



# The State of Torture in Telangana



A Publication of Asian Centre of Human Rights

December 2019

## 1. Focus: Extrajudicial killings continue unabated in Telangana

On 6 December 2019, the four accused in the horrific gang-rape and murder of a veterinary doctor at Chatanpally in Hyderabad were shot dead by the police in an alleged encounter. The accused were in judicial custody and were taken to Chatanpally, where they had allegedly burnt the body of the victim on the night of 27 November 2019, to reconstruct the crime scene. The police alleged that the accused attacked the police party escorting them, snatched their weapons and opened fire and all four were killed in retaliatory fire.<sup>1</sup>

On 19 December 2019, the families of the four accused approached the Supreme Court seeking registration of murder case against the police officials, investigation by the CBI and compensation. The families alleged that the four accused identified as Mohammed Arif, Jollu Shiva, Jollu Naveen and Chintakuntla Chennakeshavulu were killed in a stage-managed encounter at Chatanpally in Hyderabad.<sup>2</sup>

Earlier on 12 December 2019, the Supreme Court constituted a three-member inquiry commission to investigate the circumstances of the ‘encounter’ of the four accused and complete the same within six months.<sup>3</sup> The Telangana High Court and the NHRC also intervened into the matter. The Telangana High Court on 21 December 2019 ordered a second autopsy on the bodies of the four deceased by a team of forensic experts from All India Institute of Medical Sciences (AIIMS), New Delhi with 48 hours following approval from the Supreme Court to go ahead with the disposal of the bodies after collecting all evidence.<sup>5</sup> On the same day, the Supreme Court put a stay on the proceedings pending before the Telangana High Court and the NHRC, saying no other authority shall inquire into the matter pending before the commission of inquiry till further orders.<sup>4</sup>

The Hyderabad encounter killing is not a one-off case. Telangana has a history of such suspected encounter killings.

In April 2015, five alleged terrorists while being taken to court from jail were killed in an alleged encounter in Nalgonda district. The police claimed the prisoners, who were being taken from Warangal jail to a court in Hyderabad, were killed when one of them attempted to overpower the security personnel escorting them and snatch a weapon in a bid to escape. The then Director General of Police of Telangana said that the prisoners were partially handcuffed.<sup>6</sup>

In December 2008, three persons who were accused of throwing acid on two engineering students were shot dead by police in an encounter in Warangal. It was alleged that the three accused persons were killed in a staged encounter to quell public anger. Incidentally, the current Cyberabad police chief V.C. Sajjanar, who is handling the

Hyderabad veterinary doctor rape and murder case, was the Superintendent of Police in Warangal when the three accused were killed. Following the encounter killing, the police claimed then that a police team had taken the accused to the crime scene to collect evidence and the police opened fire in self-defence when they apparently tried to attack them with crude bombs.<sup>7</sup>

According to the data of the NHRC, 1,782 cases of fake encounters were registered in India between 2000 and 2017. Out of the total cases, 35 cases were reported from Telangana alone. Telangana was part of Andhra Pradesh before it gained statehood in 2014 so the data reflects only for four years from 2014 to 2017.<sup>8</sup>

The NHRC data puts Telangana among the top States in extrajudicial executions in fake encounters.

## 2. Custodial torture in Telangana

According to the NHRC, 15 cases of death in police custody and 1 case of custodial rape were registered from Telangana since it gained statehood in 2014. These included 4 deaths in police custody in 2014-2015; 4 deaths in 2015-2016; 4 deaths in 2016-2017; and 3 deaths in 2017-2018. One case of custodial rape was recorded in 2015-2016.<sup>9</sup>

### 2.1 Torture in police custody

Apart from killing of suspects/accused in police custody in alleged encounters, the police in Telangana are also infamous for custodial torture. On 14 October 2019, Telangana High Court expressed concern over the way Telangana Police were conducting investigation and directed the State’s Director General of Police

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(DGP) to sensitise officers not just to rely on confession extracted through third-degree torture and instead rely on evidence. The court comprising a bench of Chief Justice Raghavendra Singh Chauhan and Justice A Abhishek Reddy was hearing a habeas corpus petition filed by two women seeking production of their husbands in court. The Bench noted “This is why several criminal cases are ending up in acquittals.” The case pertains to Syed Sohail (19 years) and his brother Syed Mohammed (24 years) who were picked up by police in September 2019. They were produced before court on 23 September 2019 after filing of the petition. Police said they were arrested in connection with a series of thefts. The Court observing torture marks on their backs reprimanded the police and said “If you torture a person, he will admit to any crime just to escape from the unbearable pain of the torment. That cannot be a piece of evidence”. The court also held that the police did not follow procedure in respect of identifying the stolen property.<sup>10</sup>

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

#### **Case 1: Torture of a 17-year-old minor girl, Hyderabad**

In October 2019, a 17-year-old girl, employed as housemaid at the house of a police officer identified as Deputy Commissioner of Police AR Srinivas, was allegedly tortured at Raidurgam police station in Hyderabad district. The minor was taken to the police station for questioning in a case of theft of Rs. 35,000 reported from his employer’s house on 20 October 2019. According to the victim, she had worked at the home of the police officer for three months for Rs. 7,000 per month as wages. However, when she wanted to go back home, she was coerced into accepting a crime she had not committed. Later, the minor was rescued on 22 October by the District Child Protection Unit of Women Development and Child Welfare (DCPU), Rangareddy unit, and a complaint was lodged against the police officer for employing a 17-year-old girl as a housemaid in violation of the law.<sup>11</sup>

#### **Case 2: Death of Mohammed Abdul Manan due to alleged torture, Warangal**

On 27 April 2019, Mohammed Abdul Manan (35 years) died due to alleged torture in the custody of Hasanparthy police station in Warangal district. The deceased, a resident of Uttar Pradesh, was living in a rented house along with some friends and used to sell clothes on the streets of Warangal. In the morning of 27 April, the deceased was picked up by police from Hasanparthy along with his four friends without any valid reason. He was taken to the police station and allegedly tortured and denied food and water. During interrogation the deceased, Mohammed Abdul Manan complained of uneasiness and chest pain and requested the police to take him to a hospital, but the police did not provide him medical attention at the appropriate time. He was later declared brought dead by doctors at the Government Hospital in Warangal on 27 April.<sup>12</sup>

#### **Case 3: Death of Sampath due to alleged torture, Hyderabad**

On 3 April 2019, Sampath (33 years), a ragpicker, died under mysterious circumstances at SR Nagar police station in Hyderabad district. Sampath was arrested on 2 April 2019 along with another ragpicker identified as Gunjolla Raju (23 years) from Maithrivanam in Ameerpet in Hyderabad in connection with a murder case. The police took them to the SR Nagar police station after arrest. The

police claimed that on 3 April morning around 8.30 am, Sampath suffered a seizure during interrogation and he was taken to Gandhi Hospital, where he died on the same day.<sup>13</sup> However, an NGO, Human Rights Forum (HRF) claimed that Sampath had died due to police torture and demanded that the Station House Officer should be suspended for proper enquiry. A fact finding committee of the HRF visited the SR Nagar police station and Gandhi Hospital and met the relatives of Sampath. In its report, the Committee stated that the police had refused to share details of the General Dairy of the police station and found the closed circuit cameras non-functional, raising suspicion. It was also found that the doctors at the hospital did not reveal about the torture marks on the body of Sampath.<sup>14</sup>

#### **Case 4: Suicide by Elguri Mallesh due to alleged police torture and harassment, Mancherial**

On 14 February 2019, Elguri Mallesh (35 years) committed suicide unable to bear torture and other forms of harassment by the police personnel attached to Nennal police station in Mancherial district (Old Adilabad district). The deceased, a resident of Kushnapalli village of Nennal mandal in the district, was allegedly accused in a forest-related crime and injuring a youth at his village in October 2018. The family members of the deceased alleged that Elguri Mallesh was subjected to torture and other forms of harassment by the police in the name of investigation during October 2018 - 14 February 2019. Unable to bear the regular torture and harassment by the police, Elguri Mallesh committed suicide by consuming pesticide at his village on 14 February.<sup>15</sup>

#### **Case 5: Custodial torture of Raghupathi, Warrangal**

On 23 January 2019, Raghupathi (33 years), manager of Achala Chit Fund at Balasamudram branch in Warrangal district, was allegedly tortured at Subedari police station. After subjecting him to torture, the police tied the victim to a wooden log inside the premises of Subedari police station. The victim was summoned to appear at Subedari police station in connection with a complaint filed against him about a property mortgaged by a chit fund member B. Naganna accusing the Achala Chit Fund company of not releasing his mortgaged papers despite repayment of entire amount of the loan he had taken from the company in lieu of his property as mortgage.<sup>16</sup>

## **2.2 Torture and deaths in judicial custody**

As per NHRC data, a total of 124 prisoners died in jails of Telangana during 2014-15 to 2017-18. These included 49 deaths in 2014-2015<sup>17</sup>; 32 deaths in 2015-16; 29 deaths in 2016-17 and 14 deaths in 2017-18.<sup>18</sup>

Deaths in judicial custody continued to be reported from the jails of the State. Alleged suicide by the prisoners was cited as a reason for the custodial deaths by the jail officials as the following cases demonstrate:

#### **Case 1: Death of Feroz Khan in Cherlapally jail**

On 17 August 2019, Feroz Khan (24 years), a life convict, died while in the judicial custody at Cherlapally jail. Jail officials claimed the prisoner committed suicide by hanging from the exhaust fan with a towel in the bathroom of a government mental care hospital, where he was admitted for treatment. According to the jail officials, Feroz was brought to the jail on 24 July 2019 and was shifted to the hospital on 5 August 2019 as he was suffering with depression and

was showing suicidal tendencies. The reason for the suicide was unknown, but police suspect that Feroz got into depression after being convicted for murder.<sup>19</sup>

**Case 2: Death of Ms Chintala Saroja in Sangareddy district jail**

On 22 July 2019, an undertrial prisoner identified as Ms Chintala Saroja (24 years), wife of Chintala Bhaskar died under mysterious circumstances in the custody of Sangareddy district jail in Sangareddy district. The deceased, a resident of Ganesh Nagar in Siddipet district, was arrested by the police in May 2019 in connection with a murder case. She was initially lodged at Siddipet district jail and later transferred to the Sangareddy district jail. The jail officials claimed that on 22 July the deceased committed suicide by hanging from the ceiling of the jail bathroom. She was declared brought dead in a hospital.<sup>20</sup>

**Case 3: Death of Vadla Venkatesh in Nizamabad Central Prison**

On 16 July 2019, Vadla Venkatesh (62 years), a convict, died under mysterious circumstances in the custody of Nizamabad Central Prison in Nizamabad district. The deceased was convicted by the court in July 2019 in connection with a murder case. The jail officials claimed that on the evening of 16 July evening the deceased was found hanging in the bathroom window rods of the Nizamabad Central Prison of Nizamabad district.<sup>21</sup>

**Case 4: Death of Ramavath Chander in Cherlapally Central Prison**

On 24 March 2019, an under-trial prisoner identified as Ramavath Chander (21 years) died in the custody of Cherlapally Central Prison in Hyderabad. The deceased was arrested on 23 March 2019 by the police in connection with a case of alleged sexual harassment and produced in a court which sent him to judicial custody at Cherlapally Central Prison. Jail officials claimed that on the night of 24 March the prisoner committed suicide by hanging himself with a piece of cloth at the prison cell.<sup>22</sup>

**Case 5: Death of V V Srihari in Chanchalguda Central Prison**

On 25 June 2018, an undertrial prisoner identified as V V Srihari, s/o VV Anjanayelu died under mysterious circumstances in Chanchalguda Central Prison in Hyderabad district. The deceased was arrested in connection with murder and robbery cases and lodged at the jail since May 2018. The jail officials claimed that the prisoner committed suicide by hanging from the ventilator in the bathroom inside the jail premises on the early morning of 25 June. The prisoner was rushed to hospital, where the doctors declared him brought dead.<sup>23</sup>

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

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

**Case 1: Death of Mohammad Jaffar in judicial custody**

This case (No. 295/1/7/2014-PCD) concerns the death of one Mohammad Jaffar, s/o Late Sarafuddin on 9 February 2014 while he

was in the custody of Kala Pathar police station in Hyderabad. Mohammad Jaffar was arrested in the case crime No.14/2014 u/s 420, 506 IPC on 8 February 2014. During the course of investigation of this case, the accused was taken to his house and when search proceeding notice was being served on his brother by the police, he escaped from the custody of the police and jumped from the first floor of his house due to which he sustained head injury besides other injuries. He later died on 12 February 2014 in hospital. By its proceedings dated 10.01.2018, the NHRC had recommended to the Government of Telangana to pay Rs. 100,000 as compensation to the family of the deceased Mohd. Jaffar. Pursuant to the directions, the Director General of Police, Telangana, vide letter dated 24.11.2018 forwarded the compliance report and proof of payment of compensation to the wife of the deceased.

**Case 2: Death of Abdul Kareem in judicial custody**

This case (1330/1/7/2013-JCD) concerns the custodial death of under trial prisoner Abdul Kareem (19 years) in Central jail, Cherlapalli in Rangareddy district on 03.12.2013. Abdul Kareem was lodged in the prison from 15.05.2013 and at the time of his entry, during the health screening it was noted that he had number of old injuries from blunt trauma for which he was given appropriate treatment. On 20.07.2013, he was referred to Gandhi Medical College Hospital for body pain, weakness and mild fever. On 30.11.2013, he further developed facial puffiness with burning micturation (burning sensation while passing urine) and fever for which he was admitted in Sanjeevani Hospital again and he was given symptomatic treatment and was referred to Gandhi Medical College where he was treated for Acute Renal Fever including cardiac insufficiency and metabolic acidosis. He died on 03.12.2013. However, the NHRC observed that the deceased prisoner never received proper treatment but only symptomatic treatment in the form of Paracetamol, B-Complex tablets, pain killers, etc. The NHRC held that there was negligence on the part of the jail doctors and the human rights of the deceased prisoner was violated and directed the State Government to pay Rs. 100,000 as compensation to the family members. On 19 February 2019, the NHRC closed the case after receiving compliance report dated 23.1.2019 from the Director General of Prisons and Correctional Services, Telangana.

**Case 3: Death of Banala Kothaiah in police custody**

This case (838/1/14/2014-JCD) pertains to death of Banala Kothaiah (35 years), s/o Tirupathaiah, during police custody at Deverakonda police station in Nalagonda district on 16 June 2014. Banala Kothaiah alongwith three others were brought to the police station in connection with a case of chain snatching. According to the police, after the examination at the police station the deceased was allowed to go for a call of nature. The escort took him to the toilet, where the accused picked up a bottle containing a liquid (radiator coolant) and suddenly consumed it, following which he was treated at Government Hospital, Deverakonda and then shifted to Gandhi Hospital, Secundrabad for better treatment, where he was declared dead on 16 June 2014. The enquiry report supporting the police version concluded that there was no fault on the part of police authorities and also no negligence by the doctors in treating the deceased. The report stated that he committed suicide by consuming coolant oil, to avoid police enquiry and further consequences and to

blackmail the police staff. The NHRC after examining all the records stated “In presence of the escorts, he was able to pick up the bottle of coolant from the dustbin which clearly shows the police personnel entrusted the duty of giving safe custody to the accused failed to do so. The state has to protect the life of person in the custody, negligence on the part of its employee in discharging their duties to protect the deteneu in custody makes the state vicariously liable.” Accordingly, the NHRC directed the State Government to pay Rs. 100,000 to the family of the deceased for violation of his human rights. On 22 February 2019, the NHRC closed the case following compliance report dated 20 February 2019 received from the Resident Commissioner, Government of Telangana.

#### **Case 4: Death of Debbati Lingaiah in judicial custody**

This case (1232/1/13/2013-JCD) relates to the custodial death of undertrial prisoner Debbati Lingaiah (48 years), s/o Ramulu, in District jail, Sangarreddy on 6 November 2013. Following intervention, the Commission directed the State Government to pay compensation of Rs.300,000 to the next of kin of the deceased prisoner for violation of his human rights due to medical negligence by the jail officials. The NHRC observed “It might be indicated that failure to provide adequate medical care continued to pose one of the greatest threats to the prisoners all around the country. When a UTP was remanded to a prison he was virtually unable to exercise his constitutional and statutory rights but despite that his right to life and medical care remained intact. Visualizing such a constitutional rider, the jail authorities were bound to ensure his safety by extending the essential medical requirement. But as seen in the present case, the prisoner was deprived of the required treatment which ultimately result in his death. The deprivation faced by the prisoner amounted to a violation of his human rights by the prison authorities.” On 17 May 2019, the NHRC closed the case on receipt of compliance reports from the State Government.

#### **Case 5: Death of Kudumula Laxmaiah in judicial custody**

The NHRC received an intimation from Superintendent, District Jail, Mahabubnagar regarding death of undertrial prisoner identified as Kudumula Laxmaiah (22 years), s/o Aagaiah, at the jail on 10 March 2012. According to the jail officials, the prisoner complained of chest and stomach pain and developed seizures, for which he was given treatment in the jail hospital and later admitted to the district hospital, where he expired during treatment. The Magisterial enquiry report stated that the relatives of the deceased alleged torture leading to the death, but the same was ruled out in the report. However, the NHRC (Case No. 344/1/12/2012-JCD) observed that the deceased was referred to the hospital only at the time of terminal stage of illness and the delay in referral amounts to medical negligence on the part of jail authority, which ultimately resulted in his death. Concluding that it was a case of gross violation of human rights of the prisoner, the NHRC directed the State Government to pay Rs. 300,000 to the next of kin of the deceased. The NHRC closed the case on 15 February 2018 on receipt of compliance of its recommendation.

#### **Case 6: Death of Puppala Bikapathi in judicial custody**

This case (855/1/8/2014-JCD) relates to the death of undertrial prisoner Puppala Bikapathi (68 years), s/o Pullaiah, due to gross medical negligence during custody of District Jail, Karimnagar on 20 June 2014. The Commission was intimated that the deceased

prisoner was suffering from the problem of bilateral hydrocele. On 16.6.2014, he was admitted at District Hqrs. Hospital, Karimnagar and underwent surgery for the hydrocele on 17.6.2014. The magisterial enquiry found serious negligence in the treatment of the deceased. Based on the enquiry report, the NHRC stated that the prisoner was proposed to be operated for right side scrotal but he was operated for left side scrotal. The treatment record did not indicate that the deceased was given treatment for pulmonary oedema. It further said the materials on record clearly made out a case of gross medical negligence by the medical officer who conducted the surgery of his left scrotal and no treatment was also provided to the deceased for pulmonary oedema. The NHRC concluded “The negligence shown by the Medical Officer to the deceased amounted to a serious violation of human rights of the deceased.” Accordingly, the NHRC directed the State Government to pay Rs. 300,000 as compensation to the next of kin of the deceased prisoner. The NHRC closed the case on 16 May 2018 on receipt of compliance of its recommendation.

#### **Case 7: Death of Yatagiri Ramesh in police custody**

This case (1157/1/8/2014-PCD) relates to the death of Yatagiri Ramesh (30 years) in police custody at Karim Nagar police station on 23 June 2014. Police claimed the deceased, arrested in case FIR No. 348/294 u/s 307 IPC PS Karimnagar Rural on 22 June 2014, was kept in the police station throughout night and in the morning he attempted to escape from police custody when he was taken to a water tank in the open area, jumped the wall and fell on the transformer and suffered an electric shock, resulting in his death. The NHRC observed that the police staff of Karimnagar police failed to keep vigilant watch on the deceased resulting in his death due to electric shock and held that it is the vicarious responsibility of the State to ensure the safety and security of a person in its custody and the State has failed in its duty. Therefore, it directed the State Government to pay Rs. 100,000 as compensation to the next of kin of the deceased Yatagiri Ramesh. On 26 June 2018, the NHRC closed the case on compliance of its direction.

#### **Case 8: Death of Sana Chandraiah in police custody**

On 28 January 2014, the NHRC (Case No. 156/1/8/2014-PCD) received an intimation from Superintendent of Police, Karimnagar district about the death of Sana Chandraiah @ Chandu (25 years) in police custody of Korutala police station on 19 January 2014. The deceased and his associate were arrested by the police in connection with a case No. 258/13 u/s 457/380 IPC and brought them to the police station for recording of their statements. Police claimed on the night of 19.1.2014 at 9.30 pm, the deceased suddenly went to the second floor of the police station and jumped from there. He was rushed to a private hospital, where he was given First Aid and being taken to District Hqrs. Hospital, Karimnagar, but he died on the way. The inquest and post mortem reports of the deceased noticed multiple fatal injuries on the vital parts of his body. The cause of death of the deceased as per FSL report was due to head injuries with haemorrhagic shock which might have been caused due to fall from a height. The Magisterial enquiry report completely relied on the post mortem and FSL report on the cause of death of the deceased. The Enquiring Magistrate recorded the statements of the relatives of the deceased who alleged that the deceased was picked up by the police on 18.1.2014 in

the night and killed him. The enquiry conducted by the CB/CID in its report categorically held that the deceased was subjected to torture while he was in police custody. It was disclosed that due to assault, the deceased got scared and ran to the roof top of the PS building and jumped down from there. Due to the fall, he sustained multiple injuries on his head, face and other vital parts of his body. After the incident, police concocted a false story and also registered a case crime No. 21/14 u/s 353/324/305 IPC against the deceased. After examining all the reports, the NHRC stated that the version of the police of Korutala police station was not trustworthy. It noted that the findings of the enquiry conducted by the CB/CID emboldened the suspicion against the police which established that the deceased was subjected to torture which compelled him to end his life by jumping from the second floor of the police station building. Not only that, the enquiry report further established that the police officials involved in the incident concocted a story and registered a false case against the deceased. The NHRC held that the “conduct of the erring police officials was found to be grossly negligent and amounted to a gravest violation of human rights of the deceased.” Accordingly, it directed the State Government to pay Rs. 300,000 to the next of kin of the deceased. On 26 June 2018, the NHRC closed the case on compliance of its direction.

#### **Case 9: Death of Puttamreddy Rami Reddy in police custody**

This case (518/1/7/2012-PCD) relates to custodial death of Puttamreddy Rami Reddy (36 years) at Miyapur police station in Cyberabad on 15 April 2012. Police claimed Reddy was brought to the police station a day before and kept in the lock-up. On 15 April, he complained of restlessness with headache and uneasiness and rushed to hospital, where he died during treatment. However, the deceased's father in a complaint to the NHRC stated that his son was arrested by police on 12 April and illegally detained till 14 April. He further alleged his son was tortured to death during his illegal detention and to cover up the crime, an inquest report in FIR No.182/2012 was prepared with stock panchas to close the case. There was also contradiction between Inquest report and Post Mortem Report. Inquest report did not notice any injury, but the PM report noticed contusion/abrasions. The NHRC directed the State Government to conduct investigation by CBCID. In its report, the CBCID found no foul play in the death and stated that the deceased's father now also claimed that his son died due to medical reason and did not suspect anyone and no one is responsible for his death and wanted to withdraw the complaint made to NHRC. The NHRC shared the CBCID report with ACHR, who also filed a complaint, for comments. In response, ACHR submitted as under:

1) The father of the deceased appeared to have been pressurized by the police on the ground that: a) The police did not submit the statement of the deceased's father recorded during the enquiry. b) Father of the deceased was not a competent authority to give opinion that his son died due to chest pain.

2) Records such as PMR, MER, Inquest Report, Medical Reports and police records such as G.D. entry, arrest memo etc. had not been submitted.

3) There was delay of more than one year to conduct the Magisterial Enquiry. Therefore, the findings of the Magisterial Enquiry report are limited and only made on the basis of medical reports.

Based on ACHR's submission and examining all other records, the NHRC observed “Admittedly, the deceased was in the police custody. As such the State was vicariously liable to ensure safety and security of the arrestee while he was in the custody of State. Post-Mortem Report discloses ante-mortem injuries on the body, such as, contused abrasion and grazed abrasion (which means that the deceased was dragged) indicating police torture. Further, the Police has failed to produce any medical record, relevant GD entries and arrest Memo. Furthermore, there are contradictory statements on record in regard to picking up of the deceased. From the above analysis, it appears that the deceased was kept in illegal detention and also subjected to torture before his death.”

Accordingly, the NHRC directed the State Government to pay Rs. 500,000 as compensation to the next of kin of deceased. However, the State Government of Telangana requested not to recommend any financial relief to the NoK of the deceased contending that no lapse was found on the part of police personnel during magisterial enquiry and that the deceased died due to cardiac arrest. But the NHRC held that there are sufficient grounds to suspect that the police took the accused in illegal custody on 12.4.2014 and during his illegal custody he suffered three external injuries and died in suspicious circumstances. Therefore, the police bear the responsibility for illegal custody and the consequences that followed and reiterated its recommendation. On 25 October 2018, the NHRC closed the case after the State Government filed a compliance report including proof of payment to the NoK of the deceased.

#### **Case 10: Death of Mala Mangali Srinivas in judicial custody**

In this case (1046/1/18/2012-JCD), the NHRC received an intimation from Superintendent of Police, Central Prison, Cherlapalli in Rangareddy district about the custodial death of undertrial prisoner Mala Mangali Srinivas (26 years), s/o Pochaiah on 6 September 2012. The Magisterial Enquiry report opined that there was no abetment on the prisoner from anybody for committing suicide and concluded that the deceased committed suicide by hanging in bathroom in the Central Prison, Cherlapally. However, the NHRC observed that “it is admitted that the deceased committed suicide while detained in the Central Prison, Cherlapally. He died while in jail custody due to negligence of jail staff. The State is responsible for safety and security of the persons in their control. In the opinion of the Commission a clear case of violation of human rights of the deceased is made out.” Accordingly, the NHRC directed the State Government to pay compensation of Rs. 100,000 to the NoK of the deceased. On 28 November 2018, the NHRC closed the case following compliance of its direction.

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

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

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

The law enforcement personnel continued to resort to torture across the country. Some of the emblematic cases of torture reported in the month of December 2019 are given below:

##### **Case 1: Alleged use of excessive force, unlawful arrest and torture of anti citizenship law protestors**

Following the passing of the controversial Citizenship Amendment Act (CAA) in the Rajya Sabha on 11 December 2019, mass protests erupted across the country against the new law. A number of protestors were killed in police action to control the unruly crowd. However, the police were also accused of using excessive force, unlawful arrest, including of minors, and torture in custody.

On 26 December 2019, a report by a fact finding team of activists accused the Uttar Pradesh Police of using excessive force, unlawful arrest and torture in custody, among others, against people protesting against the CAA in various places of Uttar Pradesh. According to the report, 21 minors were detained in Bijnor, and the detainees, including the minors, were beaten and harassed in custody.<sup>24</sup>

Similarly, there were reports of illegal detention, torture and ill-treatment reported from other places of Uttar Pradesh. For instance, Maulana Asad Raza Hussaini (66 years), teacher at the Saadat Madarsa and caretaker of an orphanage-cum hostel, was allegedly stripped and tortured in custody in Muzaffarnagar town on 20 December. The police also allegedly detained all the students of the orphanage, including minors, who were subjected to torture and forced to kneel against the wall in custody.<sup>25</sup>

In Delhi, the police were also accused of forcibly entering the Jamia Milia Islamia University campus on 15 December and allegedly assaulting several students after a mob of unidentified people set a few public buses on fire nearby. The police claimed they entered the campus to identify the agitators, several ground reports and eyewitnesses indicate that there was a brutal crackdown by Delhi Police on the Jamia campus. A report by Jamia administration claimed that police lobbed tear gas inside the university reading room and then forcefully entered inside and beat all the students studying inside the library brutally including while they were being taken away.<sup>26</sup>

In Assam, the Assam Human Rights' Commission (AHRC) took suo moto cognizance of media reports of alleged torture on Krishak Mukti Sangram Samiti (KMSS) leader Akhil Gogoi by the National Investigation Agency (NIA) who arrested him on 17 December for allegedly having nexus with Maoist groups. Gogoi alleged that he was subjected to extreme torture. Before he was arrested by the NIA, Gogoi was arrested by the State Police on 12 December during a protest against the CAA as a preventive measure. On 18 December, the AHRC also had taken suo motu cognizance of media reports and ordered the state government to constitute a high-level probe into the death of five persons and injuries to at least 27 persons during anti-CAA protests across the state.<sup>27</sup>

#### **Case 2: Custodial death of Brijesh Savaliya, Gujarat**

On 30 December 2019, Brijesh Savaliya (20 years) died under mysterious circumstances at Varachha police station in Surat district of Gujarat. The deceased, a resident of Kohinoor Society in Surat city, was arrested by the crime branch police on 27 December 2019 along with three others identified as Mahesh Rathod (23 years), Vijay alias Jadiyo Chandravashi (26 years), and Vinod alias Batko Tiwari (26 years) in connection with a case of theft registered at Varachha, Katargam and Chowk Bazaar police stations. After being arrested, the suspects were handed over to Varachha police station for further investigation on 27 December. On 30 December 2019, Brijesh Savaliya was found hanging inside the toilet of Varachha

police station. The police claimed the deceased hanged himself from the toilet window by using a bedsheet.<sup>28</sup>

#### **Case 3: Death of Santosh Korku in police custody, Madhya Pradesh**

On 29 December 2019, Santosh Korku (20 years), a rape accused, died under suspicious circumstances during police custody under Sirali police station in Harda district of Madhya Pradesh. The deceased, a resident of Khandwa district in the State, was arrested by the police on 28 December 2019 in connection with the rape case registered against him at Sirali police station. According to the police, the accused was being taken by two constables identified as Sumit Uike and Sarju Rawat of Sirali police station on a motorcycle to produce before the court. When they reached at Masangaon railway crossing, the police stopped their motorcycle as the gates were closed. While they were waiting for the train to pass, the deceased suddenly jumped before the running train in a bid to escape but came under the train and died on the spot.<sup>29</sup>

#### **Case 4: Death of a minor due to alleged police torture, Gujarat**

On 23 December 2019, a 17-year-old minor (name withheld), son of Phula Desai of Sabarmati area in Ahmedabad district, Gujarat died allegedly due to police torture. The deceased minor, a Class 10th student, was arrested on 19 December 2019 in connection with a case of looting. He was kept in Khanpur Juvenile Protection Home under judicial custody, where his health deteriorated and later died in a hospital. The deceased's father, who works as a security guard, alleged that his son died due to police torture before he was sent to the juvenile home. According to him, police personnel from Sabarmati police station barged his home on 19 December and started beating his son accusing him of theft while he was being taken away to the police station.<sup>30</sup>

#### **Case 5: Custodial torture of three youths, Maharashtra**

On 18 December 2019, three youths identified as Vaibhav alias Dada Balasaheb Arvade (19 years), Mithun alias Amol Ananda Chorghule (23 years) and Yogesh Keshav Machale (24 years) allegedly attempted to commit suicide by consuming poison during their custodial interrogation after they were arrested by police at Shirur in Pune (rural) district, Maharashtra. They were arrested in a dacoity case. The police claimed the trio took out bottles of poison (insecticide) which they had hidden inside their pockets and consumed it at around 4 pm when they were taken from the detention room (custody) to the detection chamber for interrogation. Following which, they were immediately shifted to a hospital for treatment. However, the family members of the victims alleged that they were subjected to custodial torture. On questioned as to how they managed to access poison while in custody for the last three days, the police stated the poison was passed onto them by their relatives who had come to meet them at the police station.<sup>31</sup>

#### **Case 6: 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 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 he was taken to a private hospital in Preambular where the doctors declared him brought dead. However, the family members of the deceased alleged that Murugan died due to torture in police custody.<sup>32</sup>

#### **Case 7: Death of Srinivasulu @ Srinappa, Andhra Pradesh**

On 13 December 2019, Srinivasulu alias Srinappa, a farmer, died due to alleged torture by Head Constable identified as Balu at Paltoor police station in Anantapur district in Andhra Pradesh. Deceased Srinappa, a resident of Paltoor village in the district, was arrested by the accused Head Constable Balu following an altercation with another farmer identified as Purosotham in connection with a land dispute. The deceased's brother Obulesu claimed that during interrogation his brother Srinivasulu was brutally beaten up with a fibre lathi (stick) by Head Constable Balu in custody, following which he collapsed at the police station unable to bear the pain. He was rushed to a local hospital by the family members. But his condition deteriorated, following which he was shifted to another hospital, where the doctors declared him brought dead.<sup>33</sup>

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

Conditions of jails remain torturous across the country. Death of prisoners as a result of torture, ill treatment, lack of medical facilities, etc in the jails continued to be reported across the country.

Some of the illustrative cases reported during December 2019 given below:

On 20 December 2019, undertrial prisoner Turi Munda (55 years) died due to alleged sudden medical complication in Keonjhar district jail, Odisha. The deceased was lodged in the jail in connection with a rape case. The jail officials claimed that on 20 December the deceased suddenly fell unconscious after having breakfast. He was rushed to the District Headquarters Hospital, Keonjhar, where the doctors declared him brought dead. The jail authority stated that the undertrial may have died of cardiac arrest due to mental stress after a rape convict who was lodged in the same jail was sentenced to death.<sup>34</sup>

On 11 December 2019, Saidul Rahman (45 years), an undertrial prisoner lodged at Khudiram Bose Central jail in Muzaffarpur district, Uttar Pradesh, died due to alleged sudden medical complication. According to the jail officials, the condition of the prisoner, facing trial under POCSO Act, suddenly deteriorated in the wee hours, following which he was rushed to the hospital and declared brought dead.<sup>35</sup>

On 9 December 2019, undertrial prisoner Deb Prakash Behera (21 years) died due to alleged torture in Choudwar Circle Jail in Cuttack district, Odisha. According to the jail officials, the deceased undertrial committed suicide by using a towel to hang from a tree in the jail premises in the afternoon. The doctors declared him brought dead on arrival. The family members alleged he was tortured both physically and mentally which led to his death. They also alleged that the deceased prisoner had earlier informed them about the harassment inside the jail.<sup>36</sup>

## **4. Judiciary's action against torture**

The judiciary regularly adjudicates cases of illegal, unjustified and unwarranted arrests, extracting confession from persons by way of

custodial violence, which sometimes results in death. Some of the emblematic cases of judicial action during December 2019 are as under:

#### **Case 1: Bombay High Court orders trial of eight policemen in a custodial death case**

On 19 December 2019, the Bombay High Court directed the trial court to book eight police officials from Wadala Railway Police in the death of 25-year-old Agnelo Valdaris who died in police custody in 2014. Agnelo was picked up on charges of theft. The Court allowed the petition filed by Agnelo's father Leonard 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. Agnelo and three others were picked up by Wadala Railway Police on 15 April 2014 on charges of theft. Agnelo's family alleged that for the next three days they were stripped, tortured and even forced to have oral sex with each other. On 18 April 2014, Agnelo died while the others were released on bail on 22 April 2014. After Agnelo's death, Wadala Police claimed that he died while trying to escape from their custody and was run over by a train. The Central Bureau of Investigation (CBI) though found that Agnelo was tortured and sexually assaulted but told the court that there was no evidence to suggest that he was killed by the police officials and supported the police version that he died after being knocked down by a running train while he was trying to escape custody on the basis of the statements of four eye witnesses. However, the court found that the statements of eye witnesses were inconsistent and noted that the coaccused arrested along with Agnelo had said that they were all tortured and could not walk on their own and concluded that Agnelo running on the railway tracks was out of question.<sup>37</sup>

#### **Case 2: Calcutta High Court restrains State authorities from taking any coercive measures against a journalist**

On 3 December 2019, the Calcutta High Court restrained the State authorities from taking coercive measures against journalist, Sanmay Banerjee in connection to a forgery and defamation case. Sanmay Banerjee, who alleged that he was targeted for exposing corruption in political quarters, filed the petition in the High Court alleging violation of his human rights by the police. As per the petition, Sanmay Banerjee was picked up in the evening of 17 October 2019 without any prior notice by Officer-in-Charge of the Khardah police station, along with hoodlums of the local ruling party, and was subjected to tremendous torture in police custody at Khardah police station. Later, the petitioner was taken into custody by the Purulia District Cyber Crime police station and arrested under Sections 465, 469, 500, 504, 505(1)(b) of the IPC and Section 66 of the Information Technology Act, 2000. While passing the order, the Court observed "Subsequent damage control exercises under the quoted provisions would be a mere autopsy after the damage was already done by subjecting a free citizen of India to unnecessary investigation and torture, unlawfully restraining him and putting at stake her/his personal liberty and freedom of speech and expression at the drop of a hat." The Court also directed the authorities to preserve and secure the entire CCTV footage of the Khardah police station when the journalist was in custody till the pendency of the petition.<sup>38</sup>

## 5. Interventions by the NHRC/SHRCs

The National Human Rights Commission (NHRC) and the State Human Rights Commissions (SHRCs) are mandated to address human rights violations and continue to intervene in cases of torture and illegal detention.

Some of the interventions in December 2019 are as under:

On 12 December 2019, the Tamil Nadu State Human Rights Commission (TNSHRC) directed the State Government to pay compensation of Rs 200,000 in a case of torture of a minor that took place in 2016. The SHRC had taken suo motu cognisance of a news report published in The Hindu on 13 March 2016, in which it was stated that a group of policemen had tortured the minor mistaking him for a cell phone thief. The accused policemen also threatened the father of the victim not to file a complaint against them. The accused had also threatened the staff at the Government Royapettah Hospital not to mention the involvement of the police in the torture.<sup>39</sup>

On 13 December 2019, the TNSHRC recommended the State government of Tamil Nadu to pay a compensation of Rs. 50,000 to V. Murugan, who was tortured by police during investigation of a case in Thoothukudi district on 25 July 2017. The SHRC directed that the compensation amount be recovered from three policemen identified as Inspector Sudhakar, Head Constable Damodharan and constable Aruljothi, all three then attached to Kulasekarapattinam police station.<sup>40</sup>

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Acknowledgement: This report is being published as a part of the ACHR's "*Campaign Against Torture in India: Prevention, Accountability and Rehabilitation*", a project funded by the European Commission under the European Instrument for Human Rights and Democracy – the European Union's programme that aims to promote and support human rights and democracy worldwide. The views expressed are of the Asian Centre for Human Rights, and not of the European Commission.

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