.C. Hinge about Kale's death being accidental in AD No.37/98 u/s 174 Cr.P.C. was a false and concocted story. I.O. Mane PI CID (Crime) on behalf of the State lodged a complaint at Baramati Town Police Station vide CR No. 74/98 u/s 302,330, 348,201, 34 IPC on 14.7.98 against accused PSI Shashikant Madhukar Patel, PC Suresh Dinkar Hinge, PC Bandu Baban Marre and PC Subhash Gire. All the aforesaid accused were arrested on 30 July 1998. The arrested policemen had been placed under suspension by Supdt. of Police, Pune (Rural) and the investigation in the matter was pending.

What was crucial at this stage was the stand taken by the Government of Maharashtra. The Government stated that it would pay the compensation only upon the establishment of the guilt of the policemen. The stand taken by the Maharashtra Govt. raised a serious question about the scope of provisions contained in Section 18(3) of the Protection of Human Rights Act, 1993 enabling the Commission to recommend to the concerned Government or Authority for the grant of such 'immediate interim relief' to the victim or the members of victim's family as the Commission may consider necessary. In a nutshell, the suggestion implicit in the stand taken by the Maharashtra Govt. was that the proof of the charges in the Court was a condition precedent for grant of monetary relief. The Commission explaining the meaning of 'Interim Relief' and the import of Section 18(3) of the Act observed: "It is true that a criminal charge has to be sustained on a standard of proof which is beyond reasonable doubt. However, for purpose of award of compensation, substantiation on mere preponderance of probability, on the standard of evidence in civil cases is sufficient. Even where a criminal charge may fail for want of evidence sufficient by standards



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

requisite in criminal cases, yet a case of compensation can be sustained on a mere preponderance of probability". The Commission further explaining the import and purpose of provisions contained in section 18(3) observed, "But apart from these standards in civil and criminal cases, for the limited purpose of award of immediate interim relief, the jurisdiction for its grant under section 18(3) of the Act, the matter need not wait till the charge is proved in a criminal Court ...". The Commission took the view that for grant of immediate interim relief, a strong prima-facie case was sufficient. It also took the view that the very nature of the concept of immediate interim relief and the purpose for which it was intended would be defeated if this remedy was inextricably linked with the outcome of a criminal trial. Thus, considering the case to be a fit one for grant of immediate interim relief, the Commission made the following recommendations:

- (a) That immediate interim relief of Rs.2 lakhs be paid by the State of Maharashtra to the dependents of the deceased Pinya Hari Kale. Out of the amount of Rs.2 lakhs, a sum of Rs.25,000/- shall be paid in cash to the widow of the deceased and the rest of the amount of Rs.1,75,000/- shall be deposited in the names of wife and children, if any, of the deceased in any of the nationalised banks of the choice of the beneficiaries in fixed deposit for a period of three years, with the condition that the fixed deposit shall not be withdrawn nor any loan permitted on the security of the fixed deposit. The interest accruing on the deposit periodically shall, however, be payable to the widow and the children for their upkeep and maintenance, and
- (b) That Government of Maharashtra do consider appropriate action against Shri S.B. More, Tehsildar and Taluka Executive Magistrate, Baramati for the palpably false entries in the Panchnama and ignoring the injuries on the person of the deceased and for doctoring the inquest report to suit the offenders, and against the then Medical Officer, Government Hospital, Baramati who, on 9 June 1998 conducted the post-mortem, after affording to both an opportunity to show cause why such action should not be initiated against them.

Case 11: Death of Punjabhai Somabhai Thakor due to Police beating: Gujarat (Case No.6123/95-96/NHRC)¹²⁷

The deceased, Shri Punjabhai Thakor aged 55, was a suspect in a case of theft of an article worth Rs.14,695/- from the house of a resident of Napa. An offence was registered under sections 457, 380 of IPC on 18 September 1995. The deceased and two other suspects were alleged to have voluntarily presented themselves on 13 November 1995 for interrogation. During the course of investigation, the deceased suddenly complained of giddiness and lay down. The PSO instructed that he be admitted in the hospital. Head Constable Juwar Singh and another Constable, Balwant Singh, took him to the Municipal Hospital. The doctor was not available. The Head

¹²⁷. NHRC Annual Report 1998–1999



Constable checked his pulse and found him dead. They left the body there and returned to the police station to report the death. The death took place around 18.00 hrs on 13 November 1995. The inquest Panchanama was held on 14 November 1995 at 08.00 hrs. In the meantime, rodents had bitten the body.

The inquest Panchnama report stated that there were dark spots of beating on the back, buttocks and the back of the thighs and legs. The Magisterial enquiry found that the interrogation was conducted without arrest warrant and proper remand; no doctor was present in the hospital. In spite of no doctor being available, the body was left in the 'dead body room' without proper care; the body was not kept safely and rats had bitten the body. Earlier, the police had not immediately attended to the deceased when he had complained of giddiness. Overall, according to the enquiry, the police had acted negligently and had not performed their duty according to law. The SDM, on the basis of the report, had recommended that the complaint be handed over to the Vigilance Department. He also registered a case u/s 302, 114 of IPC against the police officials. The post-mortem report found the cause of death due to cardio-respiratory failure. The Home Department of the State Government reported that the Human Rights Cell of the State Government accepted the view expressed in the inquiry report of the SDM that the death of Shri Punabhai Takor did not occur due to police atrocities while in custody but due to cardio-respiratory failure.

Taking a serious view of the totality of the circumstances and the negligent behaviour and non-performance of duty by the police officials, the Commission refused to accept the Home Department's observations that death was due to cardio-respiratory failure and not due to police atrocities. To the contrary, the Commission took the view that the beating by police officials and the overall effect of interrogation could have resulted in a cardiac failure resulting in death. The Commission, in this context, pointed to the post-mortem report which mentioned congestion and oedema of the brain, to buttress its view. The Commission accordingly directed the State Government to pay a compensation of Rs.2 lakhs to the dependant of the deceased without prejudice to the criminal action initiated against the guilty officials.

Case 12: Brutal Killing of Santosh Kumar Singh by Police: Bihar (Case No. 2968/4/98-99/ACD)¹²⁸

The Commission took cognizance of a complaint received from one Dharendra Prasad Singh of the village Joitali from the state of Bihar. A police party led by SI Mukhal Paswan visited the village Joitali on 2 December 1998 after receiving information about the activities of the gang of Tolwa Singh in the area. The SI suspected the father of the deceased. Shri Dharendra Prasad Singh, (complainant before the Commission), who was also the uncle-in-law of Tolwa Singh, to be harbouring the said criminal. Shri Santosh Kumar, the complainant's son, a totally innocent young man, with no

¹²⁸. NHRC Annual Report 1998-1999



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

previous criminal record, was stopped near the house of Jagdish Jha and was asked for his identity in harsh and abusive language. A verbal altercation ensued between Santosh Kumar and SI Mukhlal, after Santosh objected to the SI's behaviour. The SI thereupon shot at Santosh and injured him. The SI also took a sample of blood stained earth from the place where Santosh Kumar had fallen upon being injured. Santosh Kumar, who was still alive, was put in a jeep and taken towards Purnea along with four others.

One of the four was allowed to get down in the village itself. Santosh Kumar died on the way to Purnea. SI Paswan did not permit water to be given to the injured Santosh despite his repeated pleas. Also at Purnea, the jeep was kept standing near the bungalow of the SP for one hour for consultation and guidance before Santosh's body was taken for post-mortem. The dead body of Santosh Kumar was handed over to persons from the village Jotaili, after autopsy, late in the evening on 13 December 1998. Sensing the intensity of public anger over the incident which had caused protests and demonstrations, the police compelled the villagers to cremate the dead body at Purnea itself, at about 1.00 PM on 13 December 1998, without giving the next of kin of the deceased a chance to have a last glimpse of him.

The foregoing chain of events relating to the killing of Santosh Kumar, as contained in the report of Shri S.V.M. Tripathi, former DGP, UP who was entrusted by the Commission to make an on-the-spot inquiry, were found to be convincing by the Commission. Shri Tripathi who visited the spot obtained from SI Mukhlal and other police personnel their version of the case which was described in the FIR of cases registered at 18.00 hrs on 12 December 1998 by SI Mukhlal under sections 399/402/353/307/34 IPC and 26(2b)127 Arms Act. The FIR, written in first person by SI Mukhlal, briefly stated that information was received by him at 22.10 hrs on 11 December 1998 that the accused, Tolwa Singh, wanted in a number cases, fully armed, was staying with his gang near Chai Tola, village Bhatsara, and was planning a heinous crime. On the basis of this information and a request to senior officers, SI Mukhlal was provided a special force and he along with one SI and 2 ASIs from his police station left for verification of the information received. When the SI along with his colleagues reached Chai Tola at 05.00 hrs there was a heavy fog. The police party, hearing some voices, asked them to stop. The gang at this stage started firing and did not surrender as asked by the police. The miscreants tried to escape on motorcycles firing intermittently, and were followed with difficulty by the police due to the thick fog. When the police reached a village and started looking for them, the criminals again opened fire indiscriminately. In self defence, SI Sanjay Kumar fired one round and Constable Ram Prakash fired two rounds from their rifles and the criminals ran away in the thick fog. The police party received the information that one criminal was lying injured in the village. On enquiry, he disclosed his name to be Santosh Kumar and provided other particulars. He was immediately sent, with some police personnel, in a jeep for treatment to Purnea Sadar Hospital. According to the police version, a



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

country-made pistol with a fired cartridge was recovered from Santosh Kumar. A recovery memorandum was prepared and signed by three independent witnesses. Blood stained earth was also recovered. Shri Tripathi visited the spot of the initial encounter (Chai Tola) mentioned in the FIR and talked to a number of villagers in connection with this incident.

While Shri Tripathi did not doubt that SI Mukhlal must have received information about the movement of a gang, he considered the story of the near-encounter of the police with the gang somewhat improbable. It is worth noting that Shri Tripathi was not shown the case diaries relating to the case in spite of his asking for them.

After carefully considering the original complaint of Shri Dharendra Prasad, father of Shri Santosh Kumar, the assessment of Shri N.K. Singh, former CBI Director, who had visited the village after the Incident, and the report of Shri Tripathi which was found to be convincing, the Commission made the following observations:

There is substantial evidence to prove that Shri Santosh Kumar was killed by SI Mukhlal Paswan, officer-in-charge of PS Barhara because he had expressed his resentment and objected to the use of harsh and abusive language by the SI.

The story of a police encounter in the village Chai Tola was a clever fabrication and concoction of evidence to cover up the totally unjustified killing of Shri Santosh Kumar. SI Mukhlal Paswan had, by collecting the blood stained earth from the place where Santosh was injured and was still alive, revealed his intention to fabricate the story of an encounter, which he subsequently carried out.

Shri Santosh Kumar had no previous criminal record whatsoever. FIR of case crime No. 130/98 u/s 199/402/353/307/34 IPC and 26 (2b) /27 registered by the officer in charged Mukhlal Paswan at his PS Barhara on 12 December 1998 was based on facts found unverified by the report of Shri S.V.M. Tripathi. The recovery of a country-made pistol with blank and live cartridges from Santosh Kumar was found to be false from the statement of the witness of the recovery memorandum, namely V.N. Jha, Deepak Kumar Thakur and Ravinder kumar Thakur made before Shri Tripathi. They flatly denied any such recovery. It was thus reasonable to suspect that the story of the recovery of the pistol was a planted one.

Shri Vivekanand Jha, Deepak Kumar Thakur and Ravinder Kumar Thakur were forcibly taken to Purnea by the police party and kept in illegal custody at PS Krityanand. Their statement that they were forced to sign some blank papers while they were in custody, appeared credible enough considering all the facts and circumstances of this case.

The conduct of the Purnea police lacked humanity in withholding from the next of kin of the deceased the information about the condition and whereabouts of Santosh Kumar. It was also proved with sufficient clarity that the deceased was not provided



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

immediate medical aid after he was injured. The denial of water to him despite his repeated pleas was a disturbing instance of police insensitivity as was their decision to get the body cremated at Purnea itself, denying his mother, wife and grandfather the solace of having a last glimpse of the deceased.

Keeping the PS Bihariganj in the dark about the raid on a village in its area of jurisdiction was a violation of a well-established police procedure by the police of district Purnea, which deserved to be viewed with seriousness.

Shri Tripathi's report offered sufficient material to suspect the connivance of Shri R.S. Bhati, Supdt. of Police, Purnea in the concoction of evidence to cover up the killing of Santosh Kumar. The Special Report meant for the DIG Range and other superior officers, which was required to be sent at the earliest after the registration of the case, was sent after a lapse of 14 days on 26 December 1998. It contained just a copy of the FIR with the remark that the DSP, Mohd Asghar Imam, would supervise this case. The Superintendent of Police did not mention whether Shri Imam had, by then, even visited the spot and supervised the investigation of this case, which had been registered a fortnight earlier. In fact, he was expected to report on the quality and usefulness of the DSP's supervision, which he totally ignored. The Superintendent of Police admitted that he himself had not visited the village Joitali, even though he was aware that a case of murder was registered against the police personnel in respect of the main action which took place in that village. The fact of Shri Santosh Kumar's death in police custody was not disputed.

It was the responsibility of the District Superintendent of Police to get the mandatory Magisterial inquiry conducted in respect of the incident. The blame for no such inquiry having been held rested primarily with him. The conduct of Shri R.S. Bhati revealed a number of professional lapses compounded by a certain degree of callousness.

The Commission thus convinced of the serious violation of human rights of the deceased, Shri Santosh Kumar, and also of the rights of his relatives, made the following recommendations:

- a) The Commission feels that the case of murder registered against the police personnel of Purnea at PS Bihariganj of Madhepura district is a fit case for transfer to the CBI. The other false case of a police encounter registered at PS Barhara (FIR case Crime No. 130198 dated 12 December 1998) has also to be covered by the same investigation team.
- b) The Commission further recommends that the Government should immediately consider placing SI Mukhlal Paswan, who is the main accused in the murder case, under suspension pending the final outcome of the case of murder of Shri Santosh Kumar Singh. He should also be moved out from district Purnea and Madhepura.



c) Shri R. S Bhati, Supdt, of Police, Purnea about whom there are serious suspicions of connivance in the cover-up of the murder of Santosh Kumar, should immediately be transferred away from Purnea in the interest of a prompt and impartial investigation by the CBI.

d) The deceased, Santosh Kumar, was supporting the entire family. He has left behind his young widow and a small child. The Commission recommends that an immediate interim relief of Rs.5.00 lakhs should be given to the widow without prejudice to her other rights at law.

Case 13: Custodial death of Hamid in Raisen district, Madhya Pradesh (Case No. 1460/95-96/NHRC)¹²⁹

The Commission took suo motu cognizance of a report which appeared in the newspaper Naya Duniya, Bhopal, on 15 June 1995, regarding the custodial death of one Hamid, son of Hafizulla. The news item said that the father of Hamid alleged that his son was picked up by the police from his home for questioning in a theft case reported by his employer, though in fact he was not present at the place on the date of the alleged theft. He was beaten mercilessly and released on 13 June 1995, and again arrested on 14 June 1995, on the night of which he died. He was rushed to the Raisen District Hospital and later to Hamidia Hospital, where on arrival he was declared to have been brought dead.

The Commission called for a report in the matter from the Government of Madhya Pradesh. In its report, the State Government stated that Hamid was summoned to the police station for interrogation on 14 June 1995, and had consumed some poisonous substance while in the police custody. He was rushed to the hospital where he was declared brought dead. The Additional District Magistrate had also conducted an enquiry, according to which Hamid was illegally detained by the police from 8 June 1995 to 13 June 1995 for interrogation. The post-mortem report indicated that there were simple injuries on his body. The Additional District Magistrate concluded that the death was, indeed, the result of the consumption of poison by Hamid during the period when he was illegally detained in police custody. The officer-in-charge failed to take him to the hospital in an ambulance, and instead, took him in a police van where the personnel were not trained in first-aid. As a result, Hamid died en route to the hospital. What was glaring was the fact that the police records showed that Hamid was summoned on 11 June 1995 and on 13 June 1995, and that he was released after interrogation on both the dates.

The Commission was distressed to see the blatant manner in which records had been tampered with by the very people who were duty-bound to maintain law and order and to uphold the rule of law. Every citizen has the right to life, which includes freedom from illegal confinement and torture. Hamid, an innocent citizen, was illegally

¹²⁹. NHRC Annual Report 1999–2000



confined by the police without any formal arrest, and later died in police custody. The Commission recommended that the Government of Madhya Pradesh pay Rs. 50,000/- as immediate interim compensation to Hamid's family members. The Commission also recommended to the Government of Madhya Pradesh, that it initiate proceedings against the errant police officials.

Case 14: Death of Rameshwar Jat in police custody due to heating (Case No. 351/20/97-98/CD)¹³⁰

The District Magistrate, Nagaur, Rajasthan, informed the Commission of the death of one Rameshwar Jat in police custody, who had been called to the police station for questioning in a case. It was stated on behalf of the police that the deceased remained in the police station upto 4.15 p.m. on 19 July 1997, and thereafter quietly slipped out, and that one Daulat Singh Rajput reported to the police at about 6.15 p.m. that a young man had fallen into a well at about 5.00 p.m. He was taken out with the help of neighbours and was identified as Rameshwar Jat. He later died in the hospital.

The Additional District Magistrate, Didwana, who conducted the inquest, came to the conclusion that the deceased was illegally called to the police station on 18 July 1997 and 19 July 1997, and was physically beaten up by certain police personnel. Being frightened as a result of the beating, he ran away from the police station and fell into a deep dry well, as a consequence of which he sustained injuries which proved fatal. The Inquest Magistrate held certain police officials, including the SHO, responsible for the incident, and ordered the registration of a case for investigation by the CID.

The Commission agreed with the report of the Inquest Magistrate and awarded a further compensation of Rs. 50,000/- to the dependents of the deceased, in addition to the Rs. 50,000/- already sanctioned by the Rajasthan State Government to his legal representatives. The Commission has received a compliance report from the State Government on the payment of compensation of Rs. 50,000/-.

Case 15: Matloob Hussain, a fruit vendor beaten to death by the police for not paying 'hafta': Delhi (Case No. 951/96-97/NHRC)¹³¹

The Commission initiated proceedings in this case on the basis of a report received from the Sub-divisional Magistrate, Shahadra, Delhi, indicating that the death of one Matloob Hussain had occurred on 13 July 1996, following a severe beating inflicted on him by two policemen of the Geeta Colony police station, Delhi, on 11 July 1996.

The Commission subsequently received petitions from certain NGOs, namely the People's Union for Democratic Rights and the People's Union for Civil Liberties; and also from Shri Syed Shahabuddin, former Member of Parliament, who raised the

¹³⁰. NHRC Annual Report 1999–2000

¹³¹. NHRC Annual Report 1999–2000



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

general issue of the violation of the human rights of petty vendors in Delhi and elsewhere in the country.

They felt that the Commission should protect this group from the atrocities committed against them by the police and other authorities, including the demands made on vendors to pay hafta.

In response to the Commission's notice, the Sub-divisional Magistrate of Shahdara gave a detailed account of the events that had occurred. The report received from the police, however, gave a somewhat different version. From the reports, however, the Commission inferred that a Head Constable and a Constable had subjected the deceased to physical violence, and the beating was so severe that it ultimately proved fatal.

The Commission observed that the higher authorities had done well in taking action against the delinquent police officials by putting them under suspension and prosecuting them after due investigation, though regrettably, this was done only after the death of Shri Hussain. The Commission was, however, pained to observe the lack of sensitivity of the concerned Station House Officer (SHO), who had neither taken adequate or immediate action for the medical treatment of Shri Hussain nor for the registration of a case against the errant police officials, even though he was aware of the incident. The Commission thus assumed that the atrocities committed were with the knowledge of or in connivance with, the SHO. The Commission, therefore, recommended that disciplinary action be initiated against him for the various acts of commission and omission of which he has been found guilty by the Magisterial enquiry and by the Commission. The Commission also recommended that the conduct of two police officials, the DCP (East District) and the AGP (Public Grievances Cell) be looked into, and the appropriate action taken in this regard.

The Commission further recommended to the Government of the National Capital Territory of Delhi that it ensure an effective and expeditious trial of the errant officials and make sure that they are punished in accordance with law and not allowed to go scotfree because of weak prosecution. It also directed the Government to ensure that the implementation of the scheme framed by the Municipal Corporation of Delhi in regard to hawkers/petty vendors be implemented at the earliest.

The Commission considered it deeply regrettable that an innocent fruit vendor of about 33 years of age and supporting a family of seven, lost his life as a result of a severe beating by the policemen of the Delhi Police, mainly because he had failed to oblige them by paying the hafta (the illegal weekly collection made to permit petty vendors to carry out their trade).

The Commission asked the Government of the National Capital Territory of Delhi to pay a sum of Rs. 2.5 lakhs to the next of kin of Matloob Hussain who had died of police violence.



The Commission also asked the Delhi Government to constitute a high-powered Committee to look into the menace of the collection of hafta by the police and other civic functionaries from the petty vendors and other similarly placed persons. The Committee was asked to suggest ways and means to curb this menace, so that this vulnerable section of society can live in peace.

The Commission subsequently received a report from the Government of the National Capital Territory of Delhi indicating compliance with the directions of the Commission.

Case 16: Death of Nageshwar Singh following torture and humiliation in police custody: Bihar (Case No. 7482/95-96/NHRC)¹³²

Shri Kameshwar Singh, in a complaint to the Commission, alleged that his brother Nageshwar Singh was arrested on 22 August 1993 by the railway police at Barauni and handed over to the Vidupur Police, District Vaishali. He was mercilessly beaten, tortured and humiliated in custody. His head was shaved, face painted and he was driven around the town on a donkey. Shri Kameshwar Singh also alleged that the torture in police custody was the reason for the death of his brother on 25 August 1993.

In response to the Commission's notice, a report received from the DGP, Bihar, admitted that the death of Nageshwar Singh was caused while he was in police custody, though he died while in hospital where he was being treated. It was also reported that he was not produced before a Magistrate after his arrest, and was kept in police custody for more than 24 hours. As many as 11 injuries on his person were recorded in the post-mortem report, which also mentioned the fracture of three bones in the chest region. In addition, the allegations about the shaving of his head and being driven around town on a donkey were substantiated by the statements of witnesses. The DIG, Tirhut range, opined that the Station Officer (SO)-in-Charge of the police station was guilty, and the Superintendent of Police, Vashali, was directed to take action against him.

However, as the complainant also filed a petition before a court on the same issue, investigation in the said case was stalled. The guilty SO-in-charge, though initially suspended, had been reinstated and no action had been taken against the other erring police officers, though it was admitted that Nageshwar Singh died owing to torture and beating inflicted by the police. Upon perusal of the report, the Commission noted that the death of the victim in police custody was admitted. In addition, it was also admitted that the deceased was not produced before the Magistrate within 24 hours of his arrest, from which an inference of illegal confinement with ulterior motives could be drawn. Further, atrocities of the police on the deceased were also admitted. The Commission noted that though six persons were arraigned as the assailants, no action

¹³². NHRC Annual Report 1999–2000



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

had been taken against them on the ground that the matter was pending before the court.

Having regard to the facts and circumstances of the case, the Commission directed the Government of Bihar to pay Rs. 3 lakhs as immediate interim relief to the dependents of the deceased, complete the investigation of the case expeditiously, and prosecute the guilty police officials, invoking if necessary, the provisions of Section 210 of the Cr.PC.

Further, the Commission directed that departmental action be initiated against the errant police officials for causing serious mortal injuries to the deceased. The Commission also observed that the State Government was at liberty to initiate proceedings for the recovery of the sum of interim relief from the errant police officers. The Commission was informed that the sanction for compensation was issued.

COMMENT

The Commission observed that it was unfortunate that the stalling of the investigation and departmental action for more than five years were being justified on the ground of pendency of a private complaint filed by the brother of the deceased. This was the result of a misreading, designedly or otherwise, of the law. The pendency of a private complaint did not tie the hands of the investigation. The course to be adopted when there is a case 'pending otherwise than on a police report' before the court, is expressly provided for by Section 210 of the Cr.PC. All that needs to be done is to bring the matter to the notice of the court where the private complaint is pending. The court would stay further proceedings-to enable the police to complete the investigation. Both cases would then be tried together. The pendency of the private case under which the police tried to take shelter for their inaction, was by itself no. ground for inaction.

Case 17: Death of Thimmaiah in police custody, Karnataka, (Case No. 12098/96-97/NHRC)¹³³

The Commission was informed by the Superintendent of Police of Kolar District of the death of one Thimmaiah in the Mulbagal Police Station. Thimmaiah had allegedly committed suicide with a nylon rope hung from a window bar in the toilet of the police station. The Commission also received a complaint from the People's Union for Civil Liberties, Karnataka, suspecting foul play in this case, and requesting the Commission to have the matter investigated, bring the culprits to justice and award compensation to the next of kin of the victim.

¹³³. NHRC Annual Report 1999–2000



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

Pursuant to the Commission's directions, the Additional Chief Secretary, Karnataka, sent a report along with copies of the post-mortem and inquest reports. These were contradictory in nature and did not establish the fact that the victim had committed suicide. Considering the facts and circumstances as disclosed in the reports, the Commission was of the view that there was justification for a presumptive inference that the death of Thimmaiah, in the absence of a convincing explanation from those who had him in their power and custody, had been caused in custody by the police. In any event, the police, who held sway over the person of Thimmaiah, are guilty of not preventing the suicide, even if the remote theory of a suicide were at all held to be probable.

Accordingly, the Commission directed the Government of Karnataka to register a case against the errant police officials and initiate departmental action against them. A case was also to be registered against the doctor who had conducted the post-mortem, on charges of destroying evidence. The Commission directed the investigation to be taken over by the Corps of Detectives of the Karnataka State, and since there was a strong prima facie case of violation of human rights, the Government of Karnataka was directed to pay an interim relief of Rs. 2 lakhs to the next of kin of the deceased. It would be at liberty to initiate proceedings for recovering the sum from those who, by their high-handedness, had exposed the Government to this liability. The Commission has received a compliance report from the Government of Karnataka on the payment of compensation, disciplinary proceedings and prosecution.

COMMENT

The liability of the State for damages for violation of the Constitutional rights to life, liberty and dignity of the individual has been recognised and established as a part of the public law regime. In the decisions of the Apex Court, in particular, in the case of *Francis Coralie Mullin v Administrator, Union Territory of Delhi* and *Nilabati Behera v State of Orissa*, the constitutional and juristic foundations of this liability of the State have been formally and finally laid down. Even the claim of sovereign immunity arising out, of the State discharging sovereign functions, is held to be no defence at all against the acts of violation of the constitutionally guaranteed Fundamental Human Rights.

Case 18: Torture by Kerala police leading to the death of Hussain, (Case No. 64/11/1999-2000)¹³⁴

AJ. Antony, a resident of Wynad district, Kerala, made a complaint to the Commission, alleging that one Hussain, a labourer, was brutally beaten by the police

¹³⁴. NHRC Annual Report 1999–2000



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

on 19 February 1999 during a raid on a gambling place. According to the complaint, Hussain had explained to the police that he had gone there to collect money from one Khalid Mohammad and not to gamble. However, the police had ignored his pleas and had beaten him so brutally that his spinal cord broke and he was paralysed from below the neck. Since his family was not wealthy, he was brought home after the initial treatment.

The complainant requested the Commission to recommend action against the guilty police officials and to award a compensation of Rs. 6 lakhs to the victim.

The Commission immediately called for a report from the DGP Kerala. The report from the DGP stated that during a raid on a gambling den, one of the gamblers, Hussain, was beaten, as a result of which he fell down. Shri Hussain made a statement that the police had beaten him and then had gone away without providing him with any medical treatment. On this basis, a case was registered at the Meppady police station. The report added that the victim had since been discharged from hospital and was undergoing treatment at his residence. A police constable had been placed under suspension, and an oral enquiry had been ordered against him, as also the concerned Sub-Inspector.

Subsequently, the Confederation of Human Rights Organisations informed the Commission that Hussain had died on 26 November 1999, as a result of the brutal torture inflicted on him by the police. The Confederation also sought action against the policemen for murder, and for compensation of at least Rs. 3 lakhs to the family of the deceased.

The Commission took note of the report of the DGP Kerala and of the subsequent report of the Confederation of Human Right Organisations. It observed that the office of the DGP did not dispute the fact that the victim was beaten by the police. The Commission, accordingly, directed the State Government to institute criminal action against the concerned police officials for the murder of Hussain, and also to expedite the departmental proceedings against them. The Commission also recommended that a sum of Rs. 2 lakhs be paid by the Government to the next of kin of Hussain, as immediate interim compensation. The Commission stated that the Government was at liberty to deduct this amount from the salary of the guilty police officials. The Government of Kerala has sanctioned the payment of a sum of Rs. 2 lakhs to the next of kin of Hussain as compensation. The Government has also ordered the DGP Kerala to institute criminal action against the guilty officials for murder.



Case 19: Torture by Tiruchi police resulting in the death of Shri Mohan, (Case No. 4444/95-96/NHRC)¹³⁵

The Commission received a telegraphic complaint from Smt Ayeeponnu stating that her husband was picked up by the police from their home on 3 September 1995, tortured at the police station and thereafter remanded to judicial custody. While in remand, he was hospitalised in a serious condition and died. The Commission called for a report from the DGP Tamil Nadu. The DGP stated that Mohan was arrested for selling arrack, and had been produced before the Judicial Magistrate the same day and remanded to judicial custody. En route to jail, following an epileptic fit he fell down and sustained a head injury. He was subsequently hospitalised and died. He also stated that the widow had denied having sent a complaint to the Commission.

The matter was further investigated by the Commission through the State Legal Aid and Advice Board, Chennai, and an opinion was also sought from the doctor who had performed the autopsy. While the doctor stated that the deceased appeared to have died of shock and haemorrhage due to a head injury, the Legal Aid and Advice Board also reported that the widow denied having sent a complaint. The Commission examined the facts and circumstances and concluded that the telegram itself was a very telling one, as it was obvious that the widow, being an illiterate person, wished to avoid a confrontation with the police, and therefore denied having sent the telegram. The post-mortem report also indicated that the injuries could not have been caused by a mere fall to the ground due to an epileptic fit. The deceased also did not have a history of epilepsy.

Based on the facts and clinical evidence available, the Commission came to the conclusion that the death was, indeed, due to head injuries inflicted by the police. The Commission accordingly recommended, that in order to compensate the loss of the precious life of the young man, the Government of Tamil Nadu should pay immediate interim relief in the amount of Rs. 2 lakhs to his wife, Smt Ayeeponnu, within two months of the order. The District Collector was also directed to arrange a house for the widow with Rs. 50,000/- and give her a sum of Rs. 10,000/- for furniture, and arrange to deposit the balance amount in her name in a nationalised bank. The State Government was also directed to entrust the matter to the CBI for further investigation, to charge-sheet the persons responsible for the death and to take the case to its logical conclusion. The State Government was further asked to submit compliance reports periodically. The State Government has since sanctioned the amount of compensation recommended by the Commission.

¹³⁵. NHRC Annual Report 1999–2000



Case 20: Death of Gothandam in Police Custody: Pondicherry (Case No. 75/32/97-98/CD)¹³⁶

Upon being informed of the custodial death of one Gothandam, aged 23 years, who was brought to the Police Station during the night of 15/16 February 1998 but who died in the course of interrogation, the Commission issued notice to the Government of Pondicherry calling for a report.

The report received from the Government of Pondicherry indicated that all the five police officials who had been involved in this incident were placed under suspension; a criminal case had been registered against them and a sum of Rs. 60,000 had been paid as compensation to the father of the deceased.

The Commission observed, however, that the amount of Rs. 60,000 was far too meagre, especially since the death of the young man had been caused in police custody. The magisterial enquiry report also showed that the victim has been tortured severely. Having regard to these facts, the Commission directed the issue of a show cause notice to the Government of Pondicherry as to why an additional amount of Rs. 2.00 lakhs be not granted as immediate interim relief under Section 18 (3) of the Protection of Human Rights Act, 1993.

The Government of Pondicherry responded saying that the matter was pending before a Court.

The Commission, however, took the view that the payment of immediate interim relief under Section 18(3) of the Protection of Human rights Act, 1993 was not dependent on the outcome of the criminal prosecution. It accordingly directed the Government of Pondicherry to deposit an amount of Rs. 2.00 lakhs in a nationalized bank, in the name of the next of kin of the victim, adding that the interest that accrued thereon be made available to the next-of-kin every three months.

A report indicating compliance with the directive of the Commission has since been received.

Case 21: Illegal Detention, Torture and Death of Shah Mohammed in Police Custody and Negligence on the Part of Doctors for not Conducting a Thorough Post Mortem: Madhya Pradesh (Case No. 3855/96-97/NHRC)¹³⁷

The Commission initiated proceedings in this case upon receipt of a wireless message from the Superintendent of Police, Durg which indicated that the custodial death had occurred of a certain Shah Mohammed, a resident of Bhilai in district Durg of Madhya Pradesh. A petition was later received from the Secretary of the Madhya Pradesh State Committee, CPI (ML) alleging that Shah Mohammed had been picked up by the

¹³⁶ . NHRC Annual Report 2000–2001

¹³⁷ . NHRC Annual Report 2000–2001



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

police on the night of 16 July 1996, illegally detained and brutally tortured to death. The petition added that the wife of the deceased had not been informed of what had occurred.

In response to a notice from the Commission, the Government of Madhya Pradesh transmitted to the Commission copies of the magisterial inquiry report, the post-mortem report, the inquest panchnama and viscera examination report.

According to the police version, Shah Mohammed, alongwith five others, had been found to be travelling in a jeep under suspicious circumstances during the night of 17-18 July 1999. Reportedly, the group was apprehended by the Inspector of Bhatti, Bhilai, and brought to the police station. Inquiries made indicated that they had hatched a conspiracy to murder a lady, Ms. Mazara Bai, the foster mother of Shah Mohammed, after obtaining her signatures on certain papers purported to be a will of her entire property. In the afternoon, however, Shah Mohammed had complained of uneasiness and sickness and was, therefore, taken to Durg hospital for treatment. He died there later in the day. A case crime No. 160/96 under section 115, 116, 120(B) IPC and 25, 27 Arms Act had been registered against Shah Mohammed and his associates.

The post mortem examination report indicated there were only two injuries; one ante-mortem and the other post-mortem on the body of the deceased. The ante-mortem injury was in the form of a contusion measuring 2.5 cms x 2 cms on the lateral side of the left toe of the deceased, while the post-mortem injury (purportedly caused by a rodent bite) was on the right side of the cheek, measuring 9.3 cms x 3 cms from the edge of the lip to the ear, with a reddish liquid oozing out from the said injury. The inquest panchnama proceedings conducted by the City Magistrate and attested by five witnesses did not indicate any other external injury on the body. The magisterial inquiry was conducted by Shri B.L. Tiwari, Additional Collector and District Magistrate.

His report concluded that Shah Mohammed was in critical condition around noon and had, in fact, died even before he was moved to the hospital. The inquiry also stated that the two Doctors involved in conducting the post-mortem had produced an inconclusive report, which did not provide a definite opinion about the cause of death; nor had these doctors sent the requisite samples for histopathological examination to the Director, Medical Institute. The Additional Collector and District Magistrate therefore concluded that the death of Shah Mohammed resulted from negligent conduct on the part of the concerned police officers.

After considering all of these reports the Commission concluded that Shah Mohammed was picked up by the police in the evening of 16 July 1996, kept in illegal detention in the police lock-up by the police of Bhatti, Bhilai until the afternoon of 18 July 1996 and brutally tortured during the period of his illegal detention. It was this



that led to his death at the police station in the afternoon of 18 July 1996, before he was removed to the hospital.

The Commission accordingly, acting under section 18 (3) of the Protection of Human Rights Act, 1993, recommended that the Government of Madhya Pradesh take action to:

Register a case of custodial death against the Officer-in-charge of the Police Station Bhatti, Bhilai and other police officers who were responsible for causing the death of Shah Mohammed;

Initiate appropriate disciplinary proceedings against the two Doctors who had not conducted the post-mortem examination thoroughly and who had failed to prepare a comprehensive post-mortem examination report;

Pay a sum of Rs. 2.5 lakhs to the next-of-kin of the deceased within a period of four weeks of this, an amount of Rs. 50,000 was to be payable immediately and the balance deposited in the fixed term account in a nationalized bank for a period of five years, the interest accruing thereon being paid to the next of kin.

Case 22: Torture in Police Custody Results in the Death of Kartik Mehto: Bihar (Case No. 8903/95-96)¹³⁸

The Commission received a complaint from Smt. Munuwa Devi alleging that her husband, Kartik Mehto, had been illegally detained by the police on 27 September 1995, brutally tortured and that this led to his death in police custody on 4 October 1995.

In response to a notice from the Commission, the report of the police admitted to the death of the Kartik Mehto in police custody. It added that a case had been registered against a Sub Inspector under section 302 IPC. The Sub Inspector had surrendered before a Court and was being dealt with in accordance with law.

In the light of the report received, the Commission directed the Government of Bihar to pay immediate interim compensation of Rs. 2 lakhs to the family of the deceased and to recover this amount from the accused. The Commission also recommended that employment be given to one of the members of the family of the deceased, in accordance with his/her educational qualifications. Of the total amount of the compensation awarded, the Commission directed that 50 per cent be kept in a fixed deposit in the name of the widow of the deceased, who may be allowed to draw on the interest every quarter.

¹³⁸ . NHRC Annual Report 2000–2001



Case 23: Harassment by Police Leads to Suicide of Surinder Singh: Uttar Pradesh (Case No.1929/96-97)¹³⁹

The Commission received a complaint from one Mukesh in May, 1996 stating that a dispute existed between his brother, Surinder Singh, and a certain Chhatar Singh, in regard to a tubewell. He added that the Sub Inspector of Police, R.K. Sharma, in connivance with the latter, had implicated his brother in a false case of theft. He also alleged that though a sum of Rs. 2000 had been paid to the Police upon their demand, but that the Sub Inspector had continued to torture Surinder Singh. As a result of this humiliation, he stated that Surinder Singh had committed suicide on 5 May, 1996, leaving behind a written note blaming Sub Inspector R.K. Sharma for his death.

The Commission directed the Senior Superintendent of Police, Bijnore, Uttar Pradesh to investigate the matter and submit a report. According to the report received, the Sub Inspector had indeed implicated Surinder Singh in a case under Sec. 379/411 IPC. He had then demanded Rs.5000, but only Rs.2000 was paid by him. The Sub Inspector had thereafter threatened the complainant and his family members and, as a result of this harassment and mental torture, Surinder Singh committed suicide. In the course of the investigation, it was learnt that a case had been registered against the Sub Inspector under various sections of the Indian Penal Code. It was also learnt that a Head Constable, Assistant Sub-Inspector and a Station House Officer were also involved in this incident and that disciplinary action had been recommended against them. The Sub Inspector had been suspended and the Head Constable and other police officials had been charge-sheeted under the Police Rules.

After considering the report, the Commission considered it appropriate to award interim relief in the amount of Rs.1 lakh to the legal heirs of the deceased who, by admission of the police itself, were tortured while in custody and forced to commit suicide. The Commission further directed the Senior Superintendent of Police, Bijnore to inform the Commission of the progress in the various proceedings against the police officials.

Case 24: Death of Sanjay Sitaram Mhasker due to custodial violence: Maharashtra (Case No. 210/13/98-99-ACD)¹⁴⁰

The Commission received a complaint alleging that one Sanjay Sitaram Mhasker was picked up by the police on 8 April 1998 and locked-up in a police station. It was alleged that he died after being mercilessly beaten by the police and, thereafter, a conspiracy was hatched to show that he had hanged himself. It was added that the post-mortem had not been conducted properly. Intervention of the Commission was requested for the registration of a case of murder against the guilty police officials and for the payment of compensation.

¹³⁹ . NHRC Annual Report 2000–2001

¹⁴⁰. NHRC Annual Report 2001–2002



In response to the Commission's notice issued to the Home Secretary, Government of Maharashtra, a report was submitted by the Sub-Divisional Magistrate (SDM), Thane. It confirmed that the death of Sanjay Sitaram Mhasker in police custody was due to beating by the police and added that certain police officials had been held responsible. The Commission after due consideration of the said report, issued a show-cause notice to the Government of Maharashtra asking as to why a sum of Rs.3 lakhs be not awarded to the next-of-kin of the deceased and also called for the action taken by the State Government on the report of the SDM Thane.

In response to the show-cause notice, the Government of Maharashtra stated that action to prosecute 19 delinquent public servants had been initiated for custodial violence for causing the death of Sanjay Sitaram Mhasker. In the light of this, the Commission in an order dated 30 July 2001 directed the Government of Maharashtra to pay a sum of Rs.3 lakhs as immediate interim relief u/s 18(3) of the Act to the next of-kin of the deceased.

Case 25: Custodial death of Mohammad Irshad Khan (Case No. 2387/30/2000-2001-CD)¹⁴¹

The Commission received information from the Deputy Commissioner of Police (DCP), North East District, Delhi about the death of Mohammad Irshad Khan. A complaint was also received from Shri Acchan Khan, father of the deceased, alleging that his son had died as a result of brutal beating by the police. Shri Acchan Khan added that the family of the victim had not been informed of the circumstances of the death. The intervention of the Commission was requested, as also an independent investigation into the case and protection for the complainant's family in view of threats by the police personnel who had been accused of being involved in the death of Mohammad Irshad Khan.

In response to a notice from the Commission, the Home Secretary, Government of the National Capital Territory of Delhi, stated that the matter had been investigated by DCP (Vigilance), Delhi. The latter's report indicated that, on 12 October 2000, while the victim was driving his two wheeler scooter, he had collided with a cycle rickshaw. In a scuffle that ensued, a policeman had intervened and reportedly beaten the victim, who had collapsed on the spot. The victim was then taken to GTB Hospital, where he was declared to have been brought dead on arrival. A case FIR No.274 had been registered at Police Station Usmanpur and the accused Sub Inspector Vijay Kumar and Constable, Swatantra Kumar had been arrested. A magisterial inquiry had been conducted by the SDM, Seelampur.

A further report, dated 9 April 2001 from the Deputy Secretary, Home Department, Government of National Capital Territory of Delhi, stated that a chargesheet had been filed against the delinquent police officials u/s 302/34 IPC.

¹⁴¹. NHRC Annual Report 2001–2002



Upon further consideration of the matter, the Commission directed that a showcase notice be issued to the Government of National Capital Territory of Delhi asking as to why immediate interim relief in the amount of Rs.3 lakhs u/s 18(3) of the Protection of Human Rights Act be not granted to the next-of-kin of the deceased.

The Government of National Capital Territory of Delhi, in response, stated that Rs.3 lakhs had been sanctioned towards the payment of compensation to the next-of-kin of the deceased. It was later confirmed that the amount was paid to the wife of the deceased on 30 May 2001.

Case 26: Custodial death of Ram Kishore - complaint by Uttar Pradesh Parjapati Samaj Vikas Parishad (Case No. 483-LD/93-94)¹⁴²

The Commission received a complaint from the Uttar Pradesh Parjapati Samaj Vikas Parishad alleging that one Ram Kishore, a driver employed by M/s Goodwill Enterprises, Mohan Nagar, Ghaziabad had been killed while in police custody. The complaint stated that Ram Kishore had realised an amount of Rs.1.5 lakh from certain parties in Meerut on behalf of his employers on 15 July 1993. However, later that day he had been the victim of an armed robbery in Modi Nagar in which incident all the money had been taken away from him. Despite this, he was handed over to the police by his employers for interrogation, in the course of which he was tortured in the police station. Ram Kishore was not released despite approaches being made to the District Magistrate and SSP, Ghaziabad. He died on the night of 23 July 1993. Thereafter, in order to hush-up the case, the dead body was taken to the District Hospital, Ghaziabad and the post-mortem report was manipulated as to the cause of death, the evidence of torture being destroyed. The Commission was requested to intervene, investigation was sought by the State Criminal Investigation Department (CID), and compensation urged for the widow of the victim.

Upon notice being issued to the Government of Uttar Pradesh, the latter directed the State CID to conduct an enquiry. Despite this, considerable delays occurred, requiring the Commission to pursue this matter relentlessly over a number of years. Finally, on 4 April 2000, the Government of Uttar Pradesh informed the Commission that a chargesheet had been submitted u/s 302/343/330/217/ 218/201/34/120 B IPC in the court of the Chief Judicial Magistrate (CJM), Ghaziabad against the proprietor of the M/s Goodwill Enterprises, Shri R.P. Chada, the then Inspector In-charge, Shri R.B. Pathak and the concerned Sub-Inspector Shri Jawahar Lal. Further, in departmental proceedings, a warning had been issued to an Assistant Superintendent of Police (ASP), and a misconduct entry made in the record of another Sub Inspector. It was added that departmental action was under consideration in respect of another ASP, an accused doctor and an SDM. A warning had also been issued to the SDM, Modi Nagar.

¹⁴². NHRC Annual Report 2001–2002



In its proceedings of 19 September 2001, the Commission held that the fact of the prosecution of public servants in itself was sufficient proof and justification for award of immediate interim relief. It accordingly issued a showcause notice to the Government of Uttar Pradesh asking as to why such relief be not granted to the next-of-kin of the deceased u/s 18(3) of the Act. The State Government was also asked to intimate the action taken against the remaining delinquent public servants.

As no reply was received from the Government of Uttar Pradesh within the time stipulated, the Commission proceeded to order the payment of compensation in the amount of Rs.3 lakhs as immediate interim relief to the next-of-kin of the deceased.

Case 27: Death of Manoj Kumar due to torture by police: Uttar Pradesh (Case No.7955/96-97/NHRC)¹⁴³

The Commission received a complaint from one Smt. Vijay Lakshmi alleging that Manoj Kumar, her son, had been implicated in a false case u/s 307 IPC, that he had been tortured in police custody and that this had resulted in his death on 8 August 1996.

On consideration of the report received from the Chief Secretary and the Director General of Police (DGP), Uttar Pradesh, it was observed that when Manoj Kumar was admitted in the District Jail, Agra on 7 August 1996, he had a number of injuries on his person and that he died on 8 August 1996. The post-mortem Report confirmed these injuries on various parts of his body. The Commission also noted that the doctors concerned with the treatment of Manoj Kumar in hospital had not acted responsibly.

The Commission observed that it had issued instructions from time to time regarding the need to medically examine persons immediately after arrest and every 48 hours thereafter while in custody. These instructions had not been complied with by the police department. The Commission held that death of Manoj Kumar had taken place while in the custody of the police. A show cause notice was accordingly issued to the Government of Uttar Pradesh asking as to why compensation in the amount of Rs.2 lakhs be not granted to the next-of-kin of the deceased as immediate interim relief, and action initiated against the delinquent police officers through disciplinary proceedings/prosecution.

Since no reply was received to the show-cause notice and subsequent reminder, the Commission in its proceedings of 24 September 2001 recommended that the State Government pay Rs.2 lakhs as immediate interim relief to the next-of-kin of the deceased. It also ordered the initiation of disciplinary proceedings/prosecution against the delinquent public servants.

¹⁴³. NHRC Annual Report 2001–2002



Case 28: Death of Shishu Rebe due to torture in police custody: Arunachal Pradesh (Case No.74/96-97/NHRC)¹⁴⁴

The Commission received information from the Inspector General of Police (IGP), Itanagar, Arunachal Pradesh about the death of one Shishu Rebe who was arrested on 10 March 1996 on a murder charge and kept in Chiyangtigo police station lock-up, where he died on 29 March 1996.

Pursuant to the directions of the Commission a final investigation report was received from the Superintendent of Police (SP) Headquarters Itanagar, Government of Arunachal Pradesh. It indicated that the deceased had been tortured by a SubInspector and that a charge-sheet had been filed against Sub-Inspector u/s 304 in a case that was now before the Sessions Courts, Seppa. A sum of Rs.30,000 had also been sanctioned by the State Government to be paid to the next-of-kin of the deceased. In its proceedings dated 31 July 2001, the Commission opined that the amount of compensation appeared to be inadequate and a subsequently show cause notice was issued to the State Government asking as to why a sum of Rs.1 lakh should not be paid to the next-of-kin of the deceased and disciplinary action initiated against the delinquent public servant. The Government of Arunachal Pradesh, in its reply dated 28 August 2001, indicated that it had no objection to pay the compensation amount as directed by the Commission, including the sum of Rs.30,000 already paid by it. As regards disciplinary action against the delinquent public servant, it was stated that since case No.3/96 u/s 304 IPC was pending trial, disciplinary action would be taken after the trial of the case was completed.

The Commission, in its order dated 16 October 2001, recommended that the balance of Rs.70,000 be paid to the next-of-kin of the deceased as an amount of Rs.30,000 had already been paid by the State Government. As regards the disciplinary action against the concerned official, the Commission directed that departmental proceedings should be pursued even while the criminal case was pending, since the criminal proceedings and the departmental proceedings were independent of each other and this matter had been settled by several judgments of the Supreme Court.

Case 29: Death in custody of former Sarpanch of Gogon Village, Chuhur Singh due to negligence: Punjab (Case No.431/19/ 2000-2001)¹⁴⁵

The Commission took suo motu cognizance of a newspaper report published in 'The Tribune' of 11 September 2000 about the death of a former Sarpanch of Gogon Village, Chuhur Singh, while in police custody on 10 September 2000. The victim had allegedly been arrested in a poppy-husk smuggling case and had died in the hospital while in custody.

¹⁴⁴. NHRC Annual Report 2001–2002

¹⁴⁵ . NHRC Annual Report 2002–2003



In response to the Commission's notice, the District Magistrate, Hoshiarpur, submitted a report. It indicted the Assistant Sub-Inspector, Mahilpur Police Station, for negligence. It was indicated in the report that he had acted against the advice of the doctor on emergency duty, and had taken Chuhur Singh to the court thus worsening his condition. A departmental enquiry had, therefore been initiated against the Assistant Sub Inspector.

The report, however, denied any torture or beating by the Mahilpur police, as alleged by relatives of the deceased.

In view of this finding of negligence in providing timely medical aid, the Commission issued a notice to the Chief Secretary, Government of Punjab to show cause, within four weeks, as to why Rs. 50,000/- be not paid as immediate interim relief under section 18 (3) of the Act to the next of kin of the deceased.

In its proceedings dated 22 May 2002 the Commission considered the reply from the Government of Punjab which stated that the question of compensation be kept in abeyance till the finalization of the enquiry. The Commission, however, overruled this objection and pointed out the purpose of Section 18 (3) of the Act, viz. the provision of immediate interim relief in instances where a strong prima facie case of the violation of human rights had been made out. This did not need to await determination of final liability in another proceeding. The Commission observed that the concept of immediate interim relief ceases to be meaningful if it is subjected to the final determination of the existence of the guilt of the violator. The Government of Punjab was accordingly directed to pay the compensation.

Case 30: Death of Bujhai in police custody due to torture: Uttar Pradesh (Case No.4238/96-97/NHRC)¹⁴⁶

The Commission received a communication dated 2 August 1996 from the Superintendent of Police, Ambedkar Nagar, Uttar Pradesh concerning the death of Bujhai on 30 May 1994, while in police custody, in connection with case No.54/94 registered against the deceased for murder. The magisterial enquiry referred to conflicting statements and, therefore, recommended a CID enquiry. Accordingly, case No.121/96 was registered at Bevana Police Station for investigation.

Upon consideration of the report received from the police authorities of the State, and given the inconsistencies that had been noted in respect of this case, the Commission directed its own Investigation Division to look into this matter. Pursuant to the recommendation of the Investigation Division, the Commission directed the State Government to have the matter investigated by the CB CID. Pursuant to this directive, the State CB CID submitted a report on 28 December 2000 in which it stated that 11 police officials had been held responsible for committing offences under various

¹⁴⁶ . NHRC Annual Report 2002–2003



provisions of the Indian Penal Code (IPC) and that chargesheets had been submitted in the court.

In its proceedings dated 11 March 2002, the Commission sought information on the current status of the prosecution and issued notice to the Chief Secretary, Uttar Pradesh to show cause as to why immediate interim relief under section 18 (3) of the Act be not awarded to the next of kin of the deceased. As no reply was received from the State of Uttar Pradesh in spite of reminders, by its order dated 12 June 2002 the Commission held that the Government of Uttar Pradesh has no cause to show against the award of immediate relief and proceeded to award immediate interim relief of Rs.1,00,000 to the next of kin of the deceased.

Case 31: Death of Radhey Shyam in police custody due to torture: Rajasthan (Case No.205/20/1999-2000-CD)¹⁴⁷

On 12 May 1999, the Commission was informed by the Superintendent Police, District Jhalawar, of the death of Radhey Shyam, son of Ram Lal Darji, resident of Bacchapur, District Ratlam, Madhya Pradesh in the custody of Gangdhar Police Station, Jhalawar District, Rajasthan during the night of 6 May 1999.

Upon notice being served to the Government of Rajasthan, the Home (HR) Department sent a report to the Commission dated 2 April 2000. It indicated that Radhey Shyam along with two others, was arrested in case No.65/99 on 5 May 1999 by police personnel of Ganadhar Police Station. He was brought to the police station and subjected to torture during interrogation. His dead body was, thereafter, disposed of in order to destroy evidence, and his family members were threatened. The State Government registered a case and entrusted investigation to CB CID. During investigation, a crime was established against the Station House Officer and four constables. The State Government had paid an ex-gratia amount of Rs.50,000/- to the next of kin of the deceased.

After considering the report, the Commission asked for a progress report and information concerning the outcome of the action initiated by the State Government against the concerned public servants. It also issued notice to the Chief Secretary, Government of Rajasthan to show cause why a further sum be not awarded under section 18 (3) of the Act as immediate interim relief. By its proceedings dated 13 May 2002, the Commission considered the reply submitted by the Government of Rajasthan, which stated that a charge-sheet had been submitted against the guilty police personnel in a court of law and that the amount of Rs.50,000/- already paid to the next of kin of the deceased be accepted as the final payment for the custodial death of the deceased.

¹⁴⁷ . NHRC Annual Report 2002–2003



The Commission held that the amount paid was inadequate compensation for the life of a human being and directed the Government of Rajasthan to pay a further amount of Rs.1,00,000 to the next of kin of the deceased. In response, the State Government of Rajasthan indicated that it had paid the additional amount of Rs.1,00,000 on 19 August 2002, in compliance with the directive of the Commission.

Case 32: Death of Karan Singh in police custody due to violence: Madhya Pradesh (Case No.1935/12/2000-2001-CD)¹⁴⁸

The Commission received a communication dated 24 October 2000 from the Collector and District Magistrate, Morena, Madhya Pradesh stating that, on the basis of an information received, police personnel from the Ambah Police Station had conducted a raid and arrested persons involved in gambling on 24 October 2000. It was further stated that one of them, Karan Singh, who was in an intoxicated condition, was admitted in the Ambah Hospital, District Morena where he expired.

Upon notice being issued to the Home Secretary, Government of Madhya Pradesh, the Sub Divisional Magistrate, Ambah sent a copy of the magisterial inquiry report on 16 February 2001 which stated that Karan Singh had died in the custody of Ambah Police Station on 24 October 2000 due to custodial violence and that the Assistant Sub Inspector and Head Constable were responsible for his death.

On 26 February 2002, the Commission called for a report on the legal and departmental action taken against the delinquent police personnel who had been held responsible for the death of Karan Singh and also issued notice to the Government of Madhya Pradesh to show cause as to why immediate interim relief under section 18 (3) of the Act be not granted. The Home Department, Government of Madhya Pradesh, submitted a report dated 5 June 2002 which indicated that, on the basis of a case under section 304 and 34 IPC read with 3 (2) 5 Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, the accused had been arrested, produced in court and a chargesheet had been filed in court on 10 May 2001. Further, the widow of the deceased had been paid interim relief in the amount of Rs.1,50,000 on 6 November 2000. The balance of Rs.50,000/- would be paid upon the completion of the case in the court. In the light of the action taken by the State Government, the Commission decided to close the case.

Case 33: Death of Surendra in police custody: Kerala (Case No. 13353/96-97/NHRC)¹⁴⁹

The Commission received a complaint dated 21 December 1996 from the Christian Cultural Forum alleging the custodial death due to torture of Shri Surendran, a resident of Kazhakkottam, Kerala, in police custody in Kazhakkootam, on 19

¹⁴⁸ . NHRC Annual Report 2002–2003

¹⁴⁹ . NHRC Annual Report 2002–2003



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

December 1996. The victim was taken into custody the previous day, but was not produced before a Magistrate within 24 hours as required. The Christian Cultural Forum requested the Commission to take action against the guilty police personnel.

In response to the Commission's notice, a report submitted by the Government of Kerala admitted that the death had occurred in police custody. By its proceedings dated 17 August 1999, the Commission accordingly directed the Government of Kerala to pay a sum of Rs.300,000 to the next of kin of the deceased. It also stated that the State CID should conduct an investigation in respect of this matter with a view to prosecuting the errant police personnel and that, in addition, appropriate disciplinary action should be taken against the police personnel responsible for the death.

The Government of Kerala challenged the order of the Commission 17 August 1999 before the Kerala High Court at Ernakulam in Writ Petition No.14275 of 2000 on the grounds that the Commission did not have the jurisdiction to issue these directions. The State Government argued that the directions had been issued in violation of Sections 17 & 18 of the Protection of Human Rights Act 1993, as they had been made without conducting a proper enquiry and without giving an opportunity to the State and the police officers against whom the complaint was made. The High Court, by its order dated 6 August 2002, found that the post-mortem report indicated ante-mortem injuries including abrasions and contusions. As this was a proven case of custodial death, the High Court did not find any justification for interfering with the directions of the Commission. The writ petition was, therefore, dismissed.

Case 34: Death of Zakir in Police Custody at Pushp Vihar Police Station, New Delhi (Case No. 525/30/2001-2002-CD)¹⁵⁰

The Commission was informed by the Dy. Commissioner of Police (South District.), Delhi of the custodial death of Zakir in the Police Station of Pushp Vihar, New Delhi on 12 May 2001. The Commission registered a case and called for relevant report from the concerned authority. In view of the conclusion arrived in the magisterial inquiry with regard to the custodial death of Zakir that “the death was caused by use of blunt force during the course of interrogation and detention in the Police Chowki, Pushp Vihar” and that the involved police officers were prosecuted by the Government of National Capital Territory of Delhi, the Commission awarded immediate interim relief under section 18(3) of the Protection of Human Rights Act, 1993. It also issued a show cause notice to the Government of National Capital Territory (NCT) of Delhi.

15.16 In response, the Government of NCT brought to the notice of the Commission that the accused had already been charge-sheeted and the case was pending in the Court for verdict and that in the given circumstances they had no objection to pay interim relief to the bereaved family.

¹⁵⁰. NHRC Annual Report 2003–2004



15.17 Upon consideration of their response, the Commission directed the Government of NCT of Delhi to pay Rs. 2.00 lakhs as immediate interim relief to the next of kin of the deceased.

15.18 Pursuant to the directions given by the Commission, the Government of NCT indicated that a cheque for Rs. 2.00 lakhs had been delivered to Ms. Jannat, wife of Late Shri Zakir, and the proof of the payment was also submitted. In the light of the action taken by the Government of NCT of Delhi, Commission decided to close the case.

Case 35: Death of Madan Bhilala in Police Custody at Balawar Police Station, Distt. Khargaon: Madhya Pradesh (Case No. 71/12/2001-2002-CD)¹⁵¹

The case relates to the custodial death of Madan Bhilala in Balawar Police Station, District Khargaon, Madhya Pradesh on 27 April 2001. On perusal of the post-mortem report, the Commission noticed that the cause of death was hypovolemic shock due to dehydration.

The Commission also observed that according to the findings in the magisterial enquiry, the deceased was kept in illegal detention since 21 April 2001 at Balwara Police Station and that the police was responsible for the death of the deceased.

In response to Commission's show cause notice issued to the Government of Madhya Pradesh, as to why Rs. 1.00 lakh be not paid as immediate interim relief under section 18(3) of the Protection of Human Rights Act, 1993 to the next of the kin of the deceased and appropriate action taken against the errant police officials, the State Government requested the Commission to re-consider the matter as the cause of death of Madan Bhilala was due to dehydration and not police torture.

On further re-examination, the Commission did not find any ground to recall its earlier order. The Commission noticed that the magisterial inquiry had indicated that the death was due to dehydration caused by diarrhoea as per the Medical Officer's report. The Commission held that these findings clearly indicated that the death was not merely due to illegal detention of the deceased, but also, negligence in providing medical care while he was in detention. The Commission, therefore, directed the State Government to pay a sum of Rs. 25,000/- as immediate interim relief to the legal heirs of the deceased.

Pursuant to the Commission's directions, the Government of Madhya Pradesh had sent a report indicating that an amount of Rs. 25,000/- was paid to the legal heirs of the deceased. Proof of payment was also furnished to the Commission. Since the directions of the Commission were complied with and the compensation was paid to the next of the kin of the deceased, the case was closed.

¹⁵¹. NHRC Annual Report 2003-2004



Case 36: Death of Chhigga in the Police Custody at P.S. Sirsi, District Guna: Madhya Pradesh (Case No. 1800/12/2000-2001-CD)¹⁵²

The Commission initiated proceedings in this case on the basis of an intimation received from the Superintendent of Police, District Guna, Madhya Pradesh about the death of Chhigga on 16 October 2000 in police custody at Police Station Sirsi, District Guna, Madhya Pradesh.

Upon consideration of the report of magisterial inquiry, the Commission held that inability to provide proper and regular treatment while in police custody caused the death of Chhigga. The Commission further held that though the injuries caused to him were not attributed to any maltreatment by police personnel, the negligence of the concerned public servants in not providing the timely medical treatment during police custody was the immediate and proximate cause of death.

In response to the show cause notice issued by the Commission, the Government of Madhya Pradesh stated that as no police personnel were held responsible for the death of Chhigga in the magisterial inquiry, it would not be appropriate to grant interim relief to the family of the deceased. Upon considering the report, the Commission felt that the response given by the Government of Madhya Pradesh to the show cause notice was not satisfactory as both the magisterial inquiry and the report of the District Magistrate, Guna unequivocally showed that the injuries received by Chhigga in a scuffle, which eventually caused his death, were compounded due to non-availability of proper and timely medical treatment while he was in the police custody. According to the magisterial inquiry report, the deceased, who was sent for treatment to the hospital while in police custody, was denied food on the ground that it was not available in the hospital. He was also asked to pay Rs. 35/- for the X-ray. On being informed by the deceased that he did not have any money with him, he was sent away to get money for getting the X-ray done and purchase of medicine, although technically he was still in custodia-legis. All this signified that the hospital was not functioning in a proper way. The Commission therefore directed the Chief Secretary to consider asking the Health Secretary to look into the functioning of the hospital and take such remedial steps as deemed necessary.

Accordingly, the Commission recommended that the next of kin of the deceased Chhigga be paid a sum of Rs. 20,000/- by way of immediate interim relief under section 18(3) of the Act. Pursuant to the Commission's directions the Government of Madhya Pradesh informed that the payment of Rs. 20,000/- has been made to the next of the kin of the deceased. The case is being monitored by the Commission.

¹⁵². NHRC Annual Report 2003–2004



Case 37: Death of Sher Mohammad in Police custody by torture: Uttar Pradesh (Case No. 8924/95-96/NHRC)¹⁵³

The Superintendent of Police, Badaun, Uttar Pradesh vide his communication dated 23 February 1996 intimated the Commission about the death of Sher Mohammad s/o Abdul Rashid, an under trial prisoner, who was arrested on 22nd February 1996 in case No. 29/96 u/s 25 of Arms Act and case No. 20/96 u/s 364 IPC by the police from the Binowar police station. It was reported that the under trial, Sher Mohammad fell ill and he died while on the way to the District Hospital, Badaun on 23 February 1996.

In response to the notice issued by the Commission, the post mortem report and the magisterial enquiry report were sent to the Commission. A perusal of the Magisterial Inquiry Report showed that the said under trial prisoner was beaten up by the SHO, while being interrogated in the two cases registered against him, and died as a result of police torture. A criminal case was registered against the SHO and a charge sheet was filed in court u/s 302/323 IPC.

While considering the matter on 14th January 2004 the Commission agreed with the magisterial inquiry, that it was a case of custodial death which was caused as a result of severe beating of the under trial while in custody of the police. The Commission, therefore, directed the issuance of notice to the Chief Secretary, State Government of U.P. to show-cause why “immediate interim relief” of Rupees One lakh u/s 18(3) of the Protection of Human Rights Act, 1993 not be given to the next of kin of the deceased. However, since no response was received from Chief Secretary to the show cause notice, on further consideration of the matter, the Commission on 21 April 2004, directed the State Government of U.P. to pay an interim relief of Rs. 1 lakh to the next of kin of the deceased. The Commission also observed that death in police custody is one of the worst kind of crimes in a civilized society governed by the rule of law and poses a serious threat to an orderly civilized society. Torture in custody flouts the basic rights of the citizens and is an affront to human dignity. Police excesses and torture in custody of the detainees/ under trial prisoners or suspects tarnishes the image of a civilized nation and it is necessary to take stern measures to check the malady. The National Police Commission in its 4th Report of June 1980, almost a quarter of a century ago, noticed the prevalence of custodial torture and observed that nothing is “so dehumanizing” as the conduct of police in practicing torture of any kind on the person in their custody.

The National Human Rights Commission having been constituted under the 1993 Act for better protection of human rights and civil liberties of the citizen has not only the jurisdiction but also an obligation to grant relief in appropriate cases to the victims or the heirs of the victims whose right to life under Article 21 of the Constitution has been flagrantly infringed by the State functionaries by calling upon the State to repair

¹⁵³. NHRC Annual Report 2004–2005



the damage done by its officers to the human rights of the citizen. The State, in all such cases, is vicariously liable for the wrongful acts of its officers. When the State is called upon to grant monetary relief to the next of kin of the deceased or the victims of torture as the case may be, by the Commission it is because the doctrine of strict liability of duty of care on the part of the State is attracted to such cases. It is reiterated that the State is vicariously responsible, if the person in the custody of the police is deprived of his life except according to the procedure established by law, to recompense the heirs of the victims.

The Government of Uttar Pradesh submitted its compliance report in respect of the payment of Rupees One lakh to the next of kin of the deceased.

Case 38: Death of Sh. Kantosh Prahlad Jadhav, in Police Custody by torture: Latur, Maharashtra (Case No. 5418/95-96/NHRC)¹⁵⁴

The Commission received an intimation dated 28.10.1995 from the District Superintendent of Police (DISPOL), Latur, Maharashtra stating that one Kantosh Prahlad Jadhav aged 22 years was arrested on 28.10.1995 in PS MIDC, Latur Cr. No. 93/95 u/s 324,504 IPC & 135 Bombay Police Act. He had further stated that the accused, while in custody, committed suicide by hanging himself to the iron rod of the ventilator of the police lock up with the help of torn part of ghangadi (blanket) provided to him.

In response to the Commission's notice dated 3.11.1995, the inquest report received showed no signs of beating either on the front side or back side of the body. The report further stated that post-mortem report indicated no external or internal injuries on the body of the deceased and the cause of death was opined as "asphyxia due to hanging". The SDM in his enquiry report concluded that on the basis of statements of witnesses and on examination of the post-mortem report, the death of the Kantosh was due to suicide committed by him by hanging. However, he observed that there were other factors also such as, negligence and lack of responsibility on the part of police officials, which resulted in the incident.

The Government of Maharashtra submitted an Action Taken Report on the magisterial enquiry, which indicated that the accused police officials were placed under suspension and departmental enquiry had been initiated against the delinquent officials.

The Commission vide its proceedings dated 2.8.2004, while considering the Magisterial Enquiry Report and the departmental action taken against the police officials, directed Chief Secretary, Government of Maharashtra to show cause why interim relief should not be paid to the next of kin of the deceased.

¹⁵⁴. NHRC Annual Report 2004-2005



In response, the Home Department, Government of Maharashtra vide communication dated 7.10.2004 informed the Commission that the State Government has decided to grant relief of Rs. 50,000/- to the next of kin of the deceased, Kantosh Prahlad Jadhav and after obtaining approval of the Commission, further action for disbursement of relief will be taken.

The Commission vide its proceedings dated 20.10.2004 considered the case and approved the grant of Rs. 50,000/- as “interim relief” to be paid to the next of kin of the deceased Kantosh Prahalad Jadhav. Compliance report from the Government of Maharashtra is still awaited.

Case 39: Custodial death of Haji Mohd. Nabuji Tentwala in Police Custody in Ahmedabad, Gujarat (Case No.7586/95-96/NHRC)¹⁵⁵

The Commission on 19.1.1996 received an intimation dated 18.1.1996 from the Commissioner of Police, Ahmedabad City, Gujarat regarding death of Haji Mohd. Nabuji Tentwala in police custody on 12.7.1995. It was stated that he was arrested in connection with Cr.Case No.106/95 u/s 302/342/34 IPC and S. 135 B.P.Act. by the police who tied him with rope, beat him with sticks, fists and kicks to death. The report further indicated that two of the accused police persons namely PSI J.V.Surela & PC Bharatkumar were arrested and bailed out on 31.10.1995 and 2.1.1996 respectively.

In response to the notice issued by the Commission, the Commissioner of Police, Ahmedabad City submitted the post-mortem, inquest and magisterial inquiry reports. As per the post mortem report the body of the deceased was having 23 ante-mortem injuries and the cause of death was indicated as “due to shock as a result of injuries present on the body”. The inquest report conducted by the Sub-Divisional Magistrate, Ahmedabad City indicated that there were signs of blunt weapon blows on various parts of the body. The magisterial inquiry conducted by the Sub-Divisional Magistrate, Ahmedabad City blamed the PSI Surela and ACP Brahm Bhatt and other police personnel for the death of Haji Mohd. Tentwala and recommended investigation to pin point the responsibility of the death and to ascertain the actual culprits from the police staff.

A separate report dated 20.7.1996 submitted by the District Magistrate, Ahmedabad, Gujarat indicated that a case No.19/95 u/s 302/323/504/114, IPC had been registered by the Crime Branch against PSI Surela and 4-5 police personnel and another case No.20/95 was registered u/s 330/342 against the main accused PSI Surela, PCs Navneet, Bharat Rathore, Raju and ACP Brahm Bhutt and four other police personnel.

On consideration of the records of the case, the Commission held that the deceased was wrongfully arrested by the police for interrogation in a criminal case and was

¹⁵⁵. NHRC Annual Report 2004–2005



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

brutally thrashed to extract confession. Consequently, he suffered as many as 23 injuries, which resulted in his death. It is a case of gross violation of human rights. Accordingly, the Commission directed to issue notice to the Chief Secretary, Government of Gujarat to show cause as to why the Commission should not recommend payment of interim relief u/s 18(3) of the Protection of Human Rights Act, 1993 to the next of kin of the deceased.

In response to the show cause notice, the Secretary, Home Department, Government of Gujarat, vide letter dated 19.6.2004 submitted that criminal offences had been registered against the police personnel responsible for beating up the accused and departmental action had also been initiated and are pending final outcome. It was acknowledged that human rights violation had taken place and the State Government had taken appropriate action against the concerned accused police personnel. The report further mentioned that for the violation of human rights, both criminal and departmental proceedings had already been initiated and awaiting final outcome. In the circumstances the Home Secretary requested that the show cause notice may be withdrawn and further action may be considered after the outcome of the criminal proceedings pending before the Court.

The Commission considered the response received from the State Government on 22.9.2004. While referring to the observations of the Hon'ble Supreme Court of India in the case of Neelbati Behra vs. State of Orissa, 1993 (2) SCC 746, it observed and ordered as under:

This Commission has taken a consistent stand that the obligation of the State to ensure safety of persons while in its custody is strict and absolute and admits of no exception. The indefeasible right to life of every citizen, including convicts, prisoners or underrials, cannot be taken away except in accordance with the procedure established by law, while the citizen is in the custody of the State. Violation of that right renders the State vicariously liable for its acts of commission and omission and such liability is not contingent upon determination of the ultimate guilt of the offenders in a criminal court. Besides, death in police custody as a result of torture is perhaps the worst type of crime in civilized society.

It is now an established law that the failure of the State to take all possible steps to protect the life of the citizens while in its custody makes the State vicariously liable for its action/ omission.

Immediate interim relief envisaged in Section 18 (3) of the Act has to be correlated to the injury / loss which the victim or members of his family have suffered owing to the violation of human rights by public servants. By no stretch of imagination can it be argued that award of this immediate interim has to be dependent upon the strict establishment of criminal liability after a full dress court trial. If this view is accepted, the relief will then neither be immediate nor interim. A meaningful and harmonious



construction of this clause would leave no doubt that the Commission is entitled to invoke its benevolent sweep on a prima-facie view of the matter irrespective of whether there is any litigation – civil or criminal relating to the matter.

The idea of immediate interim relief does not therefore, presuppose the establishment of criminal liability of the offender in a court of law as a precondition for the grant of the relief nor does it depend on whether any civil litigation is either pending or prospective. A welfare state must recognize its obligation to afford relief to its citizens in distress, particularly those who are victims of violations of their human rights by public servants. The limiting of such statutory relief only to cases in which criminal liability of the offending public servant is established in a court of law beyond reasonable doubt is, to thwart an otherwise civilized piece of legislation by importing totally irrelevant limitations. The Commission desires to point out that the ground urged by the Government in this case, when it has been acknowledged by the State itself that there has been violation of human rights of the citizen, is misconceived.

Accordingly, the Commission recommended to the State Government of Gujarat to pay a sum of Rupees One lakh by way of interim relief to the next of kin of the deceased and to submit compliance report to the Commission within four weeks.

Vide communications dated 13/5/2005 and 14/9/2005, the State Government has informed that it has implemented the recommendations of the Commission and submitted proof of payment of Rs. One lakh to the widow of the deceased. Accordingly, the case was closed by the Commission.

Case 40: Death of Sukumar Panja in the custody of police in Mayurbhanj, Orissa (Case No. 825/18/97-98-CD)¹⁵⁶

SP, Mayurbhanj, vide communication dated 18 March 1998, intimated that in the intervening night of March 17-18, 1998, accused Sukumar Panja committed suicide by hanging by means of saree available inside the hazat. It was further stated that out-post watch Constable 1018 N.N. Dash, who was supposed to stay at out-post in the night was not present and was in his quarter.

The Commission vide proceedings dated 24 March 1998 directed issue of notice to SP, Mayurbhanj, Orissa calling for copies of inquest, postmortem and magisterial inquiry report within six weeks.

The Commission considered the reports received from the State authorities including the report of the Collector & District Magistrate, Mayurbhanj and observed that “the fact remains that Sukumar Panja died while he was in the custody of the police. It was their responsibility to see that no harm of any kind is caused to him while he was in their custody. It shows negligence on their part in performance of their duties and they failed to protect his human rights”. Accordingly, the Commission directed issue of

¹⁵⁶ . NHRC Annual Report 2005–2006



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

notice to Chief Secretary, Government of Orissa u/s 18(3) of the Protection of Human rights Act, 1993 to show cause as to why immediate interim relief be not given to the next of kin of the deceased.

In response, Additional Secretary, Home Department, Government of Orissa, vide letter dated March 24, 2005 stated that there is no material to show that the deceased committed suicide due to any kind of torture by the police or due to violation of his Human Rights in any manner. As such, there appeared to be no reason for grant of any immediate interim relief to the next of kin of the deceased.

The Commission considered the response of State of Orissa on August 31, 2005 and in the light of the law settled by the Hon'ble Supreme Court in Nilabati Beh era vs. State of Orissa-1993 (2) SCC 746, reiterated that the State is liable to compensate for the negligence of the police officers on duty and observed that the State has failed to show any acceptable, logical or reasonable cause against the recommendation to pay interim relief to the next of kin of the deceased. The Commission, accordingly, recommended to the State Government through its Chief Secretary to pay a sum of Rs. 50,000/- (Rupees fifty thousand only) to the next kin of the deceased and to submit compliance report along with proof of payment. The Commission directed Chief Secretary, Orissa to report outcome of disciplinary proceedings initiated against SI Rabindranath Biswal, ASI, Adikanda Kalia and Sentry Constable N.N. Das.

In response, Government of Orissa, Home Department, has reported that it has issued sanction dated October 25, 2005 for payment of Rs. 50,000/- to the next kin of the deceased. However, the proof of payment is awaited.

As regards outcome of departmental inquiry, it has been submitted that on its culmination, ASI A.K. Kalia was given a black mark entry while Sentry Constable N.N. Das and SI Rabindra Nath Biswal were exonerated of the charges.

The matter is under consideration of the Commission.

Case 41: Death of Ram Udit Naryan Singh in custody of police at Begusarai Bihar (Case No. 263/4/1999-2000-CD)¹⁵⁷

District Magistrate, Begusarai, Bihar intimated the Commission that on April 29, 1999, accused Ram Udit Naryan Singh, arrested in a criminal case of committing suicide by hanging himself, while in custody of the police.

Pursuant to the directions of the Commission dated May 5, 1999 relevant reports were submitted by Home Secretary, Government of Bihar. The Commission considered these reports on May 18, 2004. According to the reports, Ram Udit Narayan Singh was arrested on April 28, 1999 and he committed suicide by hanging himself while in police custody on April 29, 1999. Post mortem report of the deceased indicated as

¹⁵⁷. NHRC Annual Report 2005-2006



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

many as 11 (external) injuries and that the death was attributed to "shock due to injury caused by blunt and hard substance". The postmortem report also disclosed that the ligature mark over the neck was post mortem in nature. The Magisterial Inquiry conducted into the death of the deceased, while in the police custody, also came to the conclusion that death had been caused due to external injuries. The Commission observed and said that; "convicts, prisoners or under-trials are not denuded of their fundamental rights under Article 21 of the Constitution and it is only such restrictions, as are permitted by law, which can be imposed on the enjoyment of the fundamental right by such persons. The precious right guaranteed by Article 21 of the Constitution cannot be denied to under-trials or other prisoners, including convicts in custody, except according to procedure established by law. There is a great responsibility on the police and prison authorities to ensure that the citizen in its custody is not deprived of his right to life. Death in police custody is, perhaps, one of the worst crimes in a civilized society. A death in custody at the hands of those who are supposed to protect the life and liberty of the citizen is enough to lower the flag of civilization to fly half-mast.

The Commission went on to observe that what was worst in the present case is that the medical evidence belies the police assertion that the deceased died by hanging himself. The presence of 11 external injuries and a post-mortem ligature mark undoubtedly show the barbaric attitude of the police and a crude attempt to fabricate false clue and create false evidence so as to screen the offence. The State has, after taking into consideration the Magisterial Inquiry report and other material, punished SHO concerned after a departmental enquiry by recommending his compulsory retirement vide order dated February 4, 2003. We view it with great concern that in this age and time, death in custody should at all take place. In the established facts and circumstances of the case, this is a fit case for award of 'interim relief' to the next of kin of the deceased u/s 18(3) of the Protection of Human Rights Act, 1993. Accordingly, show cause notice was issued to Chief Secretary, Government of Bihar.

No response to show cause was received from the Chief Secretary, Bihar despite reminders.

The Commission considered the matter on March 14, 2005 when it directed as under:

"Let a final reminder be issued to the Chief Secretary enclosing therewith a copy of the response from the DG & IGP, Bihar; Patna for sending his reply to the showcause notice. The Chief Secretary shall be informed that the response be sent to the Commission within one week and that the Commission will examine this case also on April 7, 2005 on which date the Chief Secretary has already been summoned in another matter."

Shri Girish Shankar, Home Secretary, Government of Bihar appeared before the Commission on April 7, 2005 on behalf of the Chief Secretary when he submitted that



he shall have the case finalized and appropriate response sent to the Commission within one month.

Shri Girish Shankar, Home Secretary, Government of Bihar, vide communication dated May 3, 2005 stated that the Government of Bihar has sanctioned a sum of Rs. 50,000/- by way of interim relief to the next of kin of the deceased Ram Udit Narayan Singh. Further, Government of Bihar, Home Department vide communication dated October 25, 2005 has also submitted proof of payment 4.58 The Commission vide proceedings dated July 13, 2005 considered the report received from Government of Bihar and closed the case.

Case 42: Alleged death of Chityala Sudhakar in police custody in Karim Nagar, Andhra Pradesh (Case No. 381/1/98-99-AD)¹⁵⁸

The Commission received a complaint dated December 8, 1998 from one Chityala Venkatamma (S: Pochamma stating that her son Chityala Sudhakar was whisked away by police personnel of Hasanparthy Police Station on September 23, 1998, detained un-lawfully, beaten up mercilessly and ultimately taken to hospital on September 28, 1998 where he succumbed to the injuries. She has prayed to the Commission for an enquiry and to render justice.

Taking cognizance, the Commission on December 21, 1998 directed issue of notice to Home Secretary, Government of Andhra Pradesh calling for relevant reports. Explanation was also called for, for not reporting death in custody to the Commission in accordance with the guidelines.

Joint Collector and ADM, Warangal submitted a magisterial inquiry report dated July 26, 2000 in which he concluded that Chityala Sudhakar had died due to head injuries, which could have been caused due to falling from police station staircase and hitting a sharp edge of one of the projected parts of the staircase. There is no direct evidence that the deceased had died due to the fatal blow of the police beating, though there is enough evidence to prove that the deceased was beaten to such an extent that he was unable to walk freely on his own. The post mortem report indicated 19 ante-mortem injuries on the body of the deceased and the cause of death was indicated as 'head and spinal injury'.

Vide proceedings dated December 10, 2002 the Commission considered the reports received and took note of the communication dated September 19, 2002 received from the General Administration (L and O.I.) Department, Government of AP wherein DG and IG, Police, AP was requested to fix responsibilities and take departmental action against those police officers who were responsible for causing grievous hurt to the deceased. The Commission observed as under:

¹⁵⁸ . NHRC Annual Report 2005–2006



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

"It is unambiguous that the deceased was arrested by the police on September 23, 1998 and was brutally tortured in the police custody and was unlawfully detained up to September 28, 1999. When he was being taken to the court, he fell down from the stairs, as he was unable to walk due to injuries caused by the police. He was shifted to the hospital and declared dead. There is ample evidence to come to the conclusion that it is a case of custodial death."

The Commission directed Chief Secretary, Government of Andhra Pradesh to show cause as to why immediate interim relief may not be awarded to next of kin of the deceased, as contemplated by sub section (3) of section 18 of the Protection of Human Rights Act. 1993, Government of AP was also called upon to intimate the Commission about action taken against errant police officials.

Vide letter dated December 23, 2004 General Administration (L and O.I.) Department, Government of Andhra Pradesh, informed that a sum of Rs. 20,000/- was paid to the mother of the deceased as ex-gratia payment vide demand draft dated January 4, 1999. A copy of the receipt from the complainant was also submitted.

While considering the matter on August 3, 2005 the Commission took note of the payment of Rupees twenty thousand to the mother of the deceased but considered the amount given as ex-gratia to the mother of the deceased too meagre and inadequate. Accordingly, the Commission recommended to State of AP to pay an additional amount of Rupees fifty thousand to the mother of the deceased.

The Government of Andhra Pradesh vide letter dated November 14, 2005 has submitted a copy of the sanction order dated September 27, 2005 in respect of payment of Rupees fifty thousand to the mother of the deceased.

However, proof of payment is still awaited.

Case 43: Unlawful detention and tortured to death of Mohan by police in Karnataka (Case No.137/10/2000-2001)¹⁵⁹

People's Democratic Forum (PDF), through its Convener on May 17, 2000 referred a case relating to illegal detention and subsequent death of one Mohan on February 7, 2000 due to torture in police custody in Malleshwaram Police Station in State of Karnataka. It was alleged that the victim was picked up in the morning of February 6, 2000 while coming back from K.C. General Hospital after serving breakfast to his hospitalized father and taken to Malleshwaram Police Station, where he was subjected to severe torture. After his release, he was admitted to K.C. General Hospital and shifted to Victoria Hospital where he expired on February 7, 2000. A prayer was made for registration of a case against the delinquent police officials and compensation of at least Rupees Two lakhs to the family as well as government job for the wife and free education for the two daughters.

¹⁵⁹ . NHRC Annual Report 2005–2006



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

The Commission received a report from the DGP, Karnataka, which revealed that the concerned police officials were immediately put under suspension on February 7, 2000 and departmental enquiry was also ordered against them. The State Government has paid Rs. 10,000/- to the family of the deceased as compensation.

The Commission considered the matter and recommended a sum of Rs. 25,000/- as interim relief to the family of the deceased. Since the State Government has already paid a sum of Rs. 10,000/- to the family of the deceased, the Commission recommended that the balance amount of Rs. 15,000/- be paid to the family of the deceased within six weeks and called for compliance report together with the proof of payment.

The compliance report is awaited.

Case 44: Custodial death of one Revati Prasad in the custody of PS Norhauili, Mathura (Case No. 13571/ 24/2003-2004-cd)¹⁶⁰

The Commission received intimation from Distt. Police, Mathura, regarding the custodial death of one Revati Prasad (16 year) on 9 August 2003. As per the report, on 8 August 2003 a police patrolling party saw three boys damaging the railing of a divider on the National Highway (NH) 2. The police caught two of them, while Revati Prasad ran away. His body was found on the NH next day. The report concluded that he had probably come under a vehicle.

The Commission sought and obtained the relevant reports. As per the post mortem report, there were as many as 20 external injuries on the body and the cause of death was coma because of ante mortem injuries.

Though the magisterial enquiry did not find any foul play, in its report it mentioned that case No.142/03 under section 302 IPC and under section 3(2) (v) of SC/ST Act had been registered against constables Ramesh Yadav and Suraj Pal in c/w Revati Prasad's death.

The Commission after considering the reports observed that Revati Prasad might have been taken into custody by the two constables and that custodial torture leading to Revati Prasad's death cannot be ruled out. The Commission directed the DGP, U.P. to entrust the investigation of case No. 142/03 to CB/ CID for further enquiry.

Case 45: Santaram Nane Wagh, Case No. 36/13(107)/96-LD¹⁶¹

Santaram Nane Wagh died in police custody. The Commission after considering the report and the PMR found that it was a case of display of extreme brutality by the

¹⁶⁰ . NHRC Annual Report 2006–2007

¹⁶¹. NHRC Annual Report 2006–2007



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

police on an accused. He was subjected to the most inhuman torture resulting in his death.

The Commission called for the outcome of departmental proceedings against the delinquent police officials and issued notice under section 18(3) PHR Act, 1993.

As per the report from SP, Pune, one Assistant Sub-inspector and nine police personnel were involved in this case and an offence was registered vide Cr. No. 47/96 under section 302/342/328/218/201/109/34 176(1), (2) 119(1) (2) IPC. The Additional Sub-Judge Pune acquitted the Assistant Sub-inspector of police and six police personnel, while three police personnel were convicted and dismissed from service. A departmental enquiry was also separately initiated against them.

Joint Secretary (Home Department), Government of Maharashtra has informed that the Government has decided to grant a relief of Rs.11lakh to the next of kin of the deceased. The Commission accepted this decision and further directed Chief Secretary, Government of Maharashtra to furnish proof of payment and intimate the status of the departmental enquiry against the delinquent police personnel.

Case 46: Death of Prithvi in the custody of police at Police Station, Mukherjee Nagar, Delhi-(Case No.1112/30/97-98-CD)¹⁶²

The Commission received an intimation dated 12 August 1997 from Sub-Divisional Magistrate, Model Town, New Delhi, stating that on 30 July 1997, one Prithvi S/o Bheema, was arrested by the Police of PS Mukherjee Nagar, New Delhi. He was produced before the Magistrate on 31 July 1997. He was not feeling well and taken to the Hindu Rao Hospital. From there, he was referred to RML Hospital, where he expired on 9 August 1997.

In response to the notice issued to Home Secretary, Govt. of NCT, Delhi, the DCP, Vigilance, vide letter dated 27 August 1998, forwarded a report received from Additional DCP, North West Delhi. The report indicated that an operation was launched by Govt. of NCT, Delhi to catch beggars. One beggar, namely, Prithvi Singh was caught in the evening of 30 July 1997 and taken to RCC Camp, Kingsway Camp, Delhi around 9.30 PM. Since no Magistrate was available during the night, he was produced before the Magistrate on 31 July 1997 and sent to the Remand Home where he complained of some health problem. He was taken to Hindu Rao Hospital and subsequently, referred to RML Hospital and was got admitted there. On 11 August 1997, information was received at Police Station, Mukerjee Nagar about the death of Prithvi Singh at RML Hospital. SDM was informed and conducted proceedings under section 176 Cr.P C. In his inquiry report, he pointed out that there was lack of supervision on the part of the staff posted at RCC Camp, Sewa Kuteer, Kingsway Camp, Delhi and due care was not taken to look after the beggars.

¹⁶². NHRC Annual Report 2006–2007



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

While considering the matter on 19 November 2004, the Commission observed that:

"The Additional CP, North Range, Delhi, vide his letter dated 28 July 1998, has categorically stated that the SD M, who had conducted the proceedings under section 17 6 Cr.P C. in his inquiry report, had pointed out that there was lack of supervision on the part of the staff posted at RCC Camp, Sewa Kuteer, Kingsway Camp, and also that due care was not taken to look after the beggars. The report establishes a strong case of violation of human rights of Prithvi Singh. The Govt. of NCT, Delhi, through its Chief Secretary, is directed to show-cause why immediate interim relief under section 18(3) of the Protection of Human Rights Act be not granted to the next of kin of Prithvi Singh.

In response, vide letter dated 17 January 2005, Joint Director, Department of Social Welfare, Govt. of NCT of Delhi informed that the Vigilance Branch had examined the report of SDM, Model Town and issued show-cause notice to the erring officials. It was further submitted that the grant of interim relief to the next of kin of the deceased may be taken up only after finalization of the above said proceedings.

While considering the matter on 11 March 2005, the Commission directed the Govt. of NCT of Delhi to take appropriate steps for the proper functioning and maintenance of Sewa Kuteer, Kingsway Camp, Delhi, and to inform the Commission of the steps taken by the Govt. to streamline the functioning of Sewa Kuteer and for providing basic bare necessities to its inhabitants. Director (Admn.), Department of Social Welfare, Govt. of NCT Delhi vide communication dated 22 June 2006 submitted a report wherein a mention was made about the difficulties being faced in expeditious conclusion of the departmental action against the erring officials. The report also mentioned about the steps taken for the improvement in maintenance and functioning of the Sewa Kuteer, Kingsway Camp. The report pointed out that the Reception-cum-classification Centre (for male under trial beggars) under sub-section (1) of Section 12 of Bombay Prevention of Begging Act 1959 as extended to Delhi is functioning as Sewa Kuteer, Kingsway Camp. This Reception cum classification Centre provides food, clothing, bedding and other articles including Jersey for winter etc. to the inmates as per the norms/ scales of the department. The inmates are housed in clean dormitories till they are shifted to certified institutions as per the directions of the 'Court for Beggars', which is also operational in Sewa Kutir Complex. The sanitation and hygiene for the upkeep of the inmates is ensured. The Department of Social Welfare, Govt. of NCT of Delhi, however, submitted that it has no objection to the recommendations, if any, made by the Commission for payment of interim relief to the next of kin of the deceased.

The Commission on 15 November 2006 after taking into consideration facts and circumstances of the case recommended to Government of N CT of Delhi through its Chief Secretary to pay a sum of Rs. 50,000/- to the next of kin of the deceased Prithvi Singh as "immediate interim relief".



Vide letter dated 19 January 2007, Superintendent, Sewa Kuteer, Kingsway Camp has informed that the amount of Rs. 50,000/- have been paid to the next of kin of the deceased vide a cheque on 19 January 2007. Proof of payment was also submitted. The matter was, however, still under consideration.

Case 47: Death of Bhandas in the custody of police in Balaghat, Madhya Pradesh (Case No.14 5/12/2000-2001-CD)¹⁶³

The Commission on 28 April 2000 received intimation from Superintendent of Police, Balaghat regarding the death of Bhandas in the custody of Police at Police Station Chhangotola in the night of 26/27 April 2000. The deceased was arrested by the police in Crime No. 30/2000 PS. Lamata under section 147/148/149/307/302/396/435 IPC in connection with conspiracy leading to the murder of the then Station Officer, PS. Lamata, SI Rakshit Shukla and Constable Komal Prasad Chaudhary.

In response to the notice issued to Home Secretary, Government of M.P, Bhopal the requisite reports were received. The inquest report indicated no injury on the body of deceased and witnesses found the cause of death as unascertainable. The post mortem report indicated that there were more than a dozen ante mortem injuries on the body of deceased caused by hard and blunt object. The cause of death was kept reserved till the chemical analysis report of viscera was received. Though the viscera report was received wherein the presence of alcohol was detected the report regarding final cause of death was not submitted.

In Magisterial Enquiry report, the Magistrate held the police personnel guilty of custodial violence. He further recorded that a Case crime No. 36/2000 under section 330/323/341/302 IPC and Section 3(2) 5 SC/ST (Prevention of Atrocities) Act was registered against the errant police personnel in Police Chhangotola.

While considering the matter on 5 June 2006, the Commission directed Home Secretary, Government of M.P, Bhopal to submit the status report of Case Crime No. 36/2000 under section 330/341/323/302 IPC registered against the errant Police personnel and to further explain as to why the departmental proceedings had not been initiated against the errant police personnel. The Commission also directed to issue a show-cause notice to Chief Secretary, Government of M.P, Bhopal to show-cause within 4 weeks as to why the provisions Section 18(3) of the Protection of Human Rights Act, 1993 be not invoked and immediate interim relief be not awarded.

The Commission vide its proceedings dated 11 December 2006 considered a response dated 10 November 2005 received from Inspector General Police (Complaints), Police Head Quarters., Bhopal which indicated that charge sheet against all the delinquent police personnel SI, G.P.Sharma, SI Raj Ballabh Singh Chauhan and H/C Phulchant Tarware has been submitted in the Court on 21 July 2005 and pending trial in the



court. As regards interim relief under section 18(3) of the Protection of Human Rights Act, 1993, it was submitted by Secretary, Home (Police) Department, Govt of M.P vide communication dated 8 August 2006 that a relief of Rs.1,50,000/- has been released in favour of the wife of the deceased and she has also been given employment in Class IV of Govt. service and, therefore, the Govt. of MP did not consider any further interim relief to the next of kin of the deceased, as necessary.

Accordingly, the Commission called for the proof of payment of Rs. 1.5 lakh to the wife of the deceased along with a copy of appointment letter issued in respect of her employment by Government of Madhya Pradesh.

Compliance report received from the Government of M.P was however, still under consideration.

Case 48: Death of Munna Kumar Soni in police custody in Indore, Madhya Pradesh (Case No. 50/12/2001-2002-CD)¹⁶⁴

The Commission received an intimation dated 28 March 2001 from the District Magistrate, Indore, about the death of one Munna Kumar Soni, son of Suraj Prasad, in suspicious circumstances in the court premises while in police custody on 25 March 2001. It was mentioned that the deceased was arrested by the police in connection with case No. 246/2000 under section 411 IPC P S. Khajrana.

In response to the notice issued by the Commission, Inquest report, post-mortem report, viscera report and Magisterial Enquiry Report were received. The post-mortem report indicated that there were five external injuries on the body of the deceased, and the cause of death was suspected to be due to poison.

The chemical analysis of the viscera indicated consumption of Aluminium Phosphide. The Magisterial Enquiry Report concluded that deceased Munna Kumar Soni died because of consumption of poisonous substance while he was in police custody. The Magistrate in his report held police personnel namely, S.I. Laxminarayan Dhruve, Constable Shiv Prasad and Constable Domnik Ekka, guilty of indifference and negligence in performance of their duty as they had failed to conduct a thorough search of the deceased before taking him to his residence for search and recovery and on his return to the police station. He also observed that they failed in their duty in not conducting search of the deceased before taking him to the Court for remand proceeding, and the previously mentioned negligence provided an opportunity to the deceased to consume the poisonous substance.

Pursuant to the direction of the Commission calling for action taken report on the recommendations made in the magisterial Inquiry Report, Deputy Secretary, Madhya Pradesh Administration informed the Commission vide letter dated 20 May 2003 that

¹⁶⁴. NHRC Annual Report 2006–2007



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

the police officials responsible for the death of Munna while in police custody had been dismissed from the service. According to the report the charges against the delinquent officials were proved in the inquiry including the charge that, because of the negligence on the part of the delinquent police officials, the deceased got an opportunity to consume the poisonous substance.

Upon consideration of the reports, vide proceedings dated 12 May 2005 the Commission observed that It had been established that the police officials were negligent in discharge of their duties. It is a clear case of violation of human rights of the deceased. The Commission therefore directed that a show-cause notice be issued to the Chief Secretary, Government of Madhya Pradesh, to show-cause within four weeks as to why immediate interim relief under section 18(3) of the Protection of Human Rights Act, 1993 be not given to the next of kin of the deceased.

In response to the show-cause notice, Secretary, Home (Police) Department, Government of M.P vide communication dated 10 August 2005 submitted that in the Magisterial Enquiry Report the delinquent police officials were only found guilty of negligence in performance of their duty for which departmental action have been taken by the Government. Therefore, in the opinion of the State Government, there was no justification for payment of "interim relief" to the next of kin of the deceased.

Vide proceedings dated 22 November 2006 the Commission considered the response received from the State Government and observed that:

"We have considered the response of the State to the show-cause notice issued under section 18(3) of the Act. We do not find any merit in the contention of the State Authorities. We would like to reiterate that it is a settled position in Law that once the State Forces decide to curtail the liberty of a person and take him in custody, by implication, they take upon themselves an obligation to ensure his personal safety and also to exercise due diligence to ensure that such person may not cause selfharm to himself.

In the instant case, the Enquiring Magistrate has found the delinquent police officials guilty of indifference and negligence in performance of their duty in not properly searching the detainee. He has also observed that due diligence on the part of public servants could have avoided the unfortunate incident."

In view of the findings in the Magisterial Enquiry, the Commission, therefore, found this as a fit case in which "immediate interim relief" should be recommended to the next of kin of the deceased, Munna Kumar Soni. Accordingly, the Commission, on 22 November 2006 recommended to State of Madhya Pradesh through its Chief Secretary to pay a sum of Rs. 50,000/- as "immediate interim relief" to the next of kin of the deceased Munna Kumar Soni and to submit compliance report within four weeks.



Under Secretary, Home (Police) Department has reported that Rs. 50,000/- as per recommendations of the Commission has been sanctioned, vide sanction letter dated 23 February 2007. Proof of payment is still awaited.

Case 49: Death of Chandrakant in Police Custody at Beed, Maharashtra (Case No. 1287/13/2002-2003-CD)¹⁶⁵

The Commission received a copy of the provisional post-mortem report on 11 October 2002 regarding the death of Chandrakant alias Kantrao Bhagwanrao Katmande who had been taken into custody on 10 October 2002 by Kaij Police Station, District Beed.

The Magisterial Enquiry Report dated 17 May 2003 concluded that Chandrakant died due to intensive and severe beating by police officials during police custody.

The matter was also enquired into by the State CID, Aurangabad and based on it a Case No. 6/2003 at Police Station Kaij u/s 302/330 IPC was registered. After the investigation Police Sub- Inspectors S.D. Sanap, G.S. Kanade and Dr. S.K. Goli were charge-sheeted u/s 302/323/218 IPC in the Court of Judicial Magistrate, Kaij. The State Government accorded sanction for prosecution of Police Sub-Inspectors S.D. Sanap and G.S. Kanade as well as Dr. Goli.

While considering the matter on 18 June 2007, the Commission recommended to the Chief Secretary, Government of Maharashtra, that the State must pay Rs. 2,00,000 as monetary relief to the next of kin of the deceased within six weeks and submit a compliance report along with proof of payment. The compliance report, along with proof of payment, is awaited.

Case 50: Death of Kishan Singh in Police Custody in Delhi (Case No. 5060/30/2004-2005-CD)¹⁶⁶

The Commission received an intimation dated 17 March 2005 from the Deputy Commissioner of Police, North-East District, Delhi about the death of Kishan Singh s/o Shri Ram Nath, a driver of a commercial vehicle, in police custody on 17 March 2005. The deceased was reportedly brought to police station Shahdara on 16 March 2005 for interrogation on a complaint of one Shakti Singh. He complained of being unwell at the police station and was taken to a private nursing home in the area. He was referred to GTB Hospital, where he was declared brought dead. An FIR No. 89/05 u/s 342/302/34 IPC was registered on 17 March 2005 in Police Station Shahdara on the complaint of Sanjeev, son of the deceased. Sub-Inspector Ram Kumar and Assistant Sub-Inspector Ramesh Chand of Police Station Shahdara were arrested as the deceased died in their custody. Three other accused persons were also arrested. Inspector Narendra Pal Singh of Police Station Shahdara, was put under suspension on the charge of laxity in supervision.

¹⁶⁵. NHRC Annual Report 2007–2008

¹⁶⁶. NHRC Annual Report 2007–2008



Although the Government of NCT of Delhi took the plea that the personnel charged of torture have been found innocent by the Court and, therefore, the grant of monetary relief cannot be justified, the Commission observed that “merely because the police personnel have been acquitted by the Court, the Government cannot evade its liability to compensate the victim. The fact remains that deceased Kishan Singh sustained fatal injuries while he was in police custody. The acquittal of the accused simply means that the identity of the assailants has not been established. It does not efface the factum of death being caused as a result of beating given in police custody. The police is required by law to protect the life of the person in their custody. If it resorts to torture tactics and thereby causes death of the detainee, it is a matter of serious concern for the society.” Therefore, considering all the circumstances of the case, the Commission recommended that the Government of NCT of Delhi pay Rs. 2,00,000 as monetary relief to the next of kin of Kishan Singh. The compliance report from the Chief Secretary, Government of NCT of Delhi, along with proof of payment is awaited.

Case 51: Death of Olik Tayeng in Police Lock-up at Itanagar, Arunachal Pradesh (Case No. 14/2/2003-2004-CD)¹⁶⁷

The DIG (Police HQs.), Arunachal Pradesh vide intimation dated 22 October 2003 informed the Commission that one Olik Tayeng, aged 19 years, who had been arrested on 21 October 2003 in Cr. case No.12/03 registered at Police Station Dambuk, had committed suicide in the morning of 22 October 2003 by hanging himself in the toilet of the police lock-up with a piece of blanket.

Upon perusal of the report received from the State authorities stating that Sub-Inspector has been found negligent and has been punished with withdrawal of two increments permanently with cumulative effect, the Commission observed that the police officials were found negligent in prevention of violation of human rights of the deceased and have been punished in departmental proceedings. Therefore, it is felt that grant of monetary relief is justified. The Commission recommended to the Chief Secretary, Arunachal Pradesh a payment of Rs. 1,00,000 u/s 18(3) of the PHRA, to the next of kin of the deceased. The compliance report, along with proof of payment, is awaited.

Case 52: Alleged Custodial Death of Mugalia in Satna, Madhya Pradesh (Case No. 1996/12/1999-2000-CD)¹⁶⁸

In a complaint to the Commission, Smt. Sheela stated that her husband, Mugalia, was arrested by the local police on 20 December 1999 at 4.00 a.m. and was produced before Sub- Divisional Magistrate, Mehar on the same day in a case u/s 109 Cr.P.C.

¹⁶⁷. NHRC Annual Report 2007–2008

¹⁶⁸. NHRC Annual Report 2007–2008



He was sent to jail but was released on bail the same evening and sent home. Next day he died at about 7.00 p.m.

The complainant alleged that her husband was canvassing for Shri Bhola Prasad Chaurasia, who was contesting a Municipal Election. He was picked up by the Police from the Election Office and beaten up severely. Although he was entitled to bail as a matter of right, the Sub-Divisional Magistrate did not release him and sent him to Sub-Jail Mehar. The jailor, however, did not admit him because he had several injuries on his body. Therefore, the police came to the house of the complainant in the evening and asked her to furnish bail papers. When she went to the jail, she found her husband lying there in a critical condition. She brought him home in a rickshaw and arranged whatever treatment was possible. He could not, however, survive and died the next day.

Upon consideration of the post-mortem report, MER and the reply to the show-cause notice, the Commission, recommended that the State of Madhya Pradesh pay Rs. 3,00,000 to the next of the kin of the deceased Mugalia. The compliance report, along with proof of payment, is awaited.

Case 53: Alleged Custodial Death of Shanti Dashrath Naik due to Police Beating in Mumbai, Maharashtra (Case No.2021/13/2000-2001-CD)¹⁶⁹

The General Secretary of Vishwa Manav Ekta Parishad referred an incident, reported by 'Hamara Mahanagar' dated 27 December 2000, to the Commission about Shanti Dashrath Naik, 35, a hawker selling handkerchiefs and hairpins, who was picked up from a local train of Mumbai on 14 December 2000. At Dadar Railway Station, the police severely beat her up and reportedly snatched Rs. 9,000 before letting her off the same night. She was admitted to Sion Hospital, where she succumbed to injuries sustained during the police beating.

After a preliminary enquiry, FIR No. 159/2202 u/s 347/348/384/385/217/323/ 34 IPC was registered against the delinquent police officials and all of them were suspended.

While considering the matter, the Commission observed that since the investigation by the State CID substantiated the allegation that Shanti Dashrath Naik died as a result of severe beating given by police officials, there was no reason why monetary relief should not be given to her next of kin. The Commission thus recommended that the State of Maharashtra pay an amount of Rs. 2,00,000 as monetary relief to the next of kin of the deceased Shanti Dashrath Naik. The compliance report, along with proof of payment, is awaited.

¹⁶⁹. NHRC Annual Report 2007–2008



Case 54: Death of Ram Chander in Police Custody at PS Sehramau, District Shahjahanpur, Uttar Pradesh (Case No. 12975/24/1999-2000-CD)¹⁷⁰

The case relates to the custodial death of Ram Chander at Police Station Sehramau, District Shahjahanpur, Uttar Pradesh, on 18 June 1999. The Superintendent of Police, Shahjahanpur sent the intimation regarding the death of Ram Chander on 4 July 1999 and the deceased's wife Smt. Kalawati lodged a complaint on 11 August 1999. While the police claimed that it was a case of suicide, Smt. Kalawati alleged that her husband was a victim of police torture. She stated that her husband had been picked up on 10 June 1999 by the Police personnel of Ramachandra Mission Police Station and was later handed over to Sehramau Police Station. On 18 June 1999, the police came to her house and informed about the death of her husband.

The post-mortem report showed two ligature marks as the cause of death. According to the autopsy surgeon, it was "asphyxia" resulting from suicidal hanging. The medical evidence thus pointed out that Ram Chander's death was on account of suicide. The material question, which arose — why Ram Chander took such an extreme step to end his life?

In response to the show-cause notice issued by the Commission, the Secretary to the Government of Uttar Pradesh, vide communication dated 20 July 2007, submitted that a charge sheet against the delinquent police officers had been submitted in the Court and that an ex-gratia payment of Rs. 2,000 was made to the widow of the deceased.

While considering the matter the Commission held that “the amount of Rs. 2,000 was grossly inadequate to compensate for the loss of human life, and amounts to adding insult to injury. The purpose of giving monetary relief is to bring some solace to the aggrieved family. While determining the amount of relief, regard must always be had to the circumstances of the case and the requirements of the dependents of the deceased.” Considering all the circumstances, the Commission recommended to the State of Uttar Pradesh to pay an amount of Rs. 3,00,000 as monetary relief to the next of kin of the deceased Ram Chander. The State Government, vide communication dated 5 March 2008, has reported that Rs. 3,00,000, as per recommendation of the Commission, has been sanctioned. However, proof of payment is awaited.

Case 55: Death of Devendra Nath Deka at Gauripur Outpost, Kamrup, Assam (Case No. 25/3/2002-2003-CD)¹⁷¹

The Deputy Commissioner, Kamrup, Guwahati, sent a fax message to the Commission that a retired police officer of Meghalaya, Devendra Nath Deka, died at Gauripur outpost of police on 13 May 2002 due to a brutal assault caused by the Officer In-charge of the Police outpost and other police personnel subordinate to him.

¹⁷⁰. NHRC Annual Report 2007–2008

¹⁷¹. NHRC Annual Report 2007–2008



The Government of Assam informed the Commission that a Crime Case No.73/2000 u/s 302, 34 IPC against the said police personnel was registered at the Police Station. All the three accused persons, Officer In-charge S.L Mukul Kakoti, Constables Anup Sarma and Manab Kalita were put under suspension. The Constables were sent to judicial custody but Mukul Kakoti absconded.

The Commission on 27 December 2006 considered the matter and found that there was violation of human rights of the deceased. Vide proceedings dated 27 August 2007, it recommended monetary relief of Rs. 1,00,000 to the mother of the deceased u/s 18(c) of the PHRA. The State of Assam has sanctioned Rs. 1,00,000 to the mother of the deceased, as per recommendation of the Commission. Proof of payment is awaited.

Case 56: Death of a Child Caught Stealing Food in a Marriage Party by Police (Case No. 952/19/2002-2003-CD)¹⁷²

Two children of tender age were caught stealing food at a marriage party in Jalandhar, Punjab on 21 January 2003. They were handed over to the police at Police Post, Bhargo. The two children were mercilessly beaten at the Police Post due to which one child died. The dead body of the child was thrown on the road. The In-charge of the Police Post and two other police officials were prosecuted but all of them were acquitted later as the witnesses in the case turned hostile.

On careful examination of the judgement, the Commission found that the material evidence in the case had been ignored. The delinquent police officials were given the benefit of doubt as the witnesses turned hostile. After going through the material evidence, the Commission found that prima facie the children had been subjected to torture in police custody. It thus held that it is the constitutional duty of the State to feed the children. If the State cannot provide food to the children, the State should at least show compassion towards them. Subjecting the children to torture on the charge of stealing at a marriage party is by all means an inhuman act and the police officials who committed such an act should not be allowed to escape punishment. The Commission also reminded the State Government of its duty to humanize the police force.

The Commission on 2 February 2009 recommended that monetary relief of Rs. 3,00,000 be paid to the family of the deceased child u/s 18 (a) (i) of the PHRA. It also recommended to the State Government to initiate disciplinary action against the delinquent police officers.

¹⁷². NHRC Annual Report 2008–2009



Case 57: Death of Bhagat Ram in Police Custody in Rajasthan (Case No. 376/20/2006-2007-CD)¹⁷³

The NHRC on 15 June 2006 received information about the death of one Bhagat Ram in police custody from the Superintendent of Police, Kota, Rajasthan. It was divulged by the concerned Police Officer that the victim had died on 15 June 2006 itself. The deceased had been arrested on 15 June 2006 in a case u/s 306 IPC registered at Ramganj Mandi Police Station in Kota, Rajasthan. While being taken in a private vehicle to Ramganj Mandi Police Station, the vehicle was stopped on the road side at the request of the victim for allowing him to ease. The deceased, however, ran towards a truck and jumped in front of it. In the ensuing melee, the victim was crushed to death.

During the magisterial enquiry, the ADM of Kota city, while criticizing the police escort party for using a private vehicle believed the police version and concluded that the accused himself had invited death by jumping in front of a speeding truck.

The Commission in its proceedings dated 2 September 2008 observed that prima facie the police escort party was negligent and hence issued a show-cause notice to the Government of Rajasthan u/s 18 of the PHRA.

In its response to the show-cause notice issued by the Commission, the State Government of Rajasthan contended that the police was not negligent in any manner. The Commission, however, vide its proceedings dated 3 August 2009 stated that lack of vigilance on the part of the police escort gave the accused Bhagat Ram an opportunity to escape from police custody and jump before a speeding truck. If the police escort had been attentive, the deceased Bhagat Ram would not have got an opportunity to escape from the custody of the police and jump before a speeding truck. From all aspects, the incident was a result of negligence on the part of the police escort party. The Commission accordingly recommended to the Government of Rajasthan to pay Rs. 1,00,000/- as monetary relief to the next of kin of the deceased Bhagat Ram.

The compliance report along with proof of payment has been received from the Government of Rajasthan. Consequently, the case was closed by the NHRC on 30 March 2010.

Case 58: Death of Sheroo Khan in Police Custody in Bastar District of Chhattisgarh (Case No. 250/33/2001-2002-CD)¹⁷⁴

Intimation was received by the NHRC on 1 November 2001 from the District Magistrate of Bastar with regard to the death of one Sheroo Khan aged 30 years in

¹⁷³. NHRC Annual Report 2009–2010

¹⁷⁴. NHRC Annual Report 2009–2010



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

police custody. The police version of the incident was that the deceased was creating nuisance at a public place in a drunken state and while he was being brought to the Police Station Jagdalpur on a bike, he jumped from the bike and sustained fatal injuries.

The postmortem report revealed about 12 antemortem injuries including eight contusions. The cause of death according to the Autopsy Surgeon was shock due to 'spleen trauma and haemorrhage.'

Shri A.K. Toppo, Sub-Divisional Megistrate, Jagdalpur inquired into the circumstances of the death. The inquiry report submitted by him negated the police version. During the course of inquiry, he interrogated Dr. Sunil Kumar Yadav, Assistant Surgeon in Maharani Hospital in Jagadalpur. Dr. Kumar stated that the injuries found on the body of the deceased were caused by a 'danda' and not on account of falling from some vehicle. The Magistrate concluded that Constable Subash Vishwas and Guard Sunil Das were responsible for the death of Sheroo Khan.

Later, a communication dated 22 October 2007 was received from the Deputy Secretary, Home, Government of Chhattisgarh. It was informed by him that an FIR No. 218/2006 u/s 302/34 IPC was registered at Bodhghat Police Station against Constable Subash Vishwas and Guard Sunil Das. Both of them were arrested on 6 August 2007 and on completion of investigation, a charge sheet too was submitted against them in the court of Chief Judicial Magistrate, Jagadalpur.

Since the magisterial inquiry and the police investigation established culpable liability on part of the concerned police personnel in the homicidal death of Sheroo Khan, the Commission vide its proceedings dated 24 January 2008 issued a show-cause notice to the State of Chhattisgarh u/s 18 (c) of the PHRA.

The State Government responding to the show-cause notice of the Commission vide its communication dated 7 April 2008 made a request that it would be improper to award monetary relief to the next of kin of the deceased victim pending a final decision in the criminal case being pursued in the court. While considering the request made by the State Government, the Commission noted that the proceedings before it are independent of any other proceedings pending in any other forum. Moreover, the Commission does not insist on rigorous proof as is done in a criminal case trial. It acts on preponderance of probabilities. For the purpose of recommending monetary relief, it is sufficient that the homicidal death occurred in police custody. Moreover, the findings of the magisterial inquiry cannot be ignored.

Considering all the circumstances, the Commission on 30 June 2008 recommended to the Government of Chhattisgarh to pay a sum of Rs. 3,00,000/- as monetary relief to the next of kin of the deceased Sheroo Khan.



On receipt of the compliance report from the State Government, the case was closed by the Commission in November 2009.

Case 59: Death of Kandula Tirupathi in Police Custody in Karimnagar, Andhra Pradesh (Case No. 886/1/2004-2005-CD)¹⁷⁵

The Superintendent of Police of Karimnagar, Andhra Pradesh on 21 February 2005 informed the NHRC about the death of one Kandula Tirupathi in police custody on 20 February 2005. The deceased was suspected to be involved in a terrorist activity. He was arrested from Marripally village on 20 February 2005. During the time of arrest, some arms and ammunitions were recovered from Kandula. He then took the police party to a hillock for further recovery.

There he allegedly pushed a Constable and jumped from the hillock in a bid to escape. He sustained fatal injuries and died on the spot.

Pursuant to the directions given by the Commission, the Magistrate who enquired into the death of Kandula Tirupathi concluded that he had committed suicide by jumping from the hillock. He observed that the deceased was afraid of reprisal by the extremists.

Considering the manner in which the incident occurred, the Commission felt that the police escort was not vigilant and alert. It observed that if the policemen had been watchful and cautious, the deceased would not have been able to elude grasp. The fact that the deceased was able to free himself from the custody of the police indicates negligence on their part and therefore renders the State liable for the incident. Consequently, the Commission issued a notice to the Chief Secretary, Government of Andhra Pradesh u/s 18 of the PHRA and also asked to show-cause as to why monetary relief should not be given to the next of kin of the deceased.

As the State failed to submit any reply to the show-cause notice, the Commission presumed that the State has nothing to say in defence.

Taking note of all the circumstances related to the case, the Commission on 5 October 2009 recommended to the Government of Andhra Pradesh to pay a sum of Rs. 1,00,000/- as monetary relief to the next of kin of the deceased Kandula Tirupathi.

The compliance report relating to the case is awaited by the Commission.

Case 60: Death of Shiv Raj Dubey due to Torture by Police in Allahabad, Uttar Pradesh (Case No. 16662/24/2001-2002-AD)¹⁷⁶

The Commission received a complaint dated 22 June 2001 from one K. K. Roy alleging that Shiv Raj Dubey, a Trade Union Leader of Allahabad, was taken to Civil

¹⁷⁵. NHRC Annual Report 2009–2010

¹⁷⁶. NHRC Annual Report 2009–2010



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

Lines Mahila Thana on 19 August 2001 and there he was subjected to third degree torture in order to extract a confession. The victim died of brain injury on the same day. A criminal case No.252/2001 u/s 147/148/149/302/504 IPC was registered on behalf of the son of the deceased. The case was investigated by CB-CID. The investigation substantiated the allegation of torture and a charge sheet was filed in the case. The investigating agency moreover recommended disciplinary action against the four Constables and two women Constables.

Pursuant to the notice issued by the Commission, a report was received from the Inspector General of Police (Human Rights), Government of Uttar Pradesh stating that an inquiry into the matter was conducted by the Superintendent of Police of Allahabad city and it was found that a Crl. Case No. 252/01 u/s 147/148/149/302/504 IPC was registered in the Police Station on the report of Manoj Dubey, the son of the deceased. A charge sheet too had been filed against the guilty police personnel in the court on the basis of investigation by CB-CID, Allahabad.

A magisterial enquiry was also conducted by the City Magistrate of Allahabad. He too held the police responsible for the death of Shiv Raj Dubey.

The Commission upon consideration of the above reports observed that prima facie the police officials had been held responsible for the death of Shiv Raj Dubey at P.S. Mahila Thana, Civil Lines, Allahabad. Further, a charge sheet had been filed against the accused in the case and disciplinary proceedings had been recommended against the erring police personnel. Under the given circumstances, the Commission found it to be an apt case to grant interim relief to the next of kin of the deceased. In view of that, the Commission on 10 June 2008 issued a show-cause notice to the State of Uttar Pradesh. The State Government, however, did not respond to the show-cause notice.

Considering the matter on 27 May 2009, the Commission as a consequence recommended to the Government of Uttar Pradesh that a sum of Rs. 3,00,000/- be paid to the next of kin of the deceased.

The compliance report in the case has been received from the Government of Uttar Pradesh. The case as such was closed.

61. Rape and Murder of Shanno alias Aarti Gopal Kale by Maharashtra Police (Case No.187/13/2005-2006-CD)¹⁷⁷

The case was reported by the Superintendent of Police of Ahmednagar in Maharashtra. One Shanno alias Aarti Gopal Kale, who as per complaint of her brother Gauri Gopal Kale, was taken to Shirdi Police Station on the night of 2 March 2005. There she was raped and murdered by the police and later her body was thrown in a dry well in Soygaon Shivar of Rahata Police Station so as to destroy the evidence.

¹⁷⁷. NHRC Annual Report 2009–2010



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

The Commission took cognizance of the matter on 26 May 2005 and pursuant to its directions, the requisite reports were received from the Government of Maharashtra. In the inquest report, it was opined by the Panchayat that the “woman was killed by pressing of the neck and throat and disposed off with the intention of hiding the evidence and thrown in the well of Kisan Damu Shendge in half-burnt position and also half-buried”. In the postmortem report, the concerned doctors reserved their opinion and preserved the viscera.

The final cause of death was given “as a result of compression of neck violent asphyxial death due to hanging”. Magisterial enquiry report conducted by the Sub-Divisional Magistrate of Shrirampur concluded that the deceased Shanno Kale was brought to Shirdi Police Station and died in police custody between 1.30 a.m. to 5.00 a.m. when, Mr. Kahar and Mr. Mali, two police officers were present in the Police Station. They made an attempt to destroy the evidence by throwing the dead body of Shanno Kale in a dry well. Thus, Shanno Gopal Kale alias Aarti died in Shirdi Police Station only under suspicious circumstances. Consequently, a case bearing Crime No. 24/05 u/s 302/201/34 IPC was registered at Rahata Police Station and all the guilty police officers were charge sheeted.

On finding that the State CID had submitted an investigation report against the police officers who had murdered Shanno alias Aarti Gopal Kale and that it was a serious violation of human rights and a fit case in which payment of immediate interim relief to the next of kin of the deceased should be recommended, the Commission issued a notice u/s 18 (c) of the PHRA to the State of Maharashtra. In response to the notice, the reply received from the State revealed that on inspection of the reports received from the State CID and District Magistrate, Ahmadnagar, the Government of Maharashtra agrees that monetary relief need to be given to the next of kin of the deceased Shanno Gopal Kale. The Commission accordingly recommended that a sum of Rs.5,00,000/- be paid to the next of kin of the deceased by the Government of Maharashtra.

The compliance report along with proof of payment called for is awaited.

Case 62: Alleged Death of a Minor Boy in Mawryngkneng Police Outpost in East Khasi Hills District, Meghalaya (Case No. 10/15/2/09-10-AD)¹⁷⁸

The Commission received a complaint dated 11 May 2009 from one Shri Suhas Chakma, Director, National Campaign for Prevention of Torture in Janakpuri, New Delhi alleging that a minor boy Sngewlem Kharsati, aged 17 years and residing in Puriang village in East Khasi Hills District of Meghalaya had died in police lock-up of Mawrayngkneng Police Outpost in the evening of 9 May 2009. It was alleged that the deceased was returning home from work in Sung valley. He was picked up by the police for possessing a dao (sword) in his tiffin bag. He was beaten by the police on

¹⁷⁸. NHRC Annual Report 2010–2011



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

the road in public and thereafter pushed into a car and taken to police outpost. He was further subjected to torture in the police outpost which resulted in his death. The police then took him to the Civil Hospital in Shillong where he was declared brought dead by the attending doctor. A prayer was made before the Commission for judicial probe in the matter, arrest of the accused police personnel and compensation for the next of kin of the deceased.

An intimation in this regard was also received in the Commission from the District Magistrate, East Khasi Hills, Meghalaya.

Pursuant to the directions of the Commission, the Superintendent of Police, East Khasi Hills submitted a report dated 26 June 2009 in which it was stated that there was a massive traffic jam on NH-44 at Puriang village. In that traffic jam, one truck driver whose name was Gouranga Deb Nath, shouted for help claiming that he was being robbed. By the time the police personnel reached the truck, two miscreants fled from the spot. One of the miscreants, Sngewlem Kharsati, was somehow nabbed with the help of the truck driver. In this process, the truck driver and the apprehended miscreant sustained injuries. The miscreant was then taken to the police outpost for purposes of interrogation. He was later sent to the Civil Hospital where the doctors declared him brought dead. During the magisterial enquiry, there was not a single witness who stated that the deceased was beaten up by the police. The post-mortem report, however, disclosed three abrasion injuries, seven contusions, three lacerations, 14 deep abrasions and the cause of death was stated to be shock peripheral circulatory obstructions and haemorrhage following multiple injuries in the chest, limbs and head of the deceased.

A show-cause notice was hence issued to the Chief Secretary, Government of Meghalaya. The State Government, in response, reiterated the police version stating that except for the relatives of the deceased, no person had blamed the police for Sngewlem Kharsati's death. Moreover, if the police had not intervened in the matter, many more casualties could have taken place. Taking into consideration the poor condition of the family of Sngewlem Kharsati, the State Government declared that a sum of Rs. 2,00,000 be paid as compensation to the next of kin of the deceased.

Relying upon the findings of the Additional District Magistrate, East Khasi Hills who concluded "the police version of the incident is not validated", the Commission vide its proceeding dated 1 December 2010 observed there was no merit in the plea taken by the State Government. The Commission, in essence, found it strange to believe that any person would dare to commit robbery especially when there was a traffic jam and large crowd of people around. The victim too, the Commission observed, had died before he was taken to the hospital. This fact itself was sufficient to prove that the injuries inflicted on the victim were of serious nature. The police also did not pay any



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

heed to the seriousness of the injuries sustained by the victim and instead of taking him directly to the hospital from the place of occurrence, took him to the police outpost. The overall approach of the police towards the victim only shows their utter callousness. Considering all the circumstances, the Commission recommended to the Government of Meghalaya to pay a sum of Rs. 5,00,000 to the next of kin of the deceased and the amount of the 2,00,000 which had already been paid by the State Government be adjusted.

The Government of Meghalaya has given its concurrence for paying the amount of 3,00,000 to the next of kin of the deceased. However, the proof of payment is awaited from the State Government.

Case 63: Death of Bhuwan Dutt in Madhuban Police Station in Karnal District, Haryana (Case No.1771/7/10/07-08-PCD)¹⁷⁹

The Commission received an intimation dated 3 September 2007 from the Assistant Superintendent of Police in Karnal, Haryana about the death of one Bhuwan Dutt, aged 17 years, on 3 September 2007 who was in the custody of Police Station Madhuban in Karnal District of Haryana. The deceased had committed suicide by burning himself. The deceased was brought to Madhuban Police Station by one Sanjeev Kumar, a resident of Madhuban, on 1 September 2007 in connection with a case Cr. No.115 dated 24 July 2007 u/s 302/301/34 IPC. Bhuwan Dutt set himself on fire by pouring petrol on the same day itself. He was then admitted to PGIMS in Rohtak, Haryana on 2 September 2007 where he succumbed to his burn injuries on 3 September 2007.

Taking cognizance of the matter, the Commission directed its Director General (Investigation) to collect all the factual details which led to the death of Bhuwan Dutt and accordingly submit a report. The post-mortem report stated that the deceased had died due to burn injuries which were ante-mortem in nature and sufficient to cause death in ordinary course of nature. The report submitted by the Sub-Divisional Magistrate claimed that as per the recorded dying declaration of the deceased, it was amply clear he died on account of burning himself and that no foul play was suspected in his death. As per the dying declaration recorded by the Judicial Magistrate, the deceased had levelled serious allegations of torture against the police and stated that one Inspector Pawan set him on fire.

The Commission took note of the serious lapse on the part of the Sub-Divisional Magistrate who completely disregarded the allegations of torture by the police and the dying declaration of the deceased recorded by the Judicial Magistrate. The deceased in his dying declaration had mentioned that Inspector Pawan had set him on fire. The Commission stated that on the basis of the dying declaration and the enquiry report submitted by the Judicial Magistrate, it was convinced that the police personnel of

¹⁷⁹. NHRC Annual Report 2010–2011



Madhuban Police Station had committed one of the most serious violations of human rights, which led to the death of Bhuwan Dutt. The Commission directed to issue a show-cause notice to the Government of Haryana as to why monetary relief should not be recommended to the next of kin of the deceased. The Commission also recommended to conduct of a CB-CID enquiry in the matter.

In spite of several reminders issued by the Commission, no response was received from the Government of Haryana on the show-cause notice issued by it. The Commission vide its proceedings dated 28 October 2010, recommended to the State of Haryana to pay a sum of Rs. 5,00,000 to the next of kin of the deceased and also forward a compliance report along with the proof of payment.

The Commission has received the proof with regard to payment of ` 5, 00,000 made to the next of kin of the deceased by the Government of Haryana. However, the report of the CB-CID investigation in the matter is awaited.

Case 64: Death of Dharamwati Dayal in Kotwali Police Station in Pilibhit District, Uttar Pradesh (Case No.20678/24/2004-2005)¹⁸⁰

Intimation was received by the Commission from the District Magistrate, Pilibhit about the death of a woman named Dharmwati, wife of Rameshwar Dayal, in Kotwali Police Station, Pilibhit District, Uttar Pradesh on 4 August 2004.

Taking cognizance of the matter, the Commission directed its Director General (Investigation) to collect requisite reports from the concerned authorities. In response, an enquiry report was received from the Superintendent of Police, Pilibhit stating that the police did not torture the deceased woman, though the local police party had gone to her house on 3 August 2004 in connection with a kidnapping case. It was further stated in the enquiry report that when the police reached the house of Rameshwar Dayal, his wife Dharmwati aged 45 years, ran and fell down after hitting a wall. She also sustained an injury over one of her eyebrows. The woman thus died on account of her own weakness on 4 August 2004 as appropriate treatment was denied to her by the family. No information regarding the death of the woman was furnished to the police station by anyone.

However, on the basis of an application submitted by Dharamwati's husband, Rameshwar Dayal on 4 August 2004, a panchanama of the body and post-mortem was performed. A case u/s 147/148/149/304/34 IPC and u/s 3 (2) (v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 was registered on 6 August 2004 at Bisalpur Police Station.

Besides, the investigation of the case was transferred to the State CB-CID.

¹⁸⁰. NHRC Annual Report 2010-2011



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

The post-mortem report pointed towards an abraded contusion on the right side of the face of the deceased. It also stated that the cause of death could not be ascertained and for that reason the viscera had been preserved. The Commission then called for the report of the investigation conducted by the CB-CID along with the viscera report. The Superintendent of Police, CB-CID, in his report stated that on completion of investigation and legal formalities in the matter, a charge-sheet had been filed against the accused policemen before the Chief Judicial Magistrate, Pilibhit on 20 October 2008.

The Commission took note of the fact that the police had filed charge-sheets against guilty policemen for offences punishable under crime case No.489/2004 u/s 147/148/149/204/34 IPC and 3 (2) (v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, which exemplifies that the police on their own have held these men guilty for the death of Dharamwati. The Commission also asked the Government of Uttar Pradesh whether any relief had been granted to the next of kin of the deceased under the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. The Commission also asked the Government of Uttar Pradesh to show-cause whether any monetary relief should be granted to the next of kin of the deceased. As no reply was received from the Government of Uttar Pradesh, the Commission vide its proceedings dated 26 August 2010 recommended that a sum of Rs. 5,00,000 be paid to the next of kin of the deceased.

The Commission is monitoring the case as the proof of payment has so far not been received from the Government of Uttar Pradesh.

Case 65: Death of Aslam Kamruddin Shaikh in Otur Police Station in Pune District, Maharashtra (Case No.1122/13/2005-2006-CD)¹⁸¹

The Commission received intimation from the Superintendent of Police, Pune Rural about the death of Aslam Kamruddin Shaikh, aged 31 years on 24 December 2005. As per the intimation, the deceased was a resident of Pune and was brought to the Otur Police Station on 24 December 2005 at 3.00 a.m. on suspicion of theft of a motorcycle. However, he committed suicide at about 9.30 a.m. in the room of the police station itself by tying the border of a blanket to his neck.

Taking cognizance of the matter, the Commission directed its Director General (Investigation) to collect the requisite reports in the matter. The inquest report revealed that there was a white mark around the neck of the deceased along with a bruise on the right side of the neck. The shoulders of the deceased had reddish marks. The post-mortem report mentioned 13 ante-mortem injuries of abrasions and contusions on the body of the deceased. The cause of death was stated to be due to asphyxia as a result of constriction of the neck. Evidences of blunt injuries were also

¹⁸¹. NHRC Annual Report 2010–2011



mentioned in the post-mortem report. However, no poison was found in the viscera report. The State CB-CID on conclusion of the investigations in the matter opined that the police personnel were guilty of unlawful detention as they wanted the deceased to confess that he had stolen the motorcycle. Head Constable Lohkare used criminal force against the deceased Aslam Kamruddin Shaikh. Another Head Constable Chive and Head Constable Pokharkar not only detained the deceased but also tortured him and did not make any entry in the General Diary of the Police Station nor informed the concerned Magistrate about the theft. It was found that Head Constable Pokharkar, being a public servant, disobeyed the law of the land and kept five stolen motorcycles in the Police Station without making relevant entries in the General Diary. The State CB-CID registered a criminal case u/s 302 IPC against the three errant police officials. The accused were arrested and afterwards charge-sheeted. Later, the Sessions Court discharged all the three guilty police personnel on the ground that prior sanction u/s 197 Cr.P.C. was not taken in the given case for prosecution of the police personnel.

The Commission held that the investigations conducted by the State CB-CID had clearly disclosed that the deceased died on account of homicidal death in the police custody and therefore the State was liable to compensate the family of the deceased. A show-cause notice was accordingly issued to the Government of Maharashtra calling for response as to why monetary relief should not be granted to the next of kin of the deceased. As no response in the matter was received from the Government of Maharashtra, the Commission vide its proceedings dated 5 January 2011 recommended to the Government of Maharashtra to pay a sum of 3, 00,000 as monetary relief to the next of kin of the deceased Aslam Kamruddin Shaikh.

The case is being monitored by the Commission as the compliance report along with proof of payment is yet to be received from the Government of Maharashtra.

66: Death of Jyoti Rachna in Ongole Town II Police Station in District Prakasam, Andhra Pradesh (Case No.428/1/17/09-10-PCD)¹⁸²

The Commission was informed by the Superintendent of Police, about the death of a woman named Jyothi Rachna in Ongole Town II Police Station in Prakasam District of Andhra Pradesh. The deceased was aged about 32 years and was brought to the Police Station on 20 September 2009 for enquiry in connection with one missing girl Anu, daughter of Bolla Venkateshwarlu. Her husband and their two-and-a-half year old son also accompanied her to the police station. At about 10 p.m., her husband came to the ground floor along with the son as he was not sleeping and later on returned to the first floor at 10.30 p.m. On going back he found his wife hanging from the ceiling fan with her dupatta. Her husband immediately informed the police whereby she was rushed to Rajamma Multi-Speciality Hospital in Ongole. However, despite the best efforts put in by the attending doctors of the hospital, Jyothi Rachna

¹⁸². NHRC Annual Report 2010–2011



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

died. A case u/s 176 Cr.P.C. was registered at Ongole II Town Police Station on a complaint made by the husband of the deceased. A complaint in this regard was also received in the Commission from the Chief Editor of the Human Rights Observer, New Delhi.

Taking cognizance of the matter, the Commission directed its Director General (Investigation) to collect requisite reports in the matter from the concerned authorities. The post-mortem report mentioned that there were two ante-mortem injuries on the body of the deceased – (i) a linear multiple abrasion below the right axial region, and (ii) a ligature mark measuring 28 cm in length and 2.0 cm in width in front of the neck. The cause of death as per the post-mortem report was due to hanging. The magisterial enquiry report also revealed that the deceased had committed suicide by hanging on account of depression when she was arrested by the police and also opined that the suicide had taken place due to negligence of the police. The Magistrate pointed out that not only the arrest of Jyothi Rachna was contrary to law, but also the Home Guards alleged to have been present there had deposed before him that they were not in attendance when the deceased hanged herself. Statement made by one of the Guards revealed that Jyothi was compelled to sign a statement to show as if she was there when the incident took place. Jyothi too had categorically denied her absence at the related point of time but the Sub-Inspector forcefully took her signatures. There were evidences that the deceased was not kept in a separate cell and from the contents it was clear that she was tortured mentally which drove her to commit suicide. Besides, she was arrested after sun set which amounts to violation of section 46 (4) of Cr.P.C., 1973, as the given section clearly prescribes that a woman is not to be arrested after sun set and before sun rise. If at all the arrest to be made under exceptional circumstances it has to be carried out with the prior permission of Ist Class Judicial Magistrate within whose local jurisdiction the offence was committed or the arrest was made. For that reason, the arrest was quite contrary to the provisions of law. The Magistrate also pointed out the negligence of the police in the given case.

On examination of all the facts, the Commission held that continuing harassment of the deceased and keeping the deceased in a common cell compelled her to take such an extreme step which amounts to abetment to commit suicide on the part of the police officer. The Commission found it a fit case where monetary relief should be awarded to the next of kin of the deceased and issued a show-cause notice to the Chief Secretary, Government of Andhra Pradesh. When the Commission did not receive a substantive reply to its show-cause notice, it recommended a sum of Rs. 2,00,000 be paid as monetary relief to the next of kin of the deceased, Jyothi Rachna.

The compliance report along with the proof of payment is awaited in the case.



Case 67: Death of Arun Kumar Singh due to Torture by Police in Patna, Bihar (Case No. 180/4/2002-2003-AD [L/F.188/4/2000-2001-CD])¹⁸³

The Commission received a complaint dated 9 April 2002 from one Munna alias Priyaranjan, a resident of Mohalla Bhikna Pahari, Dharhara Kothi, Police Station Kadamkua, Patna in Bihar alleging that his brother Arun Kumar Singh was picked up by the police personnel of Alamganj Police Station on 18 April 2000 for being involved in a theft and was also given a severe beating by them. Next day, i.e. on 19 April 2000, he was produced before a Magistrate and remanded to judicial custody. He was then admitted in Beur Central Prison in an injured condition. In view of his deteriorating condition he was sent to Patna Medical College Hospital on 20 April 2000. The doctors in the hospital did not examine him thoroughly and sent him back to the jail on the very same day. On 22 April 2000 he died in the jail at about 8.00 a.m. According to the complainant, the victim died for want of medical care.

On receipt of summoned reports, the Commission in its proceedings dated 31 December 2008 observed that the deceased Arun Kumar Singh was in an injured condition when he was admitted to Beur Central Jail on 19 April 2000. On a day prior to his admission in the jail he was in the custody of police. In the given circumstances, the Sub-Divisional Magistrate, Sadar in Patna had rightly observed in the joint report dated 22 July 2002 that the injuries may have been inflicted by the police. There is no evidence to indicate that the deceased was given any medical care while he was in the police custody. Even after being admitted in the jail he was not given adequate medical treatment. He was sent to Patna Medical College Hospital on 20 April 2000 but it appears that he was not thoroughly examined. He was not admitted as an inpatient in the hospital and sent back to the jail on the same day. Two days later he succumbed to his injuries. All these facts are indicative of total apathy on the part of the prison officials and the doctors. The deceased was first beaten by the police and then he was not given proper medical care. For the inhuman behaviour of police and other functionaries, the State must make monetary amends.

The Commission as a result recommended to the Government of Bihar to pay a sum of 2,00,000 as monetary relief to the next of kin of the deceased Arun Kumar Singh.

Case 68: Death of Motahir Ali by Police in Silchar, District Cachar, Assam (Case No. 130/3/2/2007-2008-PCD)¹⁸⁴

The Commission received an intimation dated 23 September 2007 from the Deputy Commissioner of Police, Silchar in District Cachar of Assam about the custodial death of one person named Motahir Ali, son of late Akkaddas Ali, aged 45 years, on 21 September 2007 when the deceased was being taken to Silchar Medical College and Hospital by the police.

¹⁸³. NHRC Annual Report 2010–2011

¹⁸⁴. NHRC Annual Report 2010–2011



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

Pursuant to the directions given by the Commission, a report dated 27 February 2008 was received from the Superintendent of Police, Silchar in District Cachar stating that on 20 September 2007, the police was informed about an incident relating to assault and counter assault between two parties whereby it rushed to the spot. Sahabuddin and Motahir Ali were found lying on the ground in an injured condition by the police team. The two of them were immediately taken to the Community Health Centre for medical treatment. An FIR was also registered by one Bimal Chandra u/s 341/325/326/457/354/34 IPC at Katigorah Police Station in Cachar District of Assam. Shortly thereafter, a counter FIR at the same police station was registered by one Haziar Begum u/s 325/326/34 IPC. Motahir Ali was arrested along with two others in the said case and taken to the police post after medical check-up. On 21 September 2007, the In-charge of Police Post prepared a challan against the three arrested persons for sending them to the court. They were also taken for procedural medical check-up. While arranging a vehicle for them to go to Silchar Court, Motahir Ali suddenly fell unconscious. He was examined by a doctor at the Community Health Centre again and referred to Silchar Medical College & Hospital wherein he was declared brought dead by the Medical Officer on duty.

Upon consideration of the post-mortem report, it was learnt that ante-mortem injuries had been caused by a blunt force impact. The findings of the magisterial enquiry report too revealed that inhuman torture had been inflicted upon the deceased by the police which led to his subsequent death. On consideration of all the facts, the Commission issued a notice u/s 18 (a) (i) of the PHRA to the Chief Secretary, Government of Assam as to why compensation should not be recommended and awarded to the next of kin of the deceased.

In response to the show-cause notice u/s 18 (a)(i) of the PHRA issued by the Commission, the State Government expressed no objection towards payment of compensation to the next of kin of the deceased.

The Commission vide its proceedings dated 12 August 2010 recommended to the Government of Assam to pay a sum of Rs. 5,00,000 as monetary relief to the next of kin of the deceased Motahir Ali.

The compliance report along with proof of payment are awaited from the Government of Assam.

Case 69: Death of Anil Kumar due to Police Negligence in Chandigarh (Case No. 53/27/0/07-08-PCD)¹⁸⁵

On 12 July 2007, the Commission was informed by the Senior Superintendent of Police, Union Territory of Chandigarh that on 11 July 2007, Sub-Inspector Narender

¹⁸⁵. NHRC Annual Report 2010–2011



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

Singh of P.S. Manimajra in Chandigarh along with Constable Harpinder Singh were approached by one Surjit Kaur and others who then handed over to the two policemen a person who was found roaming under suspicious circumstances. An entry was also later made in the police station at 2.45 p.m. The suspected person disclosed his name and address as Anil Kumar, resident of House No. 375, Indira Colony, Manimajra. On verification, it was found that no such person was residing at the said address. However, on further questioning, he gave another address. It appeared that when the suspected person was being questioned in the Police Station, one Brahm Pal, son of Telu Ram was also present in the room of Sub-Inspector Narender Singh. During the course of investigation, Anil Kumar suddenly jumped from the front side of Room No. 9 on the 1st floor of the Police Station and sustained injuries. He was taken to the hospital but he died on 11 July 2007, while under treatment.

While considering the matter on 29 October 2010, the Commission observed that in the instant case, nothing more was required to be discussed in view of the fact that the police had investigated the matter and also filed a charge-sheet in FIR No. 322 on 10 August 2007 against the Sub-Inspector Narender Singh. It was further observed on the basis of available records that Sub-Inspector Narender Singh was convicted on 9 November 2009 for an offence punishable u/s 304 (II) and was sentenced to imprisonment for a period of two years and was also ordered to pay a fine of Rs. 20,000 by the Additional Sessions Judge, Chandigarh. In view of these findings, it goes without saying that a precious human life was lost on account of police apathy.

Under the circumstances, the Commission directed that a notice be issued to the Chief Administrator, Union Territory of Chandigarh to show-cause as to why monetary relief should not be paid to the next of kin of the deceased Anil Kumar.

The Commission vide its proceedings dated 2 February 2011 considered the response received from the Home Secretary, Union Territory Administration of Chandigarh and recommended to the UT Govt. to pay an amount of Rs. 5, 00,000 to the next of kin of the deceased, Anil Kumar. The compliance report and proof of payment are awaited in the case.

Case 70: Death of Dalit Rama Shanker Ram due to Torture by Police in District Chandauli, Uttar Pradesh (Case No. 30182/24/19/2010-AD)¹⁸⁶

The complainant, President of Human Rights Emergency Helpline Association, a NGO, drew attention of the Commission towards death of one Rama Shankar Ram, a Dalit, due to beating up by police in Thana Sakaldiha, Chandauli. As per the complaint, on 29 July 2010 at about 8 p.m. a Dalit named Rama Shanker was picked up by the Officer-in-charge of the Police Station Sakaldiha in Chandauli District of Uttar Pradesh and was then tortured in police custody. As a result, Rama Shankar Ram died the next morning, i.e. on 30 July 2010. The Commission took cognizance of the

¹⁸⁶. NHRC Annual Report 2010–2011



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

case on 11 August 2010 and requested its Director General (Investigation) to depute a team for spot investigation.

Pursuant to the directions of the Commission, a team from its Investigation Division was deputed for collection of relevant facts in the case. In the detailed report submitted by the team subsequently, it was concluded that on 29 July 2010 at 7.25 p.m. Santosh, the brother of deceased Rama Shanker Ram had taken his injured mother to Police Station Sakaldiha for lodging FIR No. 86 of 2010 against his brother Rama Shanker. A police team headed by a Sub-Inspector also visited the spot at 7.45 p.m. and took in custody Rama Shanker Ram. Unfortunately, Rama Shanker was tortured by the police. Consequently, he was admitted to the Community Health Centre, Sakaldiha at 8.15 p.m. in an unconscious state. He was later referred for treatment to Chandauli District Hospital, where he was declared brought dead.

The Commission observed that it was an unusual case of torture inflicted by the police on deceased Rama Shanker Ram. The deceased was taken by the police from his house to the Police Station wherein he was physically tortured due to which he died. The Commission held that “it is prima facie clear that Rama Shanker Ram died due to torture by police officers in police custody, which is a clear case of violation of human rights” and directed that the Secretary (Home), Government of Uttar Pradesh be asked to get case no. 146/2010 u/s 302 IPC investigated by CB-CID and submit the outcome of the investigation to it. The Commission also directed to issue notice to the Chief Secretary, Government of Uttar Pradesh to show-cause as to why compensation should not be recommended in favour of the next of kin of the deceased.

The replies to the show-cause notice and CB-CID report are awaited.

Case 71: Death of a Minor due to Torture by Police in District Badaun, Uttar Pradesh (Case No. 48147/24/7/07-08)¹⁸⁷

The Commission received a complaint from a Delhi based non-governmental organization (NGO) alleging that on 20 January 2008 at about 10 a.m., police personnel of Kotwali Police Station in District Badaun of Uttar Pradesh raided the house of one Om Shanker Sharma in connection with a theft case. Twelve year old Durgesh alias Santosh who was present there was apprehended and mercilessly beaten to death. In order to mislead, the dead body of Durgesh was hanged with a rope by the police so as to show it was a case of suicide. It was further alleged that the police personnel ransacked his house.

Responding to the directions of the Commission, the Additional Superintendent of Police, Badaun Rural, submitted a report stating that FIR Crime No. 32/08 u/s 302

¹⁸⁷. NHRC Annual Report 2010–2011



IPC had been registered against Sub-Inspector Sachchidanand Rai and other police personnel in connection with the said incident which was pending investigation.

Upon consideration of the report, the Commission in its proceedings dated 28 January 2009 observed that the report submitted by the Additional Superintendent of Police clearly established that the errant police officials were found guilty for the death of 12 year old boy during the investigation of crime. The errant police officials should hence be charge-sheeted once the prosecution orders were obtained. The Commission simultaneously also directed to issue a show-cause notice u/s 18 (a) (i) of PHRA to the Chief Secretary, Government of Uttar Pradesh as to why compensation should not be recommended to the next of kin of the deceased.

Subsequently, the Director General of Police, Government of Uttar Pradesh informed the Commission vide his letter dated 11 August 2009 that Sub-Inspector, Sachchidanand Rai, Constable Ram Nath Singh and Constable Ajay Rana had already been awarded penalty whereby their increment for a period of one year has been withheld. Further, disciplinary proceedings had been initiated against Sub-Inspector Jagdev Singh Malik, the fourth accused in the case.

Thereafter, the Secretary, Government of Uttar Pradesh vide his letter dated 8 October 2009 informed that in the given case all the four police officials have been found guilty for the death of Durgesh, therefore, it is justified to pay monetary relief to the kin of the victim. Taking into consideration all the facts of the case, the Commission vide its proceedings dated 19 June 2010 recommended to the Government of Uttar Pradesh to pay an amount of 5,00,000 to the next of kin of the deceased. The State Government was also directed to submit the compliance report along with proof of payment to the Commission.

The Commission also directed the Director General of Police, Government of Uttar Pradesh to submit the status of criminal case No. 32/08 u/s 306 IPC registered in Dataganj Police Station of Badaun District along with the outcome of the disciplinary action initiated against Sub-Inspector Jagdev Singh Malik.

The compliance report along with proof payment is awaited. The report from the Director General of Police, Uttar Pradesh is also awaited.

Case 72: Death of Bachole due to Alleged Torture [Case No. 11131/24/43108-09 (L/F 11505/24/43/08-09-FC)]¹⁸⁸

The Commission received an intimation dated 12 June 2008 from the District Magistrate, Kanpur, Uttar Pradesh stating that one Bachole was tortured in Police custody by three Police personnel in P.S. Maharajpur, Kanpur City, Uttar Pradesh on 11 June 2008. Later, he was shifted to the hospital. Subsequently, he was released in the evening of the same day. On 12 June 2008, Bachole died.

¹⁸⁸. NHRC Annual Report 2011–2012



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

On the basis of an enquiry, the Station House Officer and three other Police personnel of P.S. Maharajpur, Kanpur City were found guilty and placed under suspension. Accordingly, a notice u/s 18 of the PHRA was issued to the Chief Secretary, Government of Uttar Pradesh to show-cause as to why monetary relief be not recommended to the next of kin of the deceased.

In response, the Deputy Secretary (Home), Government of Uttar Pradesh submitted that in connection with the incident, a case u/s 304 IPC and u/s 3(2)/5 of Scheduled Castes and Scheduled Tribes (Protection of Atrocities) Act, 1989 (SC & ST (POA) Act) was registered against the Police officers and after investigation a charge-sheet too had been submitted in the Court. Besides, the errant Police personnel were removed from service, on conclusion of the departmental action against them.

It was further submitted that the Social Welfare Department had paid Rs. 1,50,000/- (Rupees one lakh fifty thousand only) as financial assistance to the next of kin of the deceased under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995. Payment of interim relief to the next of kin of the deceased was not opposed by the State Government. Accordingly, having regard to the violation of human rights of the deceased on account of his death due to torture by the Police personnel, the Commission recommended to the Government of Uttar Pradesh that a sum of Rs. 3,50,000/- (Rupees three lakhs fifty thousand only) be paid to the next of kin of the deceased as monetary relief in addition to the amount that had already been paid to them.

The compliance report along with proof of payment from the Chief Secretary, Government of Uttar Pradesh is awaited.

Case 73: Death of Salim in Police Custody, Saharanpur, Uttar Pradesh [Case No. 25919/24/64/07-08-AD (L/F 31809/24/64/07-08-FC)]¹⁸⁹

The Commission received an intimation dated 3 September 2007 from Senior Superintendent of Police, Saharanpur, Uttar Pradesh regarding one Salim, son of Alibaz, who was wanted in criminal cases No. 1968/99 and 1412/99 registered under the Indian Forest Act, 1927 and a non-bailable warrant was also issued against him by the Court. On arrest, he was brought to Mirzapur Police Station, Saharanpur on 30 August 2007. While being arrested, he sustained injuries. He was subsequently sent to District Hospital, Saharanpur for treatment. From there he was referred to PGI, Chandigarh where he died on 31 August 2007.

The relatives of deceased Salim alleged that he was assaulted by one Rashid and his associates in the presence of Policemen. A criminal case No.148/07 u/s 308/325/326 of IPC was registered against the Police personnel at Mirzapur Police Station on the basis of a complaint made by Awal Hadsan. Sub-Inspector Zile Singh and Head

¹⁸⁹. NHRC Annual Report 2011–2012



Constable Tejvir were arrested in the case and on completion of the investigation, they were charge-sheeted along with some other persons. After trial, the court found that Sub- Inspector Zile Singh was guilty u/s 302 of IPC, as he and his staff had caused fatal injuries to Salim.

Being a prima facie case of violation of human rights, the Commission issued a notice u/s 18 of the PHRA, 1993 to the Chief Secretary requiring him to show-cause why monetary relief be not given to the next of kin of Salim.

The Government of Uttar Pradesh, in their reply to the show-cause notice, admitted that the award of monetary compensation in this case would be justified. In view of that, the Commission recommended to the Government of Uttar Pradesh to pay a sum of ₹5 lakhs as monetary relief to the next of kin of Salim.

Compliance report with proof of payment is however awaited in the case.

Case 74: Alleged Death of Krishna Murthi in Police Custody (Case No. 2349/22/36/08-09-AD-FC)¹⁹⁰

Suhas Chakma, Director, National Campaign for Prevention of Torture, New Delhi submitted a complaint dated 4 February 2009 stating that one Krishna Murthi, a resident of Tiruchirapalli, Tamil Nadu, was arrested by the Police on 31 January 2009 in a case of theft and that he died in Police custody on 1 February 2009 as a result of torture by Police.

An intimation regarding the death of Krishna Murthi was also received from the District Collector, Tiruchirapalli. It was reported that Krishna Murthi was being taken to Tiruchirapalli in connection with the investigation of a theft case. On the way he was given food in a hotel at Tiruverumbur. After taking food, he complained of chest pain and difficulty in breathing. He was taken to Government Hospital Tiruchirapalli and after medical examination in the hospital, the doctor declared him brought dead at 0:45 a.m. on 2 February 2009.

The post-mortem revealed ante-mortem injuries in the form of abrasions, bruises and contusions. These wounds were not sufficient to enable the doctor to determine the cause of death. A histopathology report was then obtained. On consideration of the histopathology report, the doctor opined that the deceased appeared to have died due to blunt wounds on thorax and abdomen as well as liver, kidneys and heart pathology.

During the magisterial enquiry, the Sub-Divisional Magistrate and Revenue Divisional Officer, Tiruchirappalli found that the accused was beaten by the Police during interrogation on account of which he suffered blunt wounds on his chest, stomach and other parts of the body. He was already suffering from ailments of liver, kidney and

¹⁹⁰. NHRC Annual Report 2011–2012



heart. The blunt wounds inflicted by the Police further aggravated the condition, which led to his death.

On consideration of the post-mortem report and magisterial enquiry report, the Commission issued a notice to the Chief Secretary, Government of Tamil Nadu u/s 18 of PHRA to show-cause why monetary relief should not be granted to the next of kin of the deceased.

It was submitted by the State Government that the findings of the magisterial enquiry had been accepted by the State and a financial relief of Rs. 1 lakh was also sanctioned to be paid to the next of kin of the deceased Krishna Murthi.

The Commission, upon consideration of the material on record, observed that the State Government had candidly admitted that the Police officials were accountable for the death of Krishna Murthi and a financial relief of Rs.1 lakh had also been sanctioned to the bereaved family. However, the amount of Rs. 1 Lakh was found to be grossly inadequate by the Commission for the loss of human life as did not commensurate with the loss suffered by the victim due to custodial torture which led to his death. As a result, the Commission recommended to the Government of Tamil Nadu to pay a sum of Rs. 5 lakhs as monetary relief to the next of kin of deceased Krishna Murthi, after adjusting the amount already paid.

Compliance report and proof of payment in the case is awaited.

Case 75: Death of Vinod in Police Custody of Megalgaon Jail, Khiri, Uttar Pradesh (Case No. 11729/24/2003-2004-CD-FC)¹⁹¹

The Commission received intimation dated 19 July 2003 from the Superintendent of Police, Khiri in Uttar Pradesh stating that one Vinod aged 20 years was arrested on 17 July 2003 in a case of theft of a cycle. He was brought to P. S. Megalgaon in Khiri. In the Police Station, he was tortured which resulted in his death.

From the various reports received, it became apparent to the Commission that a criminal case No.470/2003 u/s 342/302/201 of IPC r/w section 3 (2) (v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 was registered against the delinquent Policemen at P.S. Megalgaon. Further, the investigation of the case had been transferred to Sitapur and on completion of the investigation, a charge-sheet was filed in the court.

The Commission was also informed that in accordance with the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995, financial assistance of Rs. 1.5 lakhs was sanctioned and disbursed to the mother of the deceased, and the balance amount of Rs. 50,000/- was to be paid after conclusion of the trial.

¹⁹¹. NHRC Annual Report 2011-2012



While considering the matter, the Commission observed that the financial assistance provided under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules is distinct from the monetary relief which the Commission is empowered to recommend for violation of human rights u/s 18 of the PHRA, 1993. Moreover, the financial assistance that had been given so far was not "compensation or damages" as envisaged under Section 18 of the PHRA. It was only financial assistance under the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules.

Considering all the circumstances, the Commission recommended to the State Government to pay a sum of Rs. 1 lakh as monetary relief to the next of kin of deceased Vinod in addition to the financial assistance given under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules.

As the compliance report and proof of payment was received by the Commission, it closed the case on 11 January 2012.

Case 76: Death of G. Rajendran in Police Custody in Kollam, Kerala (Case No.4/11/2005-2006-CD-FC)¹⁹²

The Commission received a message dated 8 April 2005 from the Superintendent of Police, Kollam, Kerala regarding the case of one G. Rajendran, aged 37 years, who was arrested from Sankar's Institute of Medical Sciences, Kollam on 6 April 2005. He had been accused by a patient, Shajahan, of stealing his mobile phone. He was brought to P.S. Kollam East. The accused complained of uneasiness and he was immediately taken to the District Hospital in Kollam for treatment. There, he was examined by the Medical Officer and declared dead. A complaint was also received from Kim Soo, Programme Coordinator, Asian Human Rights Commission alleging that Rajendran had died on account of torture by the Police in their custody.

The allegation made against the Police was substantiated in the report submitted by the Superintendent of Police, Crime Branch, CB-CID, Kollam. The Crime Branch found that Rajendran had been manhandled and tortured by two Constables and he had sustained injuries as a result of torture. The post-mortem report also revealed fifteen ante-mortem injuries. According to the Post-Mortem Surgeon, the death had occurred due to injuries sustained over the head and trunk. The Police was furthermore, indicted of custodial violence in the magisterial enquiry report.

On consideration of the post-mortem report, CB-CID report and magisterial enquiry report, the Commission prima facie found that G. Rajendran was a victim of Police torture. Accordingly, a show-cause notice u/s 18 of the PHRA was issued to the Government of Kerala through its Chief Secretary.

¹⁹². NHRC Annual Report 2011–2012



The State Government of Kerala informed the Commission that it had paid an amount of Rs. 1 lakh to the next of kin of the deceased. The Commission observed that the amount of Rs. 1 lakh was grossly inadequate for the loss of human life. There could be no justification for torture of G. Rajendran, aged 37 years by the Police. Considering all circumstances, the Commission recommended to the Government of Kerala to pay an additional amount of Rs. 4 lakhs to the next of kin of deceased G. Rajendran as monetary relief. The State Government also issued the necessary sanction for payment of the additional amount of monetary relief. However, the proof of payment is awaited by the Commission.

Case 77: Death of Puttan Majhi, a Senior Citizen in Adampur Police Station, Uttar Pradesh (Case No. 19914/24/05-06-CD)¹⁹³

A message was received by the Commission from the Senior Superintendent of Police, Varanasi that one Puttan Majhi (70 years) was arrested on 6 September 2005 in a case for an offence punishable under Sections 332, 323, 504, and 506 of IPC by the Police of P.S. Adampur. He had fallen sick in the Police Station and was referred to the hospital for treatment and at the same time was released on bail. He, however, died on 14 September 2005 while undergoing treatment. It was further stated that on the complaint of Vitto Devi, daughter of the deceased, a case vide crime No.217/2005 was registered at P.S. Adampur under Sections 323 & 308 of IPC on 6 September 2005 against certain Police personnel. Later, Section 304 of IPC was added in the case and the delinquent Police personnel were placed under suspension.

The reports received in the matter indicated that no magisterial enquiry was ordered in the custodial death case and that a final report had been submitted in the court for want of evidence in the case registered against the Police personnel. The post-mortem report, however, indicated external ante-mortem injuries on the body of the deceased and the cause of death was due to head injury.

After examining the case, the Commission vide its proceedings dated 8 November 2007 directed the State Government to get the matter investigated by the CB-CID, Uttar Pradesh with the permission of the competent court, and also fix responsibility for not holding magisterial enquiry in the death of the victim in Police custody.

In reply, the State Government forwarded a copy of the magisterial enquiry conducted on 27 February 2009 as well as the report of CB-CID, Uttar Pradesh. According to the report of CB-CID, there was enough evidence to prosecute two Police personnel and one official of the Electricity Department for the offences punishable under Section 308, 323, 304 of IPC. The State Government also informed the Commission that a charge-sheet was being filed against the three accused in the court and that based on the findings of the State CB-CID, two more Police personnel including the then Station House Officer (SHO) of P. S. Adampur had been dealt with and punished by

¹⁹³. NHRC Annual Report 2011–2012



the department. According to the report, both these Police personnel were found guilty of releasing the deceased on forged bail and that they were also guilty of medical negligence. The deceased, in fact, was admitted in the hospital as an unknown person by the Police.

The Commission vide its proceedings dated 11 January 2011 directed issue of notice under Section 18 of the PHRA to the Chief Secretary of Uttar Pradesh calling upon him to show-cause as to why interim relief may not be recommended to be paid to the next of kin of the deceased. The State Government proposed that grant of interim relief was justified in the custodial death case and accordingly in compliance with the directions of the Commission, paid an amount of Rs. 3 lakhs to the next of kin of the deceased on 27 September 2011.

The Commission on receipt of the compliance report and proof of payment closed the case on 11 October 2011.

Case 78: Death of Seema Devi due to Torture Committed by Police Officials of Pratap Nagar Police Station, Jaipur, Rajasthan (Case No. 262120/14/2011)¹⁹⁴

The General Secretary, People's Union for Civil Liberties, Rajasthan sent a complaint dated 23 February 2011 to the Commission regarding suicide attempt by one Seema Devi aged 24 years due to atrocities and torture committed on her by the SHO, Pratap Nagar Police Station along with other Police officials. The Commission also received a complaint from the victim who later on committed suicide.

In response to the notice given by the Commission, a letter dated 31 March 2011 was received from the Superintendent of Police, Human Rights and Weaker Sections Cell along with a report from the Additional Superintendent of Police, CB-CID, Rajasthan, Jaipur. On perusal of the same, it was revealed that prior to victim Seema Devi's attempt to commit suicide, she wrote a letter on the basis of which case Crime No. 12/2011 was registered. During enquiry, the statement of Seema Devi was recorded u/s 164 Cr.P.C. and another case Crime No.51/11 u/s 330/376/511/354/323/348/34 of IPC was registered at P.S. Pratap Nagar. It was further revealed that Head Constable, Lai Chand was investigating a report lodged in the Police Station regarding missing of one Hina. During investigation, Yudhvair, Yugvir and victim Seema Devi were called to the Police Station. During the course of interrogation, Inspector Ram Niwas, Head Constable Lai Chand and other Police officials tortured them. Seema was let off at 10.00 p.m. whereas Yudhvair and Yugvir were detained at the Police Station. Seema was directed to come again to the Police Station on 24 January 2011. She felt humiliated and insulted. As a result, she attempted to commit suicide. In both these cases the investigation was in progress.

¹⁹⁴. NHRC Annual Report 2011–2012



The Commission considered the report and observed that the victim Seema Devi along with two others was called at the Police Station where she was harassed, tortured and maltreated. Due to the torture and humiliation inflicted on the victim, she was forced to commit suicide as her human rights were violated. The Commission directed to issue notice u/s 18 of the PHRA to the Chief Secretary, Government of Rajasthan, Jaipur calling upon him to show-cause why interim relief may not be recommended to be paid to the next of kin of the deceased. He was also directed to apprise the Commission about the status of case Crime No.21/11 and 51/11. In reply, a letter dated 5 May 2011 was received from the Deputy Secretary, Department of Home (HR), Government of Rajasthan, Jaipur. On examination, it was found that an amount of Rs. 10 lakhs had already been paid to the next of kin of Seema from Chief Minister's Relief Fund.

The Commission considered the report. Since compensation had been paid to the victim, the report was taken on record and the case closed.

Case 79: Death of Rajpal Bawaria due to Torture in Police Custody in Garhi Harsaru, District Gurgaon, Haryana (Case No. 2570/7116,(08-09-AD)¹⁹⁵

The Commission received a complaint dated 17 December 2008 from the Director, National Campaign for Prevention of Torture (NCPT), Janakpuri, New Delhi alleging that one Rajpal Bawaria, aged around 55 year, r/o Village-Garhi Harsaru, District Gurgaon in Haryana was tortured to death by the Criminal Investigation Agency (CIA) of Haryana Police, following his arrest in a case of theft on 7 December 2008. The Police claimed that the deceased was suffering from an old stomach ailment and died in the hospital as a consequence thereof. Medical examination was not conducted by the Police, though it was claimed that the deceased was injured at the time of arrest. The widow of the deceased also alleged that he was tortured to death by the Police.

As per directions given by the Commission, a team was sent from its Investigation Division for spot inquiry wherein it was found that the Police had conducted a raid at his home, three days prior to the death of the deceased and arrested him. The widow of the deceased, and his four unmarried daughters confirmed the arrest of the deceased from the house. Independent witnesses also confirmed his arrest from his house. The testimony of the village Sarpanch was also against the Police. The doctors who conducted the post-mortem confirmed that the death was caused by pre-existing heart disease which got aggravated by the inflicted injuries.

The Investigation Team too concluded that the Police had tortured the deceased which caused his death. The Team recommended registering a criminal case in connection with the death of Rajpal Bawaria against the delinquent Police officials of CIA, Rewari, and initiate departmental action for the illegal detention of Munna, son-in-law

¹⁹⁵. NHRC Annual Report 2011-2012



of the deceased. In addition, adequate monetary compensation, a house under Indira Awas Yojana, widow pension and BPL ration card to be given to the widow of the deceased were some of the other recommendations made by the Investigation Team.

On consideration of the facts collected by the Investigation Team, the Commission in its proceedings dated 30 November 2011 prima facie found that Rajpal had been kept in illegal detention for two days and he had become a victim of Police torture. Hence, the Commission directed to issue notice u/s 16 of the PHRA to Inspector Jagat Singh of CIA and also a show-cause notice u/s 18 of the PHRA to the Government of Haryana. Despite reminder, the State Government had not yet responded to the show-cause notice of the Commission. Inspector Jagat Singh had, however, asked for copies of statements recorded by the Investigation Team during its enquiry and the same have been sent to him and he had been asked to submit further explanation, if any, in response to the notice of NHRC u/s 16 of the PHRA within a month. His response is still awaited by the Commission.

Case 80: Death of Sampath due to Police Torture in Kerala (Case No. 112/11/10/2010-PCD [L/F 113/11/10/2010-AD])¹⁹⁶

The Superintendent of Police, Palakkad sent a communication to the Commission that a person by the name of Sampath aged 30 years was arrested by the police of Town North Police Station on 29 March 2010. He complained of uneasiness and chest pain and collapsed in the lockup. He was taken to the District Hospital, Palakkad but was declared brought dead.

In response to the notice, the District Magistrate, Palakkad, Kerala submitted a copy each of the inquest, postmortem and magisterial enquiry reports. The inquest proceedings and the postmortem report revealed more than 30 wounds and 63 wounds respectively on the body of the deceased. All these injuries were ante-mortem in nature caused by kicking with shoes, striking against hard surface, compression of lower forearm, wrist, etc. The cause of death given was internal bleeding in tissues and brain and multiple localized trauma.

As per the statements of the relatives recorded during the magisterial enquiry, the deceased died of police torture. The Magistrate concluded on the basis of the statements of witnesses including policemen and relatives and other records that the death of Sampath occurred due to brutal physical torture while he was in police custody.

Upon consideration of the reports on 20 August 2010, the Commission observed that the deceased Sampath was in the custody of the police. As per postmortem report as many as 63 injuries were found on his body. The Magistrate too concluded that Sampath died due to brutal physical torture while in police custody. Prima facie, it

¹⁹⁶. NHRC Annual Report 2012–2013



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

was a case of human rights violation. The Commission thus issued a notice to the Chief Secretary, Government of Kerala, Thiruvananthapuram calling upon to show cause as to why interim relief may not be recommended to be paid to the next of kin of the deceased.

In response, the Additional Chief Secretary to the State Government, Home Department, Thiruvanthapuram conveyed that a CBI investigation is in progress. As such, the payment of interim relief at this stage is premature.

A letter was also received from the Superintendent of Police, CBI, Thiruvanthapuram which revealed that Sampath (the deceased), Manikandan and Kanakraj were picked up by the police and taken to an isolated place at the riverside cottage of Irrigation Department.

There they were brutally tortured by the police with fist blows, lathies, cane, kicking with shoes and other objects. The death of Sampath took place due to the injuries sustained by him for which the police personnel were solely responsible and further investigation was under progress in case crime No.251/10.

The Commission on 10 November 2010 considered the reply as well as the report received from the CBI and observed that Sampath and two others were brutally tortured by the police officials which ultimately led to his death. This clearly indicated high handedness on the part of the police. The Commission thus felt that grant of interim relief to the next of kin of the deceased in the given case is justified. Hence, it recommended payment of interim relief amounting to Rs. 5,00,000 to the next of kin of Sampath.

The Deputy Secretary, Home (SSA) Department, Government of Kerala informed to the Commission that it had sanctioned Rs. 5,00,000 as interim relief to the next of kin of the deceased. He further informed that the State Police Chief acting on the directions of the Government of Kerala had disbursed an amount of Rs. 1,25,000 each to the mother and widow of the deceased. The remaining Rs. 2,50,000 will be paid equally to the two children of the deceased, Sampath.

The Inspector General of Police, Police Headquarters, Thiruvananthapuram, Kerala vide his communication dated 9 May 2012 further informed that balance amount of the interim relief of Rs. 2,50,000 had been disbursed to Saritha, wife of the deceased Sampath, on 12 April 2012. The proof of payment was also annexed.

The Commission considered the matter and noted that as the CBI case was being monitored by the Chief Judicial Magistrate, Ernakulam and in view of the fact that the total amount of interim relief of Rs. 5,00,000 as recommended by the Commission was paid, no further action was called for. The compliance report was taken on record on 3 July 2012 and the case was closed.



Case 81: Death of Rishi Kumar, an innocent person in Police Custody in Jharkhand (Case No. 685/34/7/2011-PCD)¹⁹⁷

The Superintendent of Police, Garhwa, Jharkhand sent an intimation to the Commission that on 19 May 2011 Coy Commander, Bazar Samiti, CRPF apprehended one Rishi Kumar on suspicion and handed him over to Police Station Siristha where on being violent, he was put in the lock-up. In the toilet of the Police Station, Rishi Kumar locked himself and attempted suicide by tightening his banyan (vest) around the neck. He was immediately taken to Sadar Hospital where he died during treatment on the same day.

The Superintendent of Police, Garhwa vide letter dated 30 June 2011 forwarded the copies of inquest, postmortem and magisterial enquiry report. While the inquest report revealed only a light mole mark around the deceased's neck, the postmortem report revealed several abrasions on various parts of the body of the deceased. All injuries were caused by hard and blunt substances.

The Sub-Divisional Magistrate, Garhwa who conducted the magisterial enquiry report concluded that the deceased Rishi Kumar was not a criminal and there was no case registered against him. Because of his abnormal behaviour, he was kept in the lockup where he attempted to commit suicide and later died in Sadar Hospital.

The Chief Judicial Magistrate, Garhwa who also conducted a judicial inquiry over the incident concluded in his report that prima facie it was a case of custodial death and not a case of custodial suicide. He also did not believe that the deceased was mentally sick. The Judicial Magistrate recommended that a case u/s 342/302/201/34 IPC be registered against the erring police officials and the matter investigated by appropriate agency.

The Commission upon consideration of the matter observed that as per the magisterial enquiry report there was no case registered against the deceased. He was also not a criminal. He was kept in the lock-up illegally where he made an attempt to commit suicide and later on died in the hospital on the same day. The human rights of the victim had definitely been violated. The Commission consequently issued a notice to the Chief Secretary, Government of Jharkhand calling upon him to show cause why monetary relief may not be recommended to be paid to the next of kin of the deceased.

The Deputy Secretary (Home), Government of Jharkhand informed that it had no objection to the grant of token amount of compensation to the next of kin of the deceased.



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

The Commission further observed that the Chief Judicial Magistrate who conducted the judicial enquiry had indicted the police officers for custodial death of Rishi Kumar and recommended registration of a criminal case against the erring police officers to be investigated by an appropriate agency. An amount of ` 5,00,000 was recommended to be paid as compensation to the next of kin of the deceased. The Chief Secretary, Government of Jharkhand was directed to send the proof of payment and inform the Commission about the action taken on the judicial enquiry report submitted by the Chief Judicial Magistrate, Garhwa.

In response, the Under Secretary, Home Department, Government of Jharkhand vide communication dated 16 April 2012 forwarded the compliance report along with proof of payment of ` 5,00,000 made to the father of the deceased vide banker's cheque No. 748389 dated 12 April 2012. The Inspector General of Police, CID, Jharkhand vide communication dated 16 April 2012 also informed to the Commission that pursuant to the findings of the judicial enquiry, a case vide FIR No.109/2012 for the offence punishable under Sections 342, 302, 201, 34 IPC was registered at P.S. Garhwa on 14 April 2012 and the same was being investigated.

The Commission upon consideration of the compliance report and the communication from the CID, directed the Director General of Police, Jharkhand to ensure proper supervision of the case being investigated by the State CID as well as ensure that departmental proceedings initiated against the delinquent police personnel are expedited and finalized at the earliest. With these directions, the Commission on 1 May 2012 took the compliance report on record and closed the case.

Case 82: Death of Ghanshyam Lalchand Desani in P.S. Kareli, Vadodara, Gujarat (Case No. 145/6/2005-2006-CD)¹⁹⁸

The Commission received an intimation dated 3 July 2005 from the Commissioner of Police, Vadodara about the death of Ghanshyam Lalchand Dasani, aged 40 years, in the custody of police at P.S. Kareli on 3 July 2005. The deceased was arrested u/s 122 of Bombay Police Act at 5.00 a.m. on 3 July 2005 and brought to the Police Station Kareli in Vadodara city. There, he hanged himself with a bed sheet in the lock-up.

The postmortem report did not reveal any external injury except a ligature mark on the neck. The Postmortem Surgeon attributed the death due to asphyxia as a result of hanging. The postmortem findings were noted by the SDM, Vadodara in his enquiry report in which it was concluded that Ghanshyam Lalchand had committed suicide by hanging himself. The SDM, however, recommended that a special enquiry be conducted by some senior police officer ascertaining the conditions which led Ghanshyam to commit suicide. Accordingly, the matter was investigated by the State CID and the investigating agency came to the conclusion that the prisoner committed suicide in a state of mental depression.

¹⁹⁸. NHRC Annual Report 2012–2013



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

While considering the matter on 14 July 2011, the Commission observed that since the deceased was in custody, it was the duty of the police to see that no harm was caused to him. If proper vigilance had been exercised, the prisoner would not have got an opportunity to commit suicide. The death was solely attributable to the negligence of the concerned police officials. Consequently, the Commission directed that a notice u/s 18 of the Protection of Human Rights Act, 1993 be issued to the Government of Gujarat through its Chief Secretary requiring it to show cause why monetary relief be not given to the next of kin of the deceased.

In response to the show cause notice, a letter dated 18 October 2011 was received from the Commissioner of Police, Vadodara city stating that no compensation is required to be paid to the next of kin of the deceased as he committed suicide. Moreover, the two police officials had been punished for negligence in performing their duties of supervision while the deceased was in custody.

The Commission in its proceedings took the view that the State was under an obligation to protect the life and limb of the deceased and as well as ensure that he may not cause self harm while in custody. The State had definitely failed in its duty to protect the life of the deceased and is vicariously liable for the wrong done to him. The Commission on 14 June 2012 recommended to the State Government to pay a sum of 1,00,000 as compensation to the next of kin of the deceased.

Pursuant to the sanction dated 23 August 2012 issued by the Home Department, Government of Gujarat, for payment of `1,00,000 to the next of kin of the deceased, a compliance report along with the proof of payment has been received by the Commission.

The matter, however, continues to be under the consideration of the Commission.

Case 83: Death of Rajbal in Police Custody in Chhapar, Muzaffarnagar, Uttar Pradesh (Case No. 14530/24/57/09-10-PCD)¹⁹⁹

The Commission received an intimation dated 9 July 2009 from the District Magistrate and the Senior Superintendent of Police, Muzaffarnagar, Uttar Pradesh about the death of one Rajbal, s/o Ratiram in Police custody at P.S. Chhapar, District Muzaffarnagar, Uttar Pradesh on 7 July 2009. One Vijay Pal also made a complaint at P.S. Chhapar, Muzaffarnagar to the effect that seven named accused had beaten up his father Rajbal and uncle Mayaram on account of dispute over a plot of land. As a result of the beating, his father Rajbal, aged 60 years expired. A criminal case No.456/2009 u/s 302 IPC was registered on the basis of his complaint. Section 3 (2) 5 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 was added in the case. The case was initially investigated by the local police and subsequently the investigation was transferred to CB-CID. The investigation by CB-

¹⁹⁹. NHRC Annual Report 2012–2013



CID disclosed that Sub-Inspector Muninder Singh and Constable Ajay had committed offences u/s 302/323 IPC. It was also found by the investigating agency that Constable Sardar Singh had committed offences u/s 323/302/109 IPC. Since a Sub-Inspector and two Constables were found liable for the death of Rajbal by CB-CID, the Commission on 21 April 2011 issued a notice to the Government of Uttar Pradesh directing it to show cause as to why monetary relief be not given to the next of kin of deceased Rajbal.

In response to the show cause notice, the State Government vide its communication dated 10 August 2011 submitted that a chargesheet had been filed in the court against the delinquent policemen. Moreover, financial assistance of Rs.1,50,000 had been given to the next of kin of deceased Rajbal under the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. The State Government added that it had no objection to the grant of additional monetary relief.

Vide its proceeding dated 2 May 2012, the Commission observed that it has been established prima facie during investigation by the CB-CID that Rajbal lost his life in consequence of assault by policemen. As such, the bereaved family deserved to be suitably compensated. Considering all the circumstances of the case, the Commission recommended to the Government of Uttar Pradesh to pay a sum of Rs. 5,00,000 to the next of kin of deceased Rajbal. The amount disbursed as financial assistance under the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 was to be adjusted.

The Special Secretary, Government of Uttar Pradesh vide letter dated 8 February 2013 informed to the Commission that Rs, 3,50,000 had been paid to the next of kin of late Rajbal as recommended by the Commission. The proof of payment was also enclosed. The matter continues to be under the consideration of the Commission.

Case 84: Death of Sandeep Kumar in P.S. Narnaud, Hissar, Haryana (Case No. 1969/7/6/2010-PCD)²⁰⁰

An intimation was received in the Commission on 19 August 2010 from the S.P., Hissar, Haryana mentioning therein that one Sandeep Kumar (age 23/24 years), s/o Mahabir Singh and r/o Rajthal, P.S. Narnaud was arrested by ASI Udai Ram (now retired) in connection with FIR No. 331 u/s 324 IPC dated 18 August 2010. He was kept in the lock-up of P.S. Narnaud. In the police lock-up, Sandeep took off his shirt and tried to strangle himself. The same was seen by the on duty Sentry, Ram Niwas who informed the Munshi of the Police Station and ASI Udai Ram. The lock-up was immediately opened and as the condition of Sandeep was found to be serious, he was rushed to the Community Health Centre (CHC), Narnaud. In the CHC, he was first examined by the para-medical staff and then the Medical Officer. After examination, Sandeep was declared dead by the Medical Officer. On examination of the case, the

²⁰⁰. NHRC Annual Report 2012–2013



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

Commission found inconsistency with regard to the time when the deceased was put in the lock-up, taken out of the lock-up, taken out of the police station premises and shifted to the CHC. Further, no document pertaining to the entry with regard to the admission of the deceased in the CHC was made available. Initially, the deceased was examined by the para-medical staff and then the Medical Officer. But no record regarding these entries was made available.

The Commission directed the Investigation Division to depute a team to visit the concerned Police Station and the CHC immediately for the purpose of obtaining the relevant records and submission of the inquiry report.

The visiting team from the Investigation Division examined the records and documents pertaining to the case of P.S. Narnaud, District Hissar, especially 'Rojnamcha' (General Diary), Malkhana register, wireless message register, case dairy, logbook of gypsy No. HR-39-B-1206 of P.S. Narnaud. The antecedents of deceased Sandeep were also collected from P.S. Narnaud. Similarly, records of the CHC, Narnaud, District Hissar pertaining to the treatment of the deceased Sandeep in OPD and indoor patient were examined. Besides, the team recorded statements of concerned para-medical staff and doctor who treated the deceased.

On going through the records, it was revealed that as per Daily Diary Entry (DDE) No. 2 dated 18 August 2010 at 00.35 a.m., an FIR No. 331/2012 u/s 324 IPC was registered on the complaint of one Ishwar, s/o Tarsem and r/o Villgae Sorkhee, District Hissar against the deceased Sandeep for assaulting him with a knife on the right hand near Shanti Hospital, Narnaud. The deceased was handed over to the ASI Udai Ram along with knife near bus stand of Narnaud where he was on a patrolling duty along with ASI Rameshwar and Constable Sunil. In this regard, Rojnamcha entry No. 43 dated 17 August 2010 revealed that ASI Udai Ram, ASI Rameshwar and Constable Sunil left P.S. Narnaud at 10.10 p.m. for area patrolling. DDE No. 3 dated 18 August 2010 and Rojnamcha entry No. 3 dated 18 August 2010 revealed that the deceased was arrested at 01.00 a.m. and after the arrest, he was searched in P.S. Narnaud but nothing was found from his possession. Information regarding his arrest was given to Kulwant Singh, the then Sarpanch, Rajthal and Suresh Kumar, Ex-Sarpanch Rajthal. Relatives of the deceased were informed as well.

The team found that no specific entry was available either in the records of P.S. Narnaud neither in the CHC, Narnaud. However, as per the statement of Dr. Yashpal Singh, the deceased was brought to the CHC, Narnaud at about 01.50 a.m. on 18 August 2010.

Except for the knife, nothing was found from the possession of Sandeep while he was searched at P.S. Narnaud.



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

It was revealed from the suspension order dated 27 August 2010 issued by the Additional Superintendent of Police, Hissar that the deceased was not taken to the CHC in time.

Statements of the CHC staff did not support the Police version. The role of the then SHO Rohtas in the whole matter was also not clear. Timing of different significant incidents in the entire matter was found to be inconsistent too. Statements of close relatives, i.e. the mother, sister and others were not recorded at any stage.

Though Sandeep was reported to be intoxicated, the Police did not consider it necessary to have him examined upon arrest. No trace of any intoxicant was found in viscera of the deceased. The ligature mark as mentioned in the postmortem report was found to be 2.2 cm. whereas the impression/mark of a shirt should be wider. Two injuries were mentioned on the body in the postmortem report. The Investigation Team thus recommended that a thorough enquiry in the matter may be conducted through CB-CID, Haryana.

The Commission directed the Government of Haryana to send clarifications on all the anomalies, failing which, it may consider having a CB-CID enquiry to resolve the doubts that remain.

Case 85: Death of Rama Shankar due to Police Torture in Chandauli District, Uttar Pradesh (Case No. 30182/24/19/2010-AD, Linked Files 30528/24/19/2010-AD, 32002/24/19/2010-AD, 33025/24/19/ 2010-AD, 31563/24/19/2010-AD)²⁰¹

The Commission on 11 August 2010 took cognizance of a complaint that one Rama Shankar, a Dalit was forcibly picked up by the policemen of Police Station Sakaldiha, Chandauli, Uttar Pradesh on 29 July 2010 at about 8.00 p.m. Later, he died as a result of alleged torture by police.

The Commission sent its team to conduct a spot investigation into the incident. During the course of investigation, the team of the Investigation Division recorded the statements of the wife of the deceased, his relatives and several independent witnesses. Smt. Heerawati, wife of deceased Rama Shankar stated that on 29 July 2010, she had a quarrel with her mother-in-law Smt. Dulari Devi and during a scuffle; Dulari Devi fell down and sustained head injury. Smt. Dulari Devi along with her younger son Santosh went to the Police Station Sakaldiha and lodged a complaint. Thereupon, some policemen came in a jeep and took her husband Ram Shankar with them. While Rama Shankar was being taken by police, she saw that he was being brutally assaulted by the policemen with rifle butt on his head. When she reached the police station, she was told that her husband had been taken to Community Health Centre, Sakaldiha for treatment. The Team of the Investigation Division of the Commission concluded that Rama Shankar was well when he was taken by the police

²⁰¹. NHRC Annual Report 2013–2014



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

in the jeep. However, he was admitted to the Community Health Centre, Sakaldiha in an unconscious condition, from where he was referred to the District Hospital Chaundauli where he was declared brought dead by the doctors.

During postmortem, four ante-mortem injuries in the form of abrasions, contusions and swelling were observed. The doctor opined that the death occurred due to comma as a result of ante-mortem injury to head and brain.

The Investigation Team of the Commission concluded that the injuries mentioned in the postmortem report were in all probability inflicted in police custody. It was also pointed out by the team that the case FIR no. 146 of 2010 u/s 302 IPC registered against six unknown police officers and suspended SI Mahender Ram, Constable Jitender Khanna and Constable Deep Chand at P.S Sakaldiha had not been investigated satisfactorily.

Upon consideration of the report submitted by the investigating team of NHRC and also from the report submitted by the Superintendent of Police, Chandauli, the Commission expressed the view that it was an unusual case of torture inflicted on Rama Shanker by police where the victim was taken by police from his house to the Police Station and was inflicted physical torture as a result of which he died. The Commission viewed the case in the light of the fact that the police took away Rama Shanker without having any FIR in hand. The Commission observed that the registration of a case against police officials and suspension of some of them was a step in the right direction but the case needed to be carried to its logical conclusion by good and professional investigation so that six police officials against whom the case had been registered were clearly identified and departmental action against SI Mahender Ram, Constable Jitender Khanna and constable Deep Chand completed expeditiously and suitable punishment awarded to them.

The Commission in its proceedings dated 7 February 2011 prima facie observed that it was a clear case of violation of human rights and therefore, issued a notice u/s 18 of the Protection of Human Rights Act, 1993 to the Government of Uttar Pradesh to show cause as to why it should not recommend monetary relief to the next of kin of the deceased Rama Shanker Ram. The Commission also directed the Secretary, Home, Government of Uttar Pradesh to get the case No.146/2010 u/s 302 IPC Police Station Sakaldiha investigated by the CB CID.

CB CID did not find any incriminating evidence against the police in its investigation. The enquiry report of CB CID concluded that deceased Rama Shankar Ram was not assaulted or beaten by the police.

Upon carefully examining the investigation report submitted by the Superintendent of Police, CB CID, the Commission vide its proceedings dated 17 September 2013 opined that the investigation was not fair and the evidence was not analyzed in an objective manner. S.I. Mahender Ram was examined during investigation. Sub-



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

Inspector Mahender Ram stated that he went to the house of Rama Shankar for inquiry in NCR No.86/10 u/s 323/504 IPC, and found Rama Shankar Ram present at the door of his house. When he made inquiry from him, he started shouting. Suddenly, he put his hand on his chest and complained of giddiness and pain in chest. In a state of exhaustion, he fell on the arm of a cot lying nearby and sustained injury on his head. Some other witnesses also made similar statement. Thus, the fatal head injury which caused the death of Rama Shankar Ram was explained by saying that he had fallen on the arm of a cot in a state of exhaustion. The Commission observed that the CB CID blindly accepted that explanation. The statements made by the wife and daughters of the deceased and also an independent witness Phoolwati were completely ignored. All those witnesses stated that a Constable had kicked Rama Shankar while he was passing urine. None of them said that Rama Shankar Ram had fallen on the arm of a cot. No question in this regard was put to them by the Investigating Officer. The Commission also observed that there was not a word about Rama Shankar Ram falling on the arm of a cot in the report dated 17 March 2011 received earlier from the Superintendent of Police, Chandauli. The statement of Sub-Inspector Mahender Ram was otherwise inconsistent with the postmortem findings. The Commission did not accept the investigation report of CB CID and observed that they had no reason to ignore the inquiry report submitted by its Investigating Team.

Since the State failed to give a plausible explanation for the fatal injury sustained by Rama Shankar Ram on his occipital and the inquiry by the team of the Investigation Division of the Commission revealed that the said injury might have been inflicted by the police while taking Rama Shankar to the police station, the Commission recommended to the Government of Uttar Pradesh to pay a sum of Rs. 5,00,000 as monetary relief to the next of kin of the deceased Rama Shankar Ram. The Chief Secretary, Government of Uttar Pradesh was directed to submit the compliance report with proof of payment within eight weeks.

Compliance report along with proof of payment is awaited.

Case 86: Death of Ganesh A. Bhosle due to Torture in Police Custody in Beed, Maharashtra (Case No. 334/13/2006-2007-PCD)²⁰²

The Commission on 28 June 2006 took cognizance of the intimation received from Superintendent of Police, Beed, Maharashtra regarding death of Ganesh Americkya Bhosle, aged 21 years in police custody. Ganesh and four others were arrested in crime No.107/2006 Police Station Beed on 14 June 2006 and all of them were remanded to police custody till 19 June 2006. On 19 June 2006 at about 06.20 a.m., Ganesh was taken to Government Hospital with head injury and he died in the hospital on the same day at 01.30 p.m.

²⁰². NHRC Annual Report 2013–2014



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

As per the police version, Ganesh had twice banged his head against the iron bar of the lock up and sustained head injury. The police version was not, however, believed by SDM, Ambajogai who conducted an enquiry into the circumstances of death. The Magistrate concluded that Ganesh had been assaulted by the police in custody. It appeared that in preliminary enquiry by CB CID also, the concerned policemen were found liable for the death and crime No.157/2006 u/s 302 IPC was registered on the complaint by Inspector R.D. Deshmukh. After the investigation of crime No.157/2006, however, the investigating agency concluded that the case had been registered due to misunderstanding and a final report was submitted in the court on 26 February 2007. The final report was accepted by the court on 26 June 2009.

As per the reports, there were nine accused in the lock up on the date of occurrence. Out of them, five including Ganesh were from crime No.107/2006 and they were sleeping near the wall in the south-north direction. The other four were involved in crime No.134/2006 and they were sleeping near the iron bars. The four accused who were sleeping with Ganesh near the wall reiterated during investigation that Ganesh had been assaulted by the police. The other four initially feigned ignorance on the pretext that they were sleeping but subsequently they supported the police version and stated that Ganesh had banged his head against the iron bars. Their statements u/s 164 Cr.P.C. were also recorded. The investigating agency relied on the statements of these four accused. It was also pointed out that during post mortem, injuries had been observed at different parts of the head and such injuries could not have occurred due to a single assault. There was, however, no explanation as to why the statements of the four accused who were sleeping with Ganesh near the wall were disbelieved.

The post mortem findings in this case were revealing. Contusions were seen on the right sole and the left sole of the deceased. These injuries belied the police version because such injuries could not have been caused by banging of the head against the iron bars of the lockup. According to the Surgeon who conducted postmortem, the death occurred due to fracture, dislocation of cervical vertebra with peri spinal haemorrhage. This conclusion of the Postmortem Surgeon was also inconsistent with the police version.

Upon consideration of various reports, the Commission rejected the police version and observed that the post mortem findings indicated that Ganesh Americkya Bhosle was assaulted by the police while he was in custody. The Commission issued a notice to the Government of Maharashtra requiring it to show cause why monetary relief u/s 18 of the Protection of Human Rights Act, 1993 be not given to the next of kin of Ganesh Americkya Bhosle.

In response to the show cause notice, the State Government informed that an amount of Rs. 1,00,000 had already been paid to the wife of the deceased as compensation.



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

Upon consideration of the reply to the show cause notice, the Commission vide its proceedings dated 8 August 2013 observed that the amount of Rs. 1,00,000 was grossly inadequate for the loss of human life. Since Ganesh Americkya Bhosle was only 21 years old and he died in the prime of youth as a result of police torture, the Commission held that the State must pay suitable compensation to his family. Considering all circumstances, the Commission recommended to the Government of Maharashtra to pay a sum of Rs. 5,00,000 to the next of kin of deceased Ganesh Americkya Bhosle as monetary relief, adjusting the amount of Rs. 1,00,000 which had already been paid. Chief Secretary, Government of Maharashtra was asked to submit the compliance report with proof of payment within eight weeks.

Compliance report along with proof of payment is awaited.

Case 87: Suicide by S. Barla due to Torture in P.S. Kadamtala, Andaman and Nicobar Islands (Case No. 3/26/0/07-08-PCD)²⁰³

The Commission on 8 June 2007 took cognizance of an intimation received from Inspector General of Police, Andaman and Nicobar Islands about death of one Suprian Barla, aged 27 years on 17 April 2007. It was reported that Suprian Barla had been arrested at about 5.00 p.m. on 17 April 2007 in Crime No.8/2007 u/s 324/504/506 IPC registered at Police Station Kadamtala on the complaint of one Mary Prabha Kujur. It was also reported that SHO, Police Station Kadamtala allowed Mary Prabha Kujur to beat Suprian Barla with her chappal and as a result of that humiliation, Suprian Barla who was already emotionally charged, escaped from police custody and committed suicide by hanging himself in his hut which was situated at a distance of 120 meters from the police station. FIR No. 551/2007 u/s 302, 342, 218, 201 IPC was registered against the SHO, Police Station Kadamtala.

In pursuance of the directions of the Commission, relevant reports were received from concerned authorities. The postmortem report revealed a small cut injury over inner aspect of plantar surface of left foot besides a ligature mark extending from the front of neck to both sides behind the ears. The hyoid bone was found fractured. The Surgeon who conducted postmortem opined that the death had occurred due to asphyxia caused by complete obstruction of the upper airway due to a constricting force of a ligature tied around the neck by which the body was suspended. According to him, the hanging was suicidal in nature.

The police version was questioned by the father of the deceased and on his complaint, Case No.551/2007 u/s 302/342/218/201 IPC was registered at Central Crime Station, Port Blair against the SHO, Police Station Kadamtala and other policemen.

The theory of suicide was also disbelieved by the Judicial Magistrate, Mayabunder who enquired into the circumstances of death. The Magistrate noted that the body of

²⁰³. NHRC Annual Report 2013–2014



the deceased was in a standing position with foot on the floor and the ligature material was not fastened tightly around the neck so as to cause any blockage. He also observed that hyoid bone was not, as a rule, fractured by any means other than by strangulation. The Magistrate concluded that it was a case of homicidal death in police custody.

During investigation of the case No. 551/2007, it was found that the Officer-in-charge of the police station had insulted and tortured the deceased while he was in custody. The I.O. concluded that the humiliation and torture inflicted by the police had driven Suprian Barla to take the extreme step of suicide. He recommended prosecution of the police officer for abetment of suicide and other offences.

On consideration of various reports, the Commission held that there was positive evidence of the deceased having been assaulted in the police custody. It was also noticed that the police was negligent in allowing Suprian Barla to escape from custody. Hence, the Commission issued a notice u/s 18 of the Protection of Human Rights Act, 1993 to the Chief Secretary, Government of Andaman and Nicobar Islands requiring him to show-cause as to why monetary relief of Rs. 3,00,000 be not given to the next of kin of deceased Suprian Barla.

Responding to the showcause notice, Deputy Secretary (Home), Andaman & Nicobar Administration informed the Commission that the Administration had no objection to pay monetary relief of Rs. 3,00,000 to the next of kin of the deceased Suprian Barla.

In view of the fair stand taken by the Andaman & Nicobar Administration, the Commission vide its proceedings dated 5 June 2013 recommended that an amount of Rs 3,00,000 be paid as monetary relief to the next of kin of the deceased Suprian Barla.

Andaman & Nicobar Administration vide its communication dated 17 September 2013 informed that the amount of Rs. 3,00,000 as recommended by the Commission had been paid to Shri Punna Barla, father of deceased Suprian Barla.

In view of compliance of its recommendation, the Commission vide its proceedings dated 6 December 2013 closed the case.

Case 88: Death of Ajay Mishra in Davoh Police Station, Bhind, Madhya Pradesh (Case No. 675/12/7/2012-PCD)²⁰⁴

The Commission on 28 March 2012 took cognizance of an intimation received from the Superintendent of Police, Bhind, Madhya Pradesh regarding death of one Ajay Mishra on 12 March 2012, while in the custody of Police Station Davoh in Bhind, Madhya Pradesh. It was informed that three accused, Vikesh, Pankaj and Ajay Mishra were arrested on 7 March 2012 in connection with FIR no. 24/12 registered for

²⁰⁴. NHRC Annual Report 2013–2014



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

commission of an offence u/s 392 IPC. On 11 March, the officer-in-charge, Police Station Davoh admitted sick Ajay Mishra in the Primary Health Centre in Lahaar, where he died on 12 March 2012 while undergoing treatment.

Pursuant to the directions of the Commission, relevant reports were received from the authorities.

The inquest, conducted by a Judicial Magistrate, revealed 12 injuries on the body of the deceased Ajay Mishra. In the postmortem report, nine abrasions, two contusions and the right eye blackened were mentioned and the cause of death was given as “cardio-pulmonary arrest leading to shock and death”.

The magisterial enquiry, conducted by a Judicial Magistrate, took testimony, among others, from the father of the deceased, who claimed that his son was arrested on the 2 March 2012. He deposed that on 4 March 2012 when he asked about his son, Ajay Mishra from the officer in charge of Police Station Davoh, he was taken out from the lockup and beaten mercilessly in his presence. The father of the deceased alleged that he was asked to pay Rs. 50,000 to the officer for his release, but despite having paid the demanded money, his son was again beaten in front of him and not released and a further sum of Rs. 50,000 was demanded. The father of the deceased Ajay further stated that he then met the SDPO, who gave him an assurance that his son would not be beaten, but would be charge sheeted after Holi. The father of Ajay found his son dead on 12 March 2012. Other witnesses confirmed during the magisterial enquiry that Ajay Mishra had been arrested by Shri R.C. Arya, the officer in-charge of Police Station Davoh, on the 2 March 2012. News of the arrest had been carried by a local newspaper on 3 March 2012. The Commission observed that it had been established from the findings of the magisterial enquiry that the Superintendent of Police, Bhind had falsely reported to the Commission that the arrest was made on 7 March 2012.

The magisterial enquiry also confirmed that Ajay Mishra had been beaten on the 3 and 6 March 2012 in police custody. He was shown arrested by the police on the 7 March 2012 in police custody, produced before the Magistrate on the 8 March 2012, and taken on police remand till 12 March 2012. Witnesses confirmed to the magisterial enquiry that he had again been beaten during the period of remand. According to the report of the magistrate, when Ajay Mishra was medically examined after his formal arrest on the 7 March 2012, the doctor found three injuries on him, whereas 12 injuries were recorded in the postmortem report. The Commission observed that it was a clear indication that he had been savagely beaten throughout the period that he was in the custody of the police, first in illegal detention and thereafter on remand.

The Magistrate concluded that i) the late Ajay Mishra had indeed been in the custody of the police from the 2 March 2012, though he was shown arrested on the 7 March, 2012; ii) he had been kept in illegal detention from 2 to 7 March; iii) had been beaten



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

throughout at the police station; and iv) had died from injuries which caused loss of blood, resulting in cardio-pulmonary arrest.

The magisterial enquiry, therefore, established that extremely grave crimes were committed by the policemen concerned, first in the illegal detention of a man for five days, and thereafter the much more serious offence of torturing a man to death. For these grievous violations of human rights, the Commission held that it was essential for the State Government to make reparations to the next of kin, and to punish the guilty.

Accordingly, the Commission directed the Chief Secretary, Government of Madhya Pradesh to i) show cause as to why it should not recommend relief for the next of kin of the deceased Ajay Mishra; ii) report on the action taken, including departmental action, against the policemen concerned, on the basis of the findings of the magisterial enquiry; and iii) order an immediate enquiry by the CBCID into the circumstances of the arrest and death of the late Ajay Mishra.

In response, the Additional Secretary to the Government of Madhya Pradesh, Home Department intimated that a case crime No.93/13 u/s 304, 323, 34 IPC had been registered against Sub-Inspector, Ramesh Chand Arya and Constables Ashok Kumar and Surender Singh.

Since required reports were not received within the stipulated time, the Commission vide its proceedings dated 10 January 2014 directed to issue a reminder to the Chief Secretary, Government of Madhya Pradesh to send a reply to the show cause notice within eight weeks failing which it would assume that the Government of Madhya Pradesh had nothing to contend and would make appropriate recommendations on the basis of material available on record. The Commission also directed the Chief Secretary to send the CBCID enquiry report and a report on departmental proceedings initiated against the erring officials in the light of the findings of the magisterial enquiry. Reports are awaited.

Case 89: Death of Satish in Lock-up at Police Station Sadar Dadri, Bhiwani, Haryana (Case No. 898/7/2/2012-PCD)²⁰⁵

As per the guidelines of the National Human Rights Commission, the Commission received intimation from the Superintendent of Police, Bhiwani, Haryana regarding death of one Satish, s/o Bhagat in the lock up of Sadar Dadri Police Station of District Bhiwani at about 12.20 a.m. The deceased was arrested on 13.3.2012 in a case u/s 498-A/304-B/34 IPC. In the morning, during the checking of police lockup, the accused was found hanging with a piece of quilt. He was taken to hospital where he was declared dead.

²⁰⁵. NHRC Annual Report 2014–2015



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

The Commission took cognizance of the intimation and requested its Director General (Investigation) to collect requisite reports from concerned authorities. Pursuant to the directions of the Commission, its Investigation Division obtained relevant reports from authorities.

As per the reports received from authorities, a crime case No.46/2012 was registered at Police Station City Dadri against the SHO and some other persons on the complaint of one Devi Lal. The allegations could not be, however, substantiated during investigation and a closure report has been submitted in the court.

The post mortem revealed eight abrasions/contusions besides a ligature mark. The doctor opined that the death had occurred due to ante mortem hanging. An inquiry into the circumstances leading to the death of Satish was conducted by Judicial Magistrate, First Class, Charkhi Dadri. The Magistrate did not believe the police version and rejected the story of suicide.

The Commission took note of the fact that the injuries observed during post mortem had remained unexplained. On consideration of the post mortem report, magisterial inquiry and other material available on record, the Commission issued notice to the Government of Haryana requiring it to show cause why monetary relief be not recommended to be paid to the next of kin of deceased Satish.

Responding to the show cause notice, the State Government submitted that the Commission may take such action as it deems fit with regard to the issue of awarding suitable monetary relief.

In view of the stand taken by the State Government and also on consideration of various reports available on the record, the Commission vide its proceedings dated 13.08.2014 recommended to the Government of Haryana to pay a sum of Rs. 3 lakhs as monetary relief to the next of kin of deceased Satish. The Commission further directed that if the deceased was survived by children, the amount should be kept in fixed deposit in a nationalized bank and the children would get the money on attaining majority. It also directed that the amount of monetary relief should be paid to the parents of the victim, if the deceased had left behind no child.

The Additional Chief Secretary, Government of Haryana (Home Department) has conveyed the sanction accorded by the Government of Haryana for payment of compensation of Rs. 3,00,000/- to the next of kin of the deceased Satish as recommended by the Commission. However, proof of payment was still awaited.



Case 90: Death of Kamlesh Kumar Singh in Police Custody in Azamgarh, Uttar Pradesh (Case No. 16296/24/6/2011-pcd)²⁰⁶

The Commission received intimation from the Superintendent of Police, Azamgarh, regarding suicidal death of Kamlesh Kumar Singh in police custody. It was reported that a murder case was registered at Police Station Gambhirpur on 6th April, 2011 and during investigation of the case, the name of Kamlesh Kumar Singh came to light. He was arrested on 14th April, 2011 and the next day he committed suicide in the toilet of the police lock up by hanging himself with shirt and pant from the lamp post at about 8.03 a.m. The Commission also received two more complaints on the issue and they were separately registered and the two cases were linked up with this case.

The Commission took cognizance of the intimation and vide its proceedings dated 18.05.2011 requested its Director General (Investigation) to collect requisite reports from concerned authorities. Relevant reports were received from the authorities. The postmortem report revealed abrasions and bruises on the neck of the deceased and the surgeon who conducted post mortem opined that the death had occurred due to pressure on neck and thoracic cage resulting in asphyxia and shock.

An inquiry into the circumstances of death was conducted by Judicial Magistrate, Azamgarh who did not believe the story of suicide. Dr. Vimlesh Kumar, who conducted the postmortem, deposed before the Magistrate that the postmortem started at 3.10 PM on 15th April, 2011 and the Rigor Mortis had fully developed. He stated that it takes at least 12 hours for full development of Rigor Mortis. This would mean that the death had occurred between 3.00 a.m. and 4.00 a.m. and not at 8.00 a.m. as alleged by the police. The Magistrate also noted that pressure marks and not ligature mark were observed on the neck. The pressure marks were parallel and not oblique. Considering the observations made by the post mortem surgeon, the Magistrate concluded that it was a case of homicidal death.

On consideration of the Magisterial Enquiry Report and postmortem report, the Commission in its proceedings dated 15.01.2014 did not believe the police version that Kamlesh Kumar Singh hanged himself in the police lock up. The Commission observed that it appeared to be a case of homicidal death and therefore, directed to issue a notice under Section 18 of the Protection of Human Rights Act, 1993, to the Government of Uttar Pradesh to show cause as to why monetary relief be not recommended to be given to the next of kin of the deceased Kamlesh Kumar Singh. Chief Secretary, Government of Uttar Pradesh.

In response to the show cause notice, Special Secretary, Government of Uttar Pradesh vide communication 02.7.2014 informed that after the death of Kamlesh Kumar Singh, the crime case No.236/2011 P.S. Gambhirpur which was registered against the police personnel was inquired into by Judicial Magistrate, Azamgarh. After

²⁰⁶. NHRC Annual Report 2014–2015



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

completion of the investigation, a final report dated 5.1.2012 was filed in the court and the same was accepted by Chief Judicial Magistrate, Azamgarh on 12.3.2012. It was also reported that a PIL No.25922, PUCL & Others Vs State of Uttar Pradesh was filed in the High Court of Allahabad and the same was dismissed by the High Court.

Upon perusal of the order passed by Chief Judicial Magistrate (CJM), Azamgarh and also the order passed by the High Court, called for from the State government, the Commission in its proceedings dated 10.02.2015 made these observations:

“The PIL was dismissed by the High Court because it was not pressed by the petitioner. The closure report filed by the local police was accepted by CJM, Azamgarh in crime No.236/2011 P.S. Gambhirpur on the ground that the mother of deceased Kamlesh Kumar Singh on whose complaint, the case was registered had stated in the court that she was satisfied with the investigation of police and she also stated that she had made the complaint against police under some wrong impression.

On perusal of the order passed by CJM, Azamgarh, we find that the Learned Magistrate did not at all discuss the merits of the case in the order. We cannot, however, ignore the medical evidence which points to a homicidal death. According to the police, Kamlesh Kumar Singh committed suicide at about 08.00 a.m., whereas the post mortem report suggests that the death had taken place between 03.00 to 04.00 a.m. Moreover, the parallel pressure marks on the neck suggest that it could not be a case of hanging as suggested by the police.”

With the aforesaid observations, the Commission recommended to the Government of Uttar Pradesh to pay a sum of Rs. five lakhs as monetary relief to the next of kin of deceased Kamlesh Kumar Singh. Chief Secretary, Government of Uttar Pradesh was asked to submit the compliance report with proof of payment within eight weeks. Compliance report is awaited.

Case 91: Custodial Death of Rupabhai in Ambaji Police Station, District Banaskantha, Gujarat (Case No. 237/6/4/08-09-PCD)²⁰⁷

The Commission received intimation from the Superintendent of Police, Banaskantha, Gujarat regarding the custodial death of one Rupabhai. It was reported that Rupabhai was arrested on 13.4.2008 at 07.30 p.m. along with nineteen other persons. He was kept in the Community Hall of Ambaji Police Station where he hanged himself with a scarf in the toilet. Constable Hareshbhai Dahyalal saw him hanging in the toilet on 14.4.2008 at 05.15 p.m. The Commission also received a complaint from Shri Damore Ishwarbhai, nephew of deceased Rupbhai alleging that his uncle had become victim of police torture.

The Commission took cognizance of the matter and requested its Director General (Investigation) to collect requisite reports from concerned authorities.

²⁰⁷. NHRC Annual Report 2014–2015



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

According to the reports received from authorities, Additional Civil Judge and Judicial Magistrate First Class, Danta made an inquiry into the matter. He examined several witnesses and on consideration of evidence, he concluded that Rupabhai had committed suicide.

The allegation of torture made by the complainant Damore Ishwarbhai was also negated by the post mortem report as no evidence of injury was found.

Upon consideration of the matter on 18.09.2013, the Commission observed as under:

“That is not, however, the end of the matter. It was the duty of the detaining authority to safeguard the life of the prisoner. The dead body was seen by a Constable at 05.15 p.m. This would mean that the suicide was committed during day time. If the police staff had been vigilant, the unfortunate incident could have been averted. The death of Rupabhai is thus attributable to the negligence of police.”

Hence, the Commission directed to issue a notice to the Government of Gujarat requiring it to show cause as to why monetary relief u/s 18 of the Protection of Human Rights Act, 1993 be not recommended to be paid to the next of kin of deceased Rupabhai. The Chief Secretary, Government of Gujarat was asked to respond to the show cause notice within six weeks.

In response to the show cause notice, Deputy Secretary, Home Department, Government of Gujarat pointed out that the Additional Civil Judge, who inquired into the circumstances of death did not make any adverse remark against the police in his report. It was contended by the State that the deceased had taken wrong advantage of the right of privacy and went inside the latrine and committed suicide.

Upon consideration of the reply of the State, the Commission observed that the incident took place in the latrine and the accused person undoubtedly had the right of privacy but the response of the State has to be considered as a whole. The Commission emphasized on the following part of the response of the State: “In this case, if the police staff had been vigilant, the unfortunate incident could have been averted and for this investigation was started and as per recommendation of the inquiry report, ASI Ramjibhai Bhurjibhai was given punishment to stop one increment for one year (with future effect) and PSI T.B. Rathod was given punishment to stop one increment for six months (without future effect).”

Considering that two police officers were punished for negligence in connection with the death of Rupabhai, the Commission in its proceedings dated 19.07.2014 further observed that the State cannot escape its vicarious liability and therefore, recommended to the Government of Gujarat to pay an amount of Rs. One lakh as monetary relief to the next of kin of deceased Rupabhai. Chief Secretary, Government



of Gujarat was asked to submit compliance report with proof of payment within six weeks.

On receipt of proof regarding payment of Rs. 1.00 lakh as recommended by the Commission to Shri Bhoj Bhai, brother of deceased Rupabhai Jalmabhai by the Government of Gujarat, the Commission closed the case.

Case 92: Death of Witson M. Sangma in Police Custody due to Alleged Torture in Garo Hills Area of Meghalaya (Case No. 40/15/1/2014-AD)²⁰⁸

The Commission has received a complaint from Ms. Agatha Sangma, former Minister, Government of India, ex-MP, National Peoples alleging human rights violation in the Garo Hills area of Meghalaya by the State Police. It has been alleged that Witson M. Sangma has died on 27.5.2014 in the police custody due to extreme police torture. The complainant has requested the Commission for an enquiry into the matter and action be taken against the irresponsible police officers.

Pursuant to the directions of the Commission, all the relevant reports have been received.

The inquest report in respect of Witson M. Sangma indicates that the inquest proceedings were conducted by ADM, South Garo Hills who noticed bruised injuries on the back, buttocks and thigh area which have turned blackish. The post mortem report indicated seven bruises on the person of the deceased. The cause of death as opined in the post mortem report was shock due to injury to different parts of body caused by blunt trauma and the antecedent cause is hypertension. The death was homicidal in nature.

The magisterial enquiry report prepared by ADM, South Garo Hills, Baghmara revealed that Witson M. Sangma was picked up from Chokpot by the Chokpot police in the morning hours of 27.5.2014 in connection with a criminal case. The report further revealed that Witson M. Sangma was arrested vide GD No. 322 dated 27.5.2014 and medically examined by Dr. Roswell Sangma at CHC Chokpot at 4.45 p.m. wherein upon examination of the patient, the concerned doctor found the patient to be hypertensive and his BP was measures by 150 by 110 mhg. He opined that the medical reports do not indicate any physical injury on the body of the deceased. According to him, the deceased was brought back to the Police Station and again kept in the lock up after medical check-up at around 6.15 PM and his close relatives i.e. wife, brother and brother-in-law met him in the lockup. He was again interrogated for 15-20 minutes by Shri A.K. Marak, OIC, Chokpot, SI Robio Nongrum, SI Lucious A. Sangma, SI T.S. Mawdoh and again put back in the lockup. The enquiry report indicated that the on duty sentry checked up at 9 PM and found him alive. But sometimes later on, when he again checked him at 11.30 p.m., the deceased did not

²⁰⁸. NHRC Annual Report 2014-2015



respond. After which, the said sentry informed all his seniors about the condition of the patient. Subsequently, the doctor was called in to check up the condition of the deceased but he declared him dead at 12.20 a.m. The Enquiring Magistrate concluded that the deceased Witson M. Sangma was found bruises on his lower back, buttocks, lateral aspect of upper thigh, left arm, dorsal aspect of right middle finger and ventral aspect of right index finger. The Enquiry Magistrate after perusing the relevant records had concluded that the deceased got these injuries after his first medical examination while he was interrogated by the above mentioned police officials. According to him, the bruises seen on the medial aspect of the left arm is also suggestive of injuries made when his hands were tied and raised upwards. The Judicial Magistrate finally concluded that the bodily injuries caused to Witson M. Sangma must have been precipitated is already hypertensive condition and that is why he died while in the lockup.

The Commission further considered the matter on 02.01.2015 when it observed and directed as under:-

“Undeniably the deceased was in the police custody and it is established that the injuries sustained by the deceased on his person was because of police torture that ultimately led him to death. This is a case of gross violation of human rights of the deceased. The State is strictly liable for the loss of his life. The Chief Secretary, Government of Meghalaya is directed to show cause u/s 18(1) of the PHR Act, 1993 as to why a monetary compensation of Rs. 5 lakhs should not be recommended to be paid to the next of the kin of the deceased within six weeks. The report should indicate what legal action both criminal and departmental have been taken against the erring police officials involved in the incident. Report within six weeks.”

In response, the State Government has submitted that during their enquiry, five police personnel have been found blameworthy and departmental enquiry has been initiated against them. The Commission upon consideration of the matter has directed the State Government to submit the compliance report together with proof of payment.

Case 93: Death of Devu Sattababu in Puducherry Police Custody (Case No.56/32/4/2011-PCD)²⁰⁹

The Commission received a complaint from Devu Chandra Kala alleging that her husband Devu Sattababu was taken away by the police on 10 November 2011 and he died on 11 November 2011 while in police custody. It was further alleged by her that she was even deprived of right to meet her husband. Moreover, the police did not file any FIR as to the death of her husband. She thus prayed for action against the police officer on duty as well as compensation for violation of her rights. The Commission also received intimation from the District Magistrate, Puducherry in this regard.

²⁰⁹. NHRC Annual Report 2015–2016



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

The Commission took cognizance of the complaint on 14 December 2011 and pursuant to its directions, the report dated 2 February 2015 was received from the Deputy Inspector General of Police, Puducherry wherein it was stated that Devu Sattababu died on account of consuming poison which fact was known to five police officers and a case had been registered. On completion of investigation a charge sheet too had been filed in the case.

On consideration of the report, the Commission on 28 April 2015 observed that the report itself admits that the death had occurred while in police custody and due to negligence of their officers, hence the next of kin of the deceased must be compensated. The Commission, thus awarded a compensation of Rs. 3,00,000/- (Rupees Three Lakhs only) to the complainant, that is the wife of the deceased Devu Sattababu and the Chief Secretary, Government of Puducherry was asked to submit the compliance report within eight weeks.

The compliance report has since been received conveying payment of compensation of Rs. 3,00,000/- (Rupees Three Lakhs only) to the next of kin of the deceased. The case has been closed by the Commission.

Case 94: Death of an Accused Madan (23 Years) on 18.08.2015 in the Custody of PS Central Faridabad, Haryana (Case No. 7030/7/3/2015-PCD)²¹⁰

The Commission received an intimation that one Madan, aged 23 years, was arrested by the Faridabad Police on 18.08.2015 at 0040 hrs. in connection with a theft case. Soon after the arrest, his health condition deteriorated and he was rushed to the nearby Badshah Khan Hospital, Faridabad, where he died at 0440 hrs., while undergoing treatment.

The Commission examined all the reports in the matter received from the State authorities. It was reported that Madan was arrested on 18.08.2015 at 12.40 a.m. He was declared dead at 04.40 a.m., within four hours of his arrest. There was nothing on the police record to show the time of his arrest. Further, he was not medically examined immediately after his arrest. Fifteen injuries were noticed on the body of the deceased during inquest proceedings and 11 injuries were noticed in the post-mortem report, which remained unexplained. Copy of the Daily Dairy revealed that, on 17.08.2015, HC Sandeep lodged his departure in case investigation vide Sl. No. 13 at 10.30 p.m. The information of arrest and death of Madan was lodged in the daily dairy vide DD No. 3 dated 18.08.2015 at 3.20 p.m., which was 11 hours after the death. The mother of the deceased alleged that her son was picked up on 11.08.2015 from Munirka bus stand seven days prior to his death. According to the Magisterial Enquiry Report, there were several contradictions in the statements of the police officials as regards the mode of travel, time of arrest, etc. According to the Magistrate, such contradictions in the statements recorded barely hours after the death could only be

²¹⁰. NHRC Annual Report 2016–2017



interpreted as deliberate concoction of false stories in order to cover up the misdeeds of the police. Thus, the Enquiry Magistrate concluded that the death of accused Madan was a result of injuries inflicted upon him in the police custody. On the findings of the Enquiry Magistrate, a case FIR No. 134/16 dated 13.04.2016 u/s 302/343/34 IPC was registered at P.S. Central Faridabad against the police personnel and was being investigated by the Crime Branch.

4.11 The Commission took note of the shocking state of affairs that indicated that the policemen who were in search of an accused in a theft case, picked him up and tortured him to death without anybody's knowledge. The facts narrated by the police were a sheer attempt to hide the incident under the pretext of investigation of the theft case. No civilized law allowed custodial cruelty. The cruelty, as found resorted to by the police officials, showed that the same sprang out of a perverse desire to cause suffering rather than eliciting any material evidence relevant to the case. The police officials crossed all the limits of civility. The conduct of the said police officials amounted to a gravest violation human rights of the deceased. The Commission has directed the Government of Haryana to show cause under Section 18(a)(i) of the Protection of Human Rights Act, 1993 as to why a monetary compensation of ` 5,00,000/- (Rupees Five Lakh only) should not be recommended to be paid to the next-of-kin of the deceased. 4.12 The matter is still under consideration of the Commission.

Case 95: Death of one Manoj Rana in the Police Custody of P.S. Bindapur, Delhi (Case No. 2929/30/9/2014-AD)²¹¹

4.22 The Commission received a complaint dated 27.05.2014 from Shri. R.H. Bansal, Chief Editor, Human Rights Observer, Delhi regarding death of one Manoj Rana on 26.05.2014, in the police custody of PS Bindapur, Delhi. The complainant alleged that the victim was picked up from his house by five police personnel of PS Bindapur, Delhi and took him to Police Post, Matiala where he was subjected to inhuman treatment/ assaulted/tortured, due to which the condition of the victim became critical. He was taken to DDU Hospital, New Delhi, for treatment but he was declared "brought dead" by the doctors.

4.23 The Commission took cognizance of the matter on 03.06.2014 and obtained the requisite reports after protracted correspondence. The Commission perused the record on 25.01.2017 and observed that the police officials of Police Station Bindapur, New Delhi picked up the deceased from his house and took him to Police Station where he was /tortured and beaten up. Later his dead body was found in DDU Hospital, New Delhi which was left abandoned by unknown persons in muffled faces. The enquiry magistrate has concluded that the deceased had been beaten by police officials and there were as many as 20 injury marks on the body of the deceased. The enquiry

²¹¹. NHRC Annual Report 2017–2018



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

magistrate concluded that the death of the deceased was unnatural and homicidal in nature. Moreover, a charge sheet had been filed against the accused police officials in the Court.

4.24 The Commission took note of the shocking state of affairs that indicated that the police officials were involved in a criminal act of beating, torturing and killing the victim without anybody's knowledge. No civilized law allowed custodial cruelty. The police officials crossed all the limits of civility. The conduct of the said police officials amounted to the human rights violation of the deceased, especially the right to life of the victim. 4.25 The Commission, therefore issued a notice to the Chief Secretary Government of NCT of Delhi calling upon him to show-cause as to why monetary compensation of ` 5,00,000/- (Rupees Five Lakhs only) should not be recommended u/s 18(a)(i) of Protection of Human Rights Act, 1993 to be paid to the next-of-kin of the deceased Manoj Rana for violation of his human rights.

4.26 Pursuant to the directions of the Commission, Deputy Commissioner of Police, Vigilance, Delhi submitted report dated 12.5.2017 which revealed that the accused police officials namely Ct. Bhoop Singh, Ct. Rajesh Solanki, Ct. Uttam, Ct. Rajesh, Ct. Sudhir and Ct. Arvind brought the victim to the old building of PS Bindapur (PP East Uttam Nagar). The deceased Manoj was subjected to torture to extract information about a gunshot fire incident and recovery of firearm and due to torture and beating he died. The police personnel took Manoj to DDU Hospital in Maruti Alto Car No. HR 19F 3741 of the accused Ct. Arvind Kumar and left his body abandoned. The report further revealed that after completion of investigation, charge sheet against the above named accused police personnel was filed before the Court on 22.8.2014. The case was pending trial before the Court. The report admitted that in the circumstances narrated above, the above police officials have, prima facie, violated the human rights of the deceased, especially the right to life of the victim Manoj Rana. Hence, compensation may be given to the next of kin of deceased Manoj Rana.

4.27 The Commission again considered the matter on 23.05.2017 and recommended a monetary compensation of ` 5,00,000/- (Rupees Five Lakhs only) to be paid to the next of kin of the deceased Manoj Rana for violation of human rights. 4.28 Pursuant to the directions of the Commission, the Additional Commissioner of Police/ Complaint (Vigilance) Delhi submitted the report dated 12.01.2018 along with proof of payment of ` 5,00,000/- (Rupees Five lakhs only) to the next-of-kin of the deceased Manoj Rana. Since the monetary compensation has been paid to the next-of-kin of the deceased, the Commission closed the case on 31.01.2018.

ANNEXURE-3: List of the illustrative cases of custodial deaths not leading to death cited in the NHRC Annual Reports from 1996-97 to 2017-18

SI No.	Name of the victim	NHRC Case No.	Source	State	Economic status/ vulnerable groups	Total No of Victims	No of poor/ vulnerable groups	No of unknown/ General/ Middleclass victims
1	Ram Charan Meena	NA	1996-1997	Rajasthan	Scheduled Tribe	1	1	
2	Ram Singh	NA	1996-1997	Tamil Nadu	Advocate	1		1
3	Minor boy Sachin	NA	1997-1998	Delhi	Child	1	1	
4	Sher Md Khan	NA	1997-1998	Haryana	Muslim	1	1	
5	Baba Khan & two others	NA	1997-1998	Rajasthan	Muslim	3	3	
6	A college lecturer	Case No. 166/11/98-99	1998-1999	Kerala	Lecturer	1		1
7	Minor boy Rahul	1313/20/97	1998-1999	Rajasthan	Minor/Theft suspect	1	1	
8	Rakesh Kumar Vij	Case No. 12982/96-97	1999-2000	Uttar Pradesh	unknown	1		1
9	Rajiv Rattan	9302/95-96	1999-2000	Punjab	Clerk	1		1
10	Dara Singh, Manmohan Singh, Bhim Singh, Anil Sharma and others	3069/30/1999-2000	2000-2001	Delhi	unknown	5		5
11	Seven Balmiki boys	393/7/1999-2000	1999-2000	Haryana	Dalits/Minors	7	7	
12	Prabhakar Mehta	1208/13/97-98	2000-2001	Maharashtra	Businessman/ FERA violations	1		1
13	Anil Kumar and Rajendra Kumar	21883/24/98-99	2000-2001	Uttar Pradesh	Theft suspects	2	2	
14	An ISRO Scientist	235/11/98-99	2000-2001	Kerala	Scientist	1		1
15	Sheshrao Rayasing Rathod	1299/13/98-99	2000-2001	Maharashtra	District level Political leader	1		1
16	Dayashankar	791/24/2000-2001	2001-2002	Uttar Pradesh	Social activist	1		1
17	Anil Kumar	517/13/98-99	2001-2002	Maharashtra	Unknown	1		1
18	D.M. Rege	1427/13/98-99	2001-2002	Maharashtra	Bank Officer	1		1



**NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India**

19	Zamir Ahmed Khan	14071/24/2001-2002	2002-2003	Uttar Pradesh	Muslim	1	1	
20	Jagdish Kawale	1585/13/2001-2002	2002-2003	Maharashtra	Unknown	1		1
21	Prem Chand	1603/20/2001-2002	2002-2003	Rajasthan	Teacher at govt. school	1		1
22	Jagannath Shaw	118/25/2002-2003	2003-2004	West Bengal	Unknown	1		1
23	Sarita Sahu	Case No. 974/34/2001-2002	2003-2004	Jharkhand	Woman	1	1	
24	Manoharan	213/22/2001-2002	2003-2004	Tamil Nadu	Unknown	1		1
25	Prahlad Swaroop and Satish	Case No. 17171/24/1999-2000	2003-2004	Uttar Pradesh	Upper caste Villager	2		2
26	Custodial rape of woman	415/34/2001-2002-AR/FC	2003-2004	Jharkhand	poor widow/ST	1	1	
27	Ms. Reang, a 17 year old girl	5/23/2003-2004-WC	2004-2005	Tripura	ST/Minor	1	1	
28	Manikandan, Parameswaran and Kuppamma	208/11/97-98	2004-2005	Kerala	Scheduled Tribe	3	3	
29	Ramveer Singh and Surendra Singh	3454/30/2000-2001	2004-2005	Delhi	Upper caste person from Etah, UP	2		2
30	Vinod Kumar Rajput	1412/12/98-9(FC)	2004-2005	Madhya Pradesh	Unknown	1		1
31	Mohd. Harun Khan	1762/4/2002-2003	2005-2006	Bihar	Muslim /Driver	1	1	
32	Mukesh (minor boy)	1453/7/2005-2006/FC	2005-2006	Haryana	Minor/Poor	1	1	
33	Ram Kishan	2447/7/2002-2003/FC	2005-2006	Haryana	Theft suspect	1	1	
34	Ramchandra Pujari and Damodar Shetty	1220/13/1999-2000	2005-2006	Maharashtra	Unknown	2		2
35	Rajeev Ranjan	1086/4/2000-2001	2006-2007	Bihar	Unknown/Falsely implicated in robbery case	1		1
36	Son of Mohammed Azad	13161/24/98-99	2001-2002	Uttar Pradesh	Muslim	1	1	
37	Lalit Mehto	4190/4/2002-2003	2006-2007	Bihar	Scheduled Tribe	1	1	



**NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India**

38	Dayanand Manjhi and Ramavati Devi	2541/4/2000-2001	2006-2007	Bihar	Scheduled Caste	2	2	
39	Lyek Anwar	36115/24/2002-2003	2006-2007	Uttar Pradesh	Muslim/Mentally ill	1	1	
40	Santosh	72/27/2006-2007-WC	2006-2007	Chandigarh	Woman/Liquor smuggling suspect	1	1	
41	Raju	23139/24/2001-2002	2006-2007	Uttar Pradesh	Suspect in looting of motorcycle	1	1	
42	Azad Hussain	3829/24/2001-2002	2007-2008	Uttar Pradesh	Muslim	1	1	
43	Susheel Kumar & his wife	28117/24/2006-2007	2007-2008	Uttar Pradesh	Unknown & woman	2	1	1
44	Jaswant Singh Patel	5782/24/2003-2004	2007-2008	Uttar Pradesh	Unknown	1		1
45	Ramesh, Santosh and Ram Gopal	1635/20/2002-2003	2007-2008	Rajasthan	Unknown	3		3
46	Suresh and Satish	5055/24/2004-2005	2008-2009	Uttar Pradesh	Suspects of illicit liquor smuggling	2	2	
47	Surendra Singh	1508/30/2003-2004	2008-2009	Delhi	Idol maker	1	1	
48	Bijender	19671/24/1998-1999	2008-2009	Uttar Pradesh	Police Subedar Major	1		1
49	Geeta Devi	1522/34/2005-2006	2009-2010	Jharkhand	Woman	1	1	
50	Samiuddin alias Neelu	14303/24/2006-2007	2009-2010	Uttar Pradesh	Muslim	1	1	
51	Three Children	23018/24/25/08-09	2009-2010	Uttar Pradesh	Children Booked under Goonda Act	3	3	
52	Rajesh Kashyap	35033/24/2003-2004	2009-2010	Uttar Pradesh	Unknown	1		1
53	Manoj Kumar Jha	66/34/1/07-08	2009-2010	Jharkhand	Theft suspect	1	1	
54	A woman (Suman)	2367/24/8/08-08-AD	2010-2011	Uttar Pradesh	Woman/poor	1	1	
55	A minor girl	871/24/2006-2007	2010-2011	Uttar Pradesh	Children/Rape victim	1	1	
56	Kumari Jayarani	1092/22/2006-2007	2010-2011	Tamil Nadu	Scheduled Caste/Child	1	1	
57	Anantu Ram	21677/24/2006-2007	2010-2011	Uttar Pradesh	Scheduled Caste	1	1	
58	Custodial rape of	565/4/9/2011-AR	2011-2012	Bihar	Woman	1	1	



**NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India**

	woman							
59	Pappu Jaiswal	11065/24/55/2011	2011-2012	Uttar Pradesh	Unknown	1		1
60	A Woman	517/24/31/2011	2011-2012	Uttar Pradesh	Woman	1	1	
61	Vinay Kumar	Case No. 13564/24/2002-2003	2011-2012	Uttar Pradesh	Unknown	1		1
62	Soni Sori	517/33/3/2011	2012-2013	Chhattisgarh	Woman /Scheduled Tribe	1	1	
63	Soni	31558/24/56/2010	2012-2013	Uttar Pradesh	Woman	1	1	
64	Four minor boys	1052/6/24/2012	2013-2014	Gujarat	Children/Theft suspects	4	4	
65	Arihant Jain	1516/7/18/2013	2013-2014	Haryana	Religious minority	1	1	
66	16-year-old girl	14412/24/17/2013-WC	2013-2014	Uttar Pradesh	Minor	1	1	
67	Tamil Innayan and five others	61/22/13/2014	2013-2014	Tamil Nadu	Students/unknown	6		6
68	Three minor girls	6232/30/6/2013	2014-2015	Delhi	Muslims /Poor	3	3	
69	Bhudev Shastri	1308/7/22/2012	2014-2015	Haryana	Theft suspect	1	1	
70	Mukesh	349/4/34/2013	2014-2015	Bihar	Falsely framed under Excise Act/poor	1	1	
71	Mandir Laishram and Ninghtoujan Hemo	31/14/12/2013	2014-2015	Manipur	Activist & musician	2		2
72	Vijay Singh and Jitender	18400/24/1/2013	2015-2016	Uttar Pradesh	Unknown	2		2
73	Maujvir Singh	15083/24/54/2013	2015-2016	Uttar Pradesh	Alleged robbery suspect/unknown	1		1
74	Arif	18702/24/64/2012	2015-2016	Uttar Pradesh	Muslim	1	1	
75	19-year-old & 3 juveniles	134/22/13/2015	2015-2016	Tamil Nadu	Petty theft suspects/minors	4	4	
76	Shri Sandeep Kumar	Case No. 6029/7/1/2012	2015-2016	Haryana	Journalist	1		1
77	14-year-old	2861/22/45/2012	2015-2016	Tamil Nadu	Theft suspect /Scheduled Caste	1	1	



**NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India**

78	Deepak	49639/24/37/2014	2015-2016	Uttar Pradesh	SC/Woman	2	2	
79	Safiujjaman Sarkar	1066/25/13/2014	2016-2017	West Bengal	Muslim	1	1	
80	Rajiv alia Guddu	12111/24/41/2012	2016-2017	Uttar Pradesh	Unknown	1		1
81	Puleshwar Yadav	476/13/16/2012	2017-2018	Maharashtra	Theft suspect	1	1	
82	Mayur Singh	1701/12/38/2013	2017-2018	Madhya Pradesh	Unknown	1		1
83	Asif	No.981/24/54/2012	2013-2014	Uttar Pradesh	Muslim	1	1	
84	Ashok Kumar	20728/24/2002-2003	2006-2007	Uttar Pradesh	Middleclass	1		1
						125	74	51

ANNEXURE-4: Excerpts of the illustrative cases of custodial deaths not leading to death cited in the NHRC Annual Reports from 1996-97 to 2017-18

1. Police torture of Shri Ram Charan Meena A villager in Rajasthan²¹²

The Superintendent of Police, Angul, acting as complainant, stated that on 14th 15 October, 1993, two police officials and a few constables led by an Additional Superintendent of Police forcibly entered into the house of Shri Ram Charan Meena of Hurla village, misbehaved, kicked and abused him and then took him away to the police station and detained him at Mahua PS. He was subsequently shifted to Manpur PS and subjected to further humiliation. A sum of Rs. 60001- was also snatched by the police from him.

On notice issued by the Commission to Director General of Police, Rajasthan, the SP (Vigilance), Rajasthan, stated that, on 15 January, 1993 the police had gone to village Hurla in search of Shri Bal Ram Meena involved in Manpur police case u/s 302, 392 [PC. The allegations that the police forcibly entered his house and snatched away Rs. 60001- was denied.

The Commission, on perusal was not satisfied with the report. Accordingly, it made an order on 10 May 1996 directing its Director General (Investigation) to ascertain the facts and report to the Commission. Accordingly, the matter was inquired into by the investigation wing of the Commission and a detailed report in this behalf filed. The findings were as follows:

²¹². NHRC Annual Report 1996-1997



Shri Ram Charan Meena was assaulted by police constables.

He was brought to the Police Station Mahua and produced before SP Dausa on 15 October 1993 to find clues about an absconding person. On the way, he was also taken to Mahtia about 5 kms away from the village towards Manpur.

After he was produced before SP Dausa, he was duly questioned and thereafter released in the evening.

The injuries on his person were simple in nature. There was no independent evidence that they were caused by the beating by a police sub-inspector. However, the injuries were obviously caused by beating by some police constables.

The Commission accepted the findings of its investigation wing and recommended initiation of appropriate action against the offending Inspector. In regard to the role of the S.P. Dausa, the Commission was of the view that he be cautioned. The Commission directed the DGP, Rajasthan that expeditious action as recommended be taken and reported to the Commission.

1. Alleged Misbehaviour and torture of Shri Ram Singh, A member of Cuddalore Bar Association at the hands of the police, Tamil Nadu²¹³

On receipt of a complaint from Cuddalore Bar Association alleging misbehavior and torture of Shri Ram Singh by certain police officials on 12 March, 1994 at about 10.00 P.M. the Commission issued notice to the State Government of Tamil Nadu and called for a report.

The Chief Secretary, in his report dated 21 April, 1994 stated that police personnel were obstructed on their way to a rural area on the plea that they had gone there without informing the local people and Ram Singh in particular. It was further indicated that the Sub-Inspector and Head Constable had received injuries on being assaulted by Ram Singh's group. Another report dated 27 October, 1994 was received from the Chief Secretary informing the Commission that an inquiry into the matter was got conducted through the Assistant Collector and pursuant to his report the Government of Tamil Nadu ordered the Director General of Police, Tamil Nadu to initiate severe departmental action against an Inspector of Nellikuppam Police Station. It was also reported that the Director General of Police had been directed to initiate departmental action against the Head Constable and the other Police Constables who participated in the activities at the Police Station and near Ram Singh's house.

On consideration of the matter, the Commission held that Ram Singh had been manhandled. While expressing its hope that the State Government would take serious view of the lapses of the concerned police officials and they would be adequately dealt the commission recommended to the State government to pay compensation Rs.

²¹³. NHRC Annual Report 1996-1997



5,000/- to Shri Ram Singh either out of the consolidated fund of the State government or to recover the same from the erring police Sub-Inspector.

The State Government having failed to comply with the recommendation of the Commission regarding payment of compensation the Commission has approached the High Court of Madras for appropriate directions to the State Government in terms of its recommendations. The case is pending before the High Court.

2. Torture of minor boy Sachin by police official: Delhi²¹⁴

The Commission took suo-moto cognizance of a news item published in the 'Rashtriya Sahara' of 18 December 1996, alleging that a minor boy, Sachin, resident of Sagarpur, Delhi, was mercilessly beaten by a Head Constable of PS Dabri and was admitted in the Ram Manohar Lohia Hospital in a serious condition. The provocation was that the boy had been playing 'gilli danda' and that his 'gilli' fell near a police assistance booth, where the Head Constable had placed his chair and was sitting in the sun.

On the Commission's directions, the matter was enquired into by its Investigation Division which reported as under:-

"Sachin was playing 'gilli danda' with his friends in the street in front of his maternal uncle's house and, during the course of their playing, the 'gilli' inadvertently went beneath the chair of the Head Constable who was sitting in the sun outside his police assistance booth located in the same street. The boy approached the Head Constable and requested him repeatedly to give back his 'gilli' but this enraged the Head Constable who first slapped the boy and then caught him by his neck and pushed him thereby hitting his head on the ground as well as on the slab of the police assistance booth. The boy became unconscious and in the meanwhile many people including the family members of the boy gathered there and shouted slogans against the local police. After some time, SHO and ACP of the area reached the spot and pacified the mob. Thereafter, relatives of the boy took him to Ram Manohar Lohia Hospital where he was admitted and released the next day morning."

The Commission was of the view that this was a case of an utterly irresponsible police officer hitting a playful boy without restraint. and recommended that an appropriate charge be brought against the Head Constable for trial in the Court, in view of the serious head injury suffered by the child.

The Commission further observed that no compensation has been paid to the victim and issued show-cause notice to the Chief Secretary, Government of NCT of Delhi for the payment of an interim compensation of Rs.50,000/- to Sachin. The compensation would be kept in Fixed Deposit with his father as the natural guardian till he attains

²¹⁴. NHRC Annual Report 1997-1998



majority and the interest accruing thereon to be paid to the father for being spent on the welfare and education of the boy.

The Commission further directed that in the meanwhile, Government of NCT of Delhi shall afford to Sachin all such expert medical help and medication at the All India Institute of Medical Sciences at the expense of the State Government as the condition of the boy required such treatment.

Compliance report is awaited.

3. Torture of Shri Sher Mohammad Khan by police and false implications in a criminal case: Haryana²¹⁵

The complainant Shri Sher Mohammad Khan alleged that on 8 March, 1996, SHO, Police Station Sadar, Gurgaon along with 4-5 police constables and a few others forcibly entered his house and mercilessly beat him with sticks, as a result of which he sustained injuries on his hand and back. He was then removed to Police Station Sadar where again, allegedly, he was beaten-up after wrapping him up in a blanket which resulted in the fracturing of his leg. Sher Mohammad Khan got himself medically examined at the Government Hospital, Gurgaon. He further alleged that he was falsely implicated in a case under Section 448/506 IPC. According to the complainant, the SHO resorted to unlawful acts to pressurise him to withdraw a complaint against some members of a Group Housing Society and to resolve a dispute relating to a plot of land in favour of his opponent. The complainant further alleged that the Supdt. of Police, Gurgaon was also involved in the case.

On notice being issued, the Director General of Police, Haryana submitted a report which substantiated the allegation that the SHO had beaten the complainant. The report further suggested that no action could be taken against the SHO as the complainant had filed a complaint against the Inspector in the Court of the Addl. Chief Judicial Magistrate.

The Commission considered the report and was of the view that there was no legal bar either for the prosecution or initiation of departmental action against the SHO and others found to be in the wrong. Indeed the police authorities had themselves found that his acts were unlawful and constituted a blatant abuse of his authority in pressurising the complainant to come to terms with his opponent, in relation to a civil dispute. The Commission observed that a complaint against the SHO in the Court of the Addl. Chief Judicial Magistrate did not bind the police authorities and did not compel them into inaction in a case where the police found that there was unlawful conduct on the part of the SHO and others, amounting to offences under the penal laws and otherwise also amounting to grave misconduct on their part. It stressed that, in the absence of any judicial interdiction against the police from taking action, it

²¹⁵ . NHRC Annual Report 1997–1998



would, indeed, be a dereliction of duty if such acts of misconduct, which the authorities have themselves found, were not taken note of and appropriate investigation undertaken.

Accordingly, the Commission recommended that a case against the then SHO, Police Station Sadar, Gurgaon, the then S.P. and others involved in the offence be registered and, after registration of the case, the investigation be made-over to the State-CID. The Commission further recommended that the Court seized of the private complaint for the purposes of Section 210 Cr.P.C., be informed by the police that the investigation of the case had been taken-up by it. The Director General of Police, Haryana was asked to consider the necessity, desirability or advisability of placing the concerned police officer/s under suspension to prevent tampering with the investigation to ensure that no harassment is caused to the complainant and the witness. The Commission recommended that a sum of Rupees Twenty-five thousand (Rs.25,000/-) by way of immediate interim relief be paid by the Government of Haryana to the complainant Shri Sher Mohammad Khan.

In conclusion, the Chief Secretary and the Director General of Police, Haryana State were asked to send a compliance report.

4. Illegal detention/torture by the police - complaint from Shri Baba Khan: Rajasthan²¹⁶

A complaint was received from Shri Baba Khan of Kota alleging illegal detention and torture by the police. It was alleged that he and his two brothers-in-law were forcibly taken away by the police, illegally detained and tortured. The Commission took cognizance of the complaint, directed the Chief Secretary and Director General of Police, Rajasthan to submit a report. The report submitted by the State police said that the allegations made by Baba Khan were false and baseless. On not being satisfied, the Commission directed its Investigation Division to investigate the matter. The findings of the Investigation Division indicated that the allegations of illegal detention and torture were, prima facie, established. The Commission, accordingly, recommended payment of compensation to the victims: Rs.15,000/- to Shri Baba Khan, Rs.20,000/- to Shri Mirza Khan and Rs. 5,000/- to Shri Yousuf Irani. The Commission further recommended that the State Government may consider the report of the investigation team of the Commission with a view to taking action against the errant police officials. The Government of Rajasthan has since complied with the recommendations of the Commission and has intimated that payment of compensation has been made to the victims. It has also reported that a criminal case has been registered against the concerned SHO and disciplinary action initiated against him and two other officers.

²¹⁶ . NHRC Annual Report 1997-1998



5. A college lecturer becomes a victim of police brutality: Kerala (Case 166/11/98-99)²¹⁷

The Commission took suo-motu cognizance of an instance of police brutality, published in the Hindustan Times on 3 September 1998, under the heading "Police brutality again in Kerala". The report stated that a college lecturer was beaten mercilessly by the police as he had dared to question the fare demanded by the driver of an autorickshaw he had taken while visiting Kozhikode. When the lecturer became unconscious, his legs and hands were tied and he was shifted to a mental hospital, and a case was made out that he was a violent mental patient. The mental hospital did not admit him because of his serious condition and he was taken to the Medical College. The reporters and photographers, who tried to obtain a firsthand account of the torture inflicted upon the victim, were also assaulted by the police.

The Commission issued notices to the Chief Secretary and DGP, Government of Kerala. According to the report submitted by the Commissioner of Police, the deeds of the concerned police officials were confirmed. On the basis of this factual confirmation, the Government had suspended the culprits (2 sub-inspectors, 1 ASI, 1 Head Constable, 3 Police Constables) and an enquiry was ordered against them.

Convinced that appropriate steps were being taken against the culprits, the case was closed by the Commission. The Govt. was directed to report the result of the disciplinary action taken against the delinquent officials with utmost expedition.

6. Torture of a child Rahul by the police in the Police Station: Rajasthan (Case No.1313/20/97)²¹⁸

In a news item published in 'Dainik Bhaskar' it was reported that one Pardeep Sharma was arrested in a case of theft and subsequently when his wife, Smt. Sunita, came to the police station to enquire about her husband, she was asked to bring Rs.2500/- towards the cost of the stolen goods. She returned home. At night, two constables came to her residence and she was summoned to the Police Station. There the policemen misbehaved with her, snatched Rs.500/- from her purse and when her son, Rahul, aged 10 years, who had accompanied her, became emotional and started arguing, he was mercilessly beaten at the police station. On medical examination, 14 injuries were found on the body of the boy. The Commission took cognizance of the news item and gave notice to the S.P. Ajmer. According to the report received by the Commission from the SP Ajmer, Smt. Sunita had refused to accept the written information from the police in the police station and had threatened S.I. Dinesh that she would falsely implicate him for thrashing her son. It was also reported that the young boy was not brought to the police station nor was Smt. Sunita called to the

²¹⁷ . NHRC Annual Report 1998–1999

²¹⁸ . NHRC Annual Report 1998–1999



NO EXCUSE OF KLEPTOMANIA: Poverty, Prejudices and Torture in India

police station and that the boy was beaten by his mother to manipulate a case against the police.

On consideration, the Commission found the report self-contradictory as it was mentioned, on the one hand, that the mother had thrashed her son at the police station making him unconscious, with the intention of falsely implicating the policemen and, on the other hand, it was stated in the report that the son was not present at the police station. The Commission felt that it was improbable that a mother could have caused such grievous injuries to her own son, especially in the circumstances that her husband was already in a lock-up and she herself was in distress. The Commission noted that, as the injuries were examined under the orders of the District Magistrate through the S.P. Ajmer, there was no probability that the injuries were self-inflicted. The Commission thus found the report unacceptable and directed the Government of Rajasthan to pay compensation of Rs.15,000/- to the injured boy through his mother, and to take suitable action against the guilty police officials.

COMMENT

Custodial violence is an unacceptable abuse of power and an abhorrent violation of human rights by the protectors of the law themselves. It not only violates Article 21 of the Constitution of India which guarantees the fundamental right to life and liberty, but also infringes upon Article 3 of Universal Declaration of Human Rights (UDHR) and Article 6 of the International Covenant on Civil and Political Rights, that every person has the right to life, liberty and security and no one shall be arbitrarily deprived of life. Further, Article 5 of UDHR and Article 7 of the Covenant on Civil and Political Rights lay down explicitly that no one shall be subjected to torture, or cruel, inhuman or degrading treatment or punishment. Article 9 of Universal Declaration of Human Rights and Article 9 of the Covenant emphasise that no one shall be subjected to arbitrary arrest, detention or exile. These provisions also lay down that anyone who is arrested shall be informed of the reasons of his arrest and shall be promptly informed of the charges against him. Article 22 of the Constitution protects the rights of the individual in case of arrest and detention and in essence incorporates the principles of these United Nations documents. It is a fundamental right under this Article, that the arrested person must be produced before the nearest magistrate within twenty-four hours.

The Commission has played an active role in redressing the grievances of the victims of custodial violence. In accordance with a circular dated 14 December 1993 issued by the Commission to all State authorities, all cases of custodial deaths either in police or in judicial custody are required to be brought to the notice of the Commission within twenty four hours. The illustrative cases on custodial death reveal that the interventions of the Commission are increasingly securing better investigation of such



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

cases and resulting in the providing of immediate interim relief to the survivors of the deceased victims of custodial violence.

In this connection, the Commission would like to recall the Judgement of the Supreme Court in the case of D.K. Basu Vs State of West Bengal (AIR 1997 SC 610), which dealt with the principle Ubi jus, ibi remedium i.e., there is no wrong without a remedy. The law wills that in every case where a man is wronged and damaged, he must have a remedy.

A mere declaration of the invalidity of an action, or the finding of custodial violence or death in a lock-up, does not by itself provide any meaningful remedy to a person whose fundamental right to life has been infringed. Much more needs to be done. While there is no express provision in the Constitution of India for grant of compensation for violation of the fundamental right to life, the Supreme Court has judicially evolved a right to compensation in cases of established unconstitutional deprivation of personal liberty or life.

The claim in public law for compensation for unconstitutional deprivation of the fundamental right to life and liberty, the protection of which is guaranteed under the Constitution, is a claim based on strict liability and is in addition to the claim available in private law for damages for torturous acts of public servants. Public law proceedings serve a purpose different from private law proceedings. Award of compensation for established infringement of the indivisible rights guaranteed under Art. 21 is a remedy available in public law, since the purpose of public law is not only to civilise public power but also to assure the citizens that they live under a legal system wherein their rights and interests shall be protected and preserved. The grant of compensation in proceedings under Art. 32 or Art. 226 of the Constitution of India for the established violation of the fundamental rights guaranteed under Art. 21, is an exercise of the courts under the public law jurisdiction for penalising the wrongdoer and fixing the liability for the public wrong on the State which failed in the discharge of its public duty to protect the fundamental rights of the citizen.

The quantum of compensation will, of course, depend upon the particular facts of each case. The relief to redress the wrong for the established invasion of the fundamental rights of the citizen, under the public law jurisdiction is, thus, in addition to the traditional remedies and not in derogation of them. The amount of compensation as awarded by the court and paid by the state to redress the wrong done may, in a given case, be adjusted against any amount which may be awarded to the claimant by way of damages in a civil suit. Some important judgements on compensation are:

Nilabati Behera Vs State of Orissa (1993)2 S.C.C. 746

Saheli, A Women's Resources Centre Vs. Commr. Of Police (1990) 1 S.C.C. 422.

Bhim Singh Vs State of J&K (1985) 4 S.C.C. 677.



Sebastian M. Hongray Vs UOI & Others (1984) 1 S.C.C. 339.

Rudul Shah Vs State of Bihar (1983) 4 S.C.C. 141.

The judgements have had great bearing on the work of the Commission.

7. Custodial torture of Rakesh Kumar Vij: Uttar Pradesh, (Case No. 12982/96-97)²¹⁹

The Commission had received a complaint from one Raj Kumar Vij of Varanasi alleging that his son, Rakesh Kumar Vij, had been subjected to severe physical torture by the Uttar Pradesh (UP) Police. This had necessitated the hospitalisation of Rakesh in order to save his life. The complainant alleged that the police had illegally detained his son in connection with a murder investigation. It was mentioned in the petition that the victim was ill-treated and tortured, and that electric shocks had been administered to him by making him urinate on a live electric coil in order to elicit information about the murder.

He was also not allowed to meet any family member. The torture had totally incapacitated the victim. The Commission subsequently received a number of petitions from various NGOs and social activists regarding this case. Taking cognizance of the matter, the Commission issued notice to the DGP (UP). The report received from the Senior Superintendent of Police, Varanasi, stated that the victim had sustained injuries as a result of a fall while trying to run away from police custody. It also mentioned that Shri Rakesh Vij had a criminal record. The petitioner, when asked to respond, refuted the police version. The Commission then directed its own investigation division to inquire into the incident. The report of the investigation team affirmed illegal detention and severe torture of the victim. The enquiry by the State Crime Branch Central Investigation Department (CBCID), initiated by the UP Government, substantiated the investigation team's report.

The Commission also asked the UP Government to constitute a medical board to assess the extent of physical disability suffered by the victim. The medical board gave a report to the Commission, stating that the victim did not suffer from any gross structural damage, and that most of his complaints were subjective. The report also stated that the patient had made a good recovery and that all his medical test results were within normal limits. However, in a communication to the Commission, the complainant, expressed his doubts about the impartiality and trustworthiness of the medical report, and requested the Commission to assess its authenticity.

In view of grave apprehensions of miscarriage of justice, the Commission got the victim examined by the Delhi Trauma and Rehabilitation Centre, which gave an

²¹⁹. NHRC Annual Report 1999–2000



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

entirely different assessment. Due to the discrepancies between the two medical reports, the Commission then directed that Shri Rakesh Vij be referred to the All India Institute of Medical Sciences (AIIMS) for reassessment of his health status. The Commission also directed the State Government to hear all the medical and travelling expenses of the victim.

According to the report from AIIMS, the victim's spinal cord was compressed, leading to deterioration of power and neurological functioning in his lower limbs, and sensory loss of bladder and bowel movement.

There were 60-80% chances for improvement, but only if the victim undertook high risk surgery. He was suffering from hearing loss and some of his teeth were missing; he was suffering from severe post-traumatic stress disorder with no proven treatment.

The Commission was thus convinced that police officials had perpetrated custodial violence, brutal or savage in nature, on Shri Rakesh Vij. The Commission was also of the opinion that because of this torture, the victim had suffered trauma and stress and had been rendered incapable of living normally for the rest of his life. This was a case of a gross violation of human rights of a citizen, resulting from barbaric acts of torture perpetrated on him. The State was, therefore, liable to compensate Shri Rakesh Vij for the damages suffered by him.

The Commission thus directed the UP Government to pay Shri Rakesh Vij Rs. 10 lakhs by way of immediate interim relief. The Government was also directed to arrange for the complete medical treatment of Shri Vij at AIIMS, New Delhi, or PGI, Lucknow, as Shri Vij preferred. The expenses of the treatment as well as the travelling expenses of Shri Vij, along with one attendant, from his native place to the place of medical treatment, would also be borne by the State Government.

The Commission also directed the prosecution of the police officers found responsible for perpetrating various acts of torture on Shri Vij. As recommended by the State CBCID, disciplinary action is to be taken against five police personnel, including the Senior Superintendent of Police and a Superintendent of Police, Varanasi. The Commission has also issued notice to the concerned doctors from Varanasi asking them as to why recommendations should not be made to the State Government of UP to initiate appropriate disciplinary action against them for giving incorrect report/findings about the status of health and extent of physical disability and incapability suffered by Shri Rakesh Vij.

The Government of UP reported to the Commission its acceptance of the Commission's recommendations with regard to the prosecution of errant police officials, as also in respect of payment of compensation to the victim.



COMMENT

Under Section 13(1) of the Protection of Human Rights Act, 1993, the Commission shall, while inquiring into complaints under this Act, have all the powers of a Civil Court trying a suit under the Code of Civil Procedure, 1908. Section 13(2) further provides that the Commission shall have power to require any person, subject to any privilege which may be claimed by that person under any law for the time being in force, to furnish information on such points or matters as, in the opinion of the Commission, may be useful for, or relevant to, the subject matter of the enquiry and any person so required shall be deemed to be legally bound to furnish such information within the meaning of Sections 176 and 177 of the Indian Penal Code.

Section 15 of the Protection of Human Rights Act, 1993, protects those who give evidence before the Commission. It also provides for prosecution of those who give false evidence. Medical personnel have a crucial role in unearthing vital evidence in cases of allegations of torture and custodial violence. They have a duty to ensure that an accurate description of the victim's injuries is provided to the Commission. In this case, the medical board constituted by the Government of UP gave a misleading report to the Commission on the extent of injuries suffered by Shri Rakesh Kumar Vij. The Commission, however, got a further assessment made by the Delhi Trauma and Rehabilitation Centre and then by the All India Institute of Medical Sciences (AIIMS). Using the powers conferred on it by its Statute, the Commission recommended the initiation of appropriate action against those who tried to mislead it. Article 10(1) of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment stipulates that each state party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel civil or military—medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment. Article 10(2) further requires each state party to include this prohibition in the rules or instructions issued in regard to the duties and functions of any such persons. In other words, medical personnel not only have a role in the prevention of torture, but are duty bound to do so.

8. False implication and torture of Shri Rajiv Rattan by the police, (Case No. 9302/95-96)²²⁰

Shri Rajiv Rattan, a clerk-cum-cashier at the Sahauran Branch of Shivalik Kshetriya Gramin Bank, Hoshiarpur, Punjab, made a complaint to the Commission that he was falsely implicated, illegally detained for 13 days and tortured by the police in a case of theft that had taken place in the bank. The Commission, being unsatisfied with the report of the State Government that the police had neither illegally detained him for 13

²²⁰. NHRC Annual Report 1999–2000



days nor had tortured him, directed its Director General (Investigation) to take up a field investigation and submit a report. The NHRC investigation team, after considering the statements of independent witnesses, bank correspondence, medical papers and opinion given by the doctors at PGI, Chandigarh, concluded that the police had tortured the complainant on account of which he sustained a fracture of his neck and of the femur bone of his leg.

The Commission expressed its distress at the brutality perpetrated at the police station and the lawless behaviour of those who are duty-bound to maintain law and order and uphold the rule of law, and also took a serious view of the attempt of the Punjab police to cover up its wrongful actions. The Commission held that the police perpetrated brutalities on the complainant, causing a fracture of his neck and of the femur bone, for which he will have to undergo periodic operations after every eight to ten years. While holding that the police of the Ropar Police Station had disabled Shri Rajiv Rattan permanently by its brutal action, the Commission awarded him an immediate interim compensation of Rs. 2.5 lakhs and also ordered an in-depth enquiry, and initiation of criminal proceedings against the delinquent police officials for falsely implicating and illegally detaining him for 13 days, causing him grave physical injuries. The Commission has received a compliance report with regard to the payment of compensation.

9. False Implication of the Complainant Dara Singh and Others and Torture by police: Delhi (Case No. 3069/30/1999-2000)²²¹

The Commission received a petition from one Dara Singh alleging that during the night of 26 March 2000 he, alongwith Manmohan Singh, Bhim Singh, Anil Sharma and others, was detained in the Anand Parbat Police Station, Delhi at the instance of one Smt. Veero Devi. All of them were brutally beaten by Inspector A.S. Tyagi, Station House Officer. They were later implicated in a false case under section 506, 354 of the Indian Penal Code.

Upon considering the petition, the Commission asked its Director General (Investigation) to enquire into the matter and submit a report. An enquiry was accordingly conducted by an Investigation Team of the Commission, which examined the complainant and his associates, Smt. Veero Devi, Sub Inspector Hari Prasad, Inspector A.S. Tyagi, Constable Sardar Singh and Shri Mohammed Ali, Assistant Commissioner of Police. Documentary evidence perused by the Investigation Team included the medico legal report (MLR) of the injured and the Daily Diary Report etc., maintained at the police station.

²²¹. NHRC Annual Report 2000-2001



Upon considering the detailed report submitted by the Investigation Team, the Commission reached the conclusion that Inspector Tyagi had manipulated the DDR to show his absence from the police station at the time of the illegal detention and torture. Further, it appeared that Inspector Tyagi had taken offence at the conduct of Constable Sansar Singh who had appeared before the Investigation Team of the Commission and disclosed the truth of what had occurred at the police station. The Commission held that Dara Singh and others were illegally detained in the police station during the night of 26 March 2000 and that the Inspector was wholly responsible for this and the torture inflicted on them.

The Commission, therefore, recommended:

The payment of compensation of Rs. 10,000 each to Dara Singh, Manmohan Singh, Bhim Singh, Anil Sharma and R.K. Mishra for the torture inflicted on them in custody;

Departmental enquiry be initiated against Inspector A.S. Tyagi to ascertain his liability and that action be taken based on the findings in that enquiry; and

Constable Sansar Singh may be transferred from the Anand Parbat Police Station to any other police station in view of the apprehension expressed by him, which appeared to be reasonable.

Before the close of the reporting period, the Commission had been informed that compensation had been paid to the victims; that the departmental enquiry was in progress and that Constable Sansar Singh had been transferred from the police station.

10. Seven Boys from Balmiki Community Paraded Naked by Police: Haryana (Case No. 393/7/1999-2000)²²²

In a complaint to the Commission, one B. Jit Singh stated that on 2 June 1999, an Assistant Sub Inspector and two Constables from the Police Post Khandsa Road, Gurgaon, Haryana had picked up seven boys aged between 7 and 12 years, taken them to the Police Post, stripped them naked and paraded them on the streets. They were also forced to clear garbage from nearby areas. The parents of the children were also insulted. The only fault of boys, it was stated, was that they were playing cricket in their locality and that their ball had landed in the premises of the Assistant Sub Inspector.

Pursuant to the Commission's directions, two reports were received from the Superintendent of Police, Gurgaon. In view of the inherent anomalies and contradictions in these reports, the Commission, however, directed its own Investigation Division to inquire into the matter and submit a report.

²²². NHRC Annual Report 2000-2001



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

After a thorough investigation, the Commission's team reported that seven children belonging to Balmiki Community were humiliated, stripped naked, and paraded in the locality and also beaten up by police personnel. In its proceedings dated 2 May 2000, the Commission accordingly held that the concerned police personnel had abused their power. Apart from exhibiting depraved conduct, the Commission held that the behaviour of the concerned police personnel constituted a gross violation of the rights of the children involved. The Commission therefore directed the Superintendent of Police, Gurgaon to file charge sheets against the three errant police personnel under the appropriate provisions of the Indian Penal Code and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, to pursue the case diligently and also initiate disciplinary action. In addition, the Commission recommended the payment of a sum of Rs. 20,000 as compensation to each of the seven boys. The Commission also observed that the State Government was at liberty to recover this amount from the salaries of the concerned police personnel.

The State Government has subsequently reported to the Commission that it has paid the compensation to the children and was complying with its recommendations.

11. Mistreatment and Torture of Prabhakar Mehta by the Officers of Enforcement Directorate: Maharashtra (Case No. 1208/13/97-98)²²³

Shri Prabhakar L. Mehta, a resident of Mumbai, submitted a petition dated 26 December 1997 to the Commission complaining of mistreatment and torture by officers of the Enforcement Directorate, Mumbai. He alleged that personnel of the Enforcement Directorate had raided his residence and had picked up both his wife and him at 1.30 p.m. on 22 December 1997 from their home and then taken them to the office of the Directorate. While his wife had been released early in the night, the petitioner alleged that he had been kept in custody overnight and tortured in order to coerce him into furnishing false statements as a witness in an on-going investigation of the Directorate. In the process, he stated, he was brutally assaulted and denied food and water. He added that passports belonging to him and to his wife had been illegally taken away and that no reference had been made of their seizure in the Panchnama.

In response to a notice issued by the Commission to the Enforcement Directorate, the latter sent a report stating that there was no substance to the complaint of Shri Mehta. The Commission then asked its own Investigation Division to conduct an independent inquiry into the facts of the case. Based on the oral, documentary and circumstantial evidence of independent witnesses, as well as an examination of doctors and hospital records, the Investigation Division stated that there was sufficient evidence in support of the allegations made by the petitioner.

²²³ . NHRC Annual Report 2000–2001



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

As a prima-facie case of the violation of law and the fundamental rights of the petitioner appeared to have been established, the Commission forwarded the petition of Shri Mehta, alongwith the report of its Investigation Division, to the Commissioner of Police, Mumbai to register a case under the appropriate provisions of law, to cause an investigation and set the process of criminal justice in motion. The Commission also issued a show-cause notice to the Enforcement Directorate seeking to know as to why 'immediate interim relief' under section 18(3) of the Protection of Human Rights Act, 1993 should not be awarded to the victim as his human rights had been violated by public servants.

The Enforcement Directorate stated that, on the basis of a complaint filed by the petitioner, a case was pending in the court of the Additional Chief Metropolitan Magistrate, Mumbai. In view of the pendency of the criminal case, the Enforcement Directorate contended that the Commission could not grant immediate interim relief as this would seriously prejudice the Directorate's case in the criminal prosecution, and that the Commission should await the outcome of the criminal case before exercising its powers of recommendation.

The Commission, after considering the response of the Directorate, and holding a series of hearings, concluded that the petitioner had been assaulted in the office of the Directorate and that this had resulted in grievous injuries to him. Since a criminal prosecution was pending, the Commission refrained from making any comments that would reveal the identity of the officers involved in the assault. The Commission was, however, convinced that a strong prima-facie case existed to establish that the human rights of the petitioner had been violated. The Commission observed that no law entitled a public servant to violate the human rights of a person being interrogated on the suspicion of a charge. The granting of any relief under section 18(3) of the Protection of Human Rights Act, 1993 was for violation of human rights. Having regard to the facts and circumstances, the Commission, therefore, directed that the petitioner be granted relief in the amount of Rs. 50,000. The Commission also observed that, in the pending prosecution, the parties were free to adduce evidence in support of their case. Further, the concerned court was free to consider independently the evidence on record and decide the case on merits without being in any way influenced by the proceedings of the Commission.

Subsequent to the proceedings before the Commission, the Enforcement Directorate filed a writ petition in the High Court of Delhi against the Commission's recommendations. The matter is, at present, pending before that Court.



12. Illegal Detention, Torture and False Implication of Anil Kumar and Rajendra Kumar by Police: Uttar Pradesh (Case No. 21883/24/98-99)²²⁴

On 22 March 1999, the Commission received a telegram alleging that Anil Kumar and Rajendra Kumar had been taken away by the Faizabad Police from Kanpur on 15 March 1999 and had not been produced before the Chief Judicial Magistrate until 16 March 1999. It was stated that the police had beaten them mercilessly, that their hands and legs had been broken and that they were unable to walk.

The Commission took cognizance of the complaint and called for a report from the Director General of Police, Uttar Pradesh (U.P). In response, the report received from the Superintendent of Police, Faizabad, Uttar Pradesh stated that, on 22 March 1999, two persons, namely, Anil, s/o Ram Nath and Ragey, s/o Shivnath had been arrested by the police from Karayappa Marg Press Club Gate, Civil Lines, Faizabad on the ground that they respectively had, in their possession, 18 and 20 tablets of an intoxicating drug. A case crime No. 941 and 942 under section 21/22 of the Narcotic Drugs and Psychotropic Substances Act (NDPS), had been registered against them and was under investigation. It was added that the Inquiry Officer had not found the allegations of torture by the police to be true.

After examining the report, the Commission directed that it be sent to the complainant for his comments. In response, the complainant reiterated the stand taken by him in the complaint. Thereupon, the Commission directed its Director General (Investigation) to depute an officer from the Investigation Division to investigate the case. The officer of the Commission after conducting the investigation, reported the following:

On 12 March 1999, a case had been registered at Police Station Kotwali, Faizabad by one Daya Shankar regarding the alleged theft of his jeep and investigation had been entrusted to Sub Inspector R.K. Saxena.

On 14 March 1999, this Sub Inspector accompanied by Daya Shankar, a friend and three constables, visited Kanpur with a view to conducting a raid on the Yashoda Guest House. As they were not allowed to enter this Guest House initially, they took the help of Sub-Inspector Nageshwar Pandey of Naubasta PS, Kanpur, entered the Guest House and arrested Anil Kumar, his brother Rajesh Kumar and Rajendra Kumar.

The police beat all three of them as they had denied any involvement in the theft of the jeep. They were detained illegally on 15 and 16 March 1999 at PS Naubasta and Rail Bazaar of Kanpur.

²²⁴ . NHRC Annual Report 2000–2001



Thereafter, Rajesh Kumar was sent away, but the others were taken to PS Civil Lines, Faizabad and were kept in illegal custody from 17 to 22 March 1999. They were thereafter implicated in a false case, produced before a Court, and subsequently released.

They were not medically examined even though they had received injuries.

After considering all the material on record, the Commission concluded that the police had deprived the three persons of their liberty. The Commission accordingly recommended that the Government of Uttar Pradesh pay immediate interim compensation of Rs. 40,000 each to Anil Kumar and Rajendra Kumar and Rs. 10,000 to Rajesh Kumar. The Director General of Police, Uttar Pradesh was also directed to cause an inquiry to identify the police personnel responsible for holding the three persons in illegal detention, and for torturing them. The Director General of Police was also asked to initiate appropriate action against the errant police personnel in accordance with the law and to submit a report on the steps taken to the Commission.

13. Illegal Detention and Torture of an ISRO Scientist: Kerala (Case No. 235/11/98-99)²²⁵

The Commission, on 14 March 2001, directed the Government of Kerala to pay a sum of Rs. 10 lakhs as 'immediate interim relief' to Shri S. Nambinarayanan, a scientist working in the Indian Space Research Organisation (ISRO) Headquarters in Bangalore, as compensation for gross violation of his human rights by public servants. The background to the decision is given below.

In October 1994, a criminal case of espionage under the Indian Official Secrets Act, 1923, was initiated in which Shri Nambinarayanan was implicated as an accused along with five others. He was arrested on 30 November 1994. The case was handed over to the Intelligence Bureau (IB) on 5 December 1994. The complainant alleged illegal detention and custodial torture by officials of the Kerala Police and IB and the involvement of the Inspector General of Police (Crimes) of the Kerala Police and the Joint Directors of the IB in his illegal detention and in the gross violation of his human rights during custody. He also alleged vilification by officers of the Kerala Police and IB, which had led to considerable humiliation and trauma to his entire family.

On 2 December 1994, the Government of Kerala had issued a notification entrusting the investigation of the case to the Central Bureau of Investigation (CBI). Shri Nambinarayanan was then remanded to CBI custody till the Kerala High Court ordered his release on bail on 19 January 1995. According to the report submitted by the CBI to the Chief Judicial Magistrate, Ernakulam on 13 April 1996, the allegations of espionage were not proved and were found to be false. The CBI investigation also

²²⁵ . NHRC Annual Report 2000–2001



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

disclosed that the accused persons had been harassed and physically abused, which was supported by medical examination. This torture was apparently inflicted to extort confessions.

Accepting the final report of the CBI, the Chief Judicial Magistrate, by his order dated 2 May 1996, discharged the complainant and the other accused. However, the Kerala Police filed a revision petition in the Kerala High Court challenging the complainant's discharge. The Court dismissed the petition.

In spite of these developments, the Government of Kerala took the unusual step of issuing a notification withdrawing the consent given to the CBI for investigation of the case and ordering 'reinvestigation' by a special team of the Kerala Police. The notification was later amended to describe the 'reinvestigation' as a 'further investigation'.

The complainant filed a writ petition in the Kerala High Court. The Court held that even though the State Government's notification could not be quashed, it had no jurisdiction to file a complaint before a court in respect of any offence under sections 3, 4 and 5 of Indian Official Secrets Act. The complainant in an appeal before the Supreme Court challenged this judgment. The Supreme Court, by its judgment dated 29 April 1998, quashed the notification directing 'further investigation'. It also passed strictures against the Kerala Government and observed that the subsequent notification issued by it was inconsistent with the role of a responsible Government bound by the rule of law. Accordingly, the Apex Court awarded Rs. 1.00 lakh to each of the appellants as costs to be paid by the Kerala Government.

After the conclusion of the criminal case against him, Shri Nambinarayanan submitted a petition to the Commission on 14 October 1998 complaining of the gross violation of his human rights and seeking the award of compensation.

The Commission, on considering the facts, held that the allegation of the gross violation of the human rights of the complainant by officers of the Kerala Police and IB were proved by the conclusions of the CBI report, which had been upheld by the Apex Court of the country. The Government of Kerala had supported this unlawful action, which was a malafide exercise of power, as held by the Supreme Court. The complainant, a senior scientist of considerable repute, whose contribution in Space Research was acknowledged, was kept under suspension for a period of 18 months on a false case foisted on him which resulted in a loss of his reputation apart from the ignominy and damage to his health in addition to the considerable expenditure incurred by him to defend himself from the false accusation. The Commission felt that the damage done to the complainant and his family as a result of these unlawful acts was difficult to assess fully. However, the findings of the CBI, duly approved by the Supreme Court, were sufficient to prove the gross violation of his human rights by public servants.



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

Thus, on 6 September 1999, the Commission directed the Union Home Secretary, the Director, IB, the Chief Secretary and Director General of Police, Kerala to immediately conduct enquiries to identify the officers who had committed the excesses and initiate appropriate disciplinary as well as criminal action against them and submit a compliance report to the Commission. After a lapse of considerable time, the IB, by its letter dated 29 August 2000, informed the Commission that the charge sheets issued by the Ministry of Home Affairs, Government of India, had been served on 9 IB personnel. The Commission, thereafter, on 4 September 2000, issued notice to the Ministry of Home Affairs as well as the Government of Kerala to show cause as to why immediate interim relief under Section 18(3) of the Protection of Human Rights Act, 1993 be not granted in favour of Shri S. Nambinarayanan.

In response, the Government of India as well as the Government of Kerala appeared before the Commission through their counsel to submit their objections. According to the counsel for Government of India, a Civil Suit had been filed by the complainant claiming damages amounting to Rs. 1.00 crore against the State of Kerala and the Union of India, the outcome of which would be prejudiced by the award of relief by the Commission. Further, it was held that the matter was subjudice and so the Commission should not grant any such relief. It was also urged that disciplinary proceedings were pending against the charge-sheeted IB officers the outcome of which might also get prejudiced by the Commission's directions. The counsel for the State of Kerala contended that the complaint had been made more than one year after the alleged violation of human rights and thus barred from the purview of the NHRC.

The Commission disposed of the objections raised, holding that the true scope and purport of section 18(3) of the Act and the nature of 'immediate interim relief' granted there under, was to provide immediate interim relief in a case where a strong prima-facie case of violation of human rights had been made out, so that the complainant need not await determination in another proceeding of the full compensation awardable or the identification of the particular public servant guilty of the violation and the determination of his liability. The amount of the 'immediate interim relief' so awarded should be adjusted in the total compensation determined as payable in a proceeding like a Civil Suit so that the same amount was not paid twice. Regarding the bar of limitation of one year under section 36(2) of the Act, the Commission expressed its opinion that because the inquiry into the facts had been concluded with the findings of the Supreme Court and as no independent inquiry was required to be conducted by the Commission, the period of one year could commence only from 29 April 1998 when the Supreme Court gave its judgment. Even if the complaint had been filed earlier, i.e., within one year of the complainant's arrest on 30 November 1994, the matter in the Commission would have to be kept pending because of the pendency of proceedings in the competent courts till its final conclusion in the Supreme Court.



Expressing the view that the Civil Suit would determine the precise terms of the monetary compensation to which the complainant was entitled, the Commission directed that the sum of Rs. 10 lakhs should be paid to Shri S. Nambinarayanan by the Government of Kerala as ‘immediate interim relief’ within two months and compliance reported to the Commission. The Government of Kerala was also directed to report on the action taken against its delinquent officers, as directed by the Commission on 6 September 1999.

14. Fracture Sustained by Sheshrao Rayasing Rathod Following Police Mistreatment: Maharashtra (Case No. 1299/13/98-99)²²⁶

The Commission received a petition from Shri Shesharao Rayasing Rathod, a resident of Mahuli, Maharashtra, stating that during the course of the Zila Parishad election campaign on 12 December 1998, the petitioner and his friends, Harishchandra and Umesh Sawant, were stopped by a police Sub Inspector and five constables when they were returning from Sawali village. Though they were not within the jurisdiction of these police officials, they were allegedly beaten by them. As a result, the left leg of the petitioner was fractured. It was further alleged that it was done at the instance of one Madharao Nimbalkar of Village Sawali, whose wife was a contestant in the Panchayat Samiti election. In addition, it was alleged that the Sub Inspector had registered a false complaint against the petitioner.

Upon taking cognizance of the complaint, the Commission issued a notice to the Director General of Police, Maharashtra. The report received from his office confirmed the fact that the Sub Inspector of Police Station, Digras had misused his official position and that the incident had occurred outside his area of jurisdiction. An enquiry into the matter indicated that the Sub Inspector had acted at the behest of Madarao Nimbalkar of Sawali Village and that, as a result of merciless beating inflicted on the petitioner, his left leg was indeed fractured. The report also confirmed that a false case had been registered against the petitioner. The report concluded by stating that departmental action was being taken against the Sub Inspector and that it had been recommended that his increments be withheld for two years.

The Commission expressed deep regret over the fact that the police, whose duty it was to protect human rights, was itself involved in the violation of such rights. Having regard to the grievous injuries suffered by the petitioner at the hands of the Sub Inspector, the Commission recommended the payment of immediate interim compensation of Rs. 30,000 to him; it also recommended that this amount may be recovered from the concerned police official if the Government so wished. Further, the Commission asked to be informed of the payment of compensation, as well as the status of the case registered against the Sub Inspector.

²²⁶ . NHRC Annual Report 2000–2001



15. Torture of Dayashankar by police: Uttar Pradesh (Case No. 791/24/2000-2001)²²⁷

One Dayashankar Vidyalkar, a resident of Haridwar, Uttaranchal submitted a complaint alleging that while he was propagating the teachings of Swami Dayanand at Haridwar Railway Station on 29 February 2001, he was beaten and manhandled by a Constable and, as a result, his left ear was badly injured and a bone behind his right ear was broken. The reports received from the Superintendent of Police Railways, Moradabad and the Director General, Railway Protection Force, Railway Board, in response to a notice issued by the Commission, indicated that the allegations of the complainant against the Constable were found to be correct. The Constable was punished by a reduction in his present pay-scale by 3 stages for 3 years, and a case u/s 323/326 IPC and section 145 of Railways Act, 1989 was also registered against him.

The Commission, after considering the aforesaid reports and giving a personal hearing to the complainant, as well as after obtaining an opinion from a Medical Board of the All India Institute of Medical Sciences, New Delhi regarding the nature of the injuries suffered by the complainant, recommended a payment of Rs.10,000 to the petitioner by the Ministry of Railways. This has been paid.

16. Illegal detention and torture of Anil Kumar: Maharashtra (Case No.517/13/98-99)²²⁸

The complainant, Prabhuraj S. Kappikeri, alleged that his brother Anil Kumar, resident of Latur, Maharashtra, had come to Udaigiri on 12 January 1997 to meet him and other relatives. He was picked up by the police, beaten and illegally detained. A complaint was made to the Superintendent of Police, but no action was taken.

The Commission issued notice to the Government of Maharashtra and received a report. On consideration of the report, the Commission held that there was truth in the contention of the complainant. The governmental enquiry had also held the public servants to be guilty of misconduct. As the human rights of the victim had been violated, the Commission issued notice to the Chief Secretary, Government of Maharashtra, to show-cause as to why a sum of Rs.10,000 be not paid as immediate interim relief to Anil Kumar for causing him physical injury and confining him to unlawful custody.

In reply, the Maharashtra Government contended that the erring police officials had been punished and that a fine of Rs.500 had been imposed on each of them. It was therefore urged that the Commission should not grant Rs.10,000 as interim compensation to Shri Anil Kumar. The Commission considered the reply on 28 December 2001 and held that the immediate interim relief u/s 18(3) of the Act was in

²²⁷. NHRC Annual Report 2001–2002

²²⁸. NHRC Annual Report 2001–2002



the nature of compensation to the victim for the violation of his human rights, while the fines imposed as punishment in a disciplinary proceeding on the delinquent public servant served a different purpose. There was therefore no ground to deny the immediate interim relief to the victim. Accordingly, the Commission confirmed that payment be made of immediate relief in the amount of Rs.10,000 to the victim, Anil Kumar. The compensation has since been paid by the State Government.

17. Illegal detention and torture of D.M. Rege: Maharashtra (Case No. 1427/13/98-99)²²⁹

D.M. Rege, an officer of Shamrao Vithal Co-operative Bank Limited, Versova Branch, Mumbai complained to the Commission that he was illegally detained and tortured by the police in connection with an incident involving the misplacement of cash in the Bank and requested for an inquiry into the matter.

Upon directions of the Commission, a report was received from the DCP, Zone VII, Mumbai. It indicated that the complainant was indeed innocent, and that his detention and torture were unjustified. The report also mentioned that the guilty Constable had been awarded a minor punishment by way of forfeiture of his increment for one year, while the delinquent Sub-Inspector had been transferred out. After consideration of the report, the Commission directed the Police Commissioner, Mumbai to have the matter re-examined in order to ensure that the erring police personnel were suitably punished in a manner that would be commensurate with the wrong that had been done. The Commission also issued a show-cause notice as to why Rs.30,000 be not awarded as immediate interim relief to the victim.

The State Government, through its letter of 4 January 2001, requested the Commission to reconsider the issue of payment of compensation on the ground that two of the policemen had been immediately transferred, and that the Constable had been awarded punishment of stoppage of his increment for one year for his misconduct. The Commission, in its order dated 10 April 2001, rejected the plea of the State Government, and held that, since the guilt of the public servants had been established, there were no grounds to justify a re-consideration of this matter and directed that compensation of Rs.30,000 be paid by the State Government to the complainant for violation of his human rights.

18. Custodial torture of Zamir Ahmed Khan: Uttar Pradesh (Case No. 14071/24/2001-2002)²³⁰

²²⁹ . NHRC Annual Report 2001–2002

²³⁰ . NHRC Annual Report 2002–2003



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

The National Commission for Minorities, on 25 July 2001, referred a complaint by Shri Zahir Ahmed Khan alleging the illegal detention of his brother, Zamir Ahmed Khan, by the Sub-Inspector and two constables of Bugrasi Chowki, Bulandshahar, Uttar Pradesh during the night of 29 March 2001. It was further alleged that he was brutally beaten by the police while in custody and that he had been released in the afternoon of 30 March 2001. Though he was examined in the Government hospital for the injuries, he was allegedly threatened by the police not to complain against them. A prayer was, therefore, made for action against the guilty police personnel. 13.33 The Additional District Magistrate, Bulandshahar in his magisterial report dated 1 August 2001 concluded that the police had picked-up Zamir Ahmed from his house, beaten him in custody and illegally detained him in violation of the law. The Magistrate also concluded that the Station House Officer, Bugrasi Chowki was responsible for the abuse of power and recommended suitable action against him.

The Senior Superintendent of Police, Bulandshahar, through his letter dated 7 December 2001, indicated that the complainant had filed a case against the accused police personnel under the relevant sections of the IPC in a court of law and that the matter was sub judice. Pending consideration of the matter by the court, he stated that further action would be inappropriate.

After considering this matter, the Commission observed:

"It is well-settled and hardly requires any elaboration that the pendency of a case either in the criminal or civil court for any other relief is no ground to keep in abeyance the disciplinary proceedings. Even otherwise, the standard of proof required for taking action in any disciplinary proceeding is of 'greater probabilities', as against 'proof beyond reasonable doubt' in a criminal proceeding. In the present case, the mere fact that the magisterial inquiry has already recorded a finding as above, is sufficient for the disciplinary proceedings to continue as well as for this Commission to award "immediate interim relief" under Section 18(3) of the Protection of Human Rights Act, 1993, which jurisdiction is attracted the moment a strong prima facie case of violation of human rights is made out."

The Commission accordingly directed the Government of Uttar Pradesh to show cause as to why immediate interim relief under Section 18 (3) of the Act be not granted to the victim. The concerned departmental authorities were also directed to proceed further with the disciplinary action initiated against the errant police personnel.

Subsequently, in view of the fact that no response was received from the Government of Uttar Pradesh within the time stipulated, the Commission awarded an amount of Rs.20,000/- as immediate interim relief to the victim of custodial torture in its proceedings of 27 May 2002. The Government of Uttar Pradesh was asked to submit the compliance report within eight weeks.



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

Further, in view of the lack of response in respect of the disciplinary action against the delinquent police personnel, the Senior Superintendent of Police, Bulandshahar was called upon to submit a report, within four weeks.

The Government of Uttar Pradesh requested the Commission to reconsider its recommendation for the grant of interim relief on the grounds that the victim did not sustain any grievous injuries and, therefore, any financial relief would be inappropriate. The Commission rejected the stand taken by the State Government and observed as under:

"The custodial torture is the clear finding reached in the magisterial inquiry itself. The insensitivity depicted in the letter of the Government of Uttar Pradesh where it says that payment of the amount does not appear to be proper because there was no serious injury caused to the victim, is disturbing. Custodial torture even without inflicting any visible injury would justify award of some compensation and disciplinary action against the delinquent police personnel. It is not necessary to say anything further in this connection except to reiterate the recommendation for payment of the above amount to the victim which is done hereby."

The Government of Uttar Pradesh has since initiated disciplinary action against the errant police personnel. However, a compliance report in respect of the payment of interim relief is awaited.

**19. Police beating of Jagdish Kawale leading to grievous injuries:
Maharashtra (Case No. 1585/13/2001-2002)²³¹**

The Commission received a complaint dated 8 November 2001 from Shri Sudhir T. Dhurwey, an advocate, alleging that Shri Jagdish Kawale, a resident of Pauni, District Bhandara, Maharashtra was mercilessly beaten by a police official of Pauni Police Station on 2 March 2001. The victim suffered grievous injuries resulting in a fracture to one leg and he also had to spend a considerable amount of money for his treatment in the Bhandara Government Hospital.

In response to a notice to the Superintendent of Police, Bhandara, Maharashtra, a report was received indicating that departmental action had been instituted against the Assistant Sub-Inspector involved in this incident and that he had been punished by the stoppage of his increment. A chargesheet had also been filed in a criminal case under the relevant sections of IPC against the concerned official and the matter was sub-judice.

In view of the strong prima-facie case against the Assistant Sub-Inspector, which was also reflected in the departmental action against him, the Commission on 12 September 2002 issued a show-cause notice to the Government of Maharashtra for the

²³¹ . NHRC Annual Report 2002–2003



grant of immediate interim relief. In response, the Home Department, Government of Maharashtra stated that since the police authorities had taken just and proper action, it would not be appropriate to grant immediate interim relief until the decision were known in respect of the two cases pending in court - one filed against the complainant by the Assistant Sub-Inspector, and the other filed by the police against their own errant colleague.

The Commission held that the grant of interim relief did not depend upon the outcome of any trial proceedings, whether criminal or departmental, and that it had power to grant immediate interim relief in those cases where a strong prima facie case was made out for violation of the victim's human rights. Having regard to the circumstances of the case, including medical reports submitted in support of the victim's claim of serious injuries inflicted by the Assistant Sub-Inspector of Police, the Commission, by its proceedings dated 2 March 2003, recommended that State Government a sum of Rs.50,000/- to the victim as immediate interim relief. The State was allowed liberty to recover the said amount from the Assistant Sub-Inspector of Police, after notice to him and after taking appropriate proceedings in accordance with law. In compliance with the Commission's recommendation, the Government of Maharashtra issued the necessary sanction for the payment of interim relief.

20. Police high-handedness against Prem Chand, a Teacher in Kota: Rajasthan (Case No. 1603/20/2001-2002)²³²

The Commission received a complaint dated 10 October 2001 from Shri Prem Chand, a teacher in the Government School at Kota, alleging that on 29 September 2001 he was picked-up by the local Sub Inspector, illegally detained, falsely implicated in a case, tortured and denied food and water during the period of his detention.

Upon notice being issued to the Superintendent of Police, Kota, the Commission received an investigation report which indicated that, while executing a warrant of arrest issued by the Court of Chief Judicial Magistrate, the complainant was mistakenly picked-up by the police instead of his namesake, the latter being wanted in a criminal case. For this lapse on the part of the Sub Inspector, departmental action had been initiated against him.

In view of the illegal detention of the complainant and the clear violation of his human rights, the Commission in its proceedings dated 14 February 2003 issued a notice to the Chief Secretary, Government of Rajasthan to show cause, within 6 weeks, as to why immediate interim relief under Section 18 (3) of the Act be not given to the victim. As of 31 March 2003, the response of the Government of Rajasthan was awaited.

²³² . NHRC Annual Report 2002-2003



21. Harassment and Torture of Jagannath Shaw by the RPF Staff: West Bengal (Case No: 118/25/2002-2003)²³³

The complaint relates to harassment and humiliation meted out to one Jagannath Shaw of Raniganj, Burdwan, West Bengal by two members of the Railway Protection Force on 6 April 2002.

A report received from Divisional Railway Manager, Asansol stated that an inquiry had been conducted by CIB/HQ and a charge sheet for imposing a major penalty under rule 153 of the RPF Rules, 1987 had been issued to the Sub Inspector S.C. Sahay and Head Constable G.K. Sinha who were involved in the incident. The Commission vide its proceedings dated 20 February 2003 directed that a notice be issued to the Eastern Railways, Calcutta to show cause as to why immediate interim relief under section 18(3) of Protection of Human Rights Act be not given to the victim. In response, the concerned Railway authorities informed that the errant officials were already being dealt within the Department for which a major penalty was also likely to be imposed on them and that there was no provision under the Railway Act. to grant interim relief in such cases.

On consideration of the aforesaid report, the Commission vide its proceedings dated 31 March 2004 observed that it was strange that the Railway authorities were insensitive towards the value of human rights of an individual and that they also appeared to be oblivious of the provisions of The Protection of Human Rights Act, 1993. It further noted that under the provisions of the Act, if prima facie, it was brought to the knowledge of the Commission that there has been violation of the human rights of an individual, immediate interim relief under section 18(3) of the Act could be awarded irrespective of any other proceedings initiated in the matter, whether it be by the concerned Department, or by any other authority, or court. Accordingly, the Commission directed that Rs. 10,000/- be paid as immediate interim relief under section 18(3) of the Protection of Human Right Act 1993. The case is being monitored by the Commission.

22. Complaint from Sarita Sahu, Resident of Ranchi: Jharkhand (Case No. 974/34/2001-2002)²³⁴

The Commission took cognizance of a complaint dated 14 October 2001 from Sarita Sahu, a resident of Tharapkhana, Ranchi, alleging that on 28 September 2001 at 10.30 p.m., a police party ransacked her house, picked her up, her brothers as well as her parents and took all of them to the office of the Superintendent of Police, Ranchi on charges of acting in a blue film entitled “Chhamia”. The police got a report printed in a local daily ‘Prabhat Khabar’ on 29 September 2001 that three girls were arrested in

²³³ . NHRC Annual Report 2003–2004

²³⁴. NHRC Annual Report 2003–2004



connection with the production of the blue film. Besides she was abused and assaulted by the police and was also forced to pose for photographs.

In response, the Director General and Inspector General of Police, Ranchi, Jharkhand submitted the report stating that the matter was investigated by the CID and the charges levelled by the complainant against the police were found to be largely true. A range of acts of omission and commission on the part of Ranchi Police had been exposed. The then Superintendent of Police, Ranchi was primarily held responsible for the incident. The CID also found nine police personnel responsible for this incident against whom departmental action was being taken.

Upon consideration of the report, the Commission held that Sarita Sahu and her family members were subjected to mental agony, harassment and humiliation by the police and directed the State Government to show cause as to why interim relief be not granted to the victim under section 18(3) of the Protection of Human Rights Act. In response to the show cause notice issued by the Commission, the Government of Jharkhand intimated that the matter was investigated by the CID and that on the basis of their report, explanations have been called for from the concerned police personnel and that necessary action would be taken after they had tendered their replies. The report further stated that as regards the payment of compensation, the State Government shall abide by the directions/ recommendations of the Commission.

Having regard to the facts and circumstances of the case, the Commission directed the Government of Jharkhand to pay Rs. 1,00,000/- (Rupees One Lakh only) to the complainant as “interim relief” under section 18(3) of the Act for causing mental agony, harassment and humiliation to the complainant and other members of her family. The Commission further directed the DGP, Jharkhand to intimate the outcome of the departmental action initiated against the errant police personnel on the basis of the findings of the CID report. The case is being monitored by the Commission.

23. Unlawful Detention of Manoharan: Tamil Nadu (Case No. 213/22/2001-2002)²³⁵

A telegraphic complaint was received from M. Meena stating that a case Cr. No. 334/01 under section 147/342/363/506 of the IPC was registered against her brother-in-law, Varadarajan and that the police was searching for him. On the night of 27 May 2001, the police, however, picked up her husband, Manoharan, and took him to the police station, where he was unlawfully detained and brutally tortured.

A report received from the Superintendent of Police, Tiruchirapalli confirmed that the complainant's husband Manoharan was unlawfully arrested by the Deputy Superintendent of Police, Jayashree and Constable G. Rajasekaran and detained at the police station, Tiruchirapalli without any valid reason.

²³⁵ . NHRC Annual Report 2003–2004



In response to a show cause notice, the Government of Tamil Nadu forwarded the report of the DG(P), Chennai, Tamil Nadu stating that there was no ill treatment meted out to the complainant's husband and that he was detained in the police station for inquiry. Manoharan had also stated that he was treated by the police decently and therefore grant of interim relief to Manoharan was not warranted.

Having regard to the facts and circumstances of the case, the Commission observed that the enquiry revealed that the Deputy S.P. of Tiruchirapalli had unlawfully detained Manoharan in the police station and caused him mental agony, although there was no case pending against him. Therefore there was no valid ground to review the earlier directions of the Commission.

The Commission therefore directed the State Government of Tamil Nadu to pay a sum of Rs. 50,000/- as immediate interim relief to Manoharan and initiate a departmental enquiry against erring police officials for his wrongful confinement.

Pursuant to the Commission's directions, a compliance report has been submitted by the State Government of Tamil Nadu.

24. Illegal Detention and Torture of Prahlad Swaroop in Police Station, Shikarpur: Uttar Pradesh(Case No. 17171/24/1999-2000)²³⁶

The Commission received a complaint from Ganga Prasad a resident of District Bulandshahar, Uttar Pradesh alleging illegal detention and torture of his son Prahlad Swaroop and one Satish, son of Chiranjilal by police personnel belonging to Police Station, Shikarpur at the instance of Zamindars in the village.

Upon consideration of the report received from the Senior Superintendent of Police, Bulandshahar, the Commission vide its proceedings dated 22 February 2002 directed that a copy of the report be sent to the complainant for his comments. In his response, the complainant reiterated his allegations and again submitted copies of medical reports of his son Prahlad and Satish along with affidavits from some of the villagers in support of his allegations. The Commission in its subsequent proceedings dated 21 August 2002 noted that the medical examination of Prahlad Swaroop and Satish that was conducted on 17 August 1999 clearly showed that the injuries inflicted on Prahlad Swaroop and Satish were by some hard and blunt object. It therefore directed the State Government of Uttar Pradesh to show cause as to why an immediate interim Relief under section 18(3) of the Act be not awarded to the victims in this case. The Commission did not receive any response from the Chief Secretary, Government of Uttar Pradesh. However, the Senior Superintendent of Police, Bulandshahar forwarded an inquiry report submitted by Additional Superintendent of Police of District, Khurja. In the detailed report of Additional Superintendent of Police, District Khurja, the allegations of the complainant stood substantiated. Keeping in view the findings

²³⁶ . NHRC Annual Report 2003–2004



recorded by the Additional Superintendent of Police, District Khurja and taking note of the fact that the Chief Secretary, Government of Uttar Pradesh had not shown any cause against the grant of immediate interim relief, the Commission vide its proceedings dated 23 July 2003 directed that a sum of Rs. 10,000/- be awarded to each of the two victims viz. Prahlad Swaroop and Satish by the State of Uttar Pradesh. The case is being monitored by the Commission.

25. Rape in Ranchi Police Station: Jharkhand (Case No. 415/34/2001-2002-AR/FC)²³⁷

The Commission took cognizance of a press report which appeared in the 'The Indian Express' dated 15 July 2001 stating that ABC, a widowed mother of three children, was allegedly raped on 13 July 2001 inside the Police Post at Khadgarha, Jharkhand by police Constable, Chakkan Sao.

In response to the notice issued by the Commission, the Chief Secretary and DGP, Jharkhand submitted a report indicating that a case No.69/2001 dated 14 July 2001 under section 376 IPC was registered at Lower Bazar Police Station and the accused Constable was arrested and sent to judicial custody. Subsequently, a report received from the Deputy Inspector General (HR), Jharkhand further stated that on completion of investigation of the case, a charge-sheet had also been filed in the Court on 31 July 2001.

15.84 On consideration of the aforesaid report, the Commission vide its proceedings dated 26 December 2001 and 6 October 2003, directed to call for information as to whether any compensation had been granted as required under the provisions of the Scheduled Caste/Scheduled Tribe (Prevention of Atrocities) Act, 1989 to the victim. In response, the Special Secretary (Home Department.), Government of Jharkhand sent a report stating that the victim had been paid an amount of Rs. 25,000/- which was 50% of Rs. 50,000/- payable in accordance with Entry 11, Schedule (Annexure I) of the Scheduled Caste/Scheduled Tribe Prevention of Atrocities Rules 1995 for the commission of offences as defined in Section 3(1) (xi) of the SC/ST (Prevention of Atrocities) Act, 1989 and the balance amount of Rs. 25,000/- would be paid after the decision was pronounced by the Court. The Commission vide its proceeding dated 24 March 2004 opined that since action has been taken by the State Government and as the matter was sub-judice, no further action was called for and accordingly the case was closed.

26. Torture and gang rape of minor Reang tribal girl by police officers in Tripura (Case No. 5/23/2003-2004-WC)²³⁸

²³⁷. NHRC Annual Report 2003–2004



The Commission received a complaint from Shri Suhas Chakma, Director, Asian Centre for Human Rights, New Delhi alleging that Ms. Reang, a 17 year old girl was tortured and gang raped by a group of three Special Police Officers of the State Government of Tripura on 26/5/ 2003. The victim girl's family complained to the police station naming the three guilty SPOs but their complaint was not recorded.

In response to the notice, a report received from the DGP, Tripura indicated that a case No. 6/2003 u/s 366 (A), 376, 326 and 34 IPC was registered in Police Station Raishyabari against the three named persons on 28/5/2003. The medical report confirmed that the victim, aged 17 years was sexually assaulted and raped. The three SPOs had been discharged from the service, arrested and sent to jail. In view of the gravity of the allegation of sexual brutality committed on a hapless girl by the three SPOS, the Commission directed to issue a notice to the Chief Secretary, Government of Tripura to show cause as to why interim relief not be granted to the victim.

The Government of Tripura informed the Commission that it had paid an amount of Rs. 15,000/- as compensation to the victim Ms. Mithirung Reang. However, the Commission observed that the offence of rape not only amounts to violation of the human rights of the victim, but it also tends to violate the mind and scar the psyche of a person permanently. Besides, it carries a social stigma for the victim and her family. The Commission, therefore, directed the Government of Tripura to pay an amount of Rupees Fifty thousand as immediate interim relief to the victim after adjusting Rupees Fifteen thousand already paid. As the State Government submitted its compliance report in respect of payment of an amount of Rupees Thirty five thousand, the case was closed on 10/1/2005.

27. Illegal detention of two Adivasi boys by Police - Kerala (Case No. 208/11/97-98)²³⁹

The Christian Cultural Forum, Kollam, Kerala, submitted a complaint alleging that police officials of Agali in Attappaddi in Palakkad district in Kerala arrested three Adivasis, Manikandan, Parameswaran and Kuppamma on 25.5.1997 and kept them in illegal custody for 23 days. During detention, one of the detenu Kuppamma, an Adivasi woman was beaten black and blue by the police and chilli powder was stuffed into her vagina. According to the complainant, the Circle Inspector had falsely implicated around 100 adivasis in a fabricated case and as a result adivasis had left their houses.

In response to the notice issued by the Commission, a report dated 18-12-97 was received from SP, Palakkad which revealed that an enquiry into the matter was conducted by SP, CB/ CID and it was found that police at Agali Police Station

²³⁸. NHRC Annual Report 2004-2005

²³⁹. NHRC Annual Report 2004-2005



detained two boys, namely, Manikandan and Parameshwaran illegally on 27-5-97 till 17 June 1997, without any complaint having been registered against them. It was further mentioned that the Circle Inspector, ASI and two Constable who were involved in the incident had been suspended and criminal cases were instituted against them. The report also stated that Kupamma, the mother of Parmeshwaran did not make any allegations of torture, when she was produced before the Court in a criminal case.

While considering the matter on 20-5-03, the Commission directed to issue a show cause notice u/s 18(3) of the Protection of Human Rights Act, 1993 to the Chief Secretary, Government of Kerala to show cause as to why an immediate interim relief not be granted to Manikandan and Parameshwaran for their illegal detention. In response to the show cause notice a letter dated 26- 6-03 was received from Government of Kerala contending that the State Government is not in a position to make any payment till disposal of criminal cases, pending before the court, since the alleged delinquent officers are liable to pay compensation, if any, awarded by the court. The Commission considered the matter further on 20/5/2004 and while recommending a sum of Rs. 10,000/- to each of the victims as immediate interim relief, held that proceedings u/s 18(3) of the Protection of the Human Rights Act 1993 are independent and the pendency of criminal case is no impediment to the award of immediate interim relief.

Pursuant to the directions of the Commission, the Government of Kerala vide their communication dated 14-7-04 informed that the interim relief of Rs. 10,000/- each to Manikandan and Parameshwaran has been disbursed to the incumbents on 2-7-04. In view of compliance of the recommendations of the Commission, the case was closed.

28. Illegal detention of Shri Ramveer Singh, Surendra Singh Delhi (Case No. 3454/30/2000-2001)²⁴⁰

The Commission received a complaint from Shri Ramveer Singh, resident of District Etah, Madhya Pradesh alleging that he and Shri Surendera Singh S/o Bhai Lal were picked up on 5.1.2001 for interrogation in a murder case, illegally detained at the PS, Mayapuri where they were beaten and subsequently released on 8.1.2001.

In response to Commission's notice, a report received from the DCP(Vigilance) stated that complainant and Surendra Singh were brought to the PS, Mayapuri by special staff without any legal notice and verification and detained there till 7.1.2001. The report further stated that an inquiry was held against the Inspector, Bishan Mohan of Special Staff/SWD, in which he was found guilty and was 'censured' for the serious lapse committed by him.

²⁴⁰. NHRC Annual Report 2004-2005



On consideration of the aforesaid report, the Commission vide its proceedings dated 14.5.2003 directed to issue a notice to the Commissioner of Police, Delhi to show-cause as to why immediate interim relief u/s 18(3) of the Protection of Human Rights Act, 1993 not be awarded to the victims. 4.76 The Commission vide its further proceedings dated 21.1.2004 considered the report received from the office of the Commissioner of Police and held that there had been illegal detention of the complainant and Surendra Singh from the night of 5/1/2001 till the morning of 7/1/2001 in violation of their human rights. It directed Commissioner of Police, Delhi to pay a compensation of Rs. 5000/- to each of them.

In compliance, a communication received from the Dy. Commissioner of Police(Vig.), Delhi dated 26.5.2004 indicated that an amount of Rs. 5000/- had been paid by way of interim relief as recommended by the Commission to each of the two victims. In view of the compliance report received, the case was closed.

29. Suicide by Vinod Kumar Rajput due to police harassment Madhya Pradesh [Case No. 1412/12/98-99 (FC)]²⁴¹

The Commission received a complaint dated 22/10/1998 from Mrs. Deepa Rajput alleging that, while her husband, Vinod Kumar Rajput was returning from the bank to his shop on 30.7.98 alongwith a cash of Rs.2.5 lacs, some miscreants attacked him with a sword and snatched the entire money from him. Despite lodging a report with the Police, no action was taken to apprehend the culprits. On the other hand, her husband was repeatedly called by the Police to the Police station and was tortured by them. As a result, he committed suicide on 6.9.98. She prayed for an appointment on compassionate grounds and compensation.

Pursuant to the direction dated 10/03/1999, the State Government of M.P. forwarded a report of Collector, Bhopal alongwith an enquiry report of the Jt. Collector, Bhopal. The District Collector, in his report, stated that since the husband of the complainant was not in Government service, no Government service could be offered to the complainant on compassionate ground as per the administrative rules. The enquiry report disclosed that Shri Rashid Khan, ASI had threatened Shri Vinod Kumar of defaming his father and his wife if he did not disclose everything. Shri Vinod Kumar swallowed two tablets of sulphur on the way, due to which he died in Hameedia Hospital. This version also finds support from the dying declaration of Vinod. The Inquiry Officer concluded that the suicide committed by Shri Vinod Kumar was not a result of police action but due to fear of defamation that may affect his family members. The IO held ASI Rashid Khan guilty of threatening Shri Vinod Kumar and recommended departmental action against him.

²⁴¹. NHRC Annual Report 2004–2005



The Commission considered the fore mentioned reports on 30/08/2001 and held that the deceased was forced to commit suicide due to the threat of the ASI. Accordingly, it issued showcause notice to the State Government u/s 18(3) of the Protection of Human Rights Act, 1993 to show cause as to why compensation of Rs.1 lakh be not awarded to the complainant. In reply to the above show cause notice, the State Government of Madhya Pradesh, vide letter dated 7/8/2002, submitted that necessary instructions were issued by the SP Bhopal to recover an amount of Rs. 50,000/- @ Rs. 2,000/- per month from the salary of the guilty police official, i.e. ASI Rashid Khan and to pay the same to the complainant. ASI Rashid Khan was also punished by stopping his increment for one year.

Considering the above reply, the Commission, on 07/07/2003 recommended interim relief of Rs.1 lakh to the complainant and called for compliance report from the State Government of M.P. within six weeks. The compliance report has since been received.

30. Illegal detention torture and false implication of Mohd. Harun Khan by Jehanabad police in Bihar (Case No. 1762/4/2002-2003)²⁴²

The Commission received a complaint dated September 3, 2002 from one Mohd. Harun Khan, r/o Village Dharnai, District Jehanabad, Bihar stating that his brother Hasmi Khan, a driver was picked up on August 8, 2002 by Amarendra Kumar Jha, Officer Incharge, Kurtha Bazar Police Station on the allegation that he was carrying a dead body of an unknown lady in his jeep. He has further stated that his brother was allegedly subjected to torture for six days by the said police officer and later on falsely implicated in crime case No. 299/2002 u/s 302/201/34 IPC on August 8, 2002. The complainant has prayed for suitable compensation for the unlawful detention of his brother and action against errant policemen.

The Commission called for and obtained a report from Superintendent of Police, Jehanabad. The report received indicated that the victim was brought to the Police Station Kurtha Bazar on August 3, 2002 and was produced in the court on August 6-7, 2002. The Investigating Officer of the case was suspended for negligence in producing the accused (brother of the complainant) without case diary and the memo of evidence resulting in his illegal confinement in the police lock-up. The police officer was also punished under the service rules for dereliction of his official duty.

The Commission, considered the report on September 30, 2003 and directed issue of notice to State of Bihar through its Chief Secretary to show cause as to why immediate interim relief u/s 18(3) of Protection of Human Rights Act, 1993 be not granted to the victim.

The Commission vide proceedings dated March 3, 2006 considered a communication dated May 12, 2005 received from Government of Bihar in which the State

²⁴² . NHRC Annual Report 2005–2006



Government recommended/suggested for payment of Rs. 25,000/- as interim relief. The Commission approved the payment of Rs. 25,000/- by way of interim relief to the victim and the case was closed.

31. Illegal detention and torture of a minor Mukesh by Haryana Police (Case No. 1453/7/2005-2006/FC)²⁴³

A News report, published in the Chandigarh edition of 'Dainik Tribune' (Hindi) captioned 'Bachon ko Yatnay: CID Jaanch ke Aadesh' (Torture of Children: CID Enquiry ordered), wherein it was reported that a 12 year old child, namely, Mukesh, resident of Jhugi colony, situated in the compound of Mansa Devi was picked up and tortured by the Police. More reports that appeared on the TV channel, had shown that both hands of the victim were tied and he was hanged from a tree and beaten up by two Policemen.

As the news item prima facie disclosed violation of rights of children, the Commission vide proceedings dated October 13, 2005 took cognizance and observed that no civilized State could allow such brutalities to go unpunished. It directed to transmit copies of the press report and transcript of the TV Channel report to Director General of Police, Government of Haryana to look into the matter and send his report within three weeks.

As response was not received within the stipulated period of time, a reminder was issued to the DGP, Haryana for his comments.

32. Illegal detention and torture of Ram Kishan by Police, Haryana (Case No. 2447/7/2002-2003/FC)²⁴⁴

The Commission received a complaint from one Ram Kishan of Kamal, Haryana alleging that his son Pratap Singh was arrested on February 6, 2003 and illegally detained for three days by Ajmer Munshi and Ramesh of CIA Staff, Kamal. The victim, on February 20, 2003 committed suicide due to the alleged police action against him. The deceased in his suicide note stated that during police custody, he was mercilessly beaten up by the two above named policemen and falsely implicated in a case.

The Commission taking cognizance of the complaint directed to transmit a copy of the complaint to SP, Karnal to look into the allegations contained therein and submit his comments.

In response to the Commission's directions, a report was received from SP, Kamal, which stated that a magisterial inquiry was conducted into the matter.

²⁴³ . NHRC Annual Report 2005–2006

²⁴⁴ . NHRC Annual Report 2005–2006



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

Upon perusal of the report, the Commission, on April 23, 2004 observed that during magisterial inquiry, it had been proved that the three named accused were kept in illegal detention by the CIA staff, Karnal. The Commission further observed that it is a fit case for grant of immediate interim relief, and directed to issue notice to the Chief Secretary, State of Haryana to show cause as to why immediate interim relief u/s. 18 (3) of the Protection of Human Rights Act, 1993 be not paid to Pawan, Bijendra Singh and the next of kin of the deceased Pratap Singh.

In response to the show cause notice, the Under Secretary Home, Government of Haryana informed the Commission that the concerned S.I. and the constable who had illegally detained Pratap Singh, the deceased, had been proceeded against and punishment of stoppage of one increment without cumulative effect had been imposed on them. It was further mentioned that the punishment imposed on the policemen should be considered as sufficient and the State Government should not be made liable for payment of compensation. A request had, therefore, been made to review and drop the proceedings for grant of 'interim relief' u/s 18(3) of the Protection of Human Rights Act, 1993, to the next of kin of the deceased, Pratap Singh.

While considering the matter on January 17, 2005, the Commission gave its careful consideration to the stand of the State Government and inter alia observed as under:

“That Pratap Singh had been illegally detained has not only been established by the Magisterial Inquiry, but also accepted by the State Government, which has proceeded against the delinquent police official's department ally. To deprive a citizen of his liberty without any authority, illegally, cannot be permitted by a civilized society. The very fact that the deceased had been kept in illegal detention by the CIA staff, Karnal would immediately invite a recommendation from the Commission for "immediate relief" to the next of kin of the deceased for the illegal detention, though not for the death of the deceased.”

The Commission, therefore, recommended that a sum of Rs. 25,000/- be paid to the next of kin of the deceased, Pratap Singh, as 'interim relief' within six weeks and compliance report be submitted to the Commission.

The Under Secretary (Home) for Financial Commissioner & Principal Secretary to Government of Haryana, Home Department submitted a compliance report with a copy of the receipt in proof of payment of Rs. 25,000/- made to Shri Ram Kishan, the father of the deceased, Pratap Singh.

The Commission considered the matter on August 22, 2005 and closed the case.

33. Illegal detention and torture of Shri Ramachandra Pujari and Damodar Shetty by Maharashtra Police (Case No. 1220/13/1999-2000)²⁴⁵

²⁴⁵ . NHRC Annual Report 2005–2006



The Commission received a complaint from Shri M.P. Shetty of Wadala, Mumbai, Maharashtra, along with a copy of a press report that appeared in a Marathi Daily newspaper regarding police atrocities. It was alleged that on September 18, 1999 Shri Ramachandra Pujari and Damodar Shetty were picked up by the police from a restaurant and taken to Dharavi Police Station where they were beaten up and Shri Pujari was sexually abused in the filthiest and beastly manner.

The Commission, on November 22, 2000 after considering a report received in this regard from the office of Deputy Commissioner of Police, Zone-VIII, Bandra (E), Mumbai directed to issue a notice to Director General of Police, Maharashtra to show cause as to why a sum of Rs. 50,000/- to each of the two victims be not paid as immediate interim relief u/s 18(3) of the Protection of Human Rights Act, 1993.

In response, Joint Secretary, Home Department, Government of Maharashtra vide fax message dated March 22, 2006 intimated that State Government has decided to pay compensation of Rs. 50,000/- to each of the two victims as per the recommendation dated November 22, 2000 of the Commission. It was further reported that the payment of compensation would be made to the victims before March 29, 2006 and proof of payment will also be furnished to the Commission.

Proof of payment is awaited.

34. Custodial torture and false implication of Rajeev Ranjan by police in Nalanda, Bihar (Case No.1086/4/2000-2001)²⁴⁶

The commission on 25 May 2000 received a complaint from one Rajeev Ranjan stating that on 27 April 2000, Ramod Kumar Singh, SHO, Rahooi, Nalanda picked him up, caused grievous hurt, snatched valuables, cash and obtained his signatures on blank paper forcibly, which was converted into a false confession. He further stated that although he was not named in Crime No. 8/2002 under section 394 IPC, still he was allegedly implicated falsely and denied any treatment for the bleeding injury. He was produced before the Chief Judicial Magistrate on 28 April 2000 and remanded to judicial custody. As jail officials refused to admit him because of the bleeding injuries, he was detained unlawfully at the Police Station until 29 April 2000 and subjected to torture. The complainant further stated that the complaint in Crime No. 8/02 submitted an application before the court stating that the complainant before the Commission was known to him and had not robbed him. He has prayed for appropriate action against the guilty police personnel responsible for violation of his human rights.

In response to the notice issued by the Commission, the Director General of Police, Bihar submitted a report dated 21 November 2002 enclosing therewith a copy of the report dated 12 December 2000 submitted by the Superintendent of Police, Nalanda.

²⁴⁶ . NHRC Annual Report 2006–2007



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

According to the report dated 12 December 2000, the complaint had been entrusted for inquiry to SDPO, Sadar (Bihar Sharif), Bihar. His report disclosed that on 27 April 2000 at about 3.30 p.m., Thana Incharge, Thana Rahooi was returning from Bihar Sharif to Rahooi after completing official work. On the way he found that Bus No. BIQJ8178 had been stopped by four boys and they were demanding money from the driver. Thana Incharge, Rahooi apprehended two boys namely W. Kumar alias Satinder Kumar and Rajiv Ranjan, complainant before the Commission and brought them to Thana. During interrogation, both the boys confessed their involvement in Crime No. 8/ 2000 dated 30 January 2000 under section 394 IPC. It has also been mentioned in the report that the complainant was hurt and had been treated in the Primary Health Centre vide outdoor patient entry No. 1272 dated 27 April 2000. The report further disclosed that on the basis of confessional statement of the complainant and another, they were produced before the Chief Judicial Magistrate on 28 April 2000. Thereafter, Jail Superintendent declined to admit the complainant in the jail, since Injury Report was not brought by Thana Incharge. Therefore, Thana Incharge took back the complainant Rajiv Ranjan to Thana. SDPO in his report confirmed beating of Rajiv Ranjan and found that the complainant had been wrongly implicated in case No. 8/2000 under section 394 IPC. Other allegations contained in the complaint regarding snatching of money and gold chain could not be substantiated during enquiry. Report further disclosed that after enquiry, Mr Ramod Kumar Singh, the then Thana Incharge was placed under suspension as per the orders of the District Magistrate, Nalanda.

The Commission considered the matter on 3 September 2004 when it observed that this appeared to be a fit case for grant of immediate interim relief and directed State of Bihar through its Chief Secretary to show-cause within four weeks, as to why the Commission should not recommend grant of relief under section 18(3) of the Protection of Human Rights Act, 1993 to the complainant.

Under Secretary, Home (Police) Department, Government of Bihar, Patna vide communication dated 16 July 2005 submitted that on the recommendation made by the Commission for grant of 'interim relief' to Rajiv Ranjan, State Government would take necessary steps for its compliance.

The Commission on 3 April 2006 recommended that a sum of Rs. 10,000/- be paid to the complainant by way of 'interim relief' under section 18(3) of the Protection of Human Rights Act, 1993 within four weeks.

Under Secretary Home (Special) Department, Government of Bihar, vide letter dated 15 November 2006, forwarded to the Commission a copy of letter dated 13 November 2006, of District Magistrate, Nalanda intimating that the "interim relief " of Rs.



10,000/-, as recommended by the Commission, has been paid to Rajiv Ranjan vide cheque No.303546 dated 13 November 2006, after verification.

As the recommendations of the Commission were complied with, the case was closed on 27 November 2006.

35. Illegal detention of son of one Mohammed Azad by Police: Uttar Pradesh, (Case No.13161/24/98-99)²⁴⁷

Acting on a complaint from one Mohammed Azad, resident of Ghaziabad, Uttar Pradesh, the Commission observed in its Proceedings of 1 November 1999 that the son of the complainant had been illegally detained by the police from 16 - 27 November 1998 and directed the payment of Rs.25,000 immediate interim relief to the complainant; it also recommended that this amount be recovered from the salary of the Sub-Inspector of Police Brij Pal and three other police personnel responsible for the illegal detention.

The SSP Ghaziabad sought reconsideration of this decision on the grounds — (i) that both the petitioner and his son had filed an affidavit denying that the son of the petitioner had been illegally detained; and (ii) that the petitioner had also denied that any complaint had been submitted to the Commission at any time.

The Commission, while rejecting the stand taken by the police authorities, observed in an order dated 10 December 2001 that a denial made by the petitioner or his son at this stage could not have any weight because the police report had itself earlier admitted that the son of the petitioner had been illegally detained and kept in lawful custody. Moreover, this crime was committed against society, and not merely against an individual. The Commission observed that the stand taken by the petitioner and his son was an after-thought and could not be accepted.

The Commission therefore directed that compliance be made of its earlier recommendations and also issued notice to the petitioner and his son to show-cause asking as to why action be not taken against them for resiling from their earlier statement by the later filing of an affidavit.

36. Abuse of power and false implication of Lalit Mehto by Madhepur Police, Madhubani, Bihar (Case No. 4190/4/2002-2003)²⁴⁸

²⁴⁷. NHRC Annual Report 2001–2002

²⁴⁸ . NHRC Annual Report 2006–2007



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

The Commission on 25 February 2003 received a complaint from Kusheswar Mehto r/o Madhubani, Bihar stating that his son Lalit Mehto was assaulted by some persons and his motorcycle and some cash was snatched from him for which his son accompanied with Rakesh Mondal went to the police station Madhepur to lodge a complaint, but the police in order to help the accused party did not take any action and his son Lalit and Rakesh were put in the lockup without any reason. Thereafter, they were allegedly abused, beaten, and involved in the false case by the police. He has prayed to the Commission to intervene and to conduct independent investigation.

Pursuant to the directions of the Commission, a report dated 2 September 2004 was received from the Superintendent of Police, Madhubani stating that the matter referred in the complaint relates to a crime No.16/03 registered at Madhepur Police Station on 7 February 2003 under section 25,26,35 of the Arms Act, registered at the instance of ASI Mundrika Prasad, on the ground that some illegal arms were recovered from the accused, including the son of the complainant. It is reported, however, that inquiry was made in the matter and the case registered against Lalit Mehto, son of the complainant was found false. For this reason ASI, Mundrika Prasad was placed under suspension and directions were issued for taking departmental action against him. During departmental inquiry, Mundrika Prasad was found guilty and his six months salary had been deducted, which is equal to a black mark in his confidential report.

While considering the above report on 25 January 2005, the Commission concluded that Lalit Mehto, the son of the complainant was falsely involved in a criminal case under Arms Act and he has been, as such, unnecessarily harassed resulting in violation of his human rights. Accordingly, the Commission directed to issue notice to the Chief Secretary, Bihar to show-cause within six weeks, as why immediate interim relief under section 18(3) of the Protection of Human Rights Act, 1993 be not given to the victim.

In response, Deputy Secretary, Home (Special) Department, Government of Bihar vide letter dated 10 August 2005 submitted that action will be taken by the State Government for payment of interim relief to the victims, as was recommended by the Commission.

The Commission on 15 February 2006 considered the facts and circumstances of the case and recommended a payment of Rs. 10,000/- to each of the two victims by way of interim relief. The Under Secretary, Government of Bihar vide letter dated 15 November 2006 informed about the payment made to the two victims on 28 September 2006 and 7 October 2006 respectively.

As the direction of the Commission has been complied with, the case is closed on 27 November 2006.



**37. Police Atrocities and false implication of Dayanand Majhi Dalit in Bihar
(Case No. 2541/4/2000-2001)²⁴⁹**

The Commission on 12 October 2000 received a complaint from Dayanand Manjhi and his wife Ramavati Devi, who belong to a poor scheduled caste family, stating that they had raised a loan of Rs.20,000/- under Jawahar Rojgar Yojna at the instance of one, Satan Rai, who utilized the loan for purchase of building material. On the basis of a report lodged with the police, a case No. 71/2000 was registered at Harijan PS, Hajipur. Offended by it, Satan Rai also got a case registered against the complainant. Sub- Inspector Devanand Jha helped the opposite party and raided the house of the complainant in the night of 24 September 2000. He abused the family members and outraged the modesty of the complainant Ramavati who was stripped naked and kept in the lock up. A prayer was made for independent investigation and action against the accused.

In response to the notice issued to the Director General of Police, Bihar, a report dated 13 April 2002 was received admitting the registration of two cases, as mentioned in the complaint and the fact that Satan Rai had beaten the complainant Dayanand Majhi and tortured him for whom a criminal case no. 71/2000 was registered. The accused was arrested and a challan in the case, after investigation, had been filed in the Court. As regards case no. 116/2000 registered at the instance of Satan Rai for various offences under IPC, the report mentioned that the case was investigated by Devanand Jha, Sub-Inspector. In the course of investigation, it was established that he had visited the house of the complainant, misbehaved with his family members, arrested them and put them in the lock-up. However, no truth was found in the allegations and a final report had been submitted to the court on 5/8/01. It was further mentioned that for the misconduct of Sub-Inspector Devanand Jha, departmental action was taken against him. He was suspended and, at the culmination of the departmental inquiry, his increment for one year was stopped.

Upon consideration of the report on 19 June 2003, the Commission observed that the fact that Sub-Inspector, Devanand Jha, misbehaved with the complainant and his family members was itself sufficient to hold that there was violation of human rights, in as much as their dignity was lowered in the eyes of the public. The Commission, therefore, directed to issue notice to the Chief Secretary, Government of Bihar, to show-cause within four weeks as to why immediate interim relief under section 18(3) of Protection of Human Rights Act, 1993 be not given to the petitioner.

In response to Show-cause Notice, Home Secretary, Home (Police) Department, Govt, of Bihar endorsed to the Commission a copy of the Sanction letter dated 21 April

²⁴⁹ . NHRC Annual Report 2006–2007



2005 conveying grant of Rs. 50,000/- to the complainant. As the proof of payment called for by the Commission was also received from the State Government of Bihar, vide letter dated 22 February 2006, the case was closed on 27 October 2006.

38. Police Torture of Mentally Disabled Lyek Anwar in Chamanganj, Kanpur, Uttar Pradesh (Case No. 36115/24/2002-2003)²⁵⁰

The Commission received a complaint dated 22 December 2002 from one Iftkhar Ahmed stating that his mentally challenged son Lyek Anwar was stopped and questioned by constable Firoz Khan of police post Takia Park Police Station Chamanganj without any reason. Because of his mental disability, his son could not answer the questions and the constable Firoz Khan took him to the police post, where he was beaten with a lathi and his head was struck against the tree. Consequently, his son sustained serious injuries. When the complainant came to know about the incident, he took his son to the doctor for treatment. Thereafter, the complainant went to the police station to report the matter, but the SHO and other police officials did not register his complaint. He thus prayed for intervention of the Commission for action against the errant constable.

In response to a communication from the Commission transmitting the complaint to the concerned authority for appropriate action and for submission of action taken report, Superintendent of Police, South, Kanpur vide letter dated 16 July 2003 forwarded detailed inquiry report of Circle Officer, Seesamau, Kanpur dated 11 May 2003. During inquiry, Circle Officer Seesamau found constable Firoz Khan of Police Station Chamanganj guilty of beating the son of the complainant and he recommended a departmental action against the delinquent constable. SP, South, Kanpur vide communication dated 16 July 2003 further reported that pursuant to the recommendation of the Circle Officer, concerned constable had been punished with 7 days PO vide Order dated 15 July 2003.

While considering the matter on 5 July 2005, the Commission directed for issue of a notice under section 18(3) of the Protection of Human Rights Act, 1993 to Chief Secretary, U.P. to show-cause as to why interim relief be not recommended in favour of the victim.

In response to the show-cause notice, Secretary, Government of U.P. vide communication dated 23 March 2006 submitted that in view of the fact that human rights of the victim were violated, the grant of interim relief to the victim seems to be justified.

²⁵⁰ . NHRC Annual Report 2006–2007



The Commission vide proceedings dated 22 November 2006 recommended to the State of U.P. through its Chief Secretary to pay Rs. 10,000/- as “immediate interim relief” to the victim (Lyek Anwar) within four weeks.

Compliance report along with the proof of payment is awaited.

39. Illegal detention of Santosh by Chandigarh Police (Case No. 72127/2006-2007-wc)²⁵¹

The Commission on 8 January 2007 took cognizance of a news item captioned "Cops mix up identity, jail woman for 14 days that appeared in "Indian Express" dated 23 December 2006.

According to report, on 28 November 2006 Head Constable Ramjumar of Chandigarh Police arrested one Santosh from Shiv Colony in Kamal. Though the arrested woman, her husband Surjit Kumar and their neighbours pleaded her innocence, the cops brought her to Chandigarh on presumption that she was the proclaimed offender in a September 2000 liquor smuggling case. The police did not even verify her husband's name before arresting her. They also did not verify her photograph with the real accused arrested six years ago on charges of smuggling liquor and declared proclaimed offender.

In response to a communication calling for a factual report in respect of the newspaper report from Administrator, Union Territory of Chandigarh, a report received is under consideration of the Commission.

40. Illegal detention and torture of Raju by police at Pahwa, Unnao, Uttar Pradesh (Case No. 23139/24/2001-2002)²⁵²

The Commission received a complaint dated 17 September 2001 from Anil, a resident of Unnao, U.P., alleging that on 16 February 2001, his elder brother Raju was picked up by the police officials of Police Chowki Pahwa in connection with a case of looting motor cycle. His brother was beaten by the police officers and was lodged in PS Makhi. He further stated that his brother was never involved in any criminal activity and no criminal case has been registered against him in any Police Station. He prayed that the matter may be investigated by some senior officers and his brother be saved from becoming a criminal.

In response to the notice issued to the Superintendent of Police, Unnao, vide letter dated 10 December 2002, an investigation report of Mr Harpal Singh, Circle Officer, Unnao, U.P was forwarded which indicated that on the complaint of one Prakash Tiwari alias Lala Tiwari a complaint being Case No. 236 of 2001 under section 394IPC had been registered against 3-4 unknown persons for looting motor cycle and

²⁵¹. NHRC Annual Report 2006–2007

²⁵² . NHRC Annual Report 2006–2007



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

Rs. 4001/- from Prakash Tiwari at Pariar Marg. In connection with this case, the brother of the complainant Raju was searched by the police officers, as the complainant Anil and his brother Raju had bad reputation in the area and had connections with the anti-social elements of the area. The allegations of beating Raju and lodging him in the lock-up by the police of PS Chowki were false. Raju was not arrested in connection with the case of looting the motorcycle. Both the complainant and his brother Raju are living in their home.

In his comments on the above mentioned report, the brother of the complainant Raju by his letter dated 24 April 2003 stated that the investigation in his case was conducted by Mr Harpal Singh, Circle Officer, Safipur, Unnao, U.P. The said Circle Officer had given a false report to the Commission. As Police Station Makhi under which the case of the complainant is registered also comes under the jurisdiction of Mr. Harpal Singh, the Circle Officer, with a view to save his juniors, he has sent a false report to the Commission. As per the brother of the complainant, he was beaten by the police officers of Pahwa Chowki on 16 September 2001 and later was lodged in PS Makhi for three days. He prayed that the matter might be entrusted to some independent agency.

After considering the report of the Investigating Officer and the comments received from the brother of the complainant, the Commission found that there was material difference in the two versions. The mere mention in the report of the Investigating Officer that the complainant and his brother Raju have bad reputation and connection with the anti-social elements does not justify the illegal detention of the citizens. The Commission, therefore, on 29 January 2004 directed that the record be forwarded to IG (Human Rights) U.P. for an independent inquiry by a senior officer and report.

Pursuant to the directions of the Commission, SP (Human Rights) in the office of the DGP, U.P. vide communication dated 20 September 2004 submitted a report. According to the report, Inspector General of Police, Lucknow Range, U.P. vide communication dated 9 September 2004 forwarded copies of report of SP, Hardoi, U.P. Copy of report of SP, Hardoi dated 5 September 2004 who got the complaint enquired into through Addl. SP, East Hardoi. According to the report of SP (Human Rights) in the office of the DGP, U. P. on 15 September 2001, crime No. 236/01 under section 394 IPC was registered at Thana Mahi, Unnao, U.P. In this case on 16 September 2001, Raju was picked up and taken to Thana and was released on 19 September 2001. As such, Raju was detained illegally from 16 September 2001 to 19 September 2001. The report also disclosed that no entries in this regard have been recorded in the police record and that SI, Ms. Mamta Vidyarthi had been found guilty.

SP (Human Rights) in the office of the DGP, U.P, vide communication dated 9 March 2005 stated that SI, Ms. Mamta Vidyarthi has been found guilty in the departmental



enquiry and an adverse entry has been recorded in his ACR vide order dated 21 February 2005.

While considering the matter on 8 April 2005, the Commission observed that it appears to be a fit case for award of interim relief to the victim. The Commission, therefore, directed to issue notice to the Chief Secretary, U.P. to show-cause as to why the Commission should not recommend payment of interim relief to the victim under section 18(3) of the Protection of Human Rights Act, 1993 for his unlawful detention for three days as per the report of the SP (Human Rights) in the office of the DGP, U.P. The Commission also directed issue of notice under section 16 of the Protection of Human Rights Act, 1993 to the then Circle Officer, Mr Harpal Singh, Unnao, U.P. through DGP, U.P. to show-cause as to why the Commission should not recommend action against him for submitting false report to the Commission.

In response to the notice issued by the Commission, Secretary U.P. Administration vide his communication dated 22 September 2005 submitted that since it has been established that the victim Raju had been illegally detained in the police custody, there was no objection to a grant of interim relief to the victim. No response, however, was received from Mr. Harpal Singh, the then Circle Officer, Unnao despite notice.

While considering the matter on 29 December 2006, the Commission observed that it is established that victim Raju was illegally detained in police custody for 3 days, which is a gross violation of his human rights. The Commission accordingly directed that a sum of Rs. 5000/- be paid to the victim by U.P. Government through Chief Secretary, U.P.

Compliance report is awaited.

41. Illegal Detention and Torture of Azad Hussain by Police in Pilibhit District, Uttar Pradesh (Case No.3829/24/2001-2002)²⁵³

The Commission took cognizance of a complaint dated 7 April 2001 received from Azad Hussain, s/o Late Garibullah, r/o Kasba falling under the jurisdiction of Police Station Amaria in Pilibhit District of Uttar Pradesh, alleging physical torture on the night of 2 June 2000, at the police station, where he was called for interrogation in connection with the murder of his father Garibullah and their servant Rais Ahmad. He alleged that he was illegally detained in order to force him to confess to the murder. He was tied with ropes and a lit-candle was used to burn his feet. He was let off only on 4 April 2001. He approached the Commission seeking justice.

Upon perusal of reports from the State Government, the Commission observed "that the fact of torturing the complainant in police custody has been admitted..... .

²⁵³. NHRC Annual Report 2007–2008



Therefore, it is a gross violation of human rights. Merely because the concerned police officials were exonerated in the departmental inquiry, it cannot be said that human rights of the complainant are not violated, especially in the face of the earlier admission of Police, after inquiry. Therefore, this appears to be a fit case for recommending grant of immediate monetary relief.”

Thus, the Commission recommended that the State of Uttar Pradesh pay Rs.50,000 as monetary relief to the complainant Azad Hussain and to submit the compliance report along with proof of payment. The State Government was also asked to submit an explanation for not taking disciplinary action against the Station House Officer O.P. Singh despite the recommendation of Inspector General of Police (Human Rights), Uttar Pradesh.

In response, the Secretary to the Government of Uttar Pradesh, vide letter dated 14 December 2007, informed the Commission that the amount of monetary relief of Rs. 50,000 had been paid to the complainant. The proof of payment was also sent to the Commission. The Commission finally considered the matter on 4 February 2008, and in view of the compliance of the Commission's directions, closed the case.

42. Beating up of Susheel Kumar and his Wife by the Police of Gautam Budh Nagar, Uttar Pradesh (Case No. 28117/24/2006-2007)²⁵⁴

The Commission took suo motu cognizance of a news report published in the 'Times of India' on 16 September 2006 under the headline: “Brutal cops batter Noida couple”. According to the report, Sushil Kumar and his wife were going to hospital in the early hours of the morning. They were approached by a police party. The husband was beaten and an attempt was made to outrage the modesty of the wife.

Pursuant to the directions of the Commission, an inquiry was conducted by the Additional Superintendent of Police (Rural), Gautam Budh Nagar. The inquiry report revealed that the allegations made in the press report were true. FIR No. 309/2006 u/s 354/323/504 IPC was registered at Police Station Kasna against the police party. After investigation, the concerned police officials were arrested and sent for trial.

The Commission recommended to the State of Uttar Pradesh to pay Rs.25,000 as compensation to victim Sushil and Rs.50,000 to his wife within eight weeks. The compliance report, along with proof of payment, is awaited.

43. Illegal Detention and Physical Torture of Jaswant Singh Patel by the Police of Jahanabad, Uttar Pradesh (Case No. 5782/24/2003-2004)²⁵⁵

²⁵⁴. NHRC Annual Report 2007–2008



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

In a complaint dated 8 May 2003, the complainant alleged that his brother Jaswant Singh Patel was picked up on 20 April 2003 by the police personnel of Jahanabad Police Station and allegedly detained and subjected to severe physical torture for seven days. After that, he was handed over to Police Station Chandpur, where again he was physically tortured. A harassed Patel set himself on fire on 2 May 2003, in the lock-up of Police Station Chandpur. He was initially taken to a pharmacist for treatment of burns and subsequently admitted to the Emergency Ward of Orsala Hospital, Kanpur. As per the doctors, he had 65 per cent burns. The complainant requested the Commission to intervene in the matter.

The Superintendent of Police, Fatehpur reported that Sub-Inspector Nisar Ahmad, Head Constable Ishwar Chandra and Constable Chhote Lal Pandey were found guilty of dereliction of their duties, and they were suspended with effect from 5 May 2003.

Upon consideration of the report, the Commission observed and directed as under: "The reports are not satisfactory. It is admitted in the police report that the victim was brought to police station and kept in police lock up, without any entry in police record. Though the police report is silent about the allegation of physical torture by the police, the fact that the victim had attempted to commit suicide in the police lock-up, leads to an inference that he was tortured to such extent that he desperately took steps to end his life, and hence a case u/s 306 IPC for abetment of suicide appears against the errant police personnel but as reported the errant police personnel have been booked u/s 342 and 323 IPC only. The report is silent about the disciplinary action against the errant police personnel."

The Commission further observed that "In view of facts and circumstances of the case, as brought out in the reports on records, human right violation of victim Jaswant Singh Patel, who was illegally detained and physically tortured in the police lock-up, has been established."

The Commission monitored the action initiated against the errant police personnel. The Commission recommended to the Government of Uttar Pradesh to pay within six weeks a sum of Rs. 1,00,000 as immediate monetary relief to the victim. The compliance report, along with proof of payment, has not been received, despite a reminder having been sent by the Commission.

44. Illegal Detention of Ramesh, Santosh and Ram Gopal at PS Rajakhera, Dholpur, Rajasthan (Case No.1635/20/2002-2003)²⁵⁶

²⁵⁵. NHRC Annual Report 2007–2008

²⁵⁶. NHRC Annual Report 2007–2008



One Shri Dwarka Prasad in his telegraphic complaint dated 13 November 2002 stated that on 6 November 2002, Babu Lal Meena, Station House Officer of Rajakhara Police Station took away his son Ramesh, grandson Santosh and son-in-law Ram Gopal and they were neither produced in any Court nor released till then.

Based on reports received from the Government of Rajasthan, the Commission observed that in view of the admitted fact of illegal detention of victims by the police, it recommended a sum of Rs. 10,000 to each of the victims of wrongful detention, to be paid by the State of Rajasthan as monetary relief. The State of Rajasthan has complied with the recommendation of the Commission. However, proof of payment is awaited.

45. Illegal Detention and Torture of Suresh and Satish by Police in Pratapgarh District, Uttar Pradesh (Case No. 5055/24/2004-2005)²⁵⁷

The Commission received a complaint dated 6 May 2004 alleging that the police took two persons – Suresh and Satish to Patti Police Station where they were beaten up severely which caused grievous injuries to them.

An enquiry report of the Circle Officer, Patti Police Station in District Pratapgarh revealed that the accused police officials were guilty of detaining the victims, as they suspected that illicit liquor was being carried by them. After verifying the facts that the liquor was not illicit, the two victims were released and an entry in the General Diary of Police Station was also made to this effect.

The Commission obtained the comments of the two complainants on the basis of the police report. The complainants reiterated their allegations and also questioned the fairness of the inquiry report. The Commission then recommended to the Director General of Police, Uttar Pradesh to order an enquiry by CB-CID into the conduct of the then Station House Officer of Patti Police Station as well as other police officials who were present on the occasion.

The report received from the Superintendent of Police, CB-CID revealed that FIR Crime No.152/07 u/s 323/325 IPC was registered against the errant police officials. Further, prima facie charges u/s 323/325 IPC against the delinquent police officials were also established. In addition, the tainted police officials, being public servants, a charge sheet shall be submitted against them in the court, on completion of legal formalities.

Considering the details of the case, the Commission recommended to the Chief Secretary, Government of Uttar Pradesh to pay a monetary relief of Rs. 25,000 each to Suresh and Satish under the PHRA. The compliance report along with proof of

²⁵⁷. NHRC Annual Report 2008–2009



payment has been received from the Government of Uttar Pradesh. The case has been closed by the Commission.

46. Torture and Illegal Detention of Surendra Singh by Police in NCT of Delhi (Case No. 1508/30/2003-2004)²⁵⁸

One Surendra Singh was earning his living by making polystone idols. He had some transactions with one Pal and there emanated a money dispute between the two. At the instance of Pal, one Head Constable and a Constable went to the house of Surendra Singh in his absence and took away a few idol moulds.

On enquiry, it was revealed that there was no criminal case registered against Surendra Singh and the police had gone to his house without any proof. However, the seized articles from Surendra Singh's house were found to be illegal. The Commission observed that the police force should conduct itself as per the law. In case a police officer commits an illegal act in the guise of official duty, the victim in all respects should be compensated by the State. It thus recommended to the Government of NCT of Delhi to pay a sum of Rs. 1, 00,000 as monetary relief to the complainant Surendra Singh.

47. Death of Bijender due to Torture by Police (Case No. 19671/24/1998-1999)²⁵⁹

On 8 February 1999, the police party went to the village of one Subedar Major Roop Singh in Badayun District and arrested his nephew Bijender. When Subedar Major Roop Singh protested against the arrest, the police gave a blow on his chest with the butt of a rifle. The old man could not bear the assault and died instantaneously. The relatives of Subedar Major Singh approached the authorities in the night itself when the incident occurred but no FIR was registered by the police nor any direction was given for post-mortem and the dead body was cremated hastily. A CB-CID enquiry was thereafter conducted. It was found out during the course of the enquiry that a police party had gone to the village of the deceased in the night when the incident took place. It was also established that the relatives of deceased Subedar Major Roop Singh had made a complaint to the local authorities against the police party but no case was registered. The police officials were found guilty of dereliction of duty but CB-CID did not find any evidence to support the allegation that the death was caused by a blow of rifle butt.

On consideration of all reports, the Commission observed that the omission to order a post-mortem was inexplicable. If a post-mortem had been conducted the cause of death would have been known and the truth would also have been revealed. After considering all aspects of the case including the broad probabilities, the Commission

²⁵⁸. NHRC Annual Report 2008–2009

²⁵⁹. NHRC Annual Report 2008–2009



recommended to the Government of Uttar Pradesh to pay a sum of Rs. 3,00,000 as monetary relief to the next of kin of the deceased Subedar Major Roop Singh.

The proof of payment in the case is awaited.

48. Torture of Geeta Devi by Police Officials in her House (Case No.1522/34/2005-2006)²⁶⁰

The Commission received a complaint dated 10 March 2006 from one S.R. Nag, General Secretary, People's Union for Civil Liberties alleging that one Geeta Devi was beaten in front of her husband by the police officials. When she protested, an FIR was lodged against her father, Umesh Prasad, by a Tempo Driver. It was also alleged that the local administration were trying to shield the police officials.

In response to a notice issued by the Commission, the Senior Superintendent of Police, East Singhbhum District, Jharkhand vide his letter dated 1 June 2007 reported that a SubInspector along with his team had gone to the house of Umesh Prasad with regard to FIR No.13/06 u/s 387/379/427 IPC to arrest him when Geeta Devi started protesting and even hit the police officials with a footwear. Geeta Devi in her statement during the course of investigation stated that the police had come without any women staff member in the absence of any male family member in the house. She further confessed that she was beaten-up by the police. The Superintendent of Police also reported that Sub-Inspector Satish Kumar Sinha had been issued an advisory warning and adverse recommendations had been made in his Annual Confidential Report. Further, he had been told to take women staff along with him during such actions to avoid incidents of this kind in future.

The Commission considered the report and stated that since ill-treatment meted out to Geeta Devi by policemen was not denied and adverse recommendations had been made against the Sub-Inspector, the present case clearly 'is a case of violation of human rights' and directed to issue a show-cause notice u/s 18 of the PHRA as to why monetary relief should not be recommended to the victim. The Government of Jharkhand did not respond to the showcause notice issued by the Commission.

The Commission in its proceedings dated 17 November 2008 opined that since no reply had come from the Government of Jharkhand, it may be presumed that the State has no defence to offer. The Commission thus directed that an amount of Rs.10,000/- be paid by the State Government to the victim Geeta Devi.

In conformity with the directions given by the Commission, the payment of proof made to victim Geeta Devi has been received from the State Government and the case closed.

²⁶⁰. NHRC Annual Report 2009–2010



**49. Torture and False Implication of a Press Reporter by Uttar Pradesh Police
(Case No.14303/24/2006-2007)²⁶¹**

The case relates to victimization of a Press Reporter, named Samiuddin alias Neelu, by police officials belonging to Lakhimpur Khiri District of Uttar Pradesh since 2006. The Press Reporter has been fighting a lone battle against the misuse of authority by the then Superintendent of Police of Lakhimpur Khiri and others. The most paradoxical part of this case was the overall approach that was adopted by the State administration including the senior police officials. The State violated Samiuddin alias Neelu's human rights by implicating him in a false case which led to his arrest, and protected the police officials, especially the Superintendent of Police, Ms. N. Padmaja.

What was worse is that when Samiuddin approached the concerned officers for redressal of his grievances, he was deprived of his due right to be heard. As a result, he was unable to evoke a considerate response from the State. That his life was also in danger is evident from the fact that the State Police extended him security from 4 April 2006 to 15 May 2007. The security was later withdrawn by the State for reasons best known to it. The case is a stark example of total apathy and out-right antagonism of the State towards a person, whose right to life was seriously endangered.

In response to the notice issued to the Government of Uttar Pradesh by the Commission, the Secretary to the Government of Uttar Pradesh vide his letter dated 10 November 2009 admitted that there was apparent violation of human rights of Samiuddin alias Neelu.

Taking all the above factors into consideration, the Commission recommended to the Government of Uttar Pradesh that a sum of Rs.5,00,000/- be paid as monetary relief to Samiuddin alias Neelu under section 18 (a)(i) of the PHRA.

The compliance report along with proof of payment is awaited from the Government of Uttar Pradesh.

50. Illegal Detention of Three Children by Uttar Pradesh Police (Case No.23018/24/25/08-09)²⁶²

The case relates to a complaint made by Jagdish Sonkar, National President, Shambuk Sena, Unnao, Uttar Pradesh wherein it was reported to the Commission about the illegal detention of three children in Farukhabad on account of false implication by Uttar Pradesh Police. The complaint was supported with a newspaper clipping of "Rashtriya Sahara" dated 18 July 2008.

The Commission took cognizance of the matter on 16 September 2008 and called for a report from the Superintendent of Police, Farrukhabad, Government of Uttar Pradesh.

²⁶¹. NHRC Annual Report 2009-2010

²⁶². NHRC Annual Report 2009-2010



On examination of the report, it was found that the three minor children, namely, Aijaz, Ramu and Subhash Chandra had been falsely implicated under the Goonda Act of Uttar Pradesh and hence illegally detained. The concerned Sub-Divisional Magistrate, quashed the proceedings against the minor children under the Goonda Act. Departmental action was also taken against the Station House Officer, Brijesh Kumar Tripathi, and after conclusion of the enquiry he was 'censured'. Apart from the Station House Officer, one Head Constable Ashok Kumar too was found responsible in the departmental enquiry, and he was departmentally punished.

The Commission on finding that the case was clearly of illegal detention and gross violation of human rights of the minor children issued a notice to the Chief Secretary, Government of Uttar Pradesh u/s 18(c) of PHRA. As no reply was received from the Chief Secretary of Uttar Pradesh, the Commission on 14 May 2009 recommended payment of Rs.10,000/- each to the victims, Aijaz, Ramu and Subhash Chandra.

The compliance report along with proof of payment has been received from the Government of Uttar Pradesh and the case closed.

51. Illegal Detention of Rajesh Kashyap in Ghazipur Police Station, Uttar Pradesh (Case No. 35033/24/2003-2004)²⁶³

The Commission received a complaint dated 6 February 2004 from one Smt. Sushila Devi alleging that her son Rajesh Kashyap was picked up from his house by the Station House Officer of P.S. Saidpur in District Ghazipur on 4 February 2004 and kept in illegal detention for three days.

Pursuant to the directions of the Commission, the Under Secretary, Home (Human Rights), Government of Uttar Pradesh vide communication dated 10 May 2007 forwarded a copy of the report dated 24 May 2007 received from the Inspector General of Police (Human Rights), Government of Uttar Pradesh wherein it was stated that the Inspector In-charge of the Police Station Saidpur, namely, Ram Lakhon Saroj had already been reprimanded.

While considering the matter on 28 March 2007, the Commission directed that considering the facts of the case, a show-cause notice u/s 18(3) of the PHRA be issued to the Chief Secretary, Government of Uttar Pradesh as to why an interim relief be not awarded to the complainant's son.

In response, Ms. Manju Chandra, Special Secretary, Government of Uttar Pradesh truthfully admitted to the Commission vide her communication dated 22 April 2008 that the victim needs to be compensated in all respects.

²⁶³. NHRC Annual Report 2009-2010



In view of the stand taken by the State Government, the Commission on 4 August 2008 recommended that a sum of Rs.10,000/- be paid as monetary relief to Rajesh Kashyap, son of the complainant.

The compliance report in the case has been received from the State Government. Accordingly, the case was closed on 28 August 2009.

52. Illegal Detention of Manoj Kumar Jha in Bokaro, Jharkhand (Case No. 66/34/1/07-08)²⁶⁴

The Commission received a complaint dated 13 April 2007 from Smt. Bhadu Jha of Baru village, P.S. Jarideeh, District Bokaro, alleging that her son Manoj Kumar Jha had been taken to the police station by the local police on 8 April 2007 at 10.00 a.m. on the pretext that he was to identify a motorcycle but was detained in the police station without disclosing the reasons for the same.

The Commission called for a report from the Superintendent of Police Bokaro in which it was stated that a Bullet motorcycle bearing registration No. BR20-7368 was recovered from the house of Manoj Kumar Jha on 15 April 2007. The said registration number had been allotted to a scooter and not to a motorcycle by the Transport Authority. Manoj Kumar Jha could neither produce any document nor could he account for the possession of the motorcycle.

Consequently, he was arrested after an arrest memo and a Criminal Case No. 28/2007 u/s 414 IPC was registered against him. After investigation of the case a charge sheet was filed in the court on 5 June 2007.

A copy of the judgment delivered by the court in the case arising from Criminal Case No. 28/2007 at P.S. Jarideeh was received in the Commission as well. The prosecution examined two public witnesses to prove the factum of recovery of the motorcycle from the house of Manoj Kumar Jha. Both witnesses, however, stated in the court that they had signed the seizure memo at the instance of the police and that they had not entered the house of the accused. The court also observed that no local witness had been associated by the police at the time of recovery of the motorcycle. The court thus held that the recovery was doubtful and the accused was acquitted.

Since the court did not believe the police version that a stolen motorcycle had been recovered from the house of the complainant's son on 15 April 2007, the Commission stated that it would be difficult to believe that he was actually arrested on 15 April 2007 and not earlier.

²⁶⁴. NHRC Annual Report 2009–2010



The possibility of his being arrested on 8 April 2007 as alleged by the complainant cannot be just ruled out. It is significant that the complaint was sent to the Commission on 13 April 2007. If the son of the complainant had been arrested on 15 April 2007 as claimed by the police, there could have been no occasion for the complainant to approach the Commission on 13 April 2007.

Considering the infirmity in the police version, the Commission on 17 June 2009 *prima facie* found that the son of the complainant had been unlawfully deprived of his liberty. Accordingly, the Commission directed that a show-cause notice u/s 18 of the PHRA be issued to the Government of Jharkhand.

As the State Government did not respond to the notice, the Commission raised a presumption that perhaps the State had nothing to say in defence of the police. As a result, it was liable to compensate the victim for the wrongful act of the police. Considering all the circumstances, the Commission on 14 October 2009 recommended to the Government of Jharkhand to pay a sum of Rs. 15,000/- as monetary relief to the victim Manoj Kumar Jha.

The compliance report along with proof of payment is awaited from the Government of Jharkhand.

53. Death of a Female Infant of an Arrested Woman due to Indifference Shown by Police in Baraut, District Baghpat, Uttar Pradesh (Case No. 2367/24/8/08-09-AD)²⁶⁵

The Commission received a complaint from Rattan Lal Premi alleging that a woman named Suman was arrested at night along with her infant daughter and another small child. She was then brought from Haridwar in Uttarakhand to Baraut in Baghpat District of Uttar Pradesh. However, she was not produced in the concerned court within 24 hours of her arrest. During this period, her three-month old infant daughter had diarrhoea and she died for want of medical care.

Pursuant to the directions of the Commission, the Superintendent of Police, Baghpat in his report admitted that the woman in question was arrested on 12 April 2008 after sunset. It was also admitted in the report that she could not be produced before the Magistrate the next day. It was nevertheless denied that the police failed in its duty to provide medical care to the infant daughter of the arrested woman. It was emphasized in the report that none of the accompanying policemen were guilty of negligence and the infant died a natural death as she was already suffering from diarrhoea.

Upon consideration of the report, the Commission in its proceedings dated 29 March 2010 observed as under:

²⁶⁵. NHRC Annual Report 2009–2010



“Three facts are clear. Firstly, Suman was arrested after sunset in total disregard of the guidelines of the Supreme Court. She was taken in custody along with her two infant children. She was not a criminal and there was no reason why the police should not have deferred the arrest till next morning. Secondly, the police did not produce her before the local Magistrate at Roorkee as required by section 80 of Cr.P.C. If she had been produced before the Magistrate at Roorkee, it is quite possible that the Magistrate would have passed appropriate orders for her

care and custody. Thirdly, she was not produced in time before the Magistrate at Baraut on 13 April 2008. The result was that she had to be brought back to the police station and she had to remain in detention for more than 24 hours. Lastly, there is no evidence to show that the child was taken to a paediatrician for treatment.”

The Commission further observed as under:

“The local police of Baraut can not escape its liability for the unfortunate death of the infant child. In any case, it cannot be denied that the guidelines of the Supreme Court and the mandate of section 80 of Cr.P.C. were ignored by the police. Prima facie it is case of violation of human rights.”

The Commission directed that show-cause notice u/s 18 of PHRA be issued to the Chief Secretary, Government of Uttar Pradesh as to why monetary relief should not be paid to the arrested woman Suman who lost her three month old infant daughter.

In response to the show-cause notice, the Government of Uttar Pradesh admitted that it would be appropriate to provide monetary relief to the victim who lost her infant daughter. It was further informed by the State Government that the errant police officials had already been penalized.

Taking into consideration the reports and the reply to the show-cause notice received from the Government of Uttar Pradesh, the Commission recommended to the State to pay an amount of 1,00,000 as monetary relief to the victim Suman.

The case was closed as the recommendations of the Commission were fully complied with by the Government of Uttar Pradesh.

54. Rape of a Minor Girl in Koirana Police Station in District Sant Ravidas Nagar, Uttar Pradesh (Case No. 871/24/2006-2007)²⁶⁶

The Commission received an intimation dated 30 March 2006 from the Superintendent Of Police, Sant Ravidas Nagar stating that a 14 year old girl (name with- held) residing in village Nandav, P.S. Sarai Mir, Azamgarh District ran away from home on being reprimanded by her mother. She later fell into the hands of three

²⁶⁶. NHRC Annual Report 2009–2010



ruffians who subjected her to gang-rape. She was then taken to the police for help. The Police Constable, instead of helping her, raped her. The incident was reported by the victim at Koirona Police Station located in Sant Ravidas Nagar District where FIR No.101/2006 u/s 376/120 B IPC was registered against two Police Constables, a Chowkidar and three others. The two Police Constables and Chowkidar were later arrested and efforts were being made for arresting the remaining three accused.

Pursuant to the directions of the Commission, a report dated 16 May 2006 was received by it in which it was stated that as per the orders of the Court, the custody of the victim had been handed over to her father and was sent back to her home. After that, through subsequent reports the Commission was informed that the delinquent Police Constables who were earlier arrested had been dismissed from service. Charge-sheet was also filed against them in the court. Accordingly, the Commission vide its proceedings dated 10 January 2007 issued a notice u/s 18 (3) of the PHRA to the Government of Uttar Pradesh to show-cause as to why the Commission should not grant monetary relief to the hapless girl. The State Government too vide its letter dated 3 May 2007 truthfully admitted that the grant of relief to the victim was justified. Consequently, the Commission recommended to the State Government to pay a sum of 3,00,000 to the victim. While the recommended amount of monetary relief was sanctioned by the State Government, it later communicated to the Commission that it had not been possible to disburse the monetary relief to the victim as she was not traceable for the last three years.

The Commission vide its proceeding dated 22 March 2010 observed that the circumstances under which the victim had disappeared were not known to anyone. However, the possibility of forced disappearance could not be ruled out in the given case. As a result, the Principal Secretary, Home Department, Government of Uttar Pradesh was directed to order a CB-CID inquiry into the circumstances under which the victim disappeared.

The CB-CID in their report recommended that the said case be registered u/s 361 IPC, which deals with kidnapping from lawful guardianship.

Considering the above report on 7 February 2011, the Commission directed the Principal Secretary, Home, Government of Uttar Pradesh to appraise to it the overall progress made in the case in view of the recommendations made by the CB-CID.

The matter is under consideration of the Commission.

**55. Suicide Committed by Kumari Jayarani due to Harassment by Police
(Case No. 1092/22/2006-2007)²⁶⁷**

²⁶⁷. NHRC Annual Report 2010-2011



An intimation dated 21 April 2005 was received by the Commission from the District Collector of Salem in Tamil Nadu regarding the death of 15 year old Kumari Jayarani.

Pursuant to the directions of the Commission, the Government of Tamil Nadu reported that Kumari Jayarani was forcibly dragged by two policemen of Kariyakoil Police Station on 20 January 2005 at 3:00 p.m. As per the complaint lodged by Jayarani's father, the two policemen caught her and then forcibly pulled her. Traumatized by the incident, she committed suicide on the same day between 4:00 p.m. and 6:00 p.m.. A case was later filed in Kariyakoil Police Station vide FIR No. 2/2005 dated 21 January 2005 u/s 174 (3) Cr.P.C. read with sections 306, 354, 506 (1) IPC, and section 3 (1) (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

During the enquiry conducted by Revenue Divisional Officer, it was proved that the deceased Kumari Jayarani committed suicide by hanging due to harassment meted out to her by the police of Kariyakoil Police Station. The Revenue Divisional Officer had also recommended strict action against the policemen for harassing Kumari Jayarani.

In response to the show-cause notice issued by the Commission, the Government of Tamil Nadu informed that it had sanctioned a monetary relief of Rs. 1,00,000 to the next of kin of the deceased Kumari Jayarani.

The Commission vide its proceedings dated 15 September 2010 took into account all the circumstances of the case that compelled a person belonging to the Scheduled Caste community to commit suicide in police custody on account of harassment meted out to her by the police officials. Accordingly, the Commission recommended to the Government of Tamil Nadu to enhance the total amount of monetary relief to be paid to the next of kin of the deceased from 1,00,000 to Rs. 3,00,000.

On receipt of proof of payment from the Government of Tamil Nadu, the case was closed by the Commission

56. Unlawful Detention of a Poor Dalit Boy by Police in Uttar Pradesh (Case No. 21677/24/2006-2007)²⁶⁸

The Commission received a complaint dated 24 August 2006 from Mahgina Devi, w/o Anantu Chamar and r/o Sant Ravidas Nagar, Uttar Pradesh alleging harassment and false implication of Anantu Ram in various cases, detailed in the complaint at the behest of In-charge of the police station. It was alleged that the In-charge was misusing his official position and had purchased a house worth 50 lakhs.

²⁶⁸. NHRC Annual Report 2011-2012



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

In response to directions given by the Commission, the Deputy Inspector General (Human Rights), Office of the Director General of Police, Police HQs., Uttar Pradesh and Dy. Inspector General, Anti-Corruption Bureau, CID, Government of Uttar Pradesh submitted the requisite reports. Perusal of the same revealed that Anantu, husband of the petitioner had been acquitted in case crime Nos. 322/06 for the offence punishable u/s 8/ 20 Narcotics Drugs and Psychotropic Substances Act, 1985 (NDPS Act) and 398/06 for the offence punishable u/s 8/22 NDPS Act by the court by giving benefit of doubt on 10 April 2007 and 19 April 2007 respectively. Police enquiries further revealed that Anantu, husband of the petitioner was falsely implicated in both the above cases and therefore, all the police personnel had committed the offence u/s 167/220/467/468/471/120B IPC, Section 8/22 NDPS Act and Section 3(2)(2) the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act. Further action would be taken against the delinquent police personnel on registration of case under these sections. It was intimated that enquiries were still in progress against the Sub-Inspector for possessing assets disproportionate to his income.

The Commission upon consideration of the matter observed that the facts as brought out in the independent investigation were shocking and disturbing. The delinquent police personnel who were indicted in the report by way of abusing their power and authority had falsely implicated a poor Dalit by applying the sections of the NDPS Act. The acts of commissions on the part of these police personnel had led to serious violation of the human rights of the victim. The Commission thus issued a notice u/s 18(c) of the Protection of Human Rights Act 1993 to the Chief Secretary, Government of Uttar Pradesh to show cause as to why immediate monetary relief be not recommended to be given to the victim. The Director General of Police, Uttar Pradesh was also directed to apprise the Commission about the outcome of legal and departmental action initiated against the delinquent police personnel.

The Commission placed on record its appreciation for the Investigating Officers of this matter through the Office of the Director General of Police, Uttar Pradesh for conducting independent, impartial and fair inquiries. In response, a letter dated 18 March 2010 was received from the Secretary, Government of Uttar Pradesh, Lucknow. Perusal of the same revealed that investigation in case registered against erring police officials was in progress. It further revealed that since prima-facie the police officials have been found guilty and as such grant of interim relief to the victim was justified.

The Commission while considering the reply to the show cause notice observed that the State Government had no objection in the grant of interim relief to the victim. The Commission recommended payment of Rs. 50,000/- (Rupees Fifty Thousand only) as monetary relief to the victim Anantu Ram. Chief Secretary, Government of Uttar Pradesh, Lucknow was directed to send proof of payment made to the victim and also



directed to apprise the Commission about the status of criminal case registered against the erring police officials.

In response, a letter dated 21 July 2010 was received from Deputy Inspector General of Police (Human Rights), Police HQs., Government of Uttar Pradesh, Lucknow along with the report from Superintendent of Police, Anti-Corruption Cell CB-CID. Perusal of the same revealed that recommendations had been made for filing of charge sheet in case crime no 1968/09 against the erring police officials after completion of necessary formalities. The Under Secretary Government of Uttar Pradesh vide communication dated 18 April 2011 also informed that a sum of Rs. 50,000/- (fifty thousand only) had been paid to the victim Anantu Ram vide cheque no. BN- 573551 dated 5 March 2011, as interim relief.

A communication dated 24 October 2011 received from the Principal Secretary, Government of Uttar Pradesh, Lucknow further revealed that on receipt of the sanction from the State Government to prosecute the police officials, charge sheet was filed in the court of the Chief Judicial Magistrate, Sant Ravidas Nagar. A letter dated 16 December 2011 was also forwarded by the Superintendent of Policy, Sant Nagar (Bhadohi) along with the proof of payment of Rs. 50,000/- made to the victim Anantu Kumar.

The Commission upon consideration of the compliance report has closed the case.

57. Custodial Rape of a Woman in Police Post in District West Champaran, Bihar (Case No.565/4/9/2011-AR)²⁶⁹

The Commission received a complaint from one Prabir Kumar Das, Advocate alleging that a 25 year old woman was raped by a Home Guard jawan Munna Khan in the premises of Patkholia Police outpost in District West Champaran of Bihar on the night of 4 March 2011 and prayed for justice for the victim.

In response to NHRC's notice, the Superintendent of Police, Bagah submitted a report, which revealed that on the complaint made by the victim, a case vide FIR No.88/ 2011 for the offence punishable under Section 376(2)(a)(b), IPC was registered at Police Station Patkholi, Bagah on 5 March 2011 and the accused policeman was arrested. It was also reported that upon investigation, the allegations were found true and a challan was filed against the accused on 24 March 2011 and the trial of the case was in progress in the fast track court. The aforesaid incident had taken place due to carelessness on the part of the then In-charge of P.S. Patkholi, who has since been

²⁶⁹. NHRC Annual Report 2011-2012



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

placed under suspension and that departmental proceedings were initiated against him. It was further reported that the process for termination of the services of the accused was under progress.

The Commission upon consideration of the aforesaid reports vide its proceedings dated 16 September 2011 observed that the protectors of law had become perpetrators of offence, as they had violated the human rights of the victim. It thus directed for issuance of show cause notice under section 18 of the Protection of Human Rights Act, 1993, calling upon the Chief Secretary, Government of Bihar to show cause as to why interim relief should not be recommended to the victim. The State Government, however, did not submit any response to the show cause notice.

The Commission upon further consideration of the matter vide its proceedings dated 13 January 2012, inter alia, observed and directed as under:

"The offence of rape was committed by Home Guard Munna Khan and charge sheet has been filed against him in case crime No.88/11. It is further revealed that the alleged offence has been committed due to carelessness on the part of ASI Roshan Kumar against whom departmental action has been initiated. The protector has become perpetrator of offence thus violating the human rights of victim. Despite issuance of show cause notice and reminder no reply on merit has been received. It appears that the Government has nothing to say in the matter. In this case the offence of rape has been committed by Home Guard Munna Khan who is a police officer. Section 376 (2) reads as follows:-

Whoever -

- (a) being a police officer commits rape
 - (i) within the limits of the police station to which he is appointed; or
 - (ii) in the premises of any station house whether or not situated in the police station to which he is appointed; or
 - (iii) (iii) on a woman in his custody or in the custody of a police officer subordinate to him; or
- (b) being a public servant, takes advantage of his official position and commits rape on a woman in his custody as such public servant or in the custody of a public servant subordinate to him; or
- (c) being on the management or on the staff of a jail, remand home or other place of custody established by or under any law for the time being in force or of a woman's or children's institution takes advantage of his official position and commits rape on any inmate of such jail, remand home, place or institution; or
- (d) being on the management or on the staff of a hospital, takes advantage of his official position and commits rape on a woman in that hospital; or



- (e) commits rape on a woman knowing her to be pregnant; or
- (f) commits rape on a woman when she is under twelve years of age; or
- (g) commits gang rape.

In this case the offence has been committed by a Home Guard which amounts to not less than murder. Charge sheet has been filed against the offender Munna Khan. In these circumstances, the Commission feels that grant of interim relief to the victim is justified. An amount of Rs 5,00,000/- (Rupees five lakhs only) is recommended to be paid as interim relief to the victim. Chief Secretary, Government of Bihar, Patna is directed to send the proof of payment made to the victim to the Commission within four weeks".

In response, the Chief Secretary, Government of Bihar vide his communication dated 5 February 2012 has informed that the amount of interim relief of ₹5,00,000/- (Rupees five lakh only) as recommended by the Commission has been paid to the victim and proof of payment has also been forwarded.

The matter is still under consideration of the Commission.

58. Unlawful Detention and False Implication of Pappu Jaiswal by Mirzapur Police, Uttar Pradesh (Case No. 11065/24/5512011)²⁷⁰

The Commission received a complaint on 29 March 2011 from Sanju Jaiswal, resident of Jaiswal Village, Mirzapur, Uttar Pradesh that on 28 March 2011 at about 2.00 p.m., her husband, Balram alias Pappu Jaiswal was picked up by some unknown persons and some Police officials. She apprehended false implication and prayed for Commission's intervention.

Taking cognizance of the matter, the Commission called for a report from the Superintendent of Police, Mirzapur, Uttar Pradesh. In response, a letter dated 6 July 2011 was received from the Superintendent of Police along with the copy of the report received from Circle Officer, Lalganj, Mirzapur. Perusal of the same revealed that Pappu Jaiswal, husband of the complainant was apprehended after a brief encounter on 29 March 2011 by the Police personnel of Rajapur Police Station as he was found in possession of illegal arms and ammunition. Accordingly, three cases - Crime No.211/11 for the offences punishable u/s 147/148/149/307 of IPC, Crime No.214/11 u/s 25 of the Arms Act and Crime No. Nil/11 u/s 41/411 of IPC had been registered against Pappu Jaiswal and he was in judicial custody. The complaint seems to have been sent by the complainant to save her husband from the cases registered against him.

²⁷⁰. NHRC Annual Report 2011–2012



While considering the matter on 24 August 2011, the Commission observed that the complaint was sent on 28 March 2011 at 8.15 p.m. through fax which was received in the Commission before 10.00 a.m. on 29 March 2011. The complaint received is belied by the fact that the complainant could not have anticipated that her husband would be arrested on 29 March 2011 in cases registered after sending the complaint to the Commission. In these circumstances, the Commission directed the Director General of Police, Government of Uttar Pradesh to depute an officer from the HQs. who should investigate and submit the report to the Commission within four weeks.

In response, the Inspector General of Police (Human Rights), Police Headquarters, Uttar Pradesh, vide communication dated 21 December 2011 submitted the requisite report. Perusal of the same revealed that enquiry into this matter was carried out by the Deputy Superintendent of Police (Human Rights), Police Headquarters, Uttar Pradesh which concluded that Balram alias Pappu Jaiswal, husband of the complainant was picked up by Chitrakoot District Police on 28 March 2011 at about 2.00 p.m. when Pappu was travelling with one Nizamuddin on his motorcycle No. UP 64K 7814. Nizamuddin was allowed to go but his motorcycle was taken in possession by the Police. Balram alias Pappu Jaiswal was thereafter brought to P.S. Rajapur and his arrest was shown on 29 March 2011 along with other persons in a stage-managed encounter. The Police personnel viz. Sub-Inspector Tika Ram Verma, the then SHO, P.S. Rajapur; Sub-Inspector Dina Nath Pandey, P.S. Rajapur; Sub-Inspector Nand Lai Singh, the then SHO, P.S. Pahari; Constables Budhiman Singh, Panna Lai, Govind Narain Pandey, Mahinder Kumar, and Driver Krishan Chandra Shukla, P.S. Rajapur; Constables Nitiraj Singh, Rajole Chaudhary, and Promod Tiwari, P.S. Pahari, Distt. Chitrakoot were prima facie responsible for keeping Balram alias Pappu Jaiswal in illegal detention.

The matter is still under consideration of the Commission.

59. Unlawful Detention of a Woman by Ghaziabad Police, Uttar Pradesh (Case No. 517/24/31/2011)²⁷¹

The Commission received a complaint dated 15 December 2010 from Narendra, s/o late Badale Singh, Gautam Budh Nagar, Uttar Pradesh alleging that his sister Ravindri had been taken away by the Police of Sihanigate Police Station on 15 December 2010. He prayed for enquiry in the matter and release of his sister.

The Commission called for report from the Senior Superintendent of Police, Ghaziabad. In response, a letter dated 12 February 2011 was received from him along with the report of the Circle Officer, Nagar II, Ghaziabad. Perusal of the same revealed that Lallu alias Virender, husband of the complainant was wanted in case

²⁷¹. NHRC Annual Report 2011–2012



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

Crime No.1821/10 for the offence punishable u/s 302 IPC. It was further revealed that Ravindri along with Shakuntala appeared before Inspector In-charge on 16 December 2010 to enquire about the said case. After interrogation, she was let off. The entries have been made in the register.

The Commission considered the report. The complaint dated 15 December 2010 was sent through fax dated 16 December 2010 at 5.30 a.m. The report disclosed that Ravindri came to the Police Station at 2130 hours on 16 December 2010. The said report, according to the Commission is belied by the fact that complainant could not have anticipated on 16 December 2010 at 5.30 a.m. that his sister would be called at the Police Station for interrogation in case Crime No.1821/10 at 9.30 p.m. on 16 December 2010. Moreover, there is violation of Section 160 Cr.P.C. as no notice in writing was given and she being a woman was required to be interrogated at her place of residence. Copy of the General Diary entry had also not been sent to the Commission. The Senior Superintendent of Police, Ghaziabad had acted as a post office in forwarding the report to the Commission without verifying the true facts of the case. In the given circumstances, the Commission directed the Director General of Police, Government of Uttar Pradesh, to get the matter enquired from a Gazetted Officer of Headquarters and then forward the report to the Commission. He was also directed to forward the copy of General Diary No.50 dated 16 December 2010 to the Commission.

In response, a letter dated 23 August 2011 was received from the Inspector General of Police, Human Rights, Government of Uttar Pradesh in respect of Ravindri, wife of Lallu Gurjar alias Virender. Perusal of the same revealed that Ravindri was kept in illegal detention from 15 December to 20 December 2010 and the provisions contained under Section 160 Cr.P.C were also not followed. Baljit Singh, the then Inspector-in-Charge, P.S. Sihanigate, Ghaziabad hence appeared to be guilty.

The Commission opined that the human rights of the victim had definitely been violated. It issued a notice under Section 18 of the PHRA to the Chief Secretary, Government of Uttar Pradesh directing him to show-cause why interim relief may not be recommended to the victim. He was also directed to inform whether any departmental action had been taken against Baljit Singh, the then In-charge P.S. Sihanigate, Ghaziabad.

In reply to the show-cause notice, the Senior Superintendent of Police, Ghaziabad vide his communication dated 4 December 2011 submitted that Inspector Baljeet Singh was at fault in this matter and the matter was being dealt within the Department as well. It was further stated that there was no objection to grant of interim monetary relief to the victim. The Commission considered the matter and opined that since the State had no objection in granting of interim relief to the victim, a sum of ₹25,000/-



(Rupees Twenty Five Thousand only) be paid to the victim. The Chief Secretary, Government of Uttar Pradesh was also directed to submit the proof of payment made to the victim. Besides, he should inform the Commission the outcome of the departmental action against the delinquent Police officer.

The compliance report is awaited and the matter is under consideration of the Commission.

60. Harassment and Torture of Vinay Kumar by Police in Agra, Uttar Pradesh (Case No. 13564/24/2002-2003)²⁷²

The Commission received a complaint on 12 July 2002 from one Vinay Kumar, s/o Dal Chand r/o West Arjun Nagar, Agra. In his complaint, he stated that certain persons along with one Sub-Inspector and one Constable came to his house and enquired about the whereabouts of his brother-in-law, Laxman. In response, he informed them that Laxman came to his house on 16 May 2002 and stayed in the night and in the morning of 17 May 2002, left the house saying that he was going to Kerala. The Police party disbelieved Vinay's version and tortured him to the extent of causing fracture in his hand. On being medically examined by the Medical Officer on emergency duty on 8 June 2002, two injuries were found on his body. After X-ray examination, it was found that there was a fracture in his 3rd metacarpal bone. He contacted the Senior Superintendent of Police, Agra, but his report was not registered by the Police. Ultimately he sought the intervention of the Commission.

The Commission, upon consideration of the report of Agra Police and comments thereon of the complainant and other material on record, directed the Agra Police to consider the registration of FIR against the errant Police officials.

In response, the Additional Superintendent of Police & Nodal Officer (Human Rights), Agra informed that as per directions a case, Crime No. 421/07 u/s 147/342/325/ 323 IPC, had been registered against Bhudev Sharma and others and the case was under investigation. Pursuant to further directions, the Commission received a communication dated 18 June 2008 from the Additional Commissioner of Police & Nodal Officer (Human Rights), Agra informing that the Circle Officer, Lohamandi, Agra had forwarded his report in connection with the criminal case No. 421/07 which was lodged against the accused punishable under sections 147, 342, 325 and 323 of the IPC. According to it, in the absence of evidence, final report was filed in the court on 28 March 2008 and the case was closed.

The Commission while considering the matter observed that it was apparent from the record that the complainant, Vinay Kumar had sustained injuries due to torture by the

²⁷². NHRC Annual Report 2011–2012



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

Police, thereby causing fracture in his hand. The X-ray report also showed that there was a fracture in the 3rd metacarpal bone of right hand. The FIR regarding the incident was registered at Police Station, Shahganj District, Agra under the directions of the Commission vide its proceedings dated 29 May 2007 which was registered as crime no. 421/07 u/s 147/ 342/325/323 against the named persons in the FIR and after investigation the final report was submitted by the Inquiry Officer. The copy of the final report and the copies of the statement of the complainant, Vinay Kumar and accused Bhudev Sharma were on record. Although the Investigating Officer had submitted the final report in the case but nothing was said regarding the injuries caused to the complainant, Vinay Kumar by the Police personnel resulting in fracture in his right hand which was clear from the X-ray report on record. The complainant sustained injuries due to Police atrocities and remained in hospital for 11 days due to the injuries and fracture. This apparently was a case of gross violation of human rights of the victim.

Under the circumstances, the Commission directed to issue a notice under section 18 of the PHRA to the State Government of Uttar Pradesh through its Chief Secretary to show-cause as to why monetary relief should not be recommended to be paid to the victim complainant, Vinay Kumar. In response, the Superintendent of Police, Agra informed that a case bearing Crime No.421/07 was registered against the Police officials but there was no evidence that the victim Vinay Kumar was beaten by the Police officials and as such the final report had been filed in the court. In these circumstances, grant of monetary relief was not justified. However, if any decision is taken at the administrative level, the Senior Superintendent of Police, Agra had no objection.

The Commission considered the reply and directed to issue notice to Senior Superintendent of Police, Agra calling upon him to apprise the Commission as to whether in case Crime No.421/07 the final report had been accepted by the court. If not, the status of the case should be informed to the Commission. While considering the matter on 29 April 2011, the Commission observed that a letter dated 26 March 2011 had been received from the Deputy Inspector General of Police, District Agra. Perusal of the same revealed that as per the orders passed by the court on 23 March 2011, the final report filed in case Crime No.421/07 had been rejected by the court and the court had ordered further investigation in the matter. The Commission considered the report. Since the final report submitted by the Police was not accepted by the court, it felt that grant of monetary relief to the victim Vinay Kumar is justified. The Commission thus recommended payment of monetary relief of Rs. 25,000/- (Rupees twenty-five thousand only) to the victim. It also directed the Chief Secretary, Government of Uttar Pradesh, Lucknow to send the proof of payment.



The Commission considered the matter on 28 September 2011 and observed that the Special Secretary, Home (Human Rights) Department, Government of Uttar Pradesh vide his communication dated 12 September 2011 had submitted the report. It was informed that in compliance with the directions given by the Commission, the complainant, Vinay Kumar, s/o Dal Chander had been paid a sum of Rs. 25,000/- (Rupees twenty-five thousand only) on 8 September 2011. Proof of payment had also been received.

Since no further action was required on the part of the Commission, it directed closure of the case.

61. Suo Motu Cognizance of Brutal Torture Meted Out to a Woman by Police in Central Jail, Raipur, Chhattisgarh (Case No. 517/33/3/2011)²⁷³

The Commission took suo motu cognizance of a media report dated 11 October 2011 of Newsfirst correspondent in which it was stated that a woman from Chhattisgarh namely Soni Sori was arrested by Chhattisgarh and Delhi Police on 4 October 2011 from Delhi. She was shifted to Chhattisgarh and subjected to brutal torture in the custody which resulted in several severe head injuries.

The Commission received 37 other complaints regarding the alleged torture of Soni Sori in police custody. All the cases were linked together. The Commission also received a letter dated 10 May 2012 from Shri V. Kishore Chandra Dev, Minister of Tribal Affairs and Panchayati Raj, Government of India and forwarded therewith another letter addressed by Dr. T. N. Seema, Member of Parliament about the custodial torture of Soni Sori. A copy of the Supreme Court of India order dated 2 May 2011 in Criminal Miscellaneous Petition No. 1104, 4981 and 8976 of year 2012 in Writ Petition (Criminal) No. 206 of year 2011 filed by the victim was annexed with the enclosed letter.

Pursuant to the directions of the Commission, a report dated 12 October 2011 was received from the Superintendent of Police, District South Bastar, Dantewada. The report revealed that the two accused B. K. Lala and Linga Kodopi were trapped by the police team on 9 September 2011 on the pretext that they were handing over an amount of Rs. 15,00,000 to naxalites Vinod and Raghu through a woman named Soni Sori at Palnar market on behalf of M/s Essar Company. It was further stated that the accused Linga Kodopi along with Soni Sori had acted as a middleman in the payment of money to naxalites on many earlier occasions. Accordingly, the cash and vehicle involved in the matter were seized, the accused arrested and a case No. 26/2011 u/s 121 / 124 A, 120 B IPC, 39 (1), 40 Unlawful Activities (Prevention) Act and 8 (2, 3) Chhattisgarh Special Public Security Act was registered at Kua Konda Police Station.

²⁷³. NHRC Annual Report 2012–2013



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

Soni Sori was arrested on 4 October 2011 in Delhi with the help of the Delhi Police Crime Branch.

It was also reported that the nephew of Soni Sori, namely, Lingaram Kodopi (aged 25 years) was arrested by Chhattisgarh Police on the charges of facilitating protection money for Maoists from Essar Steel. In addition, the victim Soni Sori had apprehended threat to her life alleging that the State Police had tried to kill her in an encounter on 11 September 2011.

The Commission vide its proceeding on 26 September 2012 directed to depute a team from the Investigation Division to look into the circumstances in which Soni Sori was held. The Commission made sure that its Investigation Division team had one woman officer.

Pursuant to the directions of the Commission, a team from the NHRC visited the Central Jail in Raipur from 31 October 2012 to 2 November 2012 where Soni Sori was kept. The team spoke to Soni Sori, the alleged victim, in the female ward of the Central Jail. The team also examined and recorded statements of some other co-prisoners in the female ward where Soni Sori was lodged. The team recorded the statements of jail officials and Medical Officer as well who dealt with Soni Sori.

The NHRC team found that the overall conditions in which Soni Sori was kept in the Central Jail, Raipur were satisfactory and she too did not complain about anything. However, it was alleged by her that she was stripped naked for purposes of checking and that the prescribed procedure was not being followed in her case. It was further alleged that she was being singled out and stripped in the jail hall in the presence of other women co-prisoners. The team moreover learnt that Soni Sori underwent medical examination at NRS Medical College, Kolkata on the directions of the Hon'ble Supreme Court. As per the report of the Medical Superintendent, NRS Medical College, Kolkata, two foreign objects were removed from the vagina and rectum of Soni Sori.

Besides, the NHRC team learnt that Soni Sori did not consume food after the two stripping incidents on 1 July and 13 July 2012 on account of humiliation meted out to her.

Contrary to the allegations of Soni Sori, Chhattisgarh Police pleaded that no radio opaque shadow which indicated the presence of foreign body was found by the Radiologist of District Hospital, Dantewada at the time when she underwent medical examination after the incident of her fall in the bathroom on 10 October 2011.

Taking note of the findings of the Investigation Division Team, the Commission directed to obtain a clarification from NRS Medical College and Hospital, Kolkata whether the foreign bodies which were removed from the vagina and rectum could have remained there for a period of 18 days.



In response to the clarifications sought by the Commission and follow up thereafter, Prof. Sudev Saha, Department of Surgery, NRS Medical College and Hospital, Kolkata stated that "it is unlikely that the foreign body found in the rectum was lodged there for 18 days, as she was passing stool normally during examination. No damage was noticed during the rectal examination. She was provided conservative treatment". In addition, Prof. Dr. Biplab Acharyay, Head of Department, Orthopedics suggested that findings of the Radiologist of Government Hospital, Dantewada and Dr. B. R. Ambedkar Medical College and Hospital, Raipur could be placed before an expert for seeking opinion.

Accordingly, the Commission called for an expert opinion in the case which continues to be under its consideration.

62. Illegal Detention and Torture of a Woman in Police Station Majhola, Moradabad District, Uttar Pradesh (Case No. 31558/24/56/2010)²⁷⁴

A woman by the name of Soni was illegally detained and tortured at Police Station Majhola in District Moradabad, Uttar Pradesh. As per the version of the Police, her name was disclosed by child lifters from whom a child aged about five was recovered by the Police on 23 July 2010 in Moradabad. She was arrested on the same day and during interrogation it was disclosed she had handed over two missing children to her brother in Haridwar. However, her brother was not found at the given address. Soni and her husband promised to produce the two missing children in 2-3 days. The Police allowed Soni to go with the assurance that she must report back within the stipulated time.

Soni then filed a complaint to the Inspector General of Police, Moradabad Range, on 28 July 2010 alleging torture, illegal detention and forcible extraction of confession regarding the two missing children. On the basis of her complaint, an FIR No. 96/10 u/s 342/323/504/506/336/330 IPC was registered at Police Station Majhola on 29 July 2010 against unknown policemen and investigation was handed over to Anju Bhaduria, Station Officer of Mahila Police Station, Majhola.

The Commission also directed the Chief Secretary, Government of Uttar Pradesh, to get the case investigated by the CB-CID of the State.

The Under Secretary to the Government of Uttar Pradesh, Home (Human Rights), forwarded a copy of the CB-CID report. As per the report, it was established that Soni was illegally detained at the Mahila Police Station from 23 July 2010 to 26 July 2010 and was tortured to elicit information regarding the missing children. A chargesheet u/s 323/343/ 504 IPC was filed in the Court against the Station House Officer Anju Bhaduria, SubInspector Krishan Kumar Singh and Constables Neetu Johri and Shimla Chaudhary.

²⁷⁴. NHRC Annual Report 2012–2013



Upon examination of the report, the Commission observed that the accused Anju Bhaduria was the same officer to whom the investigation of the case was initially entrusted and if she continued as the Investigating Officer of the case, the plight of Soni could be conjectured as deplorable. The Commission held that illegal detention and torture of Soni having been established by the CB-CID inquiry, it is the obligation of the State to compensate her. The Commission issued a notice u/s 18 (a) (i) of the Protection of Human Rights Act, 1993 to the Government of Uttar Pradesh, through its Chief Secretary, to show cause as to why the Commission should not recommend monetary relief for the victim who was illegally detained and tortured.

Responding to the show cause notice, Shri Kamal Saxena, Secretary to the Government of Uttar Pradesh, Department of Home (Human Rights) informed that departmental action had been initiated against the delinquent Police officials. The State Government was ready to concede grant of compensation to the victim as well.

Keeping in view the facts and circumstances of the case, the Commission in its proceedings dated 22 May 2012 recommended to the Government of Uttar Pradesh to pay a compensation of Rs. 50,000 to the victim Soni. The Commission directed the Chief Secretary to submit a compliance report along with proof of payment and expressed hope that the departmental inquiry against the delinquent Police officials shall be taken to its logical conclusion. The matter is under consideration of the Commission.

63. Illegal Detention and Torture of Four Minor Boys by Policemen of Police Station Dasada District Surendra Nagar, Gujarat (Case No.1052/6/24/2012)²⁷⁵

The Commission received a complaint alleging that four minor boys Nizamudin Yusufbhai Laheriya, Nareshbhai Nanjibhai Chauhan, Ishamudin Yusufbhai Laheria and Aslambhai Hajibhai Divan aged between 8 and 10 years were picked up from a Government Primary School in a theft case by the police of Police Station Dasada in District Surendra Nagar, Gujarat. They were detained and tortured for three days without registration of any FIR against them. On 24 June 2012 a day after their release, a case of stealing covers of water tanks from the school premises was registered against them. A prayer was made for enquiry in the matter and action against the erring police officials.

In response to the Commission's notice, Superintendent of Police, Surender Nagar sent a report which revealed that four boys named in the complaint were residents of

²⁷⁵. NHRC Annual Report 2013–2014



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

Dasada. Nizamuddin Yusufbhai Laheriya was caught red handed while stealing a memory card from a car by one Kalubhai and handed over to Dasada police. During interrogation he confessed stealing of 10 covers of water tank, electric water pumping motor and two cameras of dish antenna along with his three friends. Two crime case Nos. 26/12 u/s 379/114 IPC and 27/12 u/s 379/114 IPC were registered on 24 June 2012. All the accused were arrested and produced before Juvenile Court. The report further revealed that all the minor accused were called for interrogation and they were neither detained nor tortured. The victims were taken to hospital for treatment on 23 June 2012 by their parents. The injuries were found on the people which were caused by blunt hard weapon like baton, hunter. It was informed that an NCR No.3/12 u/s 323/114 IPC was registered against four police personal at Dasada Police Station on 29 June 2012 and the police officials were transferred.

Upon consideration of the report, the Commission held that it was established that the human rights of the victims were violated as the MLC revealed that the minor children were tortured and beaten, action was taken against police personnel by Superintendent of Police and NCR also registered against the erring police officials. Hence, the Commission issued a notice u/s 18 of the Protection of Human Rights Act to the Government of Gujarat through its Chief Secretary calling upon him to showcause as to why interim relief should not be recommended to be paid to the victims. He was also directed to inform the Commission regarding the status of NCR No.3/12. 4.142 Despite a reminder, the State government did not respond to the notice.

Since the State government failed to respond, the Commission in its proceedings dated 21 May 2013 presumed that the State Government had nothing to say in defense and therefore recommended to the Government of Gujarat to pay a sum of Rs.10,000 each to Nareshbhai Nanjibhai Chauhan, Nizamudin Yusufbhai Laheriya, Ishamudin Yusufbhai Laheria and Aslambhai Hajibhai Divan.

On receipt of proof of payment of compensation of Rs.10,000/- each to the four victims as per recommendation of the Commission, the case was closed on 27 August 2013.

64. Harassment and Torture of the Complainant and Implication in a False Case by Police in District Sirsa, Haryana (Case No.1516/7/18/2013)²⁷⁶

The Commission received a complaint from Shri Arihant Jain, resident of District Sirsa, Haryana, alleging that he was physically assaulted on 15 September 2011 and though the matter was reported to the police of Police Station Elnabad but instead of taking action against the offender, he was subjected to custodial violence for

²⁷⁶. NHRC Annual Report 2013–2014



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

compromising the matter and was rather falsely implicated in a case. He prayed for intervention by the Commission in the matter.

The Commission took cognizance of the complaint and vide its proceedings dated 6 March 2013 called for an action taken report from the Inspector General of Police, Hissar Range who informed the Commission that both the parties had compromised the matter and that the allegations of the petitioner could not be substantiated.

A copy of the aforesaid report was sent to the complainant seeking his comments. In response, the complainant contradicted the police version and reiterated his allegations.

He also forwarded certain papers in support of his version. He further alleged that the police report was prepared to favour the accused police personnel.

The Commission considered the matter and observed that the complainant had contradicted the police report in material respect and also furnished certain details which were difficult to be ignored. A copy of the response received from the complainant was sent to the Director General of Police, Haryana, for getting the matter independently enquired into and submit the report. He was also asked to ensure that the complainant be also made to join the enquiry.

Inspector General of Police (Law & Order) in the office of Deputy General of Police, Haryana forwarded a report of Additional Director General of Police stating that the enquiry conducted by the Deputy Superintendent of Police, CBCID, Hissar, Haryana revealed that the Inspector Maha Singh and the Head Constable Bhal Singh did not misbehave or assault the complainant. No incident of taking money from the complainant was noticed during enquiry but it was established that the Inspector Maha Singh Ranga, the then Station House Officer of Police Station Elanabad and Head Constable Bhal Singh challaned the motorcycle of Arihant Jain after calling him at the Police Station. However, it was admitted in the report that the complainant was harassed by both those police officials for which departmental enquiry/disciplinary proceedings had been recommended against them.

As the enquiry report of Deputy Superintendent of Police, CBCID, Hissar, Haryana clearly established a case of harassment caused to the complainant Arihant Jain by the two police officials, namely, Maha Singh Ranga and Bhal Singh of Police Station Elnabad by falsely making challan of his motorcycle at the Police Station after calling him there. As such, the said public servants violated the human rights of the complainant Shri Arihant Jain for which the State Government was liable to compensate the complainant. Hence, the Commission issued notice to the State of Haryana through its Chief Secretary to show cause as to why the Commission should not award compensation to Shri Arihant Jain for violation of his human rights by the police officials of the State.



The Director General of Police, Haryana was also directed to take penal action against the above named two police officials for abusing their powers and misusing of the machinery of Law.

The Inspector General of Police (Law & Order) in the office of Director General of Police, Haryana intimated that a department enquiry had been initiated against Inspector Maha Singh and Head Constable, Bhal Singh which was going on.

In reply to show cause notice, no cause/explanation was furnished in that respect by the Inspector General of Police in the above noted report rather it was stated that the Commission might take action as deemed fit for violation of the human rights of the complainant by the police officials.

In the circumstances of the case, the Commission recommended to the Government of Haryana through its Chief Secretary to pay a sum of Rs. 50,000 as compensation under Section 18 (a) (i) of Protection of Human Rights Act, 1993 to the complainant, Shri Arihant Jain at an early date and submit the report along with proof of payment.

Despite reminder, compliance report alongwith proof of payment is still awaited.

65. Torture of a Gang Rape Victim by a Woman Constable at Behest of Sub Inspector of Police Station Afzalgarh, Bijnour, Uttar Pradesh (Case No. 14412/24/17/2013-WC)²⁷⁷

The Commission took suo motu cognizance of a news item entitled “Another Uttar Pradesh Rape Victim Faces Police Ire” appeared in the Delhi Edition of English daily ‘The Hindu’ dated 17 April 2013. According to the news report, a 16 year old gang rape victim was allegedly beaten up by a lady constable at the behest of Sub Inspector of Police Station Afzalgarh, District Bijnour, Uttar Pradesh. It is reported that the victim had gone to the police station on 12 April 2013 alongwith her parents for lodging a complaint against two youths who had gang raped her on 11 April 2013. The report also discloses that the victim and her parents had been trying to get the complaint registered since 12 April 2013 but to no avail. Instead of registering the FIR, the rape victim herself was allegedly assaulted by the lady constable on the directions of the Sub Inspector.

While issuing notices to the Chief Secretary and Director General of Police, Uttar Pradesh, calling for a report, the Commission made the following observation:

“The Commission is appalled at the utter insensitivity on the part of police officials. Barely a week ago, another minor rape victim was detained in a lock up in the State.

²⁷⁷. NHRC Annual Report 2013–2014



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

These kinds of incidents by the very people who are vested with the responsibility and duty to protect the life and property of the citizens have to be put down with a heavy hand.”

In response, reports received from authorities revealed that the victim had gone to the agricultural field on 11 April 2013 to answer the call of nature. Two men, Anees and Rashid, subjected her to sexual assault and gang raped her, leaving her injured. When the victim did not return home, her father approached Police Station Afzalgarh on 12 April 2013. The victim, however, regained consciousness on 12 April 2013 and was thereafter located by her uncle. The victim and her family members were brought to the police station by Sub Inspector Raj Singh the same day.

The local police, instead of initiating any legal action, mounted pressure on the victim and her family members to enter into a compromise. During this process, even the victim was physically assaulted by woman Constable Sukhraj Kaur and sent back home. The victim and her family members again visited the police station on 13 April 2013 but the case was not registered. On 15 April 2013, the victim's father visited Additional Superintendent of Police, Rural, Bijnore and thereafter the criminal case was registered on the complaint of her mother, vide Crime No.111/2013 for the offences punishable u/s 376D, 506 IPC at Police Station Afzalgarh on 15 April 2013 against both the named accused persons.

It was further stated that another criminal case vide Crime No.113/2013 for the offence punishable u/s 166A IPC was also registered against Ramjilal, Station House Officer, Police Station Afzalgarh; Sub Inspector Raj Singh and Lady Constable Sukhraj Kaur on 16 April 2013 for delay in registration of the case. All the three police personnel were placed under suspension and departmental action was also initiated against them. During the course of investigation, Section 323, 342 IPC were also added. It was further stated that in Case Crime No.113/2013, chargesheet for the offences punishable u/s 166A, 323, 342 IPC had been submitted against all the three police personnel on 26 May 2013.

The Commission considered the matter on 14 August 2013 when it directed to issue a notice u/s 18 of the Protection of Human Rights Act, 1993 to the Government of Uttar Pradesh through its Chief Secretary to Show Cause why interim relief should not be recommended to be paid to the victim in this matter. The Commission further directed the Director General of Police, Uttar Pradesh to submit the status of both the aforesaid criminal cases and the outcome of the departmental action initiated against the delinquent police personnel.

In response, the Superintendent of Police, Bijnour, informed that both the rape accused had been charge sheeted and the challan had been submitted in court on 25 May 2013. The case is under consideration of the competent court. It was further stated chargesheet for the offences punishable u/s 323, 504, 342 IPC had also been



filed in court on 26 May 2013 against the delinquent police personnel namely Ramji Lal, the then Station House Officer, Sub Inspector Raj Singh and constable Sukhraj Kaur of Police Station Afzalgarh. It was further informed that departmental proceedings were in progress against delinquent police officials. It was also submitted that the State had no objection in grant of interim relief to the rape victim.

The Commission considered the matter on 29 October 2013 when it observed that the hapless and helpless girl was gangraped and left bleeding in an open field by the offenders and when the matter was reported to the police, the law was not set in motion. What was more shocking was that the police personnel led by the Station House Officer mounted pressure on the victim and her family members to compromise the matter and the victim who deserved full sympathy at the hands of law enforcement officials was instead physically assaulted. The case was registered only when the superior authorities intervened and took further action in the matter by placing the delinquent police personnel under suspension, registering a criminal case against them and initiating departmental action as well.

As the State Government did not raise any objection in grant of interim relief to the victim, the Commission recommended to the Government of Uttar Pradesh to pay an amount of Rs. 3,00,000 to the victim and directed the Chief Secretary, to submit the proof of payment made to the victim in six weeks.

Compliance report alongwith proof of payment and outcome of Departmental action initiated against three police personnel of Police Station Afzalgarh is awaited.

66. Illegal Detention, Abuse and Torture of Human Rights Defenders by Chennai Police (Case No. 61/22/13/2014)²⁷⁸

In the above case, the complainant alleged that a human rights defender named, V Gouthaman along with five students, Paravai Dasan, Raymond, Gautham, Vasanthan and Jothilingam were illegally detained and a person, named Tamil Inniyan, was abused and physically tortured by the Police in Chennai, Tamil Nadu.

It was further stated in the complaint that V. Gouthaman along with the five students were illegally detained by the Police without following the provisions of law and the guidelines laid down by the Supreme Court in the case of D.K. Basu vs. State of West Bengal. The person named Tamil Inniyan was also brought to the Guest House where the above six persons were kept.

When all of them were being taken to some undisclosed location from the Guest House, the Assistant Commissioner of Police named Gnanasekaran arrived on the spot. He abused and brutally tortured Tamil Inniyan on the pretext that he had sent

²⁷⁸. NHRC Annual Report 2013–2014



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

SMS to the media about their arrest. He was also hit on his private parts. All the alleged detainees were not given any food and thus made to starve. They were also not provided any record about their detention. Tamil Inniyan underwent treatment for two days at the Rajiv Gandhi Government Hospital. The complainant prayed for action against the erring police officials and relief to the victims.

The Commission requested its Director General (Investigation) to depute a team from the Investigation Division along with an officer from the Law Division, to carry out a detailed on the spot inquiry in the matter and submit a report to the Commission.

Pursuant to the directions of the Commission, a team of officers from Investigation Division and Law Division visited Chennai from 21 to 24 January 2014 for conducting of on spot enquiry. On completion of its enquiry, the NHRC Team found the following:

In view of the visit of the President of India to Loyola College, Chennai, the Assistant Commissioner of Police of Nungambakkam, Gnanasegeran and his team of officers (on the instructions of senior officers), arrested suspected Tamil chauvinists, including students, supportive of Sri Lankan Tamil cause and kept them under preventive detention during the entire presidential visit.

Their arrest by the Police was done in good faith, on legitimate grounds on the orders of senior officers, based on reliable intelligence inputs of plans of Tamil chauvinists to disrupt the high profile State visit of the President of India to Loyola College, Chennai.

The arrest records revealed that six persons were arrested from Saraswati Street, Mahalingapuram, Chennai. However, the enquiry revealed that actual arrest of all these six persons was done from their respective residences/homes. It was found that the guidelines/ procedures regarding arrest as laid down by the Supreme Court of India and prescribed under the Cr.P.C. were not followed in letter and spirit.

An SMS was sent by Tamil Inniyan to different persons of media and news of their midnight arrest was made public. In the complaint, it was alleged that Tamil Inniyan was pulled out from the vehicle in which he was sitting with others and badly assaulted by Gnansegeran, Assistant Commissioner of Police and Inspector Srikanth for sending SMS to the media. However, the medical diagnostic tests (such as Doppler test, Ultra sound and CT scan) did not reveal any injuries and the treating doctors had also not observed any marks of external injury. Tamil Inniyan (the patient) had also absconded from the treatment ward of RGGG Hospital, Chennai.

The NHRC Team in its report concluded that the allegations of the victims who were arrested from their respective homes by the police at night were true, and the guidelines of the Supreme Court and procedure prescribed under Cr.PC regarding



arrest were not adhered to by the Police while arresting these seven persons. The NHRC Enquiry Team accordingly recommended that the Hon'ble Commission may consider directing the Director General of Police, Tamil Nadu, to initiate appropriate action against the erring police official, Gnanasegeran, Assistant Commissioner of Police, Nungambakkam and his team of police officials, including Inspectors Shibu Kumar and Srikanth, for arresting seven persons without following the rule of law on arrest.

Upon consideration of the report submitted by the NHRC Enquiry Team and the material on record, the Commission directed the Director General of Police, Tamil Nadu to initiate appropriate action against the police officials, namely, Gnanasegeran, Assistant Commissioner of Police, Nungambakkam and his team of police officials, including Inspectors Shibu Kumar and Srikanth for arresting seven persons in FIR No. 2281 dated 20 January 2013 of Nungambakkam Police Station, without following guidelines of the Supreme Court of India and procedure prescribed under Cr.PC on arrest and submit a report in the matter to the Commission.

The matter continues to be under the consideration of the Commission.

67. Kidnapping, Illegal Confinement and Attempted Rape of Minor Girls by Delhi Police Personnel under P.S. Mukherji Nagar, Delhi (Case No. 6232/30/6/2013)²⁷⁹

The Commission received a complaint from one R. H. Bansal of an NGO that on 5.10.13 two policemen kidnapped three minor girls from Vikaspuri area and took them in a government quarter in police colony, Mukherjee Nagar. The policemen forced them to consume liquor and tried to rape a girl. The girls raised hue and cry and the neighbour took the matter to the police and a case has been registered at P.S. Mukherjee Nagar.

Pursuant to the directions of the Commission, the enquiry report of the Assistant Commissioner of Police, Model Town, North West District was received stating that on 5.10.13, a Police Control Room call was received at Police Station Mukherjee Nagar regarding molestation of a girl. During enquiry the statement of the victim, aged 13, was recorded. She stated that the accused Amit Tomar had brought her along with two other minor girls, aged 10 and aged 11, to the government accommodation of Gurjinder Singh where both the accused forced her to consume liquor and tore off her clothes in order to rape her. Both the accused persons were posted in 3rd Battalion, Delhi Armed Police as Constables. On her statement, a case vide FIR No.407/13 u/s 363/342/328/354-B/34 IPC read with section 10 of the Protection of Children from

²⁷⁹. NHRC Annual Report 2014–2015



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

Sexual Offences Act, 2012(POCSO)was registered. Both the accused were arrested on the same day. Chargesheet u/s 366-A/342/328/354/354-A/354-B/308/506/120-B/34 IPC r/w section 10 POCSO Act and 23 Juvenile Justice Act against both the accused persons was filed in the Court on

The erring police personnel have been dismissed from service. Presently, the case is pending trial in the Court.

The Commission upon further consideration of the matter on 7.4.2014 has inter-alia observed and directed as under:-

“The Commission observes that the human rights of the victims have been violated by the public servants for which the State must bear the liability. Issue a Show Cause Notice to the Government of National Capital Territory of Delhi through its Chief Secretary and to the Commissioner of Police, New Delhi as to why monetary relief of Rs.3,00,000/- each (Rupees Three Lakhs each) u/s 18 of the Protection of Human Rights Act, 1993, be not recommended to be paid to the victims mentioned in the report. Response within eight weeks.”

In response to the show cause notice, the Deputy Commissioner of Police (Vigilance), Delhi has stated that at the time of incident, the two police officials Gujendra Singh and Amit Tomar were not performing any official duties and they had committed the crime in their personal capacity as such the Commission may take a lenient view in the matter.

The Commission again considered the above explanation sent on behalf of the Government of National Capital Territory of Delhi on 23.7.2014 when it observed and directed as under:

“As per enquiry report, the offence of attempt to rape was committed by the two accused persons who were then posted in 3rd Battalion of Delhi Armed Police as Constables. The offence was committed by them at the official accommodation provided to the Constable Gujinder Singh in the Police Colony, Kingsway Camp, Delhi on account of the said offence/misconduct committed by the accused police constables, they were dismissed from service.

In the above circumstances, it is seemed that both the police officials were employees of the Government of NCT of Delhi at the time of the incident and committed the said crime in the Government accommodation provided to one of the accused in his capacity as police constable. Thus, it cannot be said that the accused police officials had lost official capacity of a Government Servant at the time of committing the offence.



In the above circumstances, the Commission recommends u/s 18 (a) (i) of the Protection of Human Rights Act, 1993 to the Government of NCT of Delhi through its Chief Secretary to pay a sum of Rs. 3 lakhs (Rupees Three Lakhs Only) to the victim through her guardian at an early date and send a report along with proof of payment within six weeks positively.”

In response, the Deputy Commissioner of Police, North West District, Delhi has submitted that an amount of Rs. 3,00,000/- as recommended by the Commission has been paid to the victim. The Commission has accordingly closed the case.

68. Illegal Detention and Torture by Special Staff Hodel, Haryana, during Interrogation (Case No. 1308/7/22/2012)²⁸⁰

Shri Bhudev Shastri, s/o Rewti Lal, Bharatpur, Rajasthan filed a complaint alleging about his illegal detention and torture by Police Officials of Haryana and Uttar Pradesh. He was arrested on 16.02.2012 on suspicion of being a thief and wasn't produced before a Magistrate within 24 hours. He was released only after a bribe of Rs. 40,000, as demanded, was given to the Station Officer named Rishi Pal. As the Superintendent of Police, Palwal sent a report denying the allegations and the complainant reiterated the same, the Commission obtained the report of CB-CID, Haryana. The Inspector General of Police (Crimes), Haryana, reported that the allegations made by the complainant against police officials were found to be true.

The Director General of Police, Haryana, conveyed that FIR u/s 323, 343 and 34 IPC has been registered against delinquent Police officials at P.S. Hodal, Haryana.

The Commission has considered the material on record and directed the Haryana Government to pay Rs. 1 lakh as compensation to the complainant and submit the updated status of investigation in FIR and departmental action.

The Superintendent of Police, Palwal has reported that the accused in the case has been arrested and challaned in the Court. It was further informed that the departmental enquiry was being conducted by Deputy Superintendent of Police, Palwal, Haryana. He also informed that a sum of Rs. 1 lakh as relief has been paid through cheque to Bhudev Shastry alias Bhudev Sharma resident of village Kirawata, District Bharatpur, Rajasthan.

69. False Implication and Torture of Two Persons by Sheikhpura Police, Bihar (Case No. 349/4/34/2013)²⁸¹

The Commission received a complaint from one R.H. Bansal of an NGO alleging that one Mukesh, aged 22 years was illegally picked up by Sheikhpura Police on

²⁸⁰. NHRC Annual Report 2014–2015

²⁸¹. NHRC Annual Report 2014–2015



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

24.01.2013 and physically tortured. The victim was got admitted in Patna Medical College and Hospital on 25.01.2013 in a critical condition. The complainant further alleged that Rajiv, brother-in-law of Mukesh was also brutally beaten by the police and sent to jail. He requested appropriate action in the matter.

The Commission took cognizance of the matter on 06.02.2013 and directed Director General of Police, Bihar to submit an action taken report within six weeks. In response, Deputy Inspector General of Police (Headquarters), Patna, Bihar vide his letter dated 18.6.2013 had informed that in respect of the alleged incident, two criminal case Nos.21/2013 and 6/2013 have been registered and the investigation has been transferred to the CB CID. The letter further mentioned that the delinquent police official, Shri Babu Ram, I.P.S. has been transferred from Sheikhpura and disciplinary action has also been proposed against him.

A report was also received from Assistant Inspector General of Police, Bihar, Patna. As per report, after investigation of crime no. 6/13 u/s 273 IPC and Section 47(A) Excise Act, the allegations made against accused Rajiv were found totally false. The IO has been directed to submit a final report in the matter. Further, the SP, Sheikhpura has been directed to take appropriate disciplinary action against the delinquent police officials SI Gagan Kumar Sudhakar, then SO, PS Jairampur, HC Shri Ram Naresh and constable Ranjit Kumar Yadav for false implication. The report further stated that on investigation of crime no. 21/13 u/s 341/323/326/338 and 120B/34 IPC, the allegations made against the accused Shailendra Singh alias Montu Singh, ASI Mukesh Kumar, constable driver Shailendra Singh and constables Sandip Kumar Paswan, Vinod Kumar, Rakesh Kumar, Kundan Kumar, Manu Pratap alias Sushil Kumar and also two unknown associates of Montu Singh were found true and sufficient evidence was collected to submit a charge sheet against the said accused persons. The IO has been directed to arrest the accused and to secure their presence.

The Commission upon further consideration of the matter on 30.6.2014 interalia observed and directed as under:-

“As the investigation of the above crime, it was found that Mukesh Kumar and his brother-in-law Rajiv Kumar were arrested illegally on false charges and thereafter subjected to custodial violence out of whom Mukesh was inflicted grievous injuries endangering his life so prima facie there was serious violation of human rights to life, liberty and dignity of the above named two persons by then SP, Sheikhpura and subordinate police officials of PS Sheikhpura and Jairampur, Bihar as such the State Government of Bihar being employer was vicariously liable to compensate the victim for the atrocities committed by its employees.

The Commission, therefore, directs that a show cause notice be issued to the State Government of Bihar through its Chief Secretary to show cause within six weeks as to



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

why the Commission may not recommend payment of suitable monetary relief/compensation to the victims by the State Government along with payment/reimbursement of entire cost of medical treatment of these two persons by the State Government.

The DGP, Bihar, Patna is also directed to get FIR registered against the delinquent police officials to prosecute them for the abuse, misuse of their power for arrest and detention of the victims on false charges and causing violence resulting in physical and mental agony to the victims. The ATR be sent in six weeks.”

The Commission upon further consideration of the matter on 24.3.2015 interalia observed and directed as under:-

“The Commission has carefully considered the reports. It is now crystal clear that victims Mukesh Kumar and his brother-in-law Rajiv Kumar were falsely implicated and subject to police torture by police personnel of Sheikhpura police. They sustained grievous injuries on their persons. Besides, the torture meted out to the victim were barbaric and unprecedented. In this background, the Commission recommends that the victims Mukesh Kumar and Rajiv Kumar each be paid a monetary compensation of Rs. 25,000/- (Rupees Twenty Five Thousand each) and Rs. 20,000/- (Rupees Twenty Thousand each) towards their medical expenses. The Chief Secretary to the Government of Bihar is directed to submit compliance after making the said compensation amount to the victims within six weeks. The Director General of Police, Bihar is further directed to submit a report showing the final outcome of the disciplinary proceedings pending against the delinquent police officials including the then SP Shri Baburam. The report should also indicate what action has been taken against the erring officials under the criminal law.”

The response is awaited from authorities and the matter is under consideration of the Commission.

70. Human Rights Defender Arrested Illegally and Tortured (Case No. 31/14/12/2013)²⁸²

An NGO, Asian Human Rights Commission brought to the notice of the Commission about the illegal arrest of a human rights defender and musician from Manipur by the police at Thoubal, Manipur. Mr. Mandir Laishram and Mr. Ninghtoujan Hemo were illegally arrested, humiliated and tortured by the police of Thoubal, Manipur.

The Inspector General of Police, Manipur reported that Mr. Mandir Laishram and Ninghtoujan Hemo were accused in FIR No. 84(5)/2013 u/s 148/149/427/447/353 IPC r/w Section 342 IPC r/w Section 3 PDPP Act r/w Section 7 of Criminal Law Amendment Act and were sent to judicial custody on 17.5.2013. The vehicle in which

²⁸². NHRC Annual Report 2014–2015



Mr. Ninghtoujan Hemo one of the accused of the said FIR was travelling was asked by the police officer to stop for checking but the occupants resisted frisking and checking. Therefore, they were given minor punishment for obstructing police personnel on duty. After that, the slightly injured musicians were taken to a nearby hospital and were discharged after giving first aid. The police official involved in the incident had transferred to another police station.

The Commission considered the material placed on record and observed that erring police personnel transferred to other police station on account of his conduct in the matter. It is therefore evident that both the personnel namely Laishram Mandir Singh and Ningthoujam Hemosingh were ill treated and beaten up by police personnel of P.S Heirok and thus human rights of the victims has been violated. In these circumstances, the Commission recommended to the Chief Secretary, Government of Manipur to pay a sum of Rs. 25,000/- as compensation to both the victims.

71. Illegal Detention and Torture of Vijay Singh and His Nephew Jitendra Singh of Village Mdhaka by Constables of P.S. Cantt. Agra, Uttar Pradesh (Case No.18400/24/1/2013)²⁸³

The case under reference relates to illegal detention and torture by police of P.S. Cantt. Agra on 6 May 2013 without registration of a FIR. The complainant Vijay Singh, s/o Ram Singh of Village Mdhaka, P.S. Sadabad, District Hathras, Uttar Pradesh in his complaint dated 11 May 2013 alleged that on 6 May 2013 at 6.45 a.m. he along with his nephew Jitendra Singh had gone to Agra. As soon as they reached the Railway Station of Agra Cantt., Rajveer Singh, father-in-law of Jitendra used abusive language and directed the police constables of P.S. Cantt to take them into custody. Both the complainant Vijay Singh and Jitendra Singh were kept in the lock-up of Police Station Cantt and tortured by the police personnel without registering any FIR. The complainant appealed for appropriate action against Rajveer Singh, father-in-law of Jitendra and police personnel who had tortured the complainant along with his nephew Jitendra.

Pursuant to the directions of the Commission, Addl. Superintendent of Police, Rural forwarded the report of Superintendent of Police, City Agra who during enquiry recorded the statement of Vijay Singh, Rajveer Singh, Dalbir Singh, Jitendra and Constable Clerk Ravinder Singh and concluded that the nephew of the complainant Jitender Singh was married to Rajni. After the marriage they had some differences. Consequently, Rajni submitted a report at Mahila P.S., Agra which was registered as Crime Case No. 135/13 u/s 498A/323/504/50/307/406 IPC and u/s 3/4 of the Dowry

²⁸³. NHRC Annual Report 2015–2016



Prohibition Act, 1961. This case was pending in Reconciliation Centre. Police Constable Ravinder Singh had picked up victim Jitender Singh and complainant Vijay Singh at P.S. Cantt. He handcuffed them and took them to Cantt Agra police station. Thus, Constable Ravinder Singh without the permission/directions of senior officers and without any complaint being registered caught hold of the victims which indisputably was a violation of human rights. According to Addl. Superintendent of Police, Rural during departmental enquiry Constable Ravinder Singh was found guilty and on 5 September 2013 he was given a punishment of three days' physical drill (PD).

The Commission on consideration of the matter on 1 September 2014 concluded that it was a clear case of violation of human rights of complainant and his nephew by Constable Ravinder Singh and issued a notice u/s 18 of the Protection of Human Rights Act, 1993 to the Chief Secretary, Government of Uttar Pradesh to show cause as to why the victims be not awarded monetary relief.

The Commission considered the matter again on 29 August 2015 and observed that the Chief Secretary, Government of Uttar Pradesh, had not submitted any reply to the show cause notice u/s 18 of the Protection of Human Rights Act, 1993, issued on 9 September 2014. Hence, it presumed that the State of Uttar Pradesh had nothing more to urge in the matter. As the Commission had established that Constable Ravinder Singh of Police Station Cantt handcuffed the complainant Vijay Singh and Jitendra Singh, he was guilty and this was proved during the departmental enquiry as well and further more on 5 September 2013 he was awarded three days PD. It being a case of violation of human rights of the complainant Vijay Singh and Jitendra Singh, the Commission recommended a sum of Rs. 50,000/- each as compensation to be paid to the victims Vijay Singh and Jitendra Singh u/s 18 of the Protection of Human Rights Act, 1993. The Chief Secretary, Government of Uttar Pradesh, was directed to submit the compliance report along with the proof of payment. The compliance report has since been received by the Commission and the case stands closed.

72. Illegal Detention of Maujvir Singh by Police at Nai Mandi, Muzaffarnagar, Uttar Pradesh (Case No. 15083/24/54/2013)²⁸⁴

In the above mentioned case, the complainant alleged illegal detention of her husband in police custody in P.S. Nai Mandi. The report submitted by the Senior Superintendent of Police, Muzaffarnagar dated 2 January 2014 was not found satisfactory by the Commission. Therefore, a fair enquiry report was called for from the DIG, Meerut Range (Uttar Pradesh). Accordingly, the report dated 12 September 2014 from DIG, Meerut disclosed that the complainant's son Nitin was involved in

²⁸⁴. NHRC Annual Report 2015-2016



**NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India**

Crime Case No. 280/13 u/s 392/411 IPC along with 3 others. The son of the complainant surrendered in the court on 17 June 2013 and thereafter was sent to jail. The Enquiry Officer did not find any entry in the General Diary of P.S. Nai Mandi regarding picking up of Maujvir Singh by the police of P.S. Nai Mandi on 22/23 April 2013 and being kept in the police custody for 6 days. The statement of other concerned police officials could not be recorded by the Enquiry Officer as they could not present themselves before him. But, as per the telephonic statement of Head Constable, Ramesh Chander (Head writer of P.S. Nai Mandi) and scrutiny of General Diary (GD),

FIR, the Enquiry Officer concluded that the Investigating Officer of Case No. 280/13, Sub-Inspector Rafiq Parvej and SHO, P.S. Nai Mandi may have picked up Maujvir Singh, and kept him in police custody to pressurize for the arrest of her son Nitin in Case No. 392/411, but, no entry in this regard was made in the GD of P.S. Nai Mandi. Hence, Inspector Vinod Sirohi, SHO, P.S. Nai Mandi and Sub-Inspector Rafiq Parvej, Investigating Officer of Case No. 280/13 were held responsible for keeping the complainant's husband in police custody illegally.

The Commission on scrutiny of the police report observed that the complainant's husband Maujvir Singh was picked up by the police of P.S. Nai Mandi on 22/23 April 2013 and kept in police custody illegally for 6 days for which Inspector Vinod Sirohi and SI Rafiq Parvej have been found to be responsible and that the human rights of the complainant's husband were violated by the action of the then Inspector Vinod Sirohi and SI Rafiq Parvej. Therefore, the Chief Secretary to the Government of Uttar Pradesh was directed to show cause as to why a monetary compensation of Rs. 25,000/- (Rupees Twenty Five Thousand only) should not be recommended to be paid to the victim Maujvir. In response, the Joint Secretary, Home (Human Rights) Department, Government of Uttar Pradesh vide communication received on 19 May 2016 submitted that an amount of Rs. 25,000/- had been paid to victim Maujvir Singh on 18 April 2016. As the proof of payment was annexed, the Commission closed the case with the directions that the Inspector General of Police, Meerut Zone, Uttar Pradesh and the Joint Secretary, Home (HR) Department, Government of Uttar Pradesh shall see that the departmental proceedings initiated against the Inspector Vinod Sirohi and Sub Inspector Rafique Parvez Khan of Muzaffar Nagar District Police are concluded expeditiously.

73. Harassment to Arif by Police at P.S. Janakpuri, Saharanpur, Uttar Pradesh (Case No. 18702/24/64/2012)²⁸⁵

²⁸⁵. NHRC Annual Report 2015–2016



The complainant in this case alleged that on 3 June 2012 at 10 a.m., her son Arif aged 17 was picked up by the police of P.S. Janakpuri, Saharanpur from his shop at the instance of certain persons who had to recover money from the complainant's son and was beaten by the police. It was further alleged that the complainant approached the Station House Officer for release of her son but he refused to release him till the time the money was returned to those persons. Instead, the SHO threatened the complainant to implicate her son in a false case.

The Commission upon consideration of the matter and material placed on record directed the Government of Uttar Pradesh for payment of compensation of Rs. 25,000/- (Rupees Twenty-five Thousand only) to the complainant, Smt. Wasim Akhtar.

In response, the Superintendent of Police (Rural) and Nodal Officer (Human Rights), Saharanpur, Uttar Pradesh vide communication dated 8 July 2016 and the Joint Secretary, Home (Human Rights) Department, Government of Uttar Pradesh, Lucknow vide communication dated 21 July 2016 submitted the compliance report along with proof of payment. In view of the fact that departmental action had already been taken against the delinquent Inspector/ SHO, for keeping the victims in illegal detention, the Commission closed the case.

74. A 19 Year Old Suspect and Three Other 17 Year Old Juveniles Forced to Have Unnatural Sex with Each Other in Police Custody in Chennai, Tamil Nadu (Case No. 134/22/13/2015)²⁸⁶

The complainant, Shri G. Dsouza, a human right activist, alleged that two police personnel forced a 19 year old suspect and three other 17 year old juveniles to have unnatural sex with each other, while they were in police custody in Chennai. It was pointed out by the complainant that though CB-

CID had registered an FIR against the two erring police personnel there was no information about their arrest. The complainant had thus sought the intervention of the Commission in the matter.

Pursuant to the directions given by the Commission, it was informed that a case vide Crime No. 01/2015 u/s 323/330/355 IPC r/w Section 10 and 12 of the Protection of Children from Sexual Offences Act, 2012 and 20, 12 and Section 23 of the Juvenile Justice Act, was registered against the named police personnel, which was under investigation and the erring police personnel have also been suspended from their services.

The Commission further considered the matter and observed that it is unfortunate that police personnel who were entrusted with the safety and security of its citizens, are

²⁸⁶. NHRC Annual Report 2015-2016



shockingly found indulging in the act of forcing young boys to have unnatural sexual that may have an everlasting effect on their minds. The subjection of the young boys to such an act inside the police custody is a gross violation of the human rights of the victims. The Chief Secretary to the Government of Tamil Nadu was thus directed to show cause u/s 18 (a)

of the PHR Act, 1993 as to why a monetary compensation of Rs. 25,000/- (Rupees Twenty-five Thousand only) should not be recommended to be paid to each of the victims. The matter continues to be under the consideration of the Commission.

75.A Journalist Mercilessly Beaten-up by Police near Village Barara and Then Brought to Police Station Barara in Ambala, Haryana (Case No. 6029/7/1/2012)²⁸⁷

The complainant Shri Sandeep Kumar, a journalist, complained to the Commission that in the evening of 17 August 2012, when he wanted to take photograph of the SHO of Police Station Barara and other Police Constables, beating a youth, at a crowded place near Village Barara, the SHO got enraged and thrashed him mercilessly. Subsequently, he was brought to the Police Station, Barara and again beaten up ruthlessly in the Police Station.

Upon consideration of the reports obtained from the police authorities, the Commission observed that the facts and circumstances of the case clearly indicated that the injuries on the body of the complainant were caused by the police. The Commission thus issued a notice to the Chief Secretary, Government of Haryana to show cause as to why monetary relief be not recommended for payment to the complainant whose human rights were violated by the police of Haryana.

In response, the Commissioner of Police simply stated that the complainant was pushed and shoved by the crowd and not beaten up by the police. Taking a view that the observations of the Commission were not rebutted by cogent evidence, the Commission recommended payment of Rs. 1,00,000/- (Rupees One Lakh only) to the victim.

As the compliance report along with proof of payment was received by the Commission, the case was closed.

76.A Fourteen Year Old Accused of Theft Loses Eye Sight due to Alleged Police Torture in Virudhunagar District, Tamil Nadu (Case No. 2861/22/45/2012)²⁸⁸

²⁸⁷. NHRC Annual Report 2015–2016

²⁸⁸. NHRC Annual Report 2015–2016



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

Shri Anup Srivastava, Member, People's Vigilance Committee on Human Rights (PVCHR) vide his e-mail dated 3 October 2012 forwarded a news report captioned "Kuravar boy loses sight in alleged police torture" that appeared in 'The New Indian Express' dated 3 October 2012. The report alleged that one Pathampriyan, aged 14 years (student of 9th class) and resident of Kannagi Colony near Thiruthangal Village in Virudhunagar belonging to Kuravar community, was allegedly picked up by the police on 24 September 2012 on the charges of theft and beaten up by the police in Virudhunagar District till he lost sight of his right eye. It was further mentioned in the report that the victim was being treated in Government Rajaji Hospital in Madurai. Taking cognizance, the Commission called for reports from the Director General of Police, Tamil Nadu and the District Magistrate, Madurai in the matter.

In response, the District Collector, Virudhnagar submitted a copy of Writ Petition (MD) No. 12783/2012 filed by Tmt. G. Paripooranam w/o Ganesan, Kannagi Colony, Tirhuthangal Village, Sivakasi, Virudhnagar District in Madurai Bench of Madras High Court seeking compensation of Rs. 5,00,000/- (Rupees Five Lakhs only) for torture of her son Pathampriyan by the police.

The Commission also received a detailed report from the Revenue Divisional Officer, Sivakasi. The report of RDO, Sivakasi concluded that the affected boy Pathampiriyen had been tortured and the boy too in his statement disclosed that one policeman named Chelliah had beaten him below the shoulder by a plastic tube and then another policeman named Subburam had taken him to a separate room and beat him up by a stem, palmirah leaf stick on the feet, legs, buttocks, thighs and below the shoulder. He was beaten up by Thiruthangal Police Constables also. The Doctor who treated the boy had found injury marks on the body of the boy.

Upon consideration of the reports, the Commission found that the boy was subjected to brutal torture by the police. Consequently, the Commission issued notice u/s 18 of the Protection of Human Rights Act, 1993 to the Government of Tamil Nadu to show cause as to why suitable monetary relief be not recommended to be paid to the victim boy who was tortured by the police.

In response the District Collector, Virudhunagar, on behalf of the State Government submitted that in the preliminary inquiry report it was not concluded whether the police excess was found in this case or not. He was directed to send a detailed final report along with specific remarks. Thereafter, RDO, Sivakasi sent a final report dated 29 May 2013. In the final report, the Inquiry Officer referred to a report submitted by the Dean of Government Rajaji Hospital, Madurai stating that the current visual loss in the right eye was due to complicated cataract retinal detachment pthysis and there was no sign of recent injury in the eye. It was also pointed out by the District Collector in his response that no other eye witness except the boy and his companions



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

had come forward to prove the torture inflicted by the police. The allegation that the eye was damaged due to recent police torture could not be proved against the police.

Upon considering the reply to the show cause notice and material on record, the Commission observed and directed as under:

“The Commission has carefully examined the reply submitted by District Collector, Virudhunagar and also the final inquiry report of RDO, Sivakasi. It is to be noted that the same set of witnesses was examined by RDO, Sivakasi during the preliminary inquiry and the final inquiry. The four boys who were summoned to the police station along with Pathampriyan testified at both stages that while Pathampriyan was being interrogated in a room, they had heard sounds of beating and cries of Pathampriyan. The testimony of the boys is corroborated by medical evidence. So, there can be no doubt that Pathampriyan was subjected to torture during interrogation by the police.

As regards the visual loss in the right eye, the Dean of Government Rajaji Hospital, Madurai where the boy was treated shortly after the incident, opined in his report that the visual loss in the right eye is due to long standing cataract and there is no sign of recent injury in the eye. The witnesses stated during inquiry by the RDO that when Pathampriyan was being beaten, he kept his hand on the head and the Constable gave beating on his hand. Dr. T. Ayyanar also stated during the inquiry that Pathampriyan was taken to Madurai Rajaji Hospital for treatment of wound in the right eye. The Commission would not, however, go deep in this aspect in view of the opinion given by the Dean, Rajaji Government Hospital, Madurai.

Even if, the Commission accepts the contention that the loss of vision in the right eye was not due to beating by the police, it is established by reliable evidence that the boy was subjected to torture during interrogation by the police. The Commission, therefore, recommends to the Government of Tamil Nadu to pay a sum of Rs. 50,000/- (Rupees Fifty Thousand only) as monetary relief to the victim boy. If the Hon’ble High Court eventually finds that the loss of vision in the right eye was caused by police beating and a higher amount of compensation is awarded by the Hon’ble High Court, the amount of Rs. 50,000/- shall be adjusted. Chief Secretary, Government of Tamil Nadu shall submit the compliance report with proof of payment within eight weeks.”

On compliance of its recommendation, the Commission closed the case.

77. Illegal Detention and Torture of a Scheduled Caste Person by Police Personnel of Hathras Police Station, Uttar Pradesh (Case No. 49639/24/37/2014)²⁸⁹

The Commission received a complaint dated 10 December 2014 from one Deepak alleging that he was picked up by Police on 24 November 2014 from his house and

²⁸⁹. NHRC Annual Report 2015–2016



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

taken to Hathras Police Station. There, he was allegedly subjected to brutal torture by the Police by way of chilli powder, petrol and physical bashing. After beating him up black and blue, Police left him at his house. A complaint was made to the Superintendent of Police, Hathras and a case was registered. The police got his false medical examination report prepared under pressure. The complainant enclosed various newspaper clippings, medical reports and his complaints to Police Authorities in support of his allegations.

According to the Hathras Police, a case vide FIR No. 710/14 u/s 323/324 IPC, and Sec.3(1)(x) Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 was registered against three Police Constables of Hathras Police Station in the alleged incident. After investigations, a chargesheet u/s 323/504 IPC, Sec. 3(1)(x) SC and ST (Prevention of Atrocities) Act, was filed against one Police Constable, and chargesheet u/s 323/504 IPC was filed against the other two Police Constables.

The Commission upon further consideration of the matter called upon the Chief Secretary, Government of Uttar Pradesh to show cause as to why interim relief of Rs. 25,000/- (Rupees Twenty-five Thousand only) should not be granted to the victim as per Section 18 of the Protection of Human Rights Act, 1993. In response, the Joint Secretary, Home (Human Rights) Department, Government of Uttar Pradesh vide his communication dated 2 September 2015 submitted that all the three guilty Police Constables had been punished with penal censure entry in their records.

The Commission further considered the matter and observed that the abduction of and brutal assault on the complainant by the Police Constables had resulted in serious violations of his human rights. All the three Police Constables were found involved in the crime and departmental action was taken against them. The rehabilitation of and compensation to the victim under the Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989, was also essential in the matter. It was a shocking case, where the protectors of citizens had committed brutalities on an innocent citizen. The Commission took a serious note of human rights violations caused by the public servants in the matter and recommended monetary compensation of Rs. 25,000/- (Rupees Twenty-five Thousand only) to be paid to the victim as per Section 18 of the Protection of Human Rights Act, 1993, by the State of Uttar Pradesh.

In response, the Under Secretary, Home (HR) Department, Government of Uttar Pradesh vide communication dated 22 April 2016 submitted that an amount of Rs.25,000/- had been paid to the victim named Deepak on 17 March 2016. Proof of payment was also annexed.

The Commission further considered the matter and observed that the interim relief of Rs. 25,000/- as recommended by the Commission had been paid to the victim. The delinquent police personnel were chargesheeted and also dealt with by their respective



Department. The District Magistrate, Hathras, Uttar Pradesh was, however, directed to ensure that the statutory benefits under the SC and ST (POA) Act and Rules made there under were extended to the victim forthwith. With these the reports received from the State Authorities were taken on record and the case closed.

78. Illegal Detention of One Safiujjaman Sarkar and Extortion of Money by Hariharpara PS Police, Murshidabad, West Bengal (Case No. 1066/25/13/2014)²⁹⁰

Activist Kirti Roy, in his complaint dated 25.06.2014, alleged illegal detention of one Safiujjaman Sarkar and extortion of money by Hariharpara PS Police.

Pursuant to the Commission's direction, report dated 28.11.2014 was received from the Superintendent of Police, Murshidabad, which though denied the allegation of extortion of money, states that disciplinary action was taken against the delinquent police officials. The Commission carefully considered the material on record and other facts and circumstances of the case and observed that the Hon'ble Apex Court, in the case of D. K. Basu, clearly laid down principles regulating the conduct of the police. Police is a disciplined service and any departure from it must be dealt with by a disciplinary action which was followed in this case. Even though the Superintendent of Police denied the allegation, his pre and post behaviour amply established that the victim was subjected to illegal police action which amounted to a violation of the human rights of the victim.

In these circumstances, the Chief Secretary, Government of West Bengal was directed by the Commission on 13.07.2016 to show cause u/s 18(a)(i) of the PHR Act, 1993 as to why a monetary compensation of Rs. 25,000/- (Rupees Twenty-five Thousand only) should not be recommended to be paid to the victim within six weeks.

The matter is under consideration of the Commission.

79. Illegal Detention and Torture of Complainant's Son Rajiv alias Guddu, Resident of Village Yakabgarhi, Dhanaura Police Station, Jyotiba Phule Nagar, Uttar Pradesh, for 8 Days in Police Station (Case No.12111/24/41/2012)²⁹¹

In this case, the complainant Shri Chandra Pal Singh, son of Duli Singh, resident of Village Yakabgarhi, Dhanaura Police Station, Jyotiba Phule Nagar, Uttar Pradesh, on 25.02.2012 alleged police inaction in regard to the illegal detention and torture of his son Rajiv alias Guddu for eight days in police station and the illegal demand of ` 5,00,000/- for his release.

²⁹⁰. NHRC Annual Report 2016-2017

²⁹¹. NHRC Annual Report 2016-2017



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

A report of the Superintendent of Police, Amroha, was received, according to which it was clear that no plausible explanation was given by the police about the illegal detention of Rajiv. Though, it is established that Rajiv was called at the police station between 17.02.2012 to 29.02.2012, but justification of calling Rajiv was not mentioned in the G.D. The Commission was of the view that it is a case of violation of human rights of victim Rajiv. Accordingly, the Commission directed to issue a notice u/s 18(a)(1) of the PHRA, 1993 to the Chief Secretary, Government of Uttar Pradesh to show cause as to why the victim be not recommended compensation.

In response, the Joint Secretary, Government of Uttar Pradesh submitted a report dated 03.03.2016, along with a report of the Superintendent of Police, Amroha dated 09.11.2015, according to which Rajiv was brought to the Police Station from 17.02.2012 to 29.02.2012 for interrogation but no GD entry was made to this effect. On 29.02.2012, the SHO Rajabpur recorded the statement of Rajiv in case Crime No. 62/2012 u/s 302 Police Station Rajabpur, which was mentioned in the GD Entry No. 31. The Investigating Officer found that Shri Suman Kumar, the then SHO Rajabpur, and Head Constable Kamal Narayan Jha were partially guilty of violating the principles laid down by the Hon'ble Supreme Court of India in D. K. Basu case.

For this negligence of the above said police officials, they were severely reprimanded and entries were made in their personal records. The report has further stated that since the concerned police officials have been reprimanded, the Commission may reconsider the show cause given for interim relief to victim Rajiv.

The Commission considered the matter again on 24.03.2017 and observed that the report of the Joint Secretary, Home admits illegal detention of Rajiv from 17.02.2012 to 29.02.2012. Two police officials were found guilty of violation of the directions of the Supreme Court and were reprimanded. Therefore, the Commission was of the considered view that human rights of Rajiv have been violated by the public servants. Therefore, the Commission recommended u/s 18(i)(a) of PHRA, 1993, a sum of Rs. 50,000/- (Rupees Fifty Thousand only) as compensation to be paid to the victim Rajiv. Compliance report along with proof of payment is awaited.

80. Detention and Torture of Complainant's Nephew Phuleshwar Yadav by Maharashtra Police (Case No. 476/13/16/2012)²⁹²

4.34 The Commission received a complaint from one Anju Ramesh Yadav alleging that her nephew Phuleshwar Yadav was subjected to illegal detention and torture on 2.11.2011 by Maharashtra Police for reasons best known to him. The complainant disclosed that the victim was a kidney patient and after torture, the victim has suffered loss of hearing in one ear. 4.35 Pursuant to the directions of the Commission, a reply

²⁹². NHRC Annual Report 2017–2018



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

dt. 13.7.2012 received from the SP, Thane, admitted that the victim had been taken by the concerned officer to his custody for 50 Annual Report 2017-2018 NATIONAL HUMAN RIGHTS COMMISSION an enquiry into a case of theft but he was neither detained nor assaulted, rather after enquiry he was let off. But the report failed to give the case number and name of the informant of the case in connection with which the victim was taken into in his custody for an enquiry. The information furnished in the report appeared not to be convincing and satisfactory. So the Commission directed for a fresh enquiry into the matter by another officer. In response to the same, a report dt. 16.3.2016 was received from the DCP, Zone-X, Mumbai according to which the victim was involved in a crime No. 448/2011 u/s 454/457/380 IPC, but on verification it was found that the said case was related to an offence u/s 302 IPC of a different Police station in which the trial had already been concluded and the accused were acquitted. The victim had nothing to do with the said case as he was in no way connected to the facts and circumstances of the case. In both the reports, the Police version was that the complainant's husband and nephew both had criminal antecedents and nexus. A copy of the report was transmitted to the complainant for her comments. 4.36 In her comments, the complainant made very serious allegations against the Police of concealing the truth to save the skin of a named officer whose misconduct was clearly established. The complainant while asserting that none of her family members had any criminal nexus and antecedents, challenged Police authority of Mumbai to substantiate the charges made against the complainant and her family members. She asserted that not an iota of evidence could be produced against her family members of their involvement in any crime whatsoever. 4.37 The Commission carefully considered the facts and circumstances of the case and examined the material on record. Police wanted a custodial interrogation of the nephew of the complainant for his alleged nexus with some crime. Though, Police stated that the victim was neither detained nor assaulted but it miserably failed to explain why he was taken to custody at all without any entries in the Police Station records. Besides, they failed to comply with the direction of the Hon'ble Apex Court on custodial interrogations and could not give an iota of evidence of his involvement in any crime whatsoever. Therefore, it was crystal clear that the victim was subjected to an illegal police action in violation of his human rights for which the State should be held vicariously liable. 4.38 In the circumstances, vide proceedings dated 28.07.2017, the Commission directed the Chief Secretary, Govt. of Maharashtra to show cause u/s 18 (a) (i) of PHR Act, 1993 as to why a compensation of ` 10,000/- (Rupees Ten Thousand only) should not be recommended to be paid to the victim. Vide its further proceedings dated 02.05.2018, the Commission recommended Government of Maharashtra to make payment of compensation to the victim and submit compliance report, which is awaited. 4.39 The matter is under consideration of the Commission.



81. 20 year old Mayur Singh Picked up and Tortured in Custody by Satna Police, Madhya Pradesh (Case No. 1701/12/38/2013)²⁹³

4.49 The Commission received a complaint dated 14.8.2013 from Mahima Singh w/o Amarjeet Singh stating that her son Mayur Singh, aged 20, was picked up by the police in civil dress from her home under P.S Kalgawa, District Satna, Madhya Pradesh at night of 6.08.2013 and also took away the licensed gun of her husband with them. He was tortured in police custody and was produced in the Court on 07.08.2013 and sent to judicial custody. He was admitted in district jail hospital and on the advice of the Medical Officer, was referred to District Hospital, Satna.

4.50 Vide proceedings dated 26.08.2014, the Commission considered the Inquiry report conducted by the Superintendent of Police, Satna wherein the allegation of custodial torture was denied.

4.51 The Commission after much follow up obtained the health screening report along with treatment records of Mr. Mayur Singh and got them examined through the medical expert in the panel of the Commission. It was reported that Mr. Mayur Singh was diagnosed with Proctitis (inflammation of the anus and the lining of the rectum). On anal examination, it was noted that his anus was tender and inflamed. In the opinion of the medical expert, the spectrum of clinical findings noted in Mr. Mayur Singh could be possible due to injection of petrol into anal orifice.

4.52 The Commission vide proceedings dated 30.11.2015 issued a notice u/s 18(i)(a) of the PHR Act, 1993 to the Govt. of M.P. through its Chief Secretary asking him to show cause within 6 weeks as to why the monetary relief of ` 50,000/- should not be recommended to be paid to the victim for violation of his human rights.

4.53 Although after considerable delay, the Commission has received compliance reports along with proof of payment. Case was closed on 21.01.2018.

82. Illegal detention of Asif in Meerut, Uttar Pradesh (Case No.981/24/54/2012)²⁹⁴

4.132 The Commission received a complaint dated 31/12/11 from one Babu alleging that on 30 December 2011, the policemen from Police Station T.P. Nagar, Meerut, Uttar Pradesh unlawfully picked up his son Asif from home and apprehending his implication in a false case. He sought intervention of the Commission for independent inquiry and protection from false cases.

4.133 In response to the directions of the Commission, a report was received from Senior Superintendent of Police, Meerut which mentioned that the policemen of Police Station T.P. Nagar, Meerut had arrested complainant's son Asif along with

²⁹³. NHRC Annual Report 2017-2018

²⁹⁴. NHRC Annual Report 2013-2014



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

others following recovery of stolen motor cycles from them. In this regard FIR No. 02/12 u/s 25 Arms Act and section 379/411/420/467/468 IPC r/w 41/102 IPC was registered and on completion of investigation, charge sheet No. 17/12 dated 26 January 2012 was filed. The report further mentioned that an enquiry was being conducted regarding the arrest of the complainant's son on 1 January 2012, for which a complaint was made on 31 December 2011.

4.134 The Senior Superintendent of Police, Meerut also informed that the complainant's son was illegally detained for 2 days w.e.f. 31 December 2011 to 1 January 2012 at Police Station T.P. Nagar and in this regard Sub Inspector Subhash Chander Gautam, was found guilty and further action was being taken against him.

4.135 In view of the report from the Senior Superintendent of Police, Meerut, in which he admitted the illegal detention of the complainant's son for two days, the Commission observed that the State was liable for violation of human rights of Asif and, therefore, issued a notice to the Government of Uttar Pradesh through its Chief Secretary to show cause as to why monetary relief u/s 18 of the Protection of Human Rights Act, 1993, be not recommended to be paid to the complainant's son Asif. The Senior Superintendent of Police, Meerut, was also directed to submit a further report as to the outcome of the departmental action taken against the erring public servant.

4.136 In response, the Commission received a report from Senior Superintendent of Police, Meerut that a strict warning had been issued to Sub Inspector, Shri Subhash Chand Gautam who was found guilty of illegally detaining the complainant's son Asif for two days and there should be no objection in case any interim relief was given to him. However, no response was received from the Chief Secretary, Government of Uttar Pradesh.

4.137 In view of the above reports, the Commission held that the complainant's human rights were violated for which the State must bear the liability. The Commission therefore recommended to the Chief Secretary, Government of Uttar Pradesh to make payment of Rupees Ten thousand as monetary compensation to the victim Asif.

4.138 spite reminders, compliance report alongwith proof of payment is awaited.

85. Illegal detention of Ashok Kumar by Sultanpur Police, Uttar Pradesh (Case No. 20728/24/2002-2003)²⁹⁵

4.134 The Commission received a complaint from Shiv Kumari Devi, alleging that her husband Ashok Singh has been picked up by Thana Kurebhar police on 31 August

²⁹⁵. NHRC Annual Report 2006–2007



NO EXCUSE OF KLEPTOMANIA:
Poverty, Prejudices and Torture in India

2002 along with their jeep without disclosing any reason, and his whereabouts are not known.

4.135 Pursuant to the directions of the Commission, a report was obtained from SSP, Sultanpur. According to the report, one Ramyaga Mishra of Babria Gang (criminal gang) used to hire a jeep of the complainant for committing crimes. The complainant's husband was questioned by the police on 31 August 2002 on that count. As the report was found unsatisfactory, the Commission on 26 March 2003 called upon Addl. DGP (Human Rights), U.P. to get the matter investigated and to submit a report.

4.136 SP (Human Rights), Directorate General of Police, U.P, responded vide communication dated 7 August 2004 transmitting letter dated 30 July 2004 of Addl. SP (Rural), Faizabad. It has been mentioned in the said letter that Harilal Kashyap, SI, and Ram Dayal Verma, SI, Vipin Kumar Pandey and Shiv Nath Patel, Constables were found guilty and punished by censuring their conduct. A communication dated 29 August 2004 was also sent by SP (Human Rights), Directorate General of Police, U.P, transmitting letter dated 16 August 2004, of DIG (Faizabad Zone), wherein it has been detailed that Subhas Chandra Patel SI, the then SO, police station Kurebhar was not found guilty of the charges.

4.137 Upon consideration of the matter on 29 April 2005, the Commission directed to issue show-cause notice to the Chief Secretary, Government of U.P. under section 18(3) calling upon him to explain that why immediate interim relief be not granted to the victim.

4.138 Secretary, Government of U.P. vide communication dated 12 September 2005 responded to the show-cause notice and admitted that in this case, the human rights of victim have been found to be violated and, therefore, there was justification for grant of immediate interim relief to the victim.

4.139 In view of the response sent by Secretary, Government of U.P. dated 12 September 2005, the Commission on 7 July 2006 recommended that a sum of Rs. 20,000/- as an immediate interim relief be paid to the victim. The Chief Secretary, Government of U.P. was also directed to send report of compliance together with proof of the payment to the Commission within four weeks.

4.140 As the compliance report was received, the case was closed on 18 January 2007.