

# **INDIA**

## Human Rights Report

# **2006**



**ASIAN CENTRE FOR HUMAN RIGHTS**

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## **India Human Rights Report 2006**

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**Cover photo:** Dimasa IDP child in Karbi Anglong by Suhas Chakma

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# Preface

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India faces human rights crisis from Jammu and Kashmir in the North to Kerala in the South, from Gujarat in the West to Arunachal Pradesh in the East. Across the country, there are diverse civil society groups focusing on human rights violations by the security forces and the armed opposition groups on their own communities or respective States.

*India Human Rights Report 2006*, covering the events from 1 January to 31 December 2005, reports on human rights violations in 27 States of India. It is the only such report which provides State-wise comprehensive information on human rights violations in India.

India faces many human rights challenges - from the lack of access to justice from the judiciary and quasi-judicial bodies like National Human Rights Commission to *Kangaroo* justice delivered by the cultural courts, *Panchayats*, and so-called People's Court, the *Jana Adalats* of the Maoists. The catalogue of human rights violations is long - arbitrary arrest, detention, torture, custodial death, disproportionate use of fire-arms, communal riots, rape, mis-use of national security laws, atrocities against the Adivasis and the Dalits, violations of the prisoner's rights. Sovereign immunity of the State and impunity provided to the security forces create a vicious cycle of human rights violations in India. The armed opposition groups too have seldom been held accountable for violations of international humanitarian laws.

## **Need for protecting the conflict induced IDPs:**

Among the victims who are alive, conflict induced internally displaced persons (IDP) remain one of the most vulnerable groups. These refugees in their own country are often deprived of the basic amenities. The IDPs are often the numeric minorities and are targeted because of their ethnic origin or religious beliefs in a country which was born out of one of the bloodiest communal riots of the 20th century.

In November 2005, I visited the IDP camps in Karbi Anglong district of Assam. About 44,000 indigenous Karbis and Dimasas were displaced in a conflict which claimed over 90 lives. Away from the attention of the national media, Assam Chief Minister Tarun Gogoi stated that such macabre killings were bound to happen in the jungles.

The conditions of the displaced Karbis and Dimasas were sub-human. The Oxford English School at Manja, Diphu, district headquarters of Karbi Anglong, housed over 2,000

displaced persons. There was no adequate space to even stand up if it rained. The majority of the IDPs were forced to sleep in the open. The government provided rice and *dal* but not firewood to prepare food. Nor had the displaced persons been given any vegetable or cash dole. Venturing out of the relief camps to collect fire-wood or vegetables exposed the IDPs to violations of their rights especially the right to life. Of the 44,071 camp inmates, 17,971 or an overwhelming 40.78 per cent were listed as minors by the government. Yet, there was no special provision for children. Nor was there any special arrangement for 200 women who were in advanced stage of pregnancy. For 32,871 IDPs, the government provided only 8,504 plates.

Yet, the Karbi and Dimasa IDPs were the lucky ones as they soon started returning to their villages though without modicum of rehabilitation from the government of Assam.

About 55,476 Kashmiri Pandit families remained displaced in Jammu and Delhi since 1990s. The government of India and the State government of Jammu and Kashmir regularly announced various schemes to encourage their return but most of the Kashmiri Pandits remained skeptic due to security concerns.

About 200,000 Adivasis, Bodos and Muslims remained displaced in Bodoland areas of Assam since 1994. The killings and displacement started following the signing of the Bodoland Accord in February 1993 and creation of the Bodoland Autonomous Council. Another Accord was signed with the Bodoland Liberation Tigers Force in February 2003 and Bodoland Territorial Council under the Sixth Schedule of the Constitution of India was created. But these displaced persons were not rehabilitated so far.

About 35,000 Brus/Reangs were displaced from Mizoram and sought shelter in Tripura in October 1997. The National Human Rights Commission after hearing all the parties issued directions to the State government of Mizoram to take back the Reangs in November 1999. The Election Commission of India also ensured the right to franchise of eligible Brus in the assembly and parliamentary elections held in Mizoram. Most importantly, on 26 April 2005, Mizoram government signed a 10-point Memorandum of Understanding (MoU) with the Bru National Liberation Front (BNLF). Pursuant to the MoU, the BNLF formally surrendered their arms to the Mizoram police at Tuipuibari Transit Camp in western Mizoram on 25 July 2005. Yet, not a single Bru was taken back by the end of 2005.

Thousands of others who had been displaced because of conflicts were not provided shelter or housed in camps. Over 45,000 border migrants living along the Line of Actual Control and displaced following the war in Kargil in 1999 had been virtually disowned by the government Jammu and Kashmir and government of India, and were not provided any assistance.

## Preface

Even for those relatively fortunate ones i.e. those who were housed in government managed camps, the conditions had been abominable. In the absence of any policy on the IDPs, different groups of IDPs received different treatment depending on their proximity to the authorities in New Delhi. While a displaced Kashmiri Pandit received Rs 750 per month, an adult Bru received only Rs. 2.67 paise a day i.e. Rs 80 per month. Even the conditions of the Kashmiri Pandits have been equally deplorable.

Many IDPs have been living in camps for decades without any prospects for return. It has taken toll on the mental health of the IDPs. Majority of the IDPs could not return simply because of the failure of the State. While the Kashmiri Pandits fear attacks by the armed opposition groups, the State government of Assam took no visible steps to rehabilitate the IDPs in Bodoland areas. The state government of Mizoram simply refuses to take back the Brus on frivolous grounds to pursue its policy of establishing monolithic Mizoram consisting of only the majority ethnic Mizos. Yet, the Chhattisgarh government extended official support to the *Salwa Judum* campaign - an anti-Naxalite movement - started in June 2005 and forcibly displaced thousands of people, mainly Adivasis, into the government managed camps in South Bastar. With more than half of the States of India being afflicted by low intensity armed conflicts, the population of the conflict induced IDPs will only grow.

A country which witnessed one of the largest displacement of people in human history because of conflict during its birth in 1947 has no policy for the conflict induced IDPs. Therefore, whenever communal riots or pogroms took place whether in Gujarat or Manipur, conflict induced displaced persons were not provided adequate protection, security and/or basic humanitarian assistance. It all depended on the whims of the government of the day.

The conflict induced IDPs are different from development induced IDPs. The rights of the conflict induced IDPs are not about prolonging any conflict as many tend to suggest. Under international humanitarian laws, it implies right to physical safety, security and liberty and access to basic humanitarian services - adequate housing, food, health care, education and protection. At national level, it is about the duty of the State to protect its citizens and the right of the citizens to enjoy the right to life with dignity. Access to equal standard of basic humanitarian services that ensure human dignity is fundamental.

India must develop a policy for the conflict induced IDPs.

Suhas Chakma  
Director



# Andhra Pradesh

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## 1. Overview

Ruled by the Indian National Congress and the Telangana Rashtra Samiti alliance, the fragile peace process between the State government of Andhra Pradesh and the Maoists ended on 17 January 2005 after the Communist Party of India (Maoist) and the Jana Shakti group withdrew from the peace talks accusing the government of killing Maoist cadres in “fake encounters”.<sup>1</sup> On the other hand, police authorities accused the Maoists of strengthening themselves by procuring arms and explosives during the ceasefire period.<sup>2</sup>

The National Crime Records Bureau (NCRB) of the Government of India recorded 53 deaths in police custody and deaths of 85 civilians in police firing in Andhra Pradesh during 2005.<sup>3</sup> The NHRC had recorded 13 deaths in police custody, 116 in judicial custody and 18 deaths in encounters in the state during 2004-2005.<sup>4</sup>

On 17 August 2005, the Andhra Pradesh government banned the CPI (Maoist) and seven of its frontal organizations – the Radical Youth League, the Rythu Coolie Sangham, the Radical Students’ Union, the Singareni Karmika Samakhya, the Viplava Karmika Samakhya, the All-India Revolutionary Students’ Federation and the Revolutionary Writers’ Association – for one year under the Andhra Pradesh Public Security Act following the killing of Congress Member of Legislative Assembly, C. Narsi Reddy and eight others by the CPI (Maoist) on 15 August 2005 in Mahbubnagar district.<sup>5</sup> In September 2005, the CPI (Maoist) banned the Congress party in Andhra Pradesh and threatened to kill Congress leaders if they did not resign from the party before 2 October 2005.<sup>6</sup>

On 19 August 2005, Telugu revolutionary writers, P. Varavara Rao and G. Kalyana Rao, who acted as interlocutors during the failed peace talks between the CPI-Maoist and the state government of Andhra Pradesh, were arrested in Hyderabad under the Andhra Pradesh Public Security Act.<sup>7</sup> The court granted bail to Kalyan Rao under the Public Security Act but the Andhra Pradesh police booked both Varavara Rao and Kalyana Rao under two more cases of conspiracy of attacks against policemen in order to ensure that they were not released on bail. While one case related to the Maoists’ attack on Achampeta police station in Mahubnagar district on 1 April 2005, the other related to the attempted murder of the Superintendent of Police, Mahesh Chandra Laddha of Prakasham district on 26 April 2005.<sup>8</sup>

The conflict between the security forces and the Maoists intensified following the collapse of the cease-fire. In July 2005, more than 150 families left their houses at Bommalapuram village in Dornala mandal and more than 50 families fled from Tambadaplle village in Yerragondapalem in Prakasam district due to constant harassment and attacks by both the police and the Maoists. The police reportedly registered false cases against the villagers for allegedly helping the Maoists. The police frequently conducted searches and raids. On the other hand, the Maoists targeted those they suspected to be informers of the police.<sup>9</sup>

The Dalits continued to be victims of atrocities perpetrated by the upper caste Hindus. The National Crime Records Bureau recorded a total of 3,117 cases of violations against the Dalits in Andhra Pradesh which amounted to 11.9 percent of the total violations against the Dalits in India during 2005.<sup>10</sup>

The tribals were disproportionate victims of land alienation and displacement. They also suffered torture and harassment at the hands of both the security forces and the Maoists. The security forces harassed and tortured the tribal youth on the suspicion of being Maoists or Maoist sympathisers. On the other hand, the Maoists who claimed to be fighting for the rights of the impoverished tribals also targeted innocent tribals on the charges of being “police informers”.<sup>11</sup>

## **2. Human rights violations by the security forces**

### **a. Killings in alleged fake encounters**

The NHRC recorded 18 deaths in encounters in the State during 2004-2005.<sup>12</sup>

During 2005, there were reports of several encounter killings. However, despite allegations of “fake encounters”, Chief Minister Y.S. Rajasekhara Reddy<sup>13</sup> and the state’s Director-General of Police, Swaranjit Sen, rejected any demand for probe into any encounter between the police and the Maoists.<sup>14</sup>

Despite the official denial of alleged “fake encounters”, there were strong circumstantial evidences which suggested that the security forces carried out “cold blooded” murders of Maoists, their sympathizers and civilians.

On 7 March 2005, 10 Maoists, including three women cadres, were killed in an alleged encounter with the police at Manala village in Nizamabad district. Among the dead were CPI (Maoist) Nizamabad district secretary Ramesh, alias Venkataswamy, and a district committee member, Babanna.<sup>15</sup> However, there had been allegations that the Maoists were tortured before being killed in police custody. A doctor in the team that performed post-mortem on the Maoists’ bodies reportedly revealed that all the Maoists were beaten up

with wooden sticks and hit with rifle butts. All the bodies reportedly had injuries on the chest, stomach, legs, and arms and on their backs. There were bullet injuries all over their bodies.<sup>16</sup> It was also alleged that the police used one B Mallesh alias Ganganna, a surrendered Maoist, to poison the food that was served to the 10 Maoists and later killed them in cold blood. The mystery surrounding the killing of 10 Maoists further deepened on 8 March 2005 when the police, ignoring the instructions of State Home Minister K Jana Reddy and guidelines of the Andhra Pradesh High Court, got the post mortem done hastily at a hospital in the absence of the Additional Chief Metropolitan Magistrate, Mohammed Anwar, and handed the bodies over to their relatives.<sup>17</sup> On 10 March 2005, the Andhra Pradesh High Court directed the State government to file a detail counter affidavit regarding the post-mortem of the 10 Maoists.<sup>18</sup> A magisterial inquiry headed by the Nizamabad sub-divisional magistrate, Mr P Krishnamohan Reddy was ordered to investigate the killing.<sup>19</sup>

The other Maoists/ Maoist sympathisers who were allegedly extrajudicially executed included Nalla Vasant, Warangal district vice president of Telangana Rashtra Samiti (TRS) and Sudarshan, Nizamabad district convenor of Telangana Jana Sabha who were allegedly killed by the police in cold blood on 16 January 2005 in the Rampur forest area of Warangal district where they were holding a meeting with leaders of CPI-Maoist to bring the Maoists to the negotiation table with the state government;<sup>20</sup> alleged custodial killing of a Maoist cadre identified as Sridhar in Kurnool district on 3 April 2005;<sup>21</sup> and Andhra Pradesh state committee member of the CPI (ML)-Janashakti group, Riyaz Khan and three other Maoist cadres who were allegedly killed in police custody after their arrest from Karimnagar on the night of 30 June 2005.<sup>22</sup>

However, most of the allegations of extrajudicial killings could not be verified.

In addition to the killing of Maoists, the police were also responsible for alleged extrajudicial killings of civilians. Examples include the alleged extrajudicial killing of three persons including a 17-year-old Anil, a student of Sircilla Government College in Sircilla town in Karimnagar district on 20 January 2005;<sup>23</sup> and killing of a tribal identified as Kanaka Kishan in an alleged encounter at Babapur in Indravelli mandal in Adilabad district on 28 February 2005.<sup>24</sup>

## **b. Custodial violence**

The National Crime Records Bureau recorded 53 deaths in police custody during 2005<sup>25</sup> while the NHRC had recorded 13 deaths in police custody during 2004-2005.<sup>26</sup>

On 12 January 2005, a tribal youth identified as Irpha Sitaiah died in the custody of the police at Charla police station in Khammam district after being picked up for questioning

regarding a cockfight that was being organized at Chinamidisileru village. Police claimed that Irpha Sitaiah fell unconscious during interrogation and was rushed to the Primary Health Centre at Satyanarayanapuram where he was given first aid before shifting to the government hospital at Bhadrachalam where he died. But the villagers alleged that he died of torture. Sub-Inspector Aniseti Raghu of Charla police station was suspended and Integrated Tribal Development Agency announced an *ex gratia* compensation of Rs 2 lakh to the deceased's family and free education to the deceased's son.<sup>27</sup>

The other victims who died due to alleged torture during police custody included Chalapathi who died at the One-Town police station in Madanapalle in Chittoor district on 12 January 2005;<sup>28</sup> Salapakshi Gopi, a student, who died at Venkatagiri police station in Nellore district on 19 January 2005;<sup>29</sup> Tadipatri Eswaraiah, a Communist Party of India activist of Akutotapalli village, who died at Itikelapalli police station in Anantapur district on 28 January 2005;<sup>30</sup> Muntha Narasimha who died at Pangal police station in Mahbubnagar district on 11 July 2005;<sup>31</sup> and Sanjeevarayudu who died at the Lingala police station lockup in Pulivendula Assembly constituency on the night of 18 July 2005.<sup>32</sup>

### **c. Arbitrary arrest, illegal detention and torture**

Arbitrary arrest and illegal detention were rampant during 2005. In October 2005, two police officers of Kurnool Circle-Inspector Sivashanker Reddy and Sub-Inspector Maheswar Reddy, and three constables were suspended for illegal detention of three persons identified as Seshanna Goud, Panduranga Swamy Goud and Ravindra Goud in connection with a land dispute. The victims were taken into custody on 16 October 2005 but their detention was not recorded. The family members of the arrested persons filed a habeas corpus petition in the Andhra Pradesh High Court and the police initially denied in the court that the victims were in their custody.<sup>33</sup>

On 21 December 2005, the Andhra Pradesh High Court directed the police to take action against Inspector T. Srinivas Reddy of LB Nagar police station for illegally detaining and torturing one Ms Shoba Rani. The victim was illegally detained from 13 November 2005 but the police denied her detention. Following a habeas corpus petition filed by Ms Palle Lavanya, sister-in-law of Ms Shoba Rani, the police was forced to produce her before the High Court on 21 December 2005.<sup>34</sup>

## **3. Political repression**

Political tension between the ruling parties and the main opposition Telugu Desam Party (TDP) continued to take place. The TDP claimed that its activists were systematically targeted by the state government.

On 24 January 2005, TDP Member of Legislative Assembly (MLA), Paritala Ravi, and two other activists were shot dead by unidentified gunmen at the TDP office in Anantapur town.<sup>35</sup> The TDP accused that the state government was involved in the killings. In protest, the TDP activists went on rampage in several towns, setting ablaze dozens of government buses and attacking Congress and Government offices. The state government reacted by arresting about 2,500 activists of the TDP and registered criminal cases against some TDP leaders including Member of Parliament from Chittoor, D K Audikeshavulu, former minister ST Srinivas Yadav, TDP MLA G Sayanna and T Srinivas Reddy for their alleged role in the arson and violence.<sup>36</sup>

## **4. Violations of international humanitarian laws by the AOGs**

The Maoists were responsible for executions of its opponents, alleged police informers and so-called class enemies in violation of the Common Article 3 of the Geneva Conventions.

### **a. Killings**

#### **i. Killing of alleged “police informers”**

The Maoists continued extrajudicial execution of innocent civilians on the charges of being “police informers”. On 19 July 2005, Maoists reportedly shot dead one Thati Eedaiah, a para teacher working in a Integrated Tribal Development Agency (ITDA) school at Isuka Tripurantakam in Pullalacheruvu mandal in Prakasam district after branding him a “police informer”.<sup>37</sup> On 6 April 2005, Vadde Kantaiah was dragged out from his house and shot dead from point blank range by the Maoists at Banal village in Mahbubnagar district for similar reasons.<sup>38</sup>

Other civilians who were killed as “police informers” included a tribal youth identified as Vadthya Dasarath at Peddagattu thanda near Kasarajupalli village in Nalgonda district on 22 January 2005;<sup>39</sup> Dhole Zuru Matami at Maweli village in Gadchiroli district on 29 January 2005;<sup>40</sup> Damodar Rao of Gangapur in Adilabad district on 1 February 2005;<sup>41</sup> Battula Rajaiah, a farmer at Kadaparajupalle village in Prakasam district on 2 February 2005;<sup>42</sup> Rami Reddy at Edullapally village in Warangal district on 2 February 2005;<sup>43</sup> Venkateswara Reddy and Saidulu in Guntur district on 8 February 2005;<sup>44</sup> Bomma Chinna Venkateshwarlu in Nalgonda district and Jigata Gangaiah at Thimmampet village in Warangal district on 10 March 2005.<sup>45</sup>

Former Maoists were specifically targeted. Those former Maoists who were killed on the charges of being “police informers” included Narsimhulu who was killed at

Srigadha village in Karimnagar district on 16 January 2005;<sup>46</sup> V Ramaesh who was killed near Vegumpet village in Karimnagar district on 30 January 2005;<sup>47</sup> Narasimha Rao in Guntur district on 8 February 2005;<sup>48</sup> Potharaju Sattaiah in Medak district and Venkatramula in Anantapur district on 17 March 2005;<sup>49</sup> and J Bachibabu of Sampangiguda village who was killed at Pedavalasa village in Visakhapatnam district on 10 August 2005.<sup>50</sup>

## ii. Killing of political party activists

The political party activists were killed for their alleged anti-Maoist stand. Those targeted by the Maoists included activists from Congress, Telugu Desam Party (TDP), Telengana Rashtra Samithi (TRS) and Bharatiya Janata Party (BJP). On 15 August 2005, Maoists shot dead Congress MLA Chittem Narsi Reddy and eight others including his son Venkateshwar Reddy and Narayanpet municipal commissioner Ram Mohan, at a school inauguration function at Narayanpet in Mahbubnagar district.<sup>51</sup> The Communist party of India-Maoist (CPI-Maoist) owned responsibility for the killings and stated that it was done to protest against the “anti-people” policies of Congress-led Andhra Pradesh government and threatened to carry out more attacks on politicians.<sup>52</sup>

As stated earlier, in September 2005, the CPI (Maoist) banned the Congress party in Andhra Pradesh and threatened to kill Congress leaders if they did not resign from the party before 2 October 2005.<sup>53</sup>

Others killed by the Maoists included BJP activist Bandla Srinivasa Rao on 11 January 2005;<sup>54</sup> Telugu Desam Party activist Ramaiah at Kalagall village in Anantapur district on 18 January 2005;<sup>55</sup> TDP activist Kotturi Pocham at Ankoda under Easgaon police station limits in Adilabad district on 21 January 2005;<sup>56</sup> a former *Sarpanch* (village head) of TDP, Hanmanthu Chandraiah Goud at Devarakonda in Nalgonda district on 24 January 2005;<sup>57</sup> Congress *Sarpanch* (village head) Lingaiah at Bopparam village in Adilabad district on 27 January 2005;<sup>58</sup> TDP activist Narayana at Yedullapalli village in Warangal district on 2 February 2005;<sup>59</sup> vice-president of Rangareddy district Congress Committee, VS Papi Reddy at Arutla village in Rangareddy district on 9 March 2005;<sup>60</sup> TDP activist Chinna Yellaiah in Nalgonda district and Congress activist Parvathalu at Mannanur village in Mahbubnagar district on 24 March 2005;<sup>61</sup> TRS leader K Narayan Goud at Nacharam in the outskirts of Hyderabad on 29 March 2005;<sup>62</sup> local Congress leader Madhusudana Reddy in Atchampeta Mandal in Mahaboobnagar district on the night of 3 April 2005;<sup>63</sup> BJP activist Ayyapu Reddy at Peddapur village in Mahabubnagar on 4 April 2005;<sup>64</sup> TDP leader Singi Reddy Satti Reddy at Allapuram village in Nalgonda district on 7 April 2005;<sup>65</sup> Congress *Sarpanch* (village head) Konganti Komuraiah at Kantathmakur village in Warangal district on 11 April 2005;<sup>66</sup>

TDP sarpanch Adinarayana at Kondapur village in Anantapur district on 19 April 2005;<sup>67</sup> TDP *upa-sarpanch* (vice village head) Gandra Rajeswara Rao at Golla Budharam village in Warangal district on the midnight of 21 April 2005;<sup>68</sup> BJP Manchal mandal unit president, M. Mahender Gowd near Ibrahimpatan in Ranga Reddy district on 22 April 2005;<sup>69</sup> Mandal Prajaparishad Territorial Constituency member of TRS T Nagabhushanam at Veernapalli in Karimnagar district on the night of 17 June 2005;<sup>70</sup> three TDP workers - P Ramaiah, B Yogaiah and M Venkata Subbaiah at Yachavaram village in Prakasam district on the night of 18 June 2005;<sup>71</sup> TDP activist G Satyanarayana at Adigoppala village in Guntur district on 23 August 2005;<sup>72</sup> and TDP *Sarpanch* (village head) of Kazipally, K Ashoka Chary at Bahadurpally Crossroads near Dullapally village, about 40 km from Hyderabad on 21 September 2005.<sup>73</sup>

### iii. Killing of other civilians

The Maoists were also responsible for killing of civilians. On 26 January 2005, alleged Maoists kidnapped an advocate, Annapareddy Ravi Kumar from his house in Vinukonda town in Guntur district. His body was found at Gummanampadu village in the district on the next morning. The Maoists alleged that he was involved in extortion posing as a Maoist cadre.<sup>74</sup>

On the night of 28 February 2005, alleged Maoists killed eight persons in cold blood and cut off the hands and legs of two others at Vempenta village near Atmakur of Kurnool district. The Maoists had invited some 50 villagers to Nallamalla forest area for settling a long pending dispute between the villagers and the Naxalites. Those killed include Rajender Goud, Davidu, Janardhan, Ravi, Murli, Swamulu, Swami Das and Shivaiah. The Maoists cut off the hands and the legs of Shiva Reddy and Shankar Goud. Communist Party of India-Maoist claimed responsibility for the killing, saying it was done in retaliation of the burning to death of 9 Dalits of the same village in 1998.<sup>75</sup>

### iv. Kangaroo trials in “People’s Court”

The Maoists continued to deliver kangaroo justice through its so-called “People’s Court”, the *Jana Adalat*. On 19 January 2005, a TDP activist Bikkati Ramudu was awarded death sentence by the Maoists’ “Peoples’ Court” at Kalagallu under Kuderu mandal in Anantapur district. According to the family members of the deceased, the Maoists held a “People’s Court” in a citrus orchard on the outskirts of the village, where they sought an explanation from the victim over the alleged excesses committed by him in the past. Although the victim denied the allegations and pleaded for his life, he was pronounced guilty. He was reportedly shot dead from close range.<sup>76</sup>

## **5. Human rights violations by the vigilante groups**

A large number of private armies, whose cadres consisted of dominantly former Maoists, sprang up in Andhra Pradesh under the guise of anti-Maoist groups. Some of these vigilante groups were Fear Vikas, Green Tigers, Nalladandu, Red Tigers, Tirumala Tigers, Palnadu Tigers, Kakatiya Cobras, Narsa Cobras, Nallamalla Nallatrachu (Cobras) and Kranthi Sena. These anti-Maoists vigilante groups allegedly had the backing of the state government, which the state government strongly denied. These vigilante groups were responsible for a series of killings of the alleged Maoist sympathisers.

On 24 August 2005, a member of the Andhra Pradesh Civil Liberties Committee, Kanakachary was allegedly hacked to death by cadres of Narsa Cobras in Mahbubnagar district.<sup>77</sup>

The other victims included Mannem Prasad, an activist of anti-casteism organization Kula Nirmulana Porata Samiti who was allegedly killed by members of Nallamalla Black Cobras at Singarayakonda in Prakasam district on 10 September 2005;<sup>78</sup> and Alladi Ravi, another activist of Kula Nimulana Porata Samiti, who was killed in Chimakurthy mandal in Prakasham district by the members of Nallamalla Black Cobras on 17 September 2005.<sup>79</sup>

## **6. Violence against women**

According to 2005 Annual Report of the National Crime Records Bureau, Andhra Pradesh accounted for 13.4% of the total cases of crimes against women in the country by reporting 20,819 cases during 2005. These included 935 cases of rape, 995 cases of abduction, 443 dowry deaths, 8,696 cases of domestic violence, among others. With 26.1% crime rate, Andhra Pradesh was second only to Delhi which topped with 27.6% crime rate against women during 2005.<sup>80</sup>

In February 2005, the Andhra Pradesh State Human Rights Commission ordered the state government to pay Rs 3 lakh as compensation to a woman who was molested by Sub-Inspector D Venkanna Choudary at the Tenali police station in Guntur district on the night of 8 August 2003. The victim had filed a complaint with the State Human Rights Commission. After investigation, the SHRC found Sub-Inspector D Venkanna Choudary guilty of illegal confinement and attempted sexual assault on the victim in the lock-up.<sup>81</sup>

On 10 March 2005, the Andhra Pradesh State Human Rights Commission asked the State government to pay a compensation of Rs 100,000 each to the three tribal women who were gang-raped by the police and Rs 50,000 each to other villagers who were tortured during a raid at Veldurti in Guntur district in September 2003. The SHRC also asked the

State government to suspend the 13 police officers involved in the incident, including the Macherla Circle-Inspector Gaviri Srinivasa Rao and Sub-Inspector Subba Rao.<sup>82</sup>

Women also faced societal discrimination and physical attacks.

On 5 October 2005, a woman identified as Ellava was allegedly beaten up, paraded and hanged upside down for about 40 minutes by the relatives of a man who was allegedly killed by her family members for having an affair with Ellava's daughter at Rudrangi village in Chandurthi mandal of Karimnagar district. She was reportedly tortured in the presence of elected representatives of the village.<sup>83</sup> In a similar case, on 22 December 2005, G. Malamma was reportedly tied to a pole and tonsured by the villagers led by P. Siddulu and Mallaiah who accused her of performing black magic at Tondapally village in Ranga Reddy district.<sup>84</sup>

There were also reports of honour killings. On 7 July 2005, Gilani Bi was allegedly murdered by her elder brother, Nagur Vali for "honour" after she was suspected of having an affair with her neighbour at Betamcherla village in Kurnool district.<sup>85</sup>

## **7. Violations of the rights of the Dalits**

Incidence of violence against the Dalits was very high in Andhra Pradesh. The National Crime Records Bureau recorded a total of 3,117 cases of violations against the Dalits in Andhra Pradesh which amounted to 11.9% of the total violations against the Dalits in India during 2005.<sup>86</sup>

### **a. Physical violence and discrimination**

The Dalits were victims of caste-based physical violence and discrimination.

On 3 March 2005, a landlord Kommu Appa allegedly molested the wife of the Dalit Sarpanch (Village Council President) Jinaka Iddaaiah of Abbayipalem village in Warangal district. Unable to bear the humiliation, the Dalit sarpanch committed suicide by consuming insecticide on 6 March 2005.<sup>87</sup> Earlier, an investigation conducted by a team of Andhra Pradesh State Commission for Scheduled Castes and Scheduled Tribes (State SC/ST Commission) consisting of its Chairman, Justice K Punnaiah and two other members K V Narayana and Azmeera Raju Nayak in January 2005 found two landlords Ravindranath and Bolla Radhakrishna guilty of harassing and exploiting the Dalits at Bandlagudem hamlet of Pedathummidu village in Krishna district. The State SC/ST Commission directed the district administration to take action against the landlords and protect the Dalits and other weaker sections of society.<sup>88</sup>

Caste-based discrimination and violence were common not only in rural areas but also in urban areas. The Andhra Pradesh State SC/ST Commission stated in July 2005 that it received “complaints about several instances of untouchability” from the outskirts of “cyber city” Hyderabad. Justice K. Punnaiah, Chairperson of Andhra Pradesh State SC/ST Commission stated that the Scheduled Castes and the Scheduled Tribes were still not allowed into temples and they faced discrimination “on various other fronts”. According to L. Mysaiah, State President of Ambedkar Yuvajana Sangham and Mr B. Vishwanatham, State President of Dalit Praja Samithi, many upper caste people refused to accept Dalits and tribals as their tenants. Even IAS and IPS officials allegedly discriminated against them.<sup>89</sup>

Justice remained elusive for the Dalits. By the end of 2005, 3,780 cases were pending for trial in courts while 2005 cases were pending investigation by the police in the state. While the charge-sheeting rate for the crimes against the Dalits in the state was 96.4%, the conviction rate for the same remained as low as 15.3% during 2005.<sup>90</sup>

## **b. Denial of land rights**

The state government of Andhra Pradesh continued to discriminate against the Dalits by denying them land rights. In November 2004, the state government had launched much-hyped “Indira Prabha” scheme, which is a comprehensive land development programme, for the landless poor with a budgetary allocation of about Rs 500 crores. The Scheduled Castes and Scheduled Tribes were the proposed beneficiaries of the project,<sup>91</sup> and the state government claimed to have distributed hundreds of hectares of land to the landless poor.

Ironically, the same “Indira Prabha” scheme made the Dalits victims of land alienation. On 22 August 2005, a Dalit farmer named Katuri Moses committed suicide at Pedapalaparru village under Mudinepalli mandal in Krishna district after the revenue officials identified his 22 cent land as government land and decided to hand over the ownership of the land to another landless farmer under the “Indira Prabha” scheme. The land originally belonged to the government but Katuri Moses had reportedly been tilling the land for over 15 years with permission from the authorities. Suddenly, he became landless after the revenue officials turned down his plea to make him beneficiary of the land.<sup>92</sup>

Often, the Dalits were given *pattas* (deed) for land; but not the actual land. In March 1992, the then Mandal Revenue Officer of Vissannapet, J Nageswara Rao issued ownership *pattas* of over 567.02 acre of surplus land to 125 Scheduled Caste and Scheduled Tribe families at Kondaparva village of Vissannapet Mandal in Krishna district. The government claimed to have acquired the lands from the landlords under

the Andhra Pradesh Land Ceiling Act in 1992. But as on 13 February 2005, these lands were still being occupied by the landlords and the government failed to hand over the lands to the proposed beneficiaries despite repeated representations by the ST/SC beneficiaries to the Mandal Revenue Office.<sup>93</sup>

## **8. Violations of the rights of the indigenous peoples**

The National Crime Records Bureau recorded 515 cases of atrocities against the tribals in the state during 2005, which amounted to 9% of the total all India cases of atrocities against the tribals.<sup>94</sup> By the end of 2005, 678 cases were pending for trial in courts while another 307 cases were pending investigation by the police in the state. While the charge-sheeting rate for the crime against the tribals in the state was 91.3%, the conviction rate remained as low as 12.4% during 2005.<sup>95</sup>

### **a. Atrocities**

The tribals, particularly the youth, suffered torture at the hands of both the security forces and the Maoists. The security forces harassed and tortured the tribal youth on the suspicion of being Maoist cadres or Maoists' sympathizers. On the other hand, the Maoists who claimed to be fighting for the rights of the improvised tribals targeted innocent tribals on the charges of being police informers.<sup>96</sup> In other words, the tribals remained sandwiched between the security forces and the Maoists.

The situation became alarming as the state government of Andhra Pradesh proposed to bring the tribals in direct confrontation with the Naxalites by arming them. In August 2005, the state Cabinet gave its nod to raise a tribal battalion known as "Girijan Battalion" with strength of 1,260 tribals, including 10 reserve Inspectors, 30 Sub-Inspectors, 45 Assistant Sub-Inspectors, 277 Head-Constables and 820 constables. The Cabinet sanctioned Rs 13.73 crores to create and maintain this tribal battalion.<sup>97</sup> Many tribal leaders and Members of Legislative Assembly opposed the setting up of the tribal battalion.<sup>98</sup>

### **b. Denial of access to health care**

The tribals continued to be denied the basic medical facilities. Hundreds of tribals reportedly died due to malaria and other diseases in the tribal areas of Visakhapatnam district. The state government, however, consistently denied the "malaria" deaths.

Following a complaint to the National Human Rights Commission (NHRC) by the opposition Telugu Desam Party on 26 July 2005 against alleged "neglect" by the state government over the deaths of tribals due to malaria,<sup>99</sup> the NHRC sent its Special

Rapporteur for the Southern States, K R Venugopal to investigate into the matter. In his report to the NHRC, Special Rapporteur K R Venugopal confirmed the deaths of 2,227 persons due to malaria and other communicable diseases in the tribal areas of Visakhapatnam district from January to July 2005.<sup>100</sup> He blamed the State government for the miserable economic and health status of the tribals. He found that out of the total 1,26,013 households in Paderu in Visakhapatnam district, 1,17,834 households i.e 94 % were living below the poverty line.<sup>101</sup> This was despite the fact that Paderu was covered under the much-hyped Integrated Tribal Development Agency programme of the state government. Clearly, the various programmes of the state government to help the tribals failed miserably to achieve the targets.

The Andhra Pradesh government rejected K R Venugopal's figures of malaria deaths. On 10 September 2005, Visakhapatnam District Medical and Health Officer P. Rama Rao clarified that only seven persons died of malaria from January to July 2005 in the state and only one in the tribal areas of Visakhapatnam district and that the total number of 2,227 deaths during the period in the agency area of Visakhapatnam conformed to the normal rate of death. Giving a break-up of the total figures, Dr. Rama Rao stated that out of 2,227 deaths, 139 were infants, 5 maternal, 1 malaria (other 6 deaths were recorded in hospitals in the plain area), 2 diarrhoea, 107 cardio vascular, 1 typhoid, 2 malnutrition, 112 heart diseases, 53 TB, 111 jaundice, 30 paralytic, 4 by snake bite, 32 poisoning, 93 in road accidents, 121 due to fits, 156 acute appendicitis, 54 due to upper respiratory infection, 102 due to asthma common in high altitudes, 680 due to old age and 414 due to other diseases.<sup>102</sup>

### **c. Forced displacement and land alienation**

The tribals had been disproportionate victims of land alienation. Many tribals lost their lands to the non-tribals, who occupied the lands illegally. On the other hand, the police filed cases against the tribal land owners on the basis of complaints by the non-tribals. On 4 July 2005, tribal people from six villages in Devipatnam mandal under East Godavari district made a representation to the project officer of the Integrated Tribal Development Agency of Rampachodavaram, Solomon Arokhyaraj stating that the police were filing cases against them and harassing them on the basis of false reports of non-tribals, who encroached upon tribal lands.<sup>103</sup>

According to Adivasi Sangrama Parishad, the proposed Polavaram project on Godavari river would submerge 276 tribal villages and about 3,886 hectares of reserve forest. In all, about 40,773 hectare of land would be submerged.<sup>104</sup>

## **9. Violations of the rights of the child**

The National Crime Records Bureau recorded 950 cases of crimes against children in Andhra Pradesh during 2005 which included 56 cases of murder, 315 cases of rape and 332 cases of kidnapping.<sup>105</sup>

The Maoists were allegedly responsible for the recruitment of children as soldiers to fight the security forces. According to the estimates of the Andhra Pradesh police, there were around 150 minors in various Maoists organizations in the state.<sup>106</sup> On 1 February 2005, two out of eight surrendered Maoists were minors. They were identified as Boggula Ramadevi alias Vennela (14) and E Saraswathi (18).<sup>107</sup>

According to official figures, there were about 1.8 lakh child labours in Andhra Pradesh.<sup>108</sup> The 2003-2004 financial report of the Comptroller and Auditor General (CAG) stated that the government of Andhra Pradesh failed to check child labour in the state, despite its claims of abolishing child labour by 2004. The CAG report revealed that millions of rupees in child labour abolition schemes had been diverted and the Supreme Court guidelines were flouted. The Supreme Court had directed the state government to collect Rs. 20,000 per child from employers in hazardous occupations and use that money for rehabilitating the child labourers. However, the state government rescued only 3 children from hazardous occupations. The report stated that out of the 1.88 lakh child labourers enrolled in special schools, only 1.08 lakh or 58 per cent were successfully inducted into mainstream schools. The CAG report also states that there was no co-relation between incidence of child labour and the location of special schools.<sup>109</sup>

The condition of the juvenile homes remained deplorable. On 16 January 2005, 23 juvenile prisoners reportedly escaped from an observation home in Nizamabad.<sup>110</sup> On 16 February 2005, another 6 juveniles escaped from the Krishna District Children Observation Home for Boys in Vijayawada.<sup>111</sup>

## **10. Violations of the prisoners' rights**

Prisons were overcrowded and their conditions sub-human. The NHRC recorded 116 cases of deaths in judicial custody from Andhra Pradesh during 2004-2005.<sup>112</sup>

On the night of 4 June 2005, an undertrial prisoner identified as Erramkurthi Shobhan Babu of Kamareddy Sub-Jail reportedly died under suspicious circumstances at Kamareddy government hospital in Nizamabad district. The deceased was shifted to the hospital by the jail authorities after he complained of chest pain. But the family

members of the deceased claimed they found severe wounds on the neck and limbs of the deceased and alleged that Erramkurthi Shobhan Babu had died due to torture.<sup>113</sup>

On 8 September 2005, the inmates of Nellore Central jail launched a hunger strike in protest against poor medical facilities in the jail following the death of an under-trial prisoner identified as Ch Nagaraju after he had a fall in the prison bathroom in August 2005.<sup>114</sup>

# Arunachal Pradesh

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## 1. Overview

Ruled by Indian National Congress, Arunachal Pradesh faced increased insurgency problem in 2005. The National Liberation Front of Arunachal (NLFA) boycotted the Republic Day celebrations in the State.<sup>1</sup> Besides, there had been reports of the United Liberation Front of Asom (ULFA) setting up new bases in the forest areas of Arunachal Pradesh.<sup>2</sup> On 25 August 2005, the Arunachal Pradesh Police arrested “self-styled” Chairman of NLFA, Koj Tara in Dimapur, Nagaland.<sup>3</sup>

The National Crime Records Bureau (NCRB) of the Government of India recorded four instances when police opened fire killing 2 civilians and injuring 3 others in 2005.<sup>4</sup>

The Chakmas and Hajongs continued to be denied the right to citizenship in clear violations of the directions of the Supreme Court of India and the Election Commission of India.

In January 2005, a four-member Arunachal Pradesh State Commission for Women was formed.<sup>5</sup> Women continued to suffer from exploitation because of evil social practices.

There were also reports of acute food shortages especially in East Kameng district because of the failure of the Food Corporation of India to supply rice and other necessary food supplies on time. A Public Interest Litigation was filed before the Gauhati High Court in April 2005 by Arunachal Citizen Rights and NEFA Indigenous Human Rights Organization against the denial of subsidised food grains under the various welfare schemes, such as Below Poverty Line, Old Age, Antyodaya Anna Yojna, Sampurna Gramin Rojgar Yojana etc and the nexus amongst the contractors, bureaucrats and politicians to siphon off the funds meant for the tribals living the below poverty line.<sup>6</sup>

## 2. Discrimination against the Chakmas and Hajongs

The plight of the Chakmas and Hajongs, who have been residing in Arunachal Pradesh since 1964, did not see any improvement. On 30 January 2005, the All Arunachal Pradesh Students’ Union (AAPSU) issued a one-month ultimatum to the State Government to deport the Chakma-Hajong migrants from the State.<sup>7</sup> On 8 February 2005, the National Liberation Front of Arunachal reiterated its demand for immediate deportation of Chakma and Hajong migrants from the state, and cautioned the Centre ‘not to wait for chaos and bloodshed’.<sup>8</sup> On 20 February 2005, about 300 students were arrested while trying to stage

a demonstration on the issue of deportation of the migrants during United Progressive Alliance (UPA) Chairperson, Ms Sonia Gandhi's visit to the state.<sup>9</sup>

### **a. Denial of nationality**

The Ministry of Home Affairs of the Government of India often reiterated its respect for the directions of the Supreme Court judgement of 9 January 1996 in the case of *National Human Rights Commission versus State of Arunachal Pradesh & Another* (W.P.(C)No.720 of 1995). Union Minister of State for Home, S Regupathy stated in the Rajya Sabha on 2 March 2005 that the Supreme Court had directed the Centre and the Arunachal Pradesh Government to ensure that the life and personal liberty of each and every Chakma and Hajong residing in the State should be protected.<sup>10</sup>

In reality, the Central government failed to honour and implement the Supreme Court judgment. About 4,627 Chakmas and Hajongs submitted applications during 1997-2003 pursuant to the Supreme Court judgement. Not a single applicant was conferred citizenship till date. The Government of India failed to ensure that the State Government of Arunachal Pradesh transmit all the applications of the Chakma and Hajong applicants as provided under sub-rule (5) of Rule 9 of the Citizenship Rules, 1956.

### **b. Denial of voting rights**

The Chakmas and Hajongs who are citizens by birth under section 3(1)(a) of the Citizenship Act, 1955 continued to be denied the right to franchise. Not a single new Chakma and Hajong voter was included in the electoral roll in 2005. Rather, the State Government tried to delete the names of even 1,497 previously enrolled Chakma and Hajong voters from electoral rolls during Intensive Revision in the state in 2005.

On 23 March 2005, the Election Commission of India (ECI) issued an order for conduct of Intensive Revision in Arunachal Pradesh. The ECI also issued detailed guidelines to be complied with by the electoral officers during the conduct of the revision exercise. The ECI also issued additional guidelines (7.14) for enumeration in areas having substantial presence of Chakmas as given below.

- “(d) The ERO concerned, on receipt of the enumeration pad and manuscript from the supervisors shall segregate the names of Chakmas into two sections, as per the date of birth mentioned in the enumeration pad;
- (i) Containing the name of persons who were born in India between 26th January 1950 and 1st July 1987; and in whose case linkage could be established that their parents had migrated to Arunachal Pradesh in 1964, as per the refugee registration records or any other relevant records.

- (e) In respect of those persons whose names have been included in category (d) (i), above, their names shall be straight away included in the draft electoral roll.”

In clear violations of the above guidelines, from day one of the revision process, the Electoral Registration Officers (EROs) and Assistant Electoral Registration Officers (AEROs) prescribed birth certificate as the only document for enrolment. Ignoring clause (e), the EROs and AEROs arbitrarily and illegally subjected all eligible Chakma and Hajong voters who have been issued electoral cards to undergo local verification irrespective of whether linkage as required under Guideline (d) (i) was established or not.

The Committee for Citizenship Rights of the Chakmas and Hajongs of Arunachal Pradesh (CCRCAP), an organization representing the Chakmas and Hajongs, complained to the Election Commission of India against gross and willful violations of the ECI Guidelines of 23 March 2005 by the EROs, AEROs and other concerned electoral officials of Arunachal Pradesh during the revision exercise.

Taking cognizance of such gross violations of its guidelines, the Election Commission of India suspended all works related to the Intensive Revision-2006 in 46-Chowkham; 49-Bordumsa-Diyun and 50-Miao Assembly Constituencies inhabited by the Chakmas and Hajongs till the Election Commission of India decides on the issue. At the end of the year, the issue remained pending before the Election Commission of India.

### **c. Denial of basic facilities and income generating avenues**

The Chakmas and Hajongs irrespective of their legal status face systematic discrimination from the State administration. Pursuant to the Order No CS/HOME/94 dated 21 November 1994 for ‘withdrawal of all kinds of facilities from the Chakma Settlement area”, the government schools and all 49 Anganwadi Centres remained withdrawn since 1994-95. The Chakma and Hajong students continued to be denied admissions in all schools in Miao.

There were no health care facilities in around 30 Chakma villages spreading in three districts of Changlang, Lohit and Papumpare. Despite water born diseases like malaria, typhoid, diarrhea and dysentery taking a heavy toll of deaths each year, the state government had not made any provision for drinking water in these villages.

No development activities were undertaken by the State Government in the Chakma and Hajong villages. More than 75 per cent of the Chakma and Hajong villages did not have electricity connections although the main lines (High Tension) had been erected way back in the 1990s. On the other hand, the Chakmas and Hajongs continued to be denied even kerosene oil which they use for lighting lamps at homes.

The State Government's order No FPSO-3/90-91 of 31 October 1991 withdrawing ration card facilities under the Public Distribution System remained operative at the end of 2005. Consequently, the Chakmas and Hajongs who were below the poverty line were denied the facilities. There was also complete ban of state government employment, jobs and other income generating activities for the Chakmas and Hajongs pursuant to the Order No. POL -21/80 dated 29th September 1980.

### **3. Cultural cruelties against women**

Women continued to be subjected to cruel and degrading treatment, most particularly sexual exploitation in the name customs and traditions. Sexual exploitation of a sister-in-law after kidnapping by her brother-in-law in case of death of the elder sister if her family did not repay the 'bride price' continued.<sup>11</sup>

In January 2005, the State government established Arunachal Pradesh State Commission for Women.<sup>12</sup> Kidnapping and forcibly marrying of sister-in-laws by the elder sister's husbands was reported from the State and that such practice reportedly had the sanction of the society. Going to the authorities against such kind of inhuman practice resulted in social sanctions like ex-communication or ostracisation.<sup>13</sup>

### **4. Right to food**

In 2005, East Kameng district of Arunachal Pradesh with a population of 57,000 was reportedly gripped by starvation due to the failure of the Food Corporation of India (FCI) to supply rice and other necessary food supplies on time. The FCI reportedly failed to respond positively despite repeated requests from the Deputy Commissioner and the District Supply Officer.<sup>14</sup>

There were consistent and serious allegations of large scale irregularities and corruption in the distribution of foodgrains in Arunachal Pradesh through various welfare schemes. In a Public Interest Litigation before the Gauhati High Court in April 2005, the petitioners - Arunachal Citizens Rights and NEFA Indigenous Human Rights Organization - alleged that the poor tribal populace of the state were deprived of benefits of subsidized food grains under the various welfare schemes, such as Below Poverty Line, Old Age, Antyodaya Anna Yojna, Sampurna Gramin Rojgar Yojana etc, distributed through Public Distribution System. The alleged nexus amongst the contractors, bureaucrats and politicians resulted in siphoning off millions of rupees in the name of the distribution of highly subsidized food grains to the poor tribal population of the state living below the poverty line.<sup>15</sup>

# Assam

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## 1. Overview

Ruled by the Indian National Congress party, Assam intermittently observed cease-fire with the United Liberation Front of Asom (ULFA) throughout 2005. On 25 May 2005, the National Democratic Front of Bodoland signed a ceasefire pact with the Centre and Assam Government with effect from 1 June 2005.<sup>1</sup> However, no such agreement could be signed with ULFA. The enforced disappearance of at least 12 ULFA leaders and cadres after their alleged arrest by the Bhutan Royal Army during the “Operation All Clear” of December 2003 remained one of the bones of contention. In July 2005, the Guwahati High Court, in response to a habeas corpus petition filed by Gyanma Moran, wife of missing ULFA member Ponaram Dihingia, issued directive to the Union Ministry of Home Affairs, Defence Secretary, the General Officer Commanding in Chief, Eastern Command of the Indian Army and Home Commissioner of Assam government to provide information about the “missing” ULFA leaders.<sup>2</sup>

The other key armed opposition groups active in Assam included United People’s Democratic Solidarity (anti-talk and pro-talk factions), Kuki Revolutionary Army, Hmar People’s Convention, Dima Halam Daogah and National Socialist Council of Nagaland (Issac-Muivah and Kaplang factions), Karbi National Volunteer, Adivasi Cobra Militants of Assam and the Karbi Longri NC Hills Liberation Front.

Assam continued to be a miniature of India in terms of human rights violations.

The government deployed large number of security forces to contain insurgencies. They were responsible for arbitrary arrest, detention, torture and other abuses during cordon and search operations. Innocent people were often taken into custody without any arrest memo or warrant, held in illegal detention without being produced before the court and tortured for alleged links with the armed opposition groups or to extract information about the movement of the armed opposition groups.

The armed opposition groups in Assam were responsible for gross violations of international humanitarian laws especially by targeting the civilians through explosive devices. The armed opposition groups were also responsible for hostage taking, extortions and issuing other threats.

In 2005, ethnic conflicts flared up in Karbi Anglong district causing internal displacement of more than 44,000 Karbi and Dimasa tribals. These internally displaced persons were

sheltered in temporary relief camps in Karbi Anglong and North Cachar Hills districts in most deplorable conditions.

Prison conditions were deplorable. According to National Human Rights Commission (NHRC), there were a total of 7,565 prisoners against the total sanctioned capacity of 6,215 prisoners, thereby resulting in 21.7% overcrowding as of 31 December 2004. The undertrial prisoners (4,297) constituted 56.8% of the total prisoners.<sup>3</sup> The NHRC registered 11 deaths in judicial custody in the state during 2004-2005.<sup>4</sup> The sick prisoners allegedly did not receive proper medical treatment. On 30 August 2005, Robin Handique, a leader of the ULFA, died while being detained in Tezpur jail allegedly due to lack of proper treatment.<sup>5</sup> Assam also made history by imprisoning one Machang Lalung at LGB Regional Institute of Mental Health in Tezpur for 54 years without any trial. Machang Lalung was released in July 2005 following NHRC's intervention.<sup>6</sup>

## **2. Human rights violations by the security forces**

### **a. Violations of the right to life**

The NHRC registered 4 deaths in police custody, 2 deaths in the custody of the army/paramilitary forces and 1 death in encounter in Assam during 2004-2005.<sup>7</sup> The National Crime Records Bureau (NCRB) of the Government of India failed to record any death in police custody during 2005 in its 2005 Annual Report. Asian Centre for Human Rights documented two deaths in the custody of the police during 2005.

On the night of 25 January 2005, Dwipen Bayan, a popular sportsperson and social worker of Udalguri area, allegedly died in the custody of Udalguri police station in Udalguri district. He was picked up earlier in the day by the Officer-in-Charge Sub Inspector Mahesh Nath from the Ganesh market area of Udalguri town.<sup>8</sup>

On 21 December 2005, a tribal identified as Buru Bhumij died due to alleged torture by the police during custody at Mathurapur police station in Sivasagar. The deceased was arrested on 20 December 2005 on non-bailable offences. The deceased's wife claimed that she saw blood oozing out of her husband's mouth when she visited him in the police lock-up on 21 December 2005. The police allegedly allowed the deceased to go home after finding his condition to be serious, although he had been arrested on a non-bailable warrant. Soon after reaching home Bhumij died.<sup>9</sup> The Sivasagar district administration ordered a magisterial inquiry into the death.<sup>10</sup>

The security forces were responsible for killing of civilians in dubious encounters. The inability to make distinction between civilians and armed groups was highlighted by the

fact that on 6 January 2005, Assam police commandos shot dead two army personnel identified as Major Mukesh Chaurasia and Bikash Sensowa (who were in civvies) mistaking them to be ULFA cadres at Na-Khongia village under Tengakhat police station in Dibrugarh district.<sup>11</sup>

The security forces also killed many alleged innocent civilians as suspected members of the armed opposition groups. The victims included a farmer identified as Deven Lahkar who was killed by the army personnel at Burburi village under Ghograpar police station in Nalbari district on 18 January 2005,<sup>12</sup> two civilians who were killed by the army personnel in civil dress during a search operations at Sialmari Chaur area under Hajo police station in Kamrup district on 25 January 2005 in which the state government of Assam ordered a probe,<sup>13</sup> and alleged ULFA cadre Utpal Das alias Milkha Singh who was killed by the police in an alleged encounter at Sagalpara in the Lokhara area in Guwahati on the night of 12 March 2005.<sup>14</sup>

The security forces also indiscriminately used firearms. According to National Crime Records Bureau, 8 civilians were killed in police firing during 2005.<sup>15</sup> On 24 September 2005, a tea labourer identified as Ramesh Tangla<sup>16</sup> was killed and three others injured in indiscriminate firing by the police on a mob of workers demanding higher Durga Puja bonus at Monabari Tea Estate in Sonitpur district.<sup>17</sup> Two members of Joint Forest Protection Committee identified as Insaf Ali and Saifuddin Ahmed were also killed in police firing at Boropara under Sipajhar police station near Mangaldoi on 14 May 2005.<sup>18</sup>

## **b. Arbitrary arrest, illegal detention and torture**

Arbitrary arrest, illegal detention, torture and other abuses during cordon and search operations were perpetrated regularly across Assam. Often, the victims were taken into custody without any arrest memo or warrant, held in illegal detentions without being produced before the court and tortured for alleged links with the armed opposition groups or to extract information about the movement of the armed opposition groups. Both the police and the army personnel were responsible for such atrocities.

The victims who were allegedly subjected to torture at the hands of the security personnel included Alok Basumatary, President of Jharbari unit of All Boro Students' Union (ABSU) who was tortured on 4 May 2005,<sup>19</sup> Mahendra Phukan, headmaster of Sakai Khangia High School in Elengmora area in Jorhat who was tortured on the night of 2 August 2005,<sup>20</sup> Jitul Saikia, Nripen Saikia, and Sonti Saikia who were tortured by the police in May 2005,<sup>21</sup> and a senior citizen identified as Gawhiaindi Daolagupu who was tortured on 9 April 2005 during a search operation in Diphu.<sup>22</sup>

In May 2005, the Kuki Women Association (KWA) submitted a memorandum to the Deputy Commissioner, Karbi Anglong, demanding immediate intervention into the inhuman atrocities committed by the Assam Police commandos and the CRPF jawans during so-called 'anti-insurgency operations' to nab the cadres of Kuki Revolutionary Army at various areas in Diphu. Giving some "horrifying examples of inhuman nature" of the security forces, the KWA alleged that minor girls including Hoibem and Vahnu (both 11 years) and Hatsi (13 years) were made to strip naked in front of the CRPF and Assam Police during one such combing operations. The KWA also demanded immediate release of the 57 innocent Kuki villagers, including minors and old men, who were arrested by the security forces during anti-insurgency operations.<sup>23</sup>

Many incidents of torture and harassment were protested by the civilians. On 22 March 2005, hundreds of men, women and children gheraoed the Deputy Commissioner of Golaghat to protest against atrocities meted out to them by the police in the name of search operations against the armed opposition groups.<sup>24</sup>

Those who were caught in conflict had to endure sufferings. On 31 August 2005, the 2nd Mountain Division of the army launched operation against the ULFA cadres inside the Dibru-Saikhowa National Park in Tinsukia district and put the two main forest villages, Laika and Dodhia, with a population of about 10,000 people under siege.<sup>25</sup> The villagers had been kept under virtual house arrest as they were not allowed to move out of their villages freely even to fetch the basic necessities such as food and medicine.<sup>26</sup> On 10 September 2005, 8-year-old girl identified as Kajaluati Mili, daughter of Bhadreshwar Mili of Laika, reportedly died due to lack of medical treatment.<sup>27</sup> It was only after the intervention of the Assam State Human Rights Commission<sup>28</sup> and the Guwahati High Court that supply of essential commodities and medicine to the villagers was resumed.<sup>29</sup>

### **3. Violations of international humanitarian laws by the AOGs**

The armed opposition groups were responsible for violations of international humanitarian laws especially by targeting the civilians through explosive devices.

#### **a. Killings**

The United Liberation Front of Assam reportedly claimed responsibility<sup>30</sup> for the serial blasts at Jonai, Mangaldoi, Nazira, and Chagolia on 19 January 2005 in which one person identified as Nirmol Roy was killed and six others seriously injured;<sup>31</sup> and the serial blasts on the night of 8 March 2005<sup>32</sup> in which one police personnel identified as Sub-Inspector Dipak Deori was killed and seven others were injured.<sup>33</sup>

No armed group claimed responsibility for the grenade blasts on 11 March 2005 carried out in Guwahati and Sivasagar in which one person was killed and at least 20 others injured,<sup>34</sup> and the blasts near Hotel Ambarish at Ganeshguri area in Guwahati on 1 April 2005 in which at least five persons including Pradip Borkoch, Paresh Barua, Manu Barua and Ajit Kalita were seriously injured.<sup>35</sup> The ULFA was suspected of carrying out these blasts.

The ULFA was also suspected of killing a former ULFA man identified as Lahon Baruah at Barichowka under Patharighat police outpost in Darrang district on 28 February 2005<sup>36</sup> and Sukleswar Medhi, a leader of Rashtriya Swayamsevak Sangh (RSS), at Balitara village under Ghograpar police station in Nalbari district on 30 August 2005.<sup>37</sup>

The Karbi Longri NC Hills Liberation Front (KLNLF) armed cadres also killed many innocent civilians while enforcing their strikes. On 27 May 2005, three civilians were killed and three others were seriously injured when the members of the KLNLF ambushed their vehicle at Silveta under Howraghat police station in Karbi Anglong district for plying on the road despite a *bandh* (strike) called by them in protest against the killing of its General Secretary, Harsing Timung.<sup>38</sup> On 30 May 2005, a 7-year-old girl identified as Y Mangaleima, daughter of Prof. Dr Y Jayachandra of Central Agriculture University, Manipur was killed and her mother was injured when KLNLF cadres fired at their vehicle (MN 1K 1210) near Deopani under Bokajan Police Station in Karbi Anglong district despite a *bandh* called by the outfit.<sup>39</sup>

## **b. Extortion**

The armed opposition groups were also responsible for extortion. The Karbi National Volunteers (KNV) and the United People's Democratic Solidarity (UPDS) were widely blamed for extortion.<sup>40</sup>

Despite signing a ceasefire agreement,<sup>41</sup> the National Democratic Front of Bodoland (NDFB) allegedly did not end extortion. The construction company engaged to build the 22-km Kokrajhar-Ramfalbil road and the 18-km Gaurang Tinali-Patgaon road in Kokrajhar district had to cease work following alleged extortion demand of Rs 1 crore from the company and intimidation to its workers by the NDFB militants.<sup>42</sup> In Nalbari and Baksa districts, the NDFB cadres reportedly moved about freely with their arms and served extortion notices to service holders and businessmen. The armed opposition group demanded Rs 5 lakh from the District Elementary Education Officer (DEEO), Nalbari, Nagen Ch Boro. On 11 July 2005, some NDFB cadres were caught by the office staff of DEEO and handed over to the police when they came to collect the money.<sup>43</sup>

## 4. Ethnic conflicts

Assam continued to be plagued by unprecedented ethnic conflicts especially in Karbi Anglong district during 2005. While the control over land, resources and establishment of homeland based on ethnicity were some of the root causes, the clear involvement of both the State and the non-State actors had exacerbated the conflicts leading to loss of lives and internal displacement.

In the conflict between the Karbis and Dimasas which began on 26 September 2005, about 90 persons were killed before the conflict was brought under control by the first week of November 2005. The victims included 76 Karbis, 11 Dimasas, 1 Bodo, 1 Bengali and 1 Nepali.<sup>44</sup> An estimated 1,014 houses - 534 houses of Karbis, 469 of Dimasas, and 1 of Nepali were burnt down.<sup>45</sup> The conflict displaced over 44,000 persons.

The ethnic clash started on 2 October 2005 following the killing of three Dimasa autorickshaw drivers on 26 September 2005. On 2 October 2005 at around 1.00 am suspected members belonging to the Dima Halom Daoga (DHD) allegedly barged into the house of the headman of Karbi village of Hemari Terang under Diphu police station in Karbi Anglong and asked all the male members of the family to come out. The five family members Sing Terang, Jacod Terang, Risobasa Terang, Chandra Terang and Sar-im Terang were then taken to a nearby paddy field and their hands were tied up before they were hacked to death using machetes and crude implements.<sup>46</sup>

On 8 October 2005, eight Karbis, including women and children were killed at Walingdisa village under Dhansiri police station. About 60 houses were also burnt down in the village by a group of around 150 miscreants dressed in army fatigues. The victims were identified as Kolomsing Rongpi, Shanti Killingpi (2 years), Rupsing Hanse (16 years), Bilat Killingpi, Paniram Engleng, Elish Englengpi, Tensing Killing and Kison Killing (5 years).<sup>47</sup>

On 9 October 2005, seven Karbis and one Nepali were killed and about 130 houses, all belonging to Karbi people, set ablaze in twelve different villages including Monsing Ingti gaon, Bura Terang gaon, Kangthar Kro gaon, Norik Teron gaon, Diliram Terang gaon and Longso under Diphu and Bokajan police stations. Those killed were identified as Mr Kamising Tisso, Master Sanjib Tisso alias Bishnu (5 years), Mr Bura Phangchao, Mr Sar Timung, Mr Hemar Terang, Mr Sarthe Kramsa and Mr Klaret Dera and Mr Ram Prasad Sharma.<sup>48</sup>

The Karbi armed groups reportedly hit back by killing at least five Dimasa tribesmen, including women and torching of 63 houses in Kheroni village early in the morning of 10 October 2005. A group of about 20 armed Karbis accompanied by over 200 villagers,

armed with sharp weapons, allegedly attacked Khenori village and shot dead five Dimasas besides setting ablaze 63 houses.<sup>49</sup> The deceased were identified as Ms Rahila Diphusa, Mr Archikgra Hasnu, Ms Saibodi Doulagajau, Mr Ronga Sing Diphusa, Mr Thramparam Daulagupu. Eighty six houses - 15 at Loringlangso, 40 at Bijoy Rongpigaon, 15 at Mensing Hanse gaon near Doldoli, eight at Dokiju Dimaja gaon near Borlangpher villages and seven in Diphu town under Diphu Police Station were reportedly set on fire by miscreants during the night of 10 October 2005 and in the morning of 11 October 2005.<sup>50</sup>

The orgy of ethnic violence between the Karbis and Dimasas further escalated on 17 October 2005 with 34 more persons being killed and four injured by members of the armed opposition groups at Charchim. The mayhem began at 6.40 am when about 20 to 25 members of the armed opposition groups in military fatigues armed with sophisticated weapons reportedly stopped two buses numbering (AS-09-3896) and (AS-09-4743) at Charchim village and asked the Karbi passengers to get down and line up on the road. Five passengers of bus No. (AS-09-3896) that was going from Mokailum to Hamren were shot dead and the bus was then set afire which claimed five more lives. Ten passengers of the other bus (AS-09-4743), bound for Diphu from Mokailum, were also reportedly hacked to death with sharp weapons. The members of the armed opposition groups then attacked two villages of Waingdisagaon and Disagisamgaon and killed 14 more persons and injured four others. About 26 houses were burnt down in Waingdisagaon and four more in nearby Disagisamgaon.<sup>51</sup>

During the night of 17 October 2005, seven more Karbi youth were shot dead allegedly by Dimasa armed cadres at Doyangmukh village while a young boy was killed at Barlongfar. In an immediate retaliatory action, Karbi miscreants burnt down about 130 houses belonging to the Dimasas at Tumprang in Hamreng sub-division and Barlangfar and Diphu-Manja areas under Diphu police station.<sup>52</sup>

Asian Centre for Human Rights during its field visit in November 2005 received complaints of the involvement of various factions of the armed opposition groups, UPDS and DHD, in the killings.

## **5. Violence against women**

The National Crime Records Bureau recorded 6,027 cases of violence against women in Assam during 2005 which, among others, included 1,238 rape cases, 899 molestation cases, 1456 kidnapping cases, 99 dowry deaths, 2206 cases of cruelty by husbands and relatives.<sup>53</sup>

Women continued to be victims of violence across Assam as exemplified by two incidents. First, on 9 January 2005, former minister of Assam, Rajendra Mushahary was arrested for allegedly raping his 12-year-old housemaid in Gossaigaon in Kokrajhar district.<sup>54</sup> Second, on 23 December 2005, the personnel of Indian Reserve Battalion of Haryana shot dead three Boro tribals identified as Thomas Basumatary, Ramen Moshahary, and Raju Basumatary who were protesting against the molestation of eight girls of Gossaigaon College who had boarded the 4056 UP Brahmaputra Mail at Salakati railway station under Basugaon in Kokrajhar district of Assam.<sup>55</sup> On 24 October 2005, the Government Railway Police detained six IRB personnel including two officers and four constables in connection with the incident.<sup>56</sup> Several separate probes into the incident were ordered.<sup>57</sup>

Women in rural Assam were target of sexual violence by the central security forces and the State police. They were molested, physically assaulted and raped. On 7 February 2005, a 12-year-old girl was allegedly raped by an Assam Rifles constable identified as Gautam Tamang in Karbi Anglong. In her statement before the Chief Judicial Magistrate's Court in Diphu the victim alleged that she had been beaten up, scratched and then made unconscious with sleeping tablets and raped by the Assam Rifles jawan. The victim showed her injury marks to the journalists in the court. Medical examination reportedly confirmed repeated sexual assault.<sup>58</sup> The accused Gautam Tamang and his two women accomplices were arrested.<sup>59</sup>

On 11 March 2005, a jawan of 122nd Central Reserve Police Force identified as Brij Kishore Shah was arrested by the police from Chandmari, Guwahati, on charges of molesting a woman activist of the Bharatiya Janata Party after a group of BJP activists including the victim were detained by the security forces at the Assam Engineering Institute playground. The accused CRPF jawan who was on duty took the victim to a corner of the playground and allegedly molested her. A case was registered against the accused at Chandmari police station under Section 354 of the Indian Penal Code. The Kamrup (metropolitan) district administration ordered a magisterial probe into the incident.<sup>60</sup>

### **a. Cultural cruelties: Witch killing**

In Assam, the practice of "witch killing" was rampant, particularly in Adivasi and Bodo-dominated tribal areas under Bodoland Territorial Council. In February 2005, a Bodo tribal couple was killed for allegedly practising witchcraft and the killers even carried the two severed heads in the streets as trophies at Alengi Bazar village in Kokrajhar district.<sup>61</sup> This was followed up by the alleged rape and murder of Anjula Basumatary and Nani

Basumatary by some youths on 16 April 2005,<sup>62</sup> and killings of Ms Jengreng and her daughter Phedaf in Chirang district on 24 April 2005 on the charges of being “witches”.<sup>63</sup>

Between May 2005 and 9 September 2005, at least 17 persons, including five couples, were reportedly killed on the charges of practicing black magic in Bodoland areas.<sup>64</sup> The victims included Pulen Basumatary and his wife Gonsi of Kathalguri village who were killed in Kokrajhar in June 2005,<sup>65</sup> Nanda Wary and his wife Anila Basumatary at Longkapara village in Kokrajhar in August 2005,<sup>66</sup> Dulal Basumatary of Badarpur forest village at Jharbari under Serfanguri police station on 4 September 2005.<sup>67</sup> Another person identified as Chatu Tirki was killed in connection with witchcraft at No. 1 Daolabari village in Kokrajhar on 17 November 2005.<sup>68</sup>

Several cases of witch killing were also reported from areas outside the Bodoland Territorial Council. These included killing of one Dega Basumatary by three villagers - Somnath Basumatary, Adei Basumatary and Sanjoy Basumatary at Kamaradshia near Indo-Bhutan border under Patacharkuchi Police Station in Barpeta district in August 2005,<sup>69</sup> and killing of Mr Pinpina Turi and Ms Golapi Bhumij at Rajmai Tea Estates in Sivasagar on 20 November 2005.<sup>70</sup>

In some cases, the innocent villagers were expelled from the village territory on the charges of practicing black magic. In October 2005, the villagers of Boromalga under Salkocha police station in Kokrajhar passed a resolution asking one Rohendra Basumatary to leave the village on the charges of practicing witchcraft. The powerful All Bodo Students' Union, Kokrajhar district unit, tried to intervene but a group of villagers armed with sharp weapons reportedly ransacked Rohendra's house and threatened to kill him and his family members if they failed to leave the place immediately. Rohendra had to flee to save his life.<sup>71</sup>

## **6. Violations of the rights of the indigenous/tribal peoples**

Assam is the land of hundreds of indigenous communities who are divided into two main groups - plain tribes and hill tribes. Many tribal groups who were excluded from the Scheduled Tribes list have been demanding for inclusion in the Scheduled Tribes list.

Rampant corruption and misuse of funds meant for the development of tribal areas continued to plague the affirmative action programmes. The Bodo Sahitya Sabha alleged that an amount of Rs 25 lakh was sanctioned under a tribal welfare scheme for 25 schools in Jalukbari, Guwahati; but not a single school in the tribal areas was benefited from the project. Similarly, Rs 1,20,50,000 was sanctioned for a tribal welfare project in August 2004; but the fund allegedly never found its way to the tribal communities.<sup>72</sup>

The funds allocated for development of tribal areas was diverted for use in non-tribal areas. The Plains Tribes Development Department had approved a project worth Rs 77,83,600 from which about 80 per cent was diverted for use in non-tribal areas. From that amount Rs 35,83,600 was diverted for the construction of a community assembly hall in Sualkuchi which did not have any tribal population.<sup>73</sup> The tribals have been deprived of the benefits of the Integrated Tribal Development Project of Dhemaji district. The allotment of work meant for the tribal people was allegedly given to non-tribal people.<sup>74</sup>

The state government of Assam also failed to fill up a total of 29,792 backlog posts reserved for the scheduled tribes.<sup>75</sup>

Land alienation continued unabated in Assam. According to a report of *The Sentinel* of 7 April 2005, a report tabled before the State Assembly on 6 April 2005 stated that over 2.20 lakh bighas of tribal land has either been transferred to or encroached upon by non-tribals in the state. This included tribal land measuring 1,77,082 bighas in Lakhimpur, 518 bighas in Goalpara, 4,867 bighas in Nalbari, 4,451 bighas in Barpeta, 14,895 bighas in Dhemaji, 417 bighas in Morigaon, 5,366 bighas in Dhubri, 2,21,257 bighas in Udalguri and 196 bighas in Kamrup district.

On 22 February 2005, the Gauhati High Court pursuant to a Public Interest Litigation filed in 2002 reportedly granted land rights to the 500 Garo refugee families settled in Kharikhana village of Karbi Anglong after they fled the then East Pakistan during the partition of the country in 1947.<sup>76</sup>

During eviction drive in June-July 2005 by the Karbi Anglong Autonomous Council and the Forest department against the indigenous peoples at Doldoli Reserve Forest, 97 houses were demolished, including 52 houses of the Bodo community, 29 houses of the Karbi community, 10 houses of the Nagas and six houses of the Nepali community.<sup>77</sup>

## **7. Violations of the rights of the child**

Children continued to be victims of violence, trafficking and lack of institutional mechanisms for administration of juvenile justice. The National Crime Records Bureau recorded 199 cases of crime against children in Assam during 2005 which included, among others, 12 murder cases, 90 rape cases and 18 kidnapping cases.<sup>78</sup>

### **a. Trafficking**

An estimated 500 women and minor girls are trafficked from the state of Assam every year. Only 22 cases were registered with the police during 2000-2005 based on which 44 people were arrested. Guwahati has been identified as the main transit point for trafficking

of women from North Eastern states to other parts of the country, particularly Siliguri, Kolkata and New Delhi. A study conducted by an NGO, Global Organisation for Life Development, found that 48 per cent of sex workers at Khalpara in Siliguri were from Assam and three per cent from the other North-Eastern states. As many as 70 per cent of these girls were found to be below 20 years of age.<sup>79</sup>

More than 670 children, including 349 girls, were reportedly trafficked from Assam during 2004. Only 217 of them could be traced by the police. 684 children were reported missing in 2003, 679 in 2002 and 1065 in 2001 from different parts of Assam.<sup>80</sup>

### **b. Juvenile justice**

The security forces seldom respect the Juvenile Justice (Care and Protection of Children) Act of 2000. On 21 January 2005, the Black Panthers of Assam Police arrested ten-year-old Rishra Basumatary, a student of Class III, on the “charge of playing with a toy gun” and kept him in the lock-up in Howraghat police station throughout the night.<sup>81</sup>

The Juvenile Justice (Care and Protection of Children) Act provides for establishment of juvenile homes but the State government failed to establish such homes in sufficient number. Those which had been in existence were in shambles. The Juvenile Home in the Fatasil Ambari area of Guwahati had virtually been in ruins without even the basic amenities.<sup>82</sup> The Dagaon Nirachroyee Sishu Bhavan in Jorhat, an orphanage established in 1975, had not received any aid for functioning from the State Government since 1994. The orphanage had been running on voluntary donations.<sup>83</sup>

## **8. Violations of the prisoners’ rights**

Prison conditions remained deplorable in Assam. According to NHRC, there were a total of 7,565 prisoners against the total sanctioned capacity of 6,215 prisoners, thereby resulting in 21.7% overcrowding as of 31 December 2004. The undertrial prisoners (4,297) constituted 56.8% of the total prisoners.<sup>84</sup>

The NHRC recorded 11 deaths in judicial custody during 2004-2005.<sup>85</sup>

In a case of judicial delay and gross negligence of the administration, in July 2005 the Kamrup Chief Judicial Magistrate released Machang Lalung on a token personal bond of Rupee 1 from LGB Regional Institute of Mental Health.<sup>86</sup> Lalung was an under-trial for 54 years and he was never produced before any court. The National Human Rights Commission had intervened with regard to Lalung and four other under-trials at the LGB Regional Institute of Mental Health - Khalilur Rehman, an under trial for 35 years, Anil Kumar Burman, an under trial prisoner for 33 years, Sonamani Deb, an under-trial

prisoners for 32 years, and Parbati Mallik for 32 years.<sup>87</sup> On 11 November 2005, the Supreme Court issued notices to the state government of Assam questioning the illegal detention of Lalung.<sup>88</sup>

In June 2005, it was reported that a fact-finding delegation sent under the direction of the Gauhati High Court to examine the state of affairs of Kokrajhar district jail in Assam reportedly found, among others, that the jail wards were utterly filthy, the inmates were being served poor quality food, forced to drink water directly from the tube-wells, and deprived of speedy justice. The latrines, urinals and the septic tanks released horrible stench. Mosquitoes created havoc for the inmates, yet they were not provided with mosquito nets. There was lack of even primary medical facilities. A woman detainee had been suffering for a long time with multiple diseases but she was not getting proper attention. A male inmate with grenade splinters injury had not been taken to Guwahati Medical College Hospital despite the doctors referring his case. There were 189 prisoners, including 185 males and 4 females in the Kokrajhar district jail.<sup>89</sup>

Assam State Human Rights Commission criticized the denial of proper treatment to two detained ULFA leaders, Mithinga Daimari and Ramu Mech. On 3 September 2005, Assam government decided to shift Ramu Mech, who was suffering from acute eye ailment to all India Institute of Medical Sciences in New Delhi.<sup>90</sup>

On 30 August 2005, Robin Handique, an advisor of the ULFA, died while being detained in Tezpur jail. Handique, who was suffering from kidney ailments and diabetes, was brought to the Guwahati Medical College Hospital for treatment two weeks earlier but was taken back to Tezpur Jail immediately after his condition showed signs of improvement.<sup>91</sup> In September 2005, Assam Human Rights Commission ordered a magisterial enquiry into the death of Robin Handique.<sup>92</sup>

## **9. Status of the Internally Displaced Persons**

Assam had large number of Internally Displaced Persons (IDPs) including 33,362 persons in Kokrajhar district and 74,123 persons in Gosaigaon district.<sup>93</sup> In addition, about 44,071 Karbi and Dimasa tribals were displaced during the Karbi-Dimasa ethnic conflict which began in September 2005 in the Karbi Anglong and North Cachar Hills districts.

On 1 February 2005, General Secretary of the Jaraintola Reserve Khasi Punjee, Mr Labanmon Pothmi stated that the Assam Government's eviction drive had forced 881 Khasi families to flee the Borghat Forest Reserve areas in South Cachar Hills to seek alternative shelter in Meghalaya. These families, despite having lived there for decades,

did not possess any official document or land patta to prove the ownership of their land holdings.<sup>94</sup>

The Assam government also failed to rehabilitate those displaced in Bodoland areas. According to All Assam Minority Students' Union (AAMSU) president Nazir Uddin Ahmed, about 450 people had died due to lack of proper food and healthcare facilities in the camps.<sup>95</sup> The Assam Government released Rs 3.52 crores vide government's letter No BRR 17/200/05 dated 25 April 2005 for rehabilitation of the Muslim refugees living in various relief camps in Bongaigaon district since 1993. According to Deputy Commissioner of Bongaigaon district, Mukesh Sahu, out of 1,760 displaced families in Bongaigaon district, 209 families of Tapattary area were given settlement by providing one house each under the Indira Awas Yajona in government land. Moreover, Rs 10,000 were paid to each of the 1,551 families to return to their respective areas. In reality about 1,006 families had not left the camps by October 2005.<sup>96</sup>

The IDP camp conditions were deplorable across Assam. During its field mission in November 2005, Asian Centre for Human Rights found camp conditions to be extremely deplorable in Karbi Anglong district. The camps were extremely overcrowded, and most inmates had to sleep in the open. Apart from rice, dal and chirra, the government had not provided adequate clothes, cash doles to buy vegetables or firewood. In Karbi Anglong district, there were 32,871 inmates as of 30 October 2005 but the State government had provided only 8,504 plates. Therefore, four IDPs had to share a plate. The government had failed to take preventive measures against the spread of malaria. There were about 200 pregnant women in the relief camps without any medical facilities and babies were delivered inside the camps. Out of the 44,071 inmates, 17,971 or overwhelming 40.78% were listed as minors. A large number of them were babies and infants. Yet, no baby food was supplied. The state government had provided only 6,964 blankets for 44,016 internally displaced persons. In addition, out of 53 camps in Karbi Anglong, 32 were schools thereby affecting the right to education across the district.



# Bihar

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## 1. Overview

Bihar had been infamous for being the most lawless state in India. There was little improvement of the security situation after Janata Dal United and Bharatiya Janata Party coalition took over power in capital Patna.

The vulnerable groups i.e. the Dalits, the lower caste Hindus continued to be deprived of their rights. The Dalit women remained extremely vulnerable to the violence perpetrated by the upper caste Hindus. Extreme poverty and atrocities against the Dalits had been spreading the Maoists conflict in the State. On 5 January 2005, the Munger Superintendent of Police, K.C. Surendrababu, and six other police personnel were killed in a Maoist-triggered landmine blast at Lakshmipur village in Jammui district while returning from a joint operation against the Maoists.<sup>1</sup>

The violence and killings by the criminals and the armed opposition groups like Ranvir Sena, Peoples War (PW) and Maoists Communist Centre (MCC) in Bihar could be considered at the same level as the violence caused by the armed opposition groups elsewhere in India. Yet, the Central government and Bihar government continued to maintain double standards. While the Centre had declared the MCC and PW as “terrorist organisations” under section 18 of the Prevention of Terrorist Act, 2002 and under the Unlawful Activities (Prevention) Act 2004, the Ranvir Sena, private army of the landlords, which was allegedly involved in 33 massacre cases claiming over 280 lives, was never banned.<sup>2</sup>

Prison conditions remained deplorable. As of April 2005, Bihar had over 38,000 prisoners against the capacity of 21,750 prisoners. Overcrowding caused food and lodging problems.<sup>3</sup> The conditions of about 55 prisoners lodged in jails at Bhagalpur, Gaya and Muzaffarpur who had been awarded death sentence but not executed, remained most inhuman.<sup>4</sup>

Children continued to be victims of atrocities by the security forces. On 3 November 2005, a police officer, Kishore Yadav of Meskaur police station shot dead a 16-year-old boy Pawan Kumar during a raid at Bijubigha village in Nawada district.<sup>5</sup>

## 2. Human rights violations by the security forces

The security forces, mainly the Bihar Police, were responsible for gross violations of human rights including arbitrary deprivation of the right to life.

The National Human Rights Commission of India registered 153 cases of custodial deaths – 3 deaths in police custody and 150 deaths in judicial custody – during 2004-2005.<sup>6</sup>

Bihar Police continued to resort to indiscriminate use of fire-arms. On 16 August 2005, three persons identified as Sudhir, Shailesh, and Rajneesh were killed and several others injured in police firing allegedly without warning at a mob in Maharajganj in Siwan district. They were protesting the tragic death of a schoolboy who was crushed by a private bus early in the morning of the same day.<sup>7</sup>

On 26 October 2005, a Border Security Force (BSF) personnel on election duty shot dead 25-year-old Santosh Singh, son of Surendra Singh near Pakauli High School at Pakoli village on the Hajipur-Biddupur road under Raghapur constituency in Vaishali district. Santosh Singh was reportedly shot twice in the head while walking home after a bath in the Ganges. The BSF jawan who fired the shots said the youth did not heed a call to stop and he perceived him to be a “criminal” or a “booth grabber” going to loot the polling booth which was situated just 100 metres away from the school building, which had been converted into a BSF camp for the elections. Bihar Chief Secretary G S Kang described the killing as a “freak incident” and ordered a magisterial inquiry.<sup>8</sup>

Bihar Police also resorted to arbitrary arrest and detention. On 30 June 2005, two doctors – Dr Qamru Zamman and Dr Ajay were arrested in West Champaran and Muzaffarpur districts respectively for treating alleged Nepali Maoists in their clinics. The doctors were charged with sedition.<sup>9</sup>

Torture was rampant. In 2004-2005, the NHRC received 954 complaints of police excesses.<sup>10</sup> On 6 December 2005, Ranjit Kumar was brutally tortured in full public view by Ravindra Ram, the officer-in-charge of Nimchak Bathani police station in Gaya district for eloping with his maternal aunt, Ms Rekha. The officer-in-charge allegedly dragged Ranjit Kumar and Rekha out of the police station and directed other policemen to hang Ranjit Kumar from the branch of a tree while Rekha was made to pull the rope. Though Rekha was released later, Ranjit Kumar was charged with kidnapping and sent to judicial custody in Gaya jail.<sup>11</sup>

There was virtual impunity for the excesses. On the night of 20 March 2005, Special Task Force (STF) personnel reportedly molested and thrashed sex workers and their family members in Sasaram under Rohtas district. An on-the-spot inquiry conducted by the Deputy Superintendent of Police (DSP) of Sasaram, Mr Rajendra Prasad reportedly found the charges levelled by the sex workers against the STF jawans to be true. Mr Prasad reported that at the time of the incident, the jawans were in an inebriated condition and that they carried their weapons. But an FIR lodged against the security personnel on 22

March 2005 did not name any STF personnel even though the DSP's report disclosed the names of about half a dozen STF personnel.<sup>12</sup>

### **3. Violations of the international humanitarian laws by the AOGs**

The Maoists were active in many parts of Bihar and were responsible for violations of international humanitarian laws.

In February 2005, the Maoists issued death sentence to Rajindra Sao of Parariya village in Gaya district for rescuing and then taking Bharatiya Janata Party leader Venkaiah Naidu to the local police station after his helicopter ran out of fuel and made an emergency landing in Paraiya. The Maoists had later attacked the helicopter. Rajindra Sao went into hiding but his brother Surindra Sao was kidnapped by the Maoists to force him to surrender.<sup>13</sup>

On 5 April 2005, suspected Maoists shot dead Government Railway Protection (GRP) official Nawal Kishore Mishra and seriously injured another GRP guard on Patna-Jha Jha DMU train near Jamui station.<sup>14</sup>

The Naxalites were also responsible for destruction of economic infrastructure. At around 11 pm on 26 September 2005, around 20 Maoists reportedly surrounded Chakand railway station on Patna-Gaya section of the East Central Railway and blew it up by detonating dynamites.<sup>15</sup>

The Maoists carried out extortion. On 8 March 2005, suspected activists of the CPI (Maoist) kidnapped 10 villagers – 2 from Sadokhar village under Chenari police station, and 8 from a Shivratri Mela near Gupta Dham in Rohtas district after they reportedly refused to pay “tax”. A boy, among those kidnapped, was later set free.<sup>16</sup>

### **4. Violence against women**

The National Crime Records Bureau (NCRB) of the Government of India recorded 6,019 cases of violence against women in Bihar during 2005 which included, among others, 1,147 cases of rape, 451 cases of molestation, 929 cases of abduction, 1,014 dowry deaths and 1,574 cases of cruelty by husbands and relatives.<sup>17</sup>

Women in Bihar continued to suffer from discrimination, violence and cruel cultural practices under which the victims were held guilty.

In September 2005, the panchayat of Muslim-dominated Padhyar village in Banka district allegedly forced a rape victim to publicly lick the spit of her husband Mohammad Farooq,

who had instantly pronounced talaq (divorce according to Sharia) when she told him that she had been raped by one Mohammad Ajaz on 28 August 2005. The rape victim was also thrown out of the house by her husband. On the other hand, the rapist was let off by payment of a paltry fine of Rs 15,000 after he refused to marry the victim. The victim filed a case in the court of Chief Judicial Magistrate and the court directed the Dhoraiya police station to lodge an FIR against Ajaz and his father.<sup>18</sup>

Illiteracy and superstitions are widespread in rural Bihar where women were killed in the name of “witch-hunting”.

On the night of 17 April 2005, a mentally retarded woman identified as Savitri Devi was beaten to death by the villagers in Gulabbag village under Sadar police station of Purnea district declaring her of being a witch. The incident took place after the 3-year-old daughter of one Heera Oraon had died in the village after blood oozed out of her mouth and nose. Later the parents of the girl consulted a local “ojha” (exorcist) who accused Savitri Devi of causing the untimely death of their child with the power of her witchcraft. The infuriated villagers demanded that Savitri use her powers to bring the dead girl back to life. She was lynched to death when she could not do so.<sup>19</sup>

In late October 2005, a 35-year-old woman was beaten up and paraded naked in front of her husband for allegedly practicing “witchcraft” by three persons at Phulwarisharif area of Patna district. The assailants first tied her husband to a chair and forced him to watch his wife being stripped naked and tortured. They sprinkled water on the woman and beat her up to “free her of any kind of evil spirit”. The incident occurred after the granddaughter of one Meera, a government high school teacher, got ill as soon as the victim’s family shifted to their new house in the locality where Meera resided. Meera accused the victim of performing black magic on her grand-daughter.<sup>20</sup>

On 28 November 2005, three members of a family identified as Karuna Devi, her husband Marari Singh and son Kaushal Prasad were shot dead by their relatives, who suspected Karuna Devi of performing witchcraft at Pyarepur village under Giriak police station in Nalanda district.<sup>21</sup>

## **5. Violations of the rights of the Dalits**

The National Crime Records Bureau recorded a total of 1,824 cases of violence against the Dalits which amounted to 7% of all the cases of violence against the Dalits in India during 2005. As many as 5,213 cases were pending trial in courts and 2,428 cases were pending investigation by the police in Bihar by the end of 2005. The conviction rate for the crimes against the Dalits in the state was 30.6% during 2005.<sup>22</sup> The Dalits faced all

forms of discrimination from being targeted as criminals by the law enforcement personnel to denial of entry to places of worship, schools and denial of participation in the elections by the upper caste Hindus. Any protest by the Dalits might warrant branding them as “Maoists”.

### **a. Atrocities**

The “Musahars” (who are considered the lowest category among the Dalits) had been landless and their forefathers were branded as criminals. The present generation of Musahars continued to be regarded as criminals and targeted by the police. The social stigma was so great that it was reported that whenever a dacoity took place in the neighboring areas, the police raided the Musahars-inhabited Telra village in Sasaram district and arbitrarily arrested the Musahars! As a result, there was hardly any person in Telra village who had not been jailed at least once.<sup>23</sup>

Arbitrary killings of the Dalits were common. On the night of 13 January 2005, a Dalit youth was shot dead and another seriously injured when twelve gang members of Sanjay Yadav attacked Bhorsaha village in Saharsa district. The gang also set on fire 10 Dalit huts.<sup>24</sup>

The Dalits cannot even demand their wages from the upper castes. On 19 July 2005, a Dalit autorickshaw driver, Sanjay Paswan was beaten up and blinded by five passengers when he demanded Rs 50 as his fare in Maner near Patna. The local police allegedly refused to lodge a complaint fearing retribution by the five men who were said to be powerful and enjoying political patronage. Initially, Paswan was allegedly refused admission in two government-run hospitals in Patna.<sup>25</sup>

In many parts of Bihar, the Dalits were denied access to education. In June 2005, a Dalit youth identified as Premhansh Sah of Koudiya village in East Champaran district was beaten up by the upper caste men for joining a college against their dictat to discontinue his education. The upper caste men also branded him as a Maoist and handed over to the police. But the police found him innocent and released him. Many Dalit youths were reportedly forced to leave the Koudiya village after they had enrolled in colleges because of the terror created by the upper caste people.<sup>26</sup>

The Dalits continued to face atrocities for exercising their right to franchise. On the night of 15 October 2005, Rashtriya Janata Dal activists allegedly beat up some Dalits and threatened to kill them if they did not vote in favor of RJD candidates in Dahnpura village in Ara district. They also set a house and cattle on fire killing three cows.<sup>27</sup>

Even when Dalit women were elected to public positions, they continued to suffer discrimination. Ms Deomanti Devi, a Dalit woman, who was elected as the chairperson of

the Bodhgaya Nagar Panchayat in August 2002 continued to be “deprived of allowances and other entitlements privy to a civic body head”. Since becoming chairperson in August 2002, she reportedly knocked on many doors including that of the Urban Development Department in Patna for her allowances but she was allegedly not paid even the travel allowances.<sup>28</sup>

### **b. Violence against Dalit women**

The Dalit women remained extremely vulnerable to abuses by the upper caste men. Any attempt to access justice often warranted brutal retaliation.

On the night of 10 April 2005, a Dalit woman, wife of a Dalit policeman from Begusarai, was allegedly abducted and gang raped by four alleged upper caste men in a local hotel in Munger. According to the police, the rapists were powerful men of the area, including a petrol pump owner. The victim later filed a complaint with the police at the Jamalpur railway station.<sup>29</sup>

On 28 April 2005, a Dalit woman Nirmala Devi was allegedly beaten up, tansured and paraded naked after blackening her face by the upper caste men in Paswan Tola in village Dhameli under Mirganj police station in Purnia district for refusing to work as a domestic maid. An FIR (no. 63/2005) was lodged with the Mirganj police station on 2 May 2005. In the FIR she identified two accused — the village headmen of Dhameli, Amit Chowdhary and his associate Rajiv Chowdhary. The police also registered a case under Sections 341, 342, 323, 354, 427 and 380 of the Indian Penal Code and Sections 34 and 3 of the Harijan Act.<sup>30</sup>

On 2 August 2005, a young, pregnant Dalit woman identified as Manju Devi, wife of Binod Sada, was allegedly hit with rifle butt by former RJD MLA Sunil Kumar Pushpam because she failed to move out of the road quickly when his jeep started honking at her on the muddy road at Beethan village in Samastipur. Angry at her slight delay, the MLA got off his vehicle and began to hit Manju Devi with his rifle butt. Manju Devi was badly injured and had a miscarriage on the spot. She was left bleeding profusely. Later, she was admitted to a nearby hospital in Begusarai district, where she died on 6 August 2005. According to hospital sources, Manju died because of internal haemorrhage and rupture of veins.<sup>31</sup>

The Dalits also continued to be denied access to public places. On 24 June 2005, Dalits filed a case with the police after their women were allegedly denied entry into the temple and beaten up by upper caste people at the Ganni Bhojpur village in Muzaffarpur district.<sup>32</sup>

On 5 May 2005, the upper caste villagers rejected the inaugural meal cooked by two Dalit women, Shruti and Kamla, for the school children in a primary school under Central government sponsored mid-day meal scheme at Patheri village under Atari police station in Gaya. A few upper caste villagers reportedly entered the school at meal time and abused the Dalit cooks for their “audacity” to cook for the children from higher castes. They threatened every one who dared to touch the *kheer*, a kind of sweet dish, prepared by the Dalit women.<sup>33</sup>

## 6. Violations of the rights of the child

The National Crime Records Bureau recorded 115 cases of crimes against children, which included, among others, 25 murder cases, 8 rape cases, 72 kidnapping cases during 2005.<sup>34</sup>

The children continued to be victims of atrocity by the security forces. On 19 January 2005, a teenaged boy Ravi of Manpur locality in Gaya was critically injured when a CRPF jawan fired at a truck driver following an altercation. The bullet missed the target and hit Ravi in the head.<sup>35</sup>

In another incident, on 3 November 2005, a police officer, Kishore Yadav of Meskaur police station shot dead a 16-year-old boy identified as Pawan Kumar during a raid at Bijubigha village in Nawada district. The police team reportedly got information about the presence of some criminals in the village. When the villagers allegedly resisted the police team from carrying out its duty, Mr Yadav fired a few shots from his revolver, killing Pawan Kumar and critically injuring another. The Nawada district authorities suspended Kishore Yadav and ordered a magisterial inquiry in the incident.<sup>36</sup>

14-year-old Salim Ansari alias Chand Ansari, who sold tea in the train, was pushed out of the running Delhi-bound Saryu-Yamuna Express train on 11 October 2005 allegedly by some policemen near Hajipur after they snatched away his day’s earnings. The boy lost one of his legs in the incident and died on 15 October 2005 while undergoing treatment in Hajipur Sadar Hospital.<sup>37</sup> Three railway policemen, including the officer-in-charge of the Hajipur Railway Police Station, K. K. Verma, were suspended for their alleged involvement in the tragic incident following a report submitted by the Deputy Superintendent of Police who investigated into the case.<sup>38</sup>

Bihar also continued to be a transit point for trafficking of girls from Nepal. On 28 April 2005, the railway police rescued five Nepalese girls and arrested the pimp Twango Tamang, a citizen of Nepal, from the Raxaul-Delhi Satyagraha Express at Narkatiaganj railway station. The pimp reportedly confessed his involvement in trafficking of girls for international prostitution markets, including India and Kuwait.<sup>39</sup>



# Chhattisgarh

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## 1. Overview

Ruled by the Bharatiya Janata Party, Chhattisgarh came to the centre-stage of the Naxalite conflict in India following the launching of the *Salwa Judum*, an anti-Naxalite campaign supported by the State government, in June 2005. The Naxalites, also known as Maoists, who were reportedly active in eight out of 16 districts of the State<sup>1</sup> increased their retaliation against the supporters of the *Salwa Judum* campaign led by the Leader of the Opposition in the State Legislative Assembly, Mahendra Karma. On 25 August 2005, the State government announced that it had set up a Committee headed by State Chief Secretary A.K. Vijayvargiya to provide direct support such as logistics, arms and funding to the *Salwa Judum*.<sup>2</sup> On 5 September 2005, the Chhattisgarh government banned Naxal organisations in the State following the killing of 24 security personnel in Bijapur Police district on 3 September 2005.<sup>3</sup>

There were reports of serious human rights violations by all the parties in the Naxalite conflict - the security forces, the Maoists and the *Salwa Judum* cadres. While the government denied any deaths in police custody<sup>4</sup>, the Maoists accused the police and paramilitary personnel of killing innocent and unarmed civilians after taking them into custody. The Maoists alleged that the security forces killed 10 civilians after arresting them on 1 September 2005 at Haryal village near Mirtul Police Station in West Bastar.<sup>5</sup>

Prison conditions remained overcrowded with 8,873 prisoners against the sanctioned capacity of 4,563. Of them, 4,337 were under-trials. There was 94.46% overcrowding.<sup>6</sup> Asian Centre for Human Rights documented at least five deaths in judicial custody. The State government ordered magisterial inquiries into four of these deaths. The NHRC had reported 26 deaths in judicial custody during 2004-2005.<sup>7</sup>

The State government continued to directly involve the tribals in the conflict under the *Salwa Judum* to fight the Maoists. The tribals became both the perpetrators and the victims of the conflict.

They also faced prosecution by the Forest Department of the State for accessing minor forest produce.

While child marriage continued to be reported regularly, killings of women in the name of witches remained the major crime against women in the state.

## **2. Human rights violations by the security forces and Salwa Judum activists**

The NHRC recorded 5 deaths in police custody and 1 encounter deaths during 2004-2005.<sup>8</sup> The National Crime Records Bureau (NCRB) of the Government of India recorded killing of 4 civilians in police firing in the state during 2005. However, the NCRB failed to record any death in police custody during 2005.<sup>9</sup>

According to the 2005 Annual Report of NCRB, a total of 1006 complaints were received against the police personnel in Chhattisgarh during 2005. Of them, departmental inquiry was ordered into 284 cases, magisterial inquiry into 4 cases and judicial inquiry into 18 cases. 54 police personnel were sent up for trial during the year. Of the 36 police personnel whose case trials were completed, 30 were convicted and 6 acquitted.<sup>10</sup> The NCRB does not report human rights violations committed by the army and the paramilitary forces.

In March 2005, Additional Sessions Judge Deepak Tiwari sentenced Ambarish Sharma, the then Town Inspector to ten years rigorous imprisonment and imposed a fine of Rs 65,000, Sub-Inspector Rajendra Pandey to five years rigorous imprisonment and a fine of Rs 20,000 and seven other accused to two years rigorous imprisonment and a fine of Rs 5000 each in the custodial death of Baldau Kaushik who was killed on 22 May 2002 in Kawardha Police Station.<sup>11</sup>

There were allegations of extrajudicial executions of innocent civilians in the name of military action against Maoists. The police claimed that between 29 August 2005 and 3 September 2005, 10 alleged Maoists were reportedly killed by the security forces in the dense forest of Bijapur and Bhairamgarh areas under Bijapur police district during a special operation called “Green Hunt”.<sup>12</sup> But the Maoists alleged that 10 civilians, including a 12-year-old boy, were arrested on 1 September 2005 and killed in custody by the police and paramilitary personnel at Haryal village, two kilometers from Mirtul Police Station in West Bastar. The Maoists further alleged that the bodies of the deceased were not handed over to their family members but were secretly cremated by the security forces in the forest.<sup>13</sup>

The security forces continued to be responsible for arbitrary arrest, detention and torture. Sunita Bai, the mother of Suresh Yadava alleged that on 18 February 2005 some policemen suddenly entered her house at about 8:00 pm and dragged her son Suresh out of the house for interrogation. Suresh was beaten up in the lane in front of their house and his face was thrust in the drain water and hair was pulled. As a result of brutal beating by the police, Suresh fell unconscious. The police had admitted Suresh to Government Hospital where he was under treatment of Dr Shrivastava. But later Suresh allegedly went

missing. When Sunita Bai went to the police station to enquire about her son, the police reportedly told her that her son had been released from police custody because he was found to be innocent.<sup>14</sup>

The anti-Naxalite *Salwa Judum* campaign also resulted in serious human rights violations. A fact-finding team consisting of People's Union for Civil Liberties (PUCL) Chhattisgarh, PUCL Jharkhand, People's Union for Democratic Rights (PUDR), Delhi, Association for Protection of Democratic Rights (APDR), West Bengal and IAPL in November 2005 alleged that villages that refused to participate in the *Salwa Judum* campaign faced repeated attacks by the combined forces of *Salwa Judum*, the police and the paramilitary Naga battalion. There were reports of looting, arson and killings in many instances. In some villages, the raids continued till the entire village was cleared and people had moved to relief camps while in other cases, only old people, women and children were left. The police reportedly did not register First Information Reports relating to the atrocities perpetrated by the *Salwa Judum* activists and the security forces.<sup>15</sup>

On 1 July 2005, hundreds of police, paramilitary forces and *Salwa Judum* activists under the leadership of Inspector General of Police Ansari, Bijapur Superintendent of Police Manhar and Member of Legislative Assembly (MLA) Mahendra Karma allegedly raided Kotrapal village in retaliation to the killing of three *Salwa Judum* activists by the villagers when they had attacked the village on 18 June 2005. Most of the villagers had fled to the forest prior to the attack. The mob allegedly burnt down 8 houses and killed and looted all the chicken, pigs, and cattle of the villagers. Two elderly villagers who were returning to the village were allegedly killed by the Central Reserve Police Force personnel, who also shot at and seriously injured an old woman.<sup>16</sup>

The police, paramilitary personnel and *Salwa Judum* activists allegedly carried out similar attacks at Pondum and Pallayvaya villages on 20 July 2005; at Munder village on 22 July 2005; at Phulgatta village on 25 July 2005; at Karrebodli village on 29 July 2005, at Kotrapal village on 8 August 2005 when three villagers were allegedly killed and four women allegedly raped, at Pottnar village on 26 August 2005 when four Adivasis, including a minor boy, were allegedly shot dead; at Aakva village on 28 August 2005 when a minor boy was killed; at Haryal village situated just two kms from the Mirtul Police Station in West Bastar where 10 villagers were allegedly killed after their arrest on 1 September 2005; and at Paralnar village on 10 October 2005 when a minor boy was allegedly killed.<sup>17</sup> The Maoists also alleged that on 3 October 2005, personnel of the Indian Reserve Battallion (Naga Battallion) and *Salwa Judum* cadres shot dead a Maoist activist identified as Komar Mankeli, who was the chairman of the Janta Sarkar of Lova village, and that a minor boy named Raju who was a witness to this murder disappeared since then.<sup>18</sup>

However, the allegations of the Maoists could not be verified.

### 3. Violations of international humanitarian laws by the AOGs

The Maoists were responsible for gross violations of international humanitarian laws in Chhattisgarh. The Naxalite conflict intensified after the launching of anti-Naxalite *Salwa Judum* campaign in June 2005. Civilians became specific targets for participating or supporting the government sponsored *Salwa Judum*. The Naxalites demonstrated all their brutality while killing innocent people, including by axing to death or slitting their throats. On 29 September 2005, suspected Naxalites killed a civilian named Mahadev Manjhi by slitting his throat after dragging him out of his house at Pandiyarapara village in Bijapur.<sup>19</sup>

On 16 July 2005, Maoists raided six villages of Kutru, Ambeli, Pharsgaon, Uskapatnam, Badekarkeli and Chhotekarkeli in Dantewada district, and killed seven villagers (two Maoists were also killed in retaliation) and injured at least 12 others.<sup>20</sup> Again on the night of 27 July 2005, Maoists attacked three villages of Karemarka, Talnara and Munder in Bastar and killed seven villagers for allegedly participating in a public rally against the Maoists on 24 July 2005.<sup>21</sup>

Other victims of Maoists' violence during 2005 included Vijay Giri, member of District Panchayat, who was killed after abduction from his residence in Nayapara in Bijapur on 7 July 2005;<sup>22</sup> Akhmu Podami of Junwani village in Bhairamgarh region who was axed to death on 6 August 2005;<sup>23</sup> Suku Karma and Sukhdev Bhogami, relatives of Mahendra Karma, the Leader of the Opposition in the Chattisgarh Legislative Assembly, who were killed at Pharaspal village in Dantewada district on 9 August 2005;<sup>24</sup> Pandru Dongi of Jangla village under Bijapur police district who was killed after abduction on the night of 15 August 2005;<sup>25</sup> Jumadi Laxmaiyya, a resident of Cherapal village, who was shot death on 28 October 2005;<sup>26</sup> Pujari Budhram who was publicly beaten and stabbed to death at Gogla village under Gangalur police station in Bijapur police district on 4 November 2005;<sup>27</sup> Hapka Ayatu who was killed after abduction in Halur under Bhairamgarh police station on 5 November 2005;<sup>28</sup> two villagers identified as Samlu of village Padera and Hemla Boudhram of Gangalur under Bijapur police district who were brutally stabbed to death on 11 November 2005;<sup>29</sup> and four civilians - Sujan Singh, Fakira, Ankalu and Sriram of Otekasa village in Kanker district who were killed on the late night of 23 November 2005.<sup>30</sup>

In addition, the Maoists killed at least three political leaders. They included Kamesh Manikpuri of the Bharatiya Janata Party (BJP) who was killed on 5 May 2005 near Pinnabheji jungle under Dornapal police station area in Dantewada district;<sup>31</sup> Ravikant Mahoba of the BJP who was killed in Konta in Dantewada district on 27 April 2005;<sup>32</sup> and

Hungaram Markam of the Congress party who was killed at Chirmur village in Dantewada district on 19 April 2005.<sup>33</sup>

Asian Centre for Human Rights also documented killing of at least three “sarpanches” (elected village heads) by the Maoists for their alleged support for *Salwa Judum* programme. They included Lekam Satish, sarpanch of Tumla village in Jashpur district who was dragged out of his house and killed on the night of 21 July 2005;<sup>34</sup> Rajman Uike, sarpanch of Baghdadongari village, who was “convicted to death” in Maoists’ *Jana Adalat* on the charges of being a police informer on 12 August 2005;<sup>35</sup> and Hafta Mangu, a former sarpanch of village Ghumra in Dantewada district who was beaten to death on the night of 22 October 2005.<sup>36</sup>

The Maoists also continued to deliver kangaroo justice in “Peoples Court”, *Jana Adalat*. On the night of 22 May 2005, the Maoists reportedly killed Ayodhya Prasad Jaiswal, manager of a cooperative at Khod village under Ramkola police station in Sarguja district after finding him guilty in the *Jana Adalat*.<sup>37</sup>

#### **4. Violence against women and children**

The National Crime Records Bureau (NCRB) recorded 3,599 cases of violence against women in the state, including 990 cases of rape, 1,450 cases of molestation, 184 cases of abduction, 100 dowry deaths, 732 cases of cruelty by husbands and relatives during 2005. The NCRB also recorded 997 cases of crimes against children in the state including 28 murder cases, 382 rape cases, 110 abduction cases during 2005.<sup>38</sup>

Women continued to be victims of atrocities and societal cruelties. The National Commission for Women confirmed that witch-hunting was one of the many forms of violence against women in Chhattisgarh. Often women were accused of practicing witchcraft by their relatives who wanted to seize their properties.<sup>39</sup>

On 19 July 2005, the government of Chhattisgarh adopted the Witchcraft Atrocities (Prevention) Act, 2005.<sup>40</sup> As per the law, anyone who identifies a woman as a “Tonhi” (witch) or inflicts physical or mental harassment or damage to any such woman shall be punished with rigorous imprisonment upto 5 years and be fined. Offences under this Act are cognisable and non-bailable.<sup>41</sup> Earlier, on 10 July 2005, a 54-year-old widow identified as Phoolwati Bai Gaur was paraded naked and killed allegedly at the order of the village panchayat which accused her of being a witch at Parsatolo village in Rajnandgaon district.<sup>42</sup>

Rampant child marriage continued to violate the rights of the child. One particular mass child marriage ceremony of as many as 137 couples was reportedly solemnised in the

presence of the Ram Vihar Netam, Minister of Tribal Affairs of the State government in April 2005.<sup>43</sup>

On 6 January 2005, an arrest warrant was reportedly issued against Tapan Kumar Panigrahi, a teacher of Nalpawand Primary School in Bastar for allegedly forcing 12 students of the school to eat human excreta three weeks earlier. According to the complaint filed with the police, Panigrahi caught the students, between 4 and 10 years of age, chewing tobacco. He allegedly started scolding them, beat them and then asked one of the students to bring human excreta from the adjoining field. Panigrahi then forced all 12 to eat the excreta.<sup>44</sup>

## **5. Violations of the rights of the indigenous peoples**

The indigenous/tribal peoples continued to face atrocities from the authorities and the upper caste Hindus. Thousands of tribals have been charged for collecting minor forest produce. On 8 November 2005, the Forest Department of Chhattisgarh reportedly decided to close 2,57,226 forest cases registered against 1,62,692 tribals between 1953 to 30 June 2004 under Sections 26, 33, 41 of the Indian Forest Act 1927 pertaining primarily to illegal felling of trees for domestic use and ferrying of wood by bullock carts.<sup>45</sup>

In many cases, the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act of 1989 was seldom invoked to prosecute the accused. On 28 April 2005, Raigarh-based Rameshwar Steel's factory manager Dinesh Gupta and security guard Remaul Kujur allegedly forced two Adivasis identified as Shyam Lal and Shadanand to sit on burning iron plates on the charges of stealing raw material from the factory in Chhattisgarh. The tribal victims reported the matter to Gharghora police station but their complaint was allegedly not entertained.<sup>46</sup>

By the end of 2005, 1,149 cases of atrocities against the tribals were pending trial in court and 84 cases were pending investigation by the police in Chhattisgarh. The conviction rate for the crimes against the tribals in the state during 2005 was merely 39.6%<sup>47</sup>

## **6. Violations of the prisoners' rights**

The NHRC recorded 26 deaths in judicial custody during 2004-2005.<sup>48</sup>

Chhattisgarh had four Central Jails, seven District Jails and 17 Sub Jails. According to the Government of Chattishgarh, "the lock-up in the jails of the state is double the capacity".<sup>49</sup> According to NHRC, as of 31 December 2004, Chhattisgarh had 8,873 prisoners against the total sanctioned capacity of only 4,563 resulting in 94.46% overcrowding. Of them,

## Chhattisgarh

4,337 were under-trials, representing 48.8 % of the total prisoners in the state. There were 399 women and 70 children with their mothers in the prisons.<sup>50</sup>

Almost all the jails in the state were overcrowded. According to the latest statistics available on the website of the Jail Department of the Government of Chhattisgarh, the four Central Jails of the state housed a total of 6,436 inmates against the capacity of 2,493. While Central Jail, Raipur housed 2,718 prisoners against the capacity of 1,130, Central Jail, Bilaspur housed 1,657 prisoners against its capacity of 572, Central Jail, Jagdalpur had 1,264 prisoners against the capacity of 548, and Central Jail, Ambikapur housed 797 prisoners against the capacity of 243. Similarly, all the District Jails and Sub Jails were overcrowded. Six District jails<sup>51</sup> housed 1,556 prisoners against the total capacity of 855. 16 Sub Jails in the state housed 1,751 inmates against the total capacity of 815.<sup>52</sup>

Asian Centre for Human Rights documented deaths of at least five prisoners in the state during 2005. Magisterial inquiries were ordered into four of them, including the death of under-trial prisoner Meetram, son of Rajaram Gujar, of central Jail Raipur in May 2005,<sup>53</sup> death of Ashok Gond, an undertrial, of District Jail, Durg on 9 August 2005,<sup>54</sup> death of a convict Ramratan, son of Parasram, of Central Jail Raipur who died on 12 November 2005,<sup>55</sup> and death of under-trial prisoner P Diami Danka alias Somdu of Central Jail Raipur who died on 27 December 2005.<sup>56</sup>

In addition, Ghasiram Pinjwar, a convict, died in Central Jail Raipur on 21 September 2005.<sup>57</sup>



# Delhi

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## 1. Overview

Ruled by the Indian National Congress, National Capital Territory of Delhi continued to witness serious human rights violations. According to the 2005 Annual Report of the National Crime Records Bureau (NCRB) of the Government of India, Delhi had the third highest number of complaints cases against its police personnel with 6665 cases having been registered out of the all India total of 61,560 cases registered against the police personnel during 2005. That is, 12.3 cases were registered against per 100 police personnel.<sup>1</sup>

In most cases of arbitrary deprivation of the right to life or custodial killings occurred in 2005, the police managed to bend the law to shield the guilty colleagues. The accused police personnel were found to have either coerced the prosecution witnesses or taken the plea that the victims had committed suicide or died due to electrocution.

Arbitrary arrest, illegal detention and torture were rampant. Police often arrested and tortured innocent people to obtain bribes or to extort money. In a glaring example of police highhandedness, one Rajpal Singh was picked up from his Mehrauli residence on the night of 19 November 2005 by Sub-Inspector Praveen Vats and some of his colleagues and taken to the Bhati Mines post of Mehrauli in South Delhi. The victim had earlier complained against Sub-Inspector Praveen Vats for demanding Rs. 20,000. During the illegal detention, the victim was allegedly forced to consume liquor, got medically examined to prove that he was drunk, and beaten up. The victim had to be admitted to All-India Institute of Medical Sciences with bruises on his body and swollen legs.<sup>2</sup> In September 2005, the National Human Rights Commission ordered an investigation by its investigating team.<sup>3</sup>

Delhi had the highest crime rates against women and children in the country during 2005.<sup>4</sup> Delhi police personnel were themselves responsible for half-a-dozen cases of rape and molestation. At least four women were allegedly raped and two were molested by Delhi police personnel in 2005.

Juveniles were subjected to torture by the police. The condition of inmates of juvenile homes, street children, working children as well as school children remained serious. On 11 April 2005, a 7-year-old boy, Abhishek Dikshit of Municipal Corporation of Delhi Primary School, T block Mangolpuri in North-West Delhi was allegedly beaten to death

by one of his teachers. Girl children were victims of sexual assault, including by policemen.

The armed opposition groups targeted innocent civilians and perpetrated a series of massacres in the National Capital Territory of Delhi. On 29 October 2005, 57 persons were killed and 153 injured in three bomb blasts planted at a crowded Delhi Transport Corporation bus and busy marketplaces at Paharganj and Sarojini Nagar just two days before the Hindu festival of Diwali.<sup>5</sup>

Prison conditions remained deplorable with problems of overcrowding and cases of food poisoning, violence among inmates and death under “mysterious circumstances”. Corruption amongst the Tihar jail staffs was rampant.

## **2. Human rights violations by the security forces**

### **a. Deprivation of the right to life**

The Delhi Police personnel were responsible for arbitrary arrest, detention, torture and arbitrary deprivation of the right to life. The NHRC reported 5 deaths in police custody, 27 deaths in judicial custody, 1 death in the custody of the defence/ para military personnel and 9 encounter killings in Delhi during 2004-2005.<sup>6</sup> According to the 2005 Annual Report of the NCRB, Delhi had the third highest number of complaints cases against its police personnel. Surprisingly the NCRB failed to record any death in police custody in Delhi during 2005. Asian Centre for Human Rights documented death of at least three persons in police custody during 2005.

On 16 March 2005, Kishan Singh died in the custody of the police at Shahdara police station in East Delhi. Post-mortem examination revealed that the “cause of death is shock due to hemorrhage occurring as a cumulative effect of injuries on the body caused by repeated assaults by hard objects upon the deceased”. In June 2005, a city court charged Sub-Inspector Ram Kumar, Assistant Sub-Inspector Ramesh Chand, Constable Lumaan Ali and their accomplices, Shakti Tyagi and Kanwar Pal Singh under sections relating to common intention, wrongful confinement and murder.<sup>7</sup> However, the three sons of the deceased, who were the key prosecution witnesses turned hostile<sup>8</sup> and all the five accused were acquitted.<sup>9</sup>

On the night of 15 March 2005, Parmeshwar Dayal died at Shivanagar police post in North-West Delhi. The deceased was kept at the police post following his rescue by the police from Pune after he was kidnapped allegedly by his business rivals.<sup>10</sup> But the next morning, the police claimed that the deceased electrocuted himself inside the bathroom.<sup>11</sup>

But the million dollar question was why should the kidnapped victim, who was to be reunited with his family in the next morning, commit suicide? The family members of the deceased accused the police of killing Parmeshwar Dayal in connivance with his business rivals.<sup>12</sup>

In yet another case, Sunil, son of Rajender Kumar of Barola village in Delhi, died under mysterious circumstances in the lock-up of Adarsh Nagar police station in North-West Delhi on 13 September 2005. The police claimed that the deceased hanged himself with his trousers. But the deceased's mother Santosh stated that two policemen identified as Suraj Mal and Parveen came to her house at about 8.30 p.m on 12 September 2005 saying Sunil had been sent to jail for four months. Earlier, the same policemen allegedly demanded Rs 10,000 for Sunil's release but the family members had no money to pay bribe.<sup>13</sup> On 15 September 2005, the Delhi High Court took *suo motu* cognizance of the Sunil's custodial death and issued notice to Delhi Police Commissioner K K Paul in the matter.<sup>14</sup>

The police were also responsible for killings in alleged fake encounters. On 6 February 2005, Rashid alias Motu alias Babloo, a resident of Muzaffarnagar of Uttar Pradesh, was reportedly killed by the police in an alleged encounter at Usmanpur in North-East Delhi. Immediately after the killing, the police claimed that Rashid was involved in 20 cases of murder, robbery and dacoity, but even a fortnight after the 'encounter' the police reportedly did not find a single FIR against him.<sup>15</sup>

## **b. Arbitrary arrest, illegal detention and torture**

There were consistent reports of arbitrary arrest, illegal detention and torture. Police often arrested and tortured innocent people to obtain bribes or to extort money from them. On 17 February 2005, Head Constable Pawan, constables Manoj, Surender, Malkeet and Pankaj of the Mayur Vihar phase-II police station in East Delhi district picked up a tea stall owner identified as Akhtar and detained him at the special staff office in Mayur Vihar phase-II. Akhtar was allegedly beaten up and subjected to electric shocks. He was later freed after allegedly paying bribes to the police personnel.<sup>16</sup>

On 30 August 2005, Raju and Titoo, residents of Palam Colony, were picked up by constables Sumer and Radhey Shyam from Dabri in southwest Delhi after they complained to the police about the ongoing illegal betting operations in the area. Medical tests of the victims conducted at the Deen Dayal Upadhaya Hospital reportedly confirmed torture and burn marks and physical injuries were found on their bodies.<sup>17</sup>

Others who were subjected to arbitrary arrest, illegal detention and torture at the hands of the Delhi police included Rajab Ali alias Raja, son of Mohammed Ejaz Khan, who was

tortured after being picked up by the police from North-East Delhi's Bhajanpura police station on the night of 16 February 2005;<sup>18</sup> Ashish Kumar Aggarwal who was beaten up by a traffic constable identified as Wakil Ahmed for refusing to pay a bribe of Rs 500 on 20 February 2005,<sup>19</sup> Shamsher Singh, an NRI, who was beaten up by Central Industrial Security Force personnel at the Indira Gandhi International airport for not having a sticker to notify the date of journey on his passport on the night of 5 April 2005;<sup>20</sup> and Rajpal Singh who was picked up from his Mehrauli residence and beaten up after forcing him to consume wine by Sub-Inspector Praveen Vats and his colleagues in the Bhati Mines post of Mehrauli in South Delhi on the night of 19 November 2005.<sup>21</sup> In September 2005, NHRC ordered its investigation team to probe the alleged illegal arrest and torture of Rajpal Singh.<sup>22</sup>

Even women in advanced stage of pregnancy could not escape the police brutality. On the night of 23 February 2005, police constable identified as Anil reportedly beat up one Heera's wife who was seven-month pregnant at the roadside dwellings at Sonia Gandhi jhuggi-jhopri (slums) cluster at Rama Krishna Puram in South West Delhi. The victim had a miscarriage as a result of the beating and had to be admitted at All India Institute of Medical Sciences.<sup>23</sup>

In some cases, the courts intervened to deliver justice. On 9 October 2005, a single bench of the Delhi High Court comprising Mr. Justice R.S. Sodhi awarded a compensation of Rs 50,000 to one Akhtar Parvez who was brutally thrashed in the illegal custody of Bara Hindu Rao police station in North Delhi. The bench also ordered recovery of the compensation money from the guilty policemen and registration of an FIR against them.<sup>24</sup>

### **3. Violence against women**

According to National Crime Records Bureau, Delhi had the highest crime rate of 27.6% against women during 2005. The NCRB recorded 351 cases of violence against women in the state, including 658 cases of rape, 762 cases of molestation, 1106 cases of abductions, 114 dowry deaths, 1324 cases of cruelty by husbands and relatives during 2005.<sup>25</sup>

Many Delhi police personnel were themselves responsible for rape and molestation. At least four women were allegedly raped and two were molested by Delhi police personnel in 2005.

The incidents of sexual violence by the police included rape of the wife of a painter in Malkaganj area of North Delhi by constable Kapil Mohan Sharma of Subzi Mandi police station for over 15 consecutive days from 31 December 2004 to 16 January 2005 on the promise of marrying her;<sup>26</sup> rape of a 25-year-old woman of Bhajanpura by a Sub-Inspector

Jai Dev Bhardwaj in the Khajuri Khas area of North-West Delhi on 12 August 2005;<sup>27</sup> rape of a 22-year-old woman by constable Mahipal Singh in Nand Nagri area of North-East Delhi on 27 October 2005<sup>28</sup>; rape of a 35-year-old woman by constable Rajendra of 4th Delhi Armed Police at Nand Nagri area in North-East Delhi on 10 December 2005;<sup>29</sup> molestation of wife of Dharmendar of Raghurib Nagar in North-West Delhi by constable Kamlesh Kumar Meena posted at the Rajouri Garden police station on 5 May 2005;<sup>30</sup> and alleged molestation of an 18-year-old girl in a South Delhi market on 17 May 2005 by three men including two policemen.<sup>31</sup>

Women were also victims of cultural cruelties such as honour killings. In a case of honour killing, a businessman shot dead his 24-year-old daughter identified as Neeru at busy Rohini multiplex in North-West Delhi on 7 October 2005 after she married one Saranjeet Singh against the family's consent. Saranjeet Singh managed to escape with bullet injuries.<sup>32</sup>

#### **4. Violations of the rights of the Dalits and tribal peoples**

Even in the National Capital, Dalits and tribal peoples remained vulnerable to the violations of their rights. On 13 January 2005, the safai karamcharis (employees meant for sanitation) of the D S Kothari Hostel of the Delhi University moved the Scheduled Caste/Scheduled Tribes Commission against the alleged harassment by the warden, Mr S K Awasthi, who they say forcibly locked them in a room and made them sign blank papers. In their complaints, the safai karamcharies also alleged non-payment of dues and harassment.<sup>33</sup> In April 2005, a Delhi Police Inspector R.P Yadav allegedly made derogatory caste references to some Dalits when they tried to enter the Parliament House to pay homage to Dr BR Ambedkar on his birthday. Taking cognizance of the allegations, the Delhi Police ordered a vigilance inquiry into the matter.<sup>34</sup>

On 9 March 2005, tribal activists urged the Delhi government to appoint nodal officers to tackle what they called rising incidence of torture and exploitation of young women belonging to the tribal communities in the national capital.<sup>35</sup> There were an estimated 85,000 to 100,000 tribal women working in Delhi, most of them unmarried and less than 25 years in age. Delhi Police allegedly refuse help when victims belonging to the tribal communities seek their help or seek to register a complaint.<sup>36</sup>

#### **5. Violations of the rights of the child**

According to the National Crime Records Bureau, the crime rate against children was highest in Delhi with 6.5% against the national rate of 1.4% during 2005. The NCRB

recorded 1,026 cases of crime against children, including 34 murder cases, 235 rape cases and 507 abduction cases during 2005.<sup>37</sup>

### **a. Child labour**

In 2005, many children were rescued during raids by the police and labour officials with the help of child rights NGOs. But the state government failed miserably on rehabilitation of the rescued child labourers. For example, on 21 November 2005, Labour Department, Delhi Police and a Mumbai based NGO, Pratham rescued 477 children from Seelampur, Bhajanpura and Gautampuri areas in east Delhi. The rescued children aged between 6-12 years were engaged at zari, embroidery and carpet units.<sup>38</sup> However, the Delhi Government failed to rehabilitate them. Immediately after their rescue, the children were housed at “Raen Basera”, a night shelter for beggars, at August Kranti Bhawan at Bhikaji Cama Palace. The children were later sent to 11 observation homes, which were primarily for juvenile delinquents.<sup>39</sup> On 2 December 2005, pursuant to a PIL filed by an NGO, Social Jurist highlighting the plight of the 477 rescued child labourers, the Delhi High Court issued notice to the Delhi Government to file an affidavit by 8 February 2006 explaining why was it not taking any steps to prosecute those employing child labourers in Delhi.<sup>40</sup>

### **b. Juvenile justice**

The juvenile homes in Delhi continued to suffer from the lack of basic amenities such as food and clothes, neglect and mismanagement by the authorities. Many juveniles ran away from the juvenile homes. In January 2005, as many as 50 inmates ran away from the two juvenile homes situated at Alipur and Kingsway Camp.<sup>41</sup>

Torture and sexual abuse in the juvenile homes were reported to be rampant. But the victims received little care and medical attention from the authorities. On 8 September 2005, *The Times of India* reported that a boy was being sodomised by the older boys for a long time at a juvenile home in Delhi. The victim was taken to a doctor when he started bleeding from the anus but all he was given as medical treatment were paracetamol tablets. Later, following complaint by an NGO activist, the doctor was reportedly suspended.<sup>42</sup>

The inmates of the juvenile homes were also physically assaulted by the officials of the juvenile homes and policemen. On 26 May 2005, a Juvenile Justice Board Principal Magistrate Santosh Snehi Mann issued bailable warrants against a former Station House Officer (SHO) of a North Delhi police station, three guards and some officials of the juvenile observation home in Majnu Ka Teela on charges of “brutally torturing” four boys after some other inmates escaped from the juvenile home on 13 April 2005. The victims

alleged that they had been beaten with iron rods and kicked after being made to lie on the floor by the guards and Timarpur SHO jumped upon their chests.<sup>43</sup>

The street children faced the wrath of the lawless police. On 18 April 2005, two policemen from Najafgarh police station in west Delhi picked up a minor boy while he was eating in a roadside eatery in the name of questioning him about some theft, although nothing was recovered from the boy. The boy was beaten up on his head and back with an iron pipe as a result of which he suffered multiple injuries. On 5 May 2005, Juvenile Justice Board Principal Magistrate Santosh Snehi Mann ordered the SHO of Najafgarh Police Station to produce the photographs of all the policemen posted there in order to help the victim to identify the two accused policemen.<sup>44</sup> The SHO of Najafgarh police station Shri Kailash Chandra allegedly tried to influence the victim through threat and inducements.<sup>45</sup>

The total number of pending juvenile cases stood at 3,050 as of August 2005. But Delhi had only one Juvenile Justice Board at Kingsway Camp, North Delhi at the end of 2005.<sup>46</sup>

Even the condition of this only Juvenile Board was far from satisfactory. There was reportedly just one lock-up in the Complex where the older boys were kept while the younger inmates had to sit almost the whole day inside the locked and ill-ventilated police van meant for their transportation. There was also no provision for either water or toilet and they had to take turns for relieving.<sup>47</sup>

### **c. Torture**

Children suffered torture at the hands of the Delhi Police. Some of the cases documented by the Asian Centre for Human Rights during 2005 demonstrate the intensity of ill-treatments meted out to the children by the police personnel. On 16 October 2005, two boys identified as Sarfaraz (17) and Rizwan (16) were brutally assaulted by the police at a picket in Nand Nagri in North East Delhi for not stopping their motorcycle despite signaling them to stop. The boys had to be hospitalised in serious conditions.<sup>48</sup>

On 22 October 2005, 15-year-old Asadul, a henna artist, was severely thrashed by a constable identified as Jogender at the busy streets of Hanuman Mandir in Connaught Place on the festive day of Karva Chauth. The boy had to be rushed to the hospital.<sup>49</sup>

On 2 December 2005, two constables identified as Ranbir Singh and Chetan Kumar were suspended after they beat up two boys identified as Irfan and Munez near Mother Dairy in Pandav Nagar on the previous night. The boys were reportedly beaten up when they refused to pay bribe to the policemen after they were caught driving a motorcycle without a license.<sup>50</sup>

#### **d. Sexual Abuse**

Several minor girls became victims of sexual assault during 2005. On the night of 13 February 2005, Om Prakash Sharma, acting Principal of Government Middle School at Raghubir Nagar, Ved Prakash Sharma, Vice-Principal of Sarvodaya Bal Vidyalaya in West Patel Nagar and businessmen Jagdish allegedly gang-raped a 16-year-old girl at a guest house at Samaipur Badli in North-West Delhi. The victim had been taking private tuition from Om Prakash Sharma for the Class X Board examinations.<sup>51</sup>

The law enforcement personnel also sexually assaulted minor girls. On 14 October 2005, a police constable identified as Virender allegedly attempted to rape a 13-year-old girl in Dwarka in South-West Delhi. The victim's family alleged that the local police initially refused to register a case against the accused and forced the victim's family to enter into a compromise.<sup>52</sup> On 25 December 2005, another police constable identified as Bijender, posted with General Railway Police at Sarai Rohilla Railway Station, Delhi was arrested for sexually assaulting a 15-year-old girl on the night of 21 December 2005 in Nangloi area in West Delhi. A medical examination of the victim at Bara Hindu Rao Hospital reportedly confirmed rape.<sup>53</sup>

### **6. Violations of the prisoners' rights**

The showpiece of India's prisons, Tihar Jail was overwhelmingly overcrowded and ill-managed. According to the National Human Rights Commission's prison statistics, the jails of Delhi had 12,610 prisoners against the total capacity of 5,050 as of 31 December 2004. Of them, 10,087 prisoners i.e. about 80% were under-trials. The overcrowding was 149.7%<sup>54</sup> In July 2005, the Delhi government approved Rs 168 crore for construction of 6 new jails in East Delhi with a capacity of 3,600 prisoners.<sup>55</sup>

The NHRC reported 27 cases of deaths in judicial custody in Delhi during 2004-2005.<sup>56</sup> Many of them died under "mysterious circumstances" in Tihar jail. They included Chander Mohan, a convict, who died in the first week of April 2005 and medical examination done at Deen Dayal Upadhyay Hospital reportedly found several marks of injuries on the victim's body;<sup>57</sup> Raju, an undertrial, who allegedly committed suicide on 21 April 2005,<sup>58</sup> and Shabbir alias Kalia, an undertrial, who died on 29 April 2005 under mysterious circumstances.<sup>59</sup>

Taking of bribes by the jail officials was rampant in Delhi. Jail staffs often compromised security for bribes. A documentary footage taken by a news channel in an sting operation caught seven officials of the Tihar Jails namely- senior medical officer A K Bachawat, Deputy Superintendents R D Bohed and Ashwini Kumari, Assistant Deputy

Superintendents Vinod Kashyap, Dayaram, Raj Kumar and Warden Digambar taking bribes in exchange for information about prisoners and to allow visitors to send fruits and other items to them. On 4 May 2005, all the seven officials were suspended and charged with corruption.<sup>60</sup> The annual appraisal report of the Tihar Jails reportedly revealed that the jail staff recovered about 57 gm of charas, 5 kg of tobacco, 300 beedis, 14 cigarettes, 89 surgical blades and razors, gold ornaments, a cellphone, charger, SIM card and Indian and foreign currency, among others, during searches conducted at the entry gates and inside the jails in 2004.<sup>61</sup> A large number of prisoners were drug users.<sup>62</sup>

## 7. Application of national security laws

Under the Prevention of Terrorism Act (POTA), Delhi had 23 cases.<sup>63</sup> In February 2005, the Review Committee on POTA headed by Justice Usha Mehra, in the first case of its kind in Delhi, directed that the case against Rajesh Bhai Prajapati, a resident of Mumbai be withdrawn in the absence of any evidence against him. He approached the Review Committee with a complaint expressing grievance about application of POTA in his case. He was arrested on 18 January 2002 from Mumbai on alleged charges of delivering hawala money to certain individuals associated with the Lashkar-e-Tayyeba for terrorist activities in Delhi on the Republic Day. He was produced in Patiala House Courts on 20 January 2005 and charges against him were framed on 30 April 2002. He had undergone 2 years in judicial custody.<sup>64</sup>

In late September 2005, the POTA Court at Patiala House reportedly rejected the Delhi government's plea against the POTA Review committee's decision to release Ibotombi Sapan, a Manipuri student arrested under section 3(4) of the Act by the Delhi police on 15 March 2005. Earlier on 11 May 2005, the POTA Review Committee chaired by Justice Usha Mehra had found no *prima facie* case against Sapan to prove that he was harbouring a terrorist. The Delhi police had arrested Sapan, a graduate of Journalism and Mass Communication from Indira Gandhi National Open University with another person on alleged charge of arranging medical assistance for members of Manipuri terrorist organisation, the People's Liberation Army and its political wing, the Revolutionary People's Front.<sup>65</sup>

Although the Terrorists and Disruptive Activities (Prevention) Act (TADA) was allowed to lapse over a decade ago, two of the total 147 persons detained across India under the draconian TADA had been detained in Delhi.<sup>66</sup>

The law enforcement personnel also often mis-used the Official Secrets Act (OSA) despite consistent demands by defence lawyers, politicians, legal experts and even government prosecutors for its urgent amendment.<sup>67</sup> On 4 October 2005, the Tis Hazari Court dropped

a case against eight persons under the Official Secrets Act. They were booked 14 years ago on charges of procuring Indian Administrative Service (IAS) examinations question papers from a government press in Ranchi and selling them. According to the judge, the evidence were too flimsy to frame charges against them.<sup>68</sup>

# Gujarat

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## 1. Overview

Ruled by the Bharatiya Janata Party (BJP), the state government of Gujarat failed to bring to justice those responsible for the communal riots of 2002, except arresting BJP Member of Legislative Assembly (MLA) from Radhanpur, Shankar Chaudhary and nine others in November 2005 for killing two Muslim youth on 1 March 2002.<sup>1</sup> Earlier, on 25 October 2005, Fast Track Court Judge C M Atodaria had acquitted 108 persons in connection with another post-Godhra riot case in which two Muslims were killed on 17 March 2002 for “lack of evidence” but indicted the Gujarat police for failing to prevent the incident despite heavy police presence.<sup>2</sup> The recovery of a mass grave on 27 December 2005 at Lunavada village in Panchamahar district<sup>3</sup> brought alive the fears of the post-Godhra riots. On 29 December 2005, Gujarat High Court ordered the Central Bureau of Investigation to probe the mass grave at Lunavada village.<sup>4</sup>

During 2005, Gujarat police personnel were responsible for serious human rights violations including arbitrary arrest, illegal detention and rape in custody. A total of 4,214 complaints against the police were recorded by the National Crime Records Bureau (NCRB) of the Government of India during 2005. Out of these, departmental inquiry was ordered into 518 cases and judicial inquiries were ordered into 6 cases. 247 police personnel were sent up for trial during the year. Of the 43 police personnel whose case trials were completed, 31 were convicted and 12 acquitted.<sup>5</sup>

Children also became victims of sexual assault in police custody. On 28 July 2005, a minor girl was allegedly raped by Sub-Inspector BN Chawda and Assistant Sub-Inspector Raghuvirsinh Jadeja posted at the District Police Headquarters at Bhuj. The victim was arrested along with three other girls and a boy for alleged indecent behaviour on 27 July 2005. Hours after their arrest, all but the victim were released. ASI Jadeja allegedly brought the victim to his residence where he and Sub-Inspector B N Chawda allegedly raped her.<sup>6</sup> A preliminary medical examination on the victim reportedly confirmed rape. Both the accused police officers were arrested following a complaint filed by the victim.<sup>7</sup>

The police enjoyed virtual impunity for the crimes. The NCRB recorded deaths of 20 persons in police custody and deaths of 5 civilians in police firing during 2005. But no police personnel was charge-sheeted for the custodial deaths.<sup>8</sup> In May 2005, the Gujarat High Court ordered the Police Commissioner and the Assistant Commissioner of Police to take appropriate action against the four accused police personnel including Inspector

AR Desai, constables Jujar Singh, Shailendra Singh and Manish Patel of Bapunagar police station in Ahmedabad for illegal detention and torture of Amit Babubhai Dabhi alias Montu, son of Babubhai Hanokhbhai Dabhi after his arrest on 28 April 2005. On 3 May 2005, the victim filed a First Investigation Report (FIR 185/2005) with the Bapunagar police station against the four accused police personnel; but the police allegedly omitted the name of Manish Patel from the FIR.<sup>9</sup>

The National Crime Records Bureau recorded 1,307 cases of crimes against the Dalits in Gujarat which constituted 5% of the total cases of crimes against the Dalits in the country during 2005.<sup>10</sup> On 28 September 2005, a Dalit identified as Vijay alias Pravin Jitiya was burnt alive by four upper caste people at Hajipur village in Bhavnagar district.<sup>11</sup>

Those displaced by Sardar Sarovar dams did not receive proper compensation and rehabilitation.

As on 14 December 2005, 87 persons were still in detention under Prevention of Terrorism Act (POTA) in the state. In February 2005, the Supreme Court vacated the Gujarat High Court stay order restraining the POTA Review Committee from reviewing pending POTA cases.<sup>12</sup> The Review Committee recommended withdrawal of charges under POTA in a number of cases.

## **2. Human rights violations by the security forces**

The National Crime Records Bureau (NCRB) recorded a total of 4,214 complaints against the police personnel in Gujarat during 2005. That is, 7.3 complaints were registered against per 100 police personnel in the state. The NCRB also recorded deaths of 20 persons in police custody and deaths of 5 civilians in police firing during 2005. No police personnel was charge-sheeted for the custodial deaths.<sup>13</sup> The NHRC recorded 15 deaths in police custody, 54 deaths in judicial custody and 2 encounter deaths during 2004-2005.<sup>14</sup>

The police were responsible for arbitrary arrest, detention and torture. On 28 April 2005, Amit Babubhai Dabhi alias Montu, son of Babubhai Hanokhbhai Dabhi was reportedly picked up from his house at Bapunagar in Ahmedabad by two policemen and taken to Mill police post on the charges of possessing illegal arms. Then the victim was taken to the Bapunagar police station in Ahmedabad where he was tortured by Inspector AR Desai, police constables Jujar Singh, Shailendra Singh and Manish Patel, all of whom belonged to the Bapunagar police station. Amit Dhabhi was finally detained in the Gomitpur police lock up on 29 April 2005. For the next two days, Amit Dhabhi was continuously tortured by the police before being left on the road side by the Mill police post in a near unconscious state. He had to be admitted to the V.S. Government hospital in Ahmedabad

and a medico-legal case was registered with the hospital authorities (Out Patient Department registration no: 83 and indoor registration no: 11811). A First Investigation Report (FIR 185/2005) was filed on 3 May 2005 in the Bapunagar police station against the four accused police personnel but the police allegedly omitted the name of Manish Patel from the FIR. In May 2005, the Gujarat High Court ordered the police commissioner and the assistant commissioner of police to take appropriate action against the accused.<sup>15</sup>

On 10 November 2005, two tribal village leaders identified as Dinu Gurjibhai Gamit and Rameshbhai Melekbhai Gamit of Motherkui village were reportedly beaten up with sticks and poles in front of the public by the police officers at Areth police outpost under Mandvi police station in Surat district of Gujarat. The victims were arrested on the basis of a case filed at Mandvi police station (number 113/2005) on 8 November 2005 by Haribhai Parmar after the Gram Panchayat, Village Council, passed a resolution against the quarry of Haribhai Parmar. The quarry was illegally operating and adversely affecting the environment and health of the villagers. On 9 November 2005, both the tribal leaders were granted bail by the Magistrate Court in Bardoli but the police registered a new case against them. They were detained and tortured.<sup>16</sup>

### **3. Violence against women**

The National Crime Records Bureau recorded 6,343 cases of crimes against women in Gujarat which amounted to 4.1% of the total crimes against women in India during 2005. These included, among others, 324 cases of rape, 802 cases of molestation, 916 cases of abduction, 48 dowry deaths, 4,090 cases of cruelty by husbands and relatives.<sup>17</sup>

Apart from societal violence, law enforcement personnel continued to target women. On 17 May 2005, a constable identified as Babu Katara posted in the Kagdapith police station was arrested for trying to rape an 18-year-old girl at the central bus station in the Gita Mandir area of Ahmedabad. The girl had sought help from the constable on duty to find the bus station. The accused was arrested.<sup>18</sup>

HIV infected women continued to suffer from stigma and violence. On 14 February 2005, an HIV positive woman identified as Sumitra Patel of Dahrasana village of Valsad district was allegedly beaten to death by her brothers and relatives due to fear that she would spread the dreaded disease.<sup>19</sup>

### **4. Violations of the rights of the Dalits**

The NCRB recorded 1,307 cases of crimes against the Dalits in Gujarat which constituted 5% of the total cases of crimes against the Dalits reported in India (26,127 cases) during

2005. By the end of 2005, 68 cases of Dalit atrocities were pending investigation by the police while another 7,207 cases were pending trial in courts. Although the charge-sheeting rate was 96.2%, the conviction rate for the crimes against the Dalits was as low as 3.9% during 2005.<sup>20</sup>

The upper caste people were the main perpetrators of violence against the Dalits. On 28 September 2005, a Dalit identified as Vijay alias Pravin Jitiya was reportedly burnt alive by four upper caste people identified as Narsinh Parmar (who was the village head), Bahadur Vala, Dhiru Vava and Batuk Kukdiya at Hajipur village in Bhavnagar district. The reason for the killing was believed to be an old rivalry regarding gram panchayat, village council, polls.<sup>21</sup>

## **5. Status of the Internally Displaced Persons**

According to the Status Report of Narmada Control Authority of 31 December 2005, a total of 4,729 families affected by the Sardar Sarovar Project (SSP) were rehabilitated in Gujarat.<sup>22</sup> While the State Government of Gujarat claimed that not a single Project Affected Family (PAF) remained unrehabilitated, the facts on the ground showed a different story. The dismal reality in many Gujarat resettlement sites sharply contradicted the State Government's claims, and showed the rehabilitation of reservoir-affected families to be far short of the legally mandated standards. Moreover, only families affected by the canal network, project colony, and sanctuary had received rehabilitation and compensation.<sup>23</sup>

In some villages including Mukhedi, Gadher, Hateshwar, Turkheda, and Andras, scores of affected people were not declared as projected-affected by the end of 2005. Others who were resettled had gone back to their original villages because of the poor conditions in the R&R sites.

There were consistent complaints by the PAFs about the sub-standard condition of the rehabilitation sites in Gujarat. On 6 March 2005, police arrested Kantibhai Rimal of Savli Resettlement site, (Original village, Mokhadi) Tilakwada Taluka, Narmada District for threatening to commit suicide in the Sardar Sarovar dam. In early March 2005, Kantibhai reportedly sent a letter to Chief Minister Narendra Modi threatening that he and his family would drown in the dam unless they received proper compensation for their land submerged by the SSP alongwith other amenities.<sup>24</sup>

The testimonies presented by the PAFs resettled at Parveta in the Sankheda taluka of Vadodara district 20 years back highlighted the deplorable conditions of the PAFs rehabilitated in Gujarat as a whole. According to the testimonies presented by Dineshbhai

Tadvi of Sinduri village, Maharashtra, resettled in Lunadra village in Gujarat in 1992 at a meeting at Parveta in November 2005 marking the 20th anniversary of the Narmada Bachao Andolan, the PAFs had no water, no land, and no access by road. A tank was built but there was no water in it. According to Jaswant Singh of Lunadra, the Gujarat Government did not fulfill any of its promises and since the SSP canal cut through their village, many had no access to their fields. Another PAF Jayantibhai Tadvi, a farmer stated that the land in the resettlement site was rocky and unfit for cultivation.<sup>25</sup>

Narayanbhai Tadvi, who had moved to Parveta from Gadher village in 1989 complained that the lands of the 50 families that moved to Parveta were waterlogged and had yielded no crops for three years. They had no common land for grazing and their relations with the host community were strained. Many of them have been reduced to daily wagers.<sup>26</sup>

## **6. Application of national security laws**

As on 14 December 2005, 87 persons were still in detention under POTA charges, while 14 persons were detained under TADA charges in Gujarat.<sup>27</sup>

On 29 January 2005, the Gujarat High Court ordered an interim stay against the POTA Committee appointed by the Central Government from reviewing POTA cases on the ground that it had been conferred with unfettered powers.<sup>28</sup> On 1 February 2005, the interim stay was challenged by one Rahim Khan by a special civil application for vacating the interim stay. Rahim Khan alias Firoz Khan Badar Khan Pathan was an accused in the Memco bomb blast case. The applicant alleged that he was subjected to third degree torture and the confession was forcibly extracted during police remand.<sup>29</sup> In February 2005, the Supreme Court vacated Gujarat High Court stay order restraining the POTA review committee from reviewing pending cases under the now-repealed anti-terror law and directed the court to dispose of a petition challenging the panel's constitutional validity within seven weeks.<sup>30</sup>

On 9 April 2005, the POTA Review Committee completed hearing on the applicability of POTA on 14 cases including Godhra train carnage, ISI conspiracy case, Tiffin bomb blast and former Gujarat Minister Haren Pandya assassination cases. It heard 200 accused.<sup>31</sup> The Committee sent its report to state government on 20 May 2005.<sup>32</sup> However, earlier on 13 April 2005, the Gujarat High Court stated that the POTA Review Committee's findings would not be binding on the state government and the final decision to revoke POTA cases would lie with the designated POTA court.<sup>33</sup>

On 21 June 2005, the Union Home Ministry stated that accused persons in the Godhra train carnage case may be tried under the provisions of Indian Penal Code, Indian Railways Act,

Prevention of Damages of Public Property Act, Bombay Police Act, but not under the provisions of POTA.<sup>34</sup> Earlier in May 2005, the Review Committee recommended to the Gujarat government to drop all charges against 131 accused under the Act in the Godhra train case. The committee found no *prima facie* case against the accused in the case. However, it upheld the application of POTA in the Akshardham case in which 46 persons were killed.<sup>35</sup> The state government had reportedly rejected the observations of the Review Committee of dropping all the charges against all the accused in the Godhra train carnage case on 10 June 2005.<sup>36</sup> Earlier, the state government submitted the Review Committee's report on Godhra carnage before the designated POTA Court.<sup>37</sup>

In the ISI conspiracy case, the Review Committee confirmed applicability of POTA on 42 out of 52 accused in the case. In the AMTS tiffin bomb case, only one out of the 17 cases was found to be fit for POTA. However, POTA was applicable to all the 9 accused in the conspiracy to kill Ashok Bhatt and Bharat Barot case and the Surat Laliwala case.<sup>38</sup>

In Haren Pandya murder case, the Committee recommended removal of POTA provisions as the murder was carried out with intention of revenge and not to spread terror. Moreover, the state government failed to produce substantial evidence against the 15 accused arrested in the case.<sup>39</sup>

In late January 2005, the Crime Investigations Department of the Gujarat police filed cases under the Official Secrets Act against *The Indian Express* and Gujarati newspapers, *Gujarat Samachar* and *Sandesh* for carrying transcripts of a conversation between Dawood aide Mammumiyan Saiyed and former Porbandar SP Rajkumar Pandian. In the transcript, Mammumiyan had alleged that he was in touch with Additional DGP (CID) Kuldip Sharma while on the run in connection with the Bombay blasts case. The case was filed by Sharma's department as he figured in the tape.<sup>40</sup>

# Haryana

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## 1. Overview

Ruled by the Indian National Congress, Haryana remained infamous for lawlessness. The brutal lathicharge upon the protesting workers of Honda Motorcycles and Scooters India Ltd. in Gurgaon on 25 July 2005 in which at least 700 workers were injured, some of them grievously<sup>1</sup>, was a clear testimony.

The National Human Rights Commission recorded 2 cases of deaths in police custody and 49 cases of deaths in judicial custody in Haryana during 2004-2005.<sup>2</sup> Surprisingly, the National Crime Records Bureau (NCRB) of the Government of India did not record any death in either police or judicial custody in the state during 2005.<sup>3</sup> Asian Centre for Human Rights documented at least three deaths in police custody and one death in judicial custody due to alleged torture during 2005. Magisterial inquiries were instituted into all these custodial deaths. The police were also responsible for arbitrary arrest, detention and torture, sexual assault including on minor girls, and extortion.

Prison conditions remained deplorable. On 13 June 2005, an undertrial prisoner identified as Babu Ram died under mysterious circumstances in Kurukshetra district jail.<sup>4</sup> On 23 September 2005, the NHRC organised a workshop in Madhuban in Karnal district to improve the poor facilities including living, eating and medical being provided to jail inmates in the state.<sup>5</sup>

The Dalits continued to face violence from the upper castes while Dalit women were specific targets of sexual abuse. The NCRB recorded 288 cases of violence against the Dalits in Haryana during 2005.<sup>6</sup> Although the number of crimes recorded by the NCRB may be much less in comparison to that of Madhya Pradesh (4,356), persecution against the Dalits in Haryana was as systematic as in Madhya Pradesh. The attack on the Dalits in Gohana in the presence of the police was a case in point. The Dalits faced discrimination and social ostracization for trying to have access to public properties or services. They were also denied their fundamental right to vote. The elected representatives of the Dalits also faced discrimination and arbitrary removal or suspension from posts in Panchayati Raj institutions in the state. In June 2005, the National Commission for Scheduled Castes in a communiqué to the Haryana Chief Secretary stated, "There have been cases in which the Scheduled Caste representatives have become victims of the wrongdoings of others and been suspended and removed from such posts."<sup>7</sup>

## **2. Human rights violations by the security forces**

### **a. Violations of the right to life**

The security forces were responsible for blatant human rights violations, including torture, arbitrary arrest, detention and custodial killings. The NHRC recorded 2 cases of deaths in police custody and 49 cases of deaths in judicial custody in Haryana during 2004-2005.<sup>8</sup> However, the NCRB did not record any death in either police or judicial custody in the state during 2005.<sup>9</sup>

Asian Centre for Human Rights (ACHR) documented at least three deaths in police custody due to alleged torture during 2005. On 13 May 2005, Gurmail Singh, a resident of Meghamajra village of Kurukshetra district, died in Kurukshetra Civil Hospital while in police custody. He was picked up on the previous night in connection with a forgery case and kept at Pehowa police station. The family members of the deceased alleged that the doctors who conducted the post-mortem examination told them that Gurmail was badly beaten up. The Deputy Commissioner of Kurukshetra, Mr T.K. Sharma, ordered a magisterial inquiry into the custodial death.<sup>10</sup>

The other victims included Chhaju Ram, son of Ram Sarup Jat, who died in police custody in Rewari on 15 July 2005,<sup>11</sup> and Bhupesh Narayan, son of advocate Ram Das of Delhi, who died in Thanesar Police Station in Kurukshetra on 8 November 2005.<sup>12</sup> Magisterial inquiries were also instituted into these two cases of custodial deaths.

### **b. Arbitrary arrest, illegal detention and torture**

The police routinely used torture. On 11 May 2005, Murgesh, son of Murgaan, was allegedly picked up from Delhi by the Crime Investigation Agency Staff-1 of Haryana police and illegally detained him at Karnal on the charges of theft and burglaries. The victim was allegedly subjected to third degree torture during illegal custody.<sup>13</sup>

The other victims of torture included Rakesh Kumar alias Sonu, resident of Karan Vihar in Karnal, who was tortured during illegal detention from 30 April 2005- 2 May 2005,<sup>14</sup> Ajay, an auto rickshaw driver, in Panipat on 2 May 2005,<sup>15</sup> Sikander Singh and his wife Promila who were beaten up in full public view in Lakhanmajra in Rohtak district on 14 October 2005,<sup>16</sup> and Dinesh who was beaten up at Line Par police station by the Station House Officer, Virender Singh in Bahadurgarh town in Jhajjar district on 15 October 2005.<sup>17</sup>

The police used disproportionate force including the use of lathis (sticks) to beat up protestors. On 25 July 2005, at least 700 workers were injured, some of them grievously,

when police personnel resorted to brutal lathi-charge upon the agitating workers of Honda Motorcycles and Scooters India Ltd. in Gurgaon. The protestors were demanding the reinstatement of 50 suspended and four dismissed colleagues from the Honda Motorcycles and Scooters India Ltd.<sup>18</sup> A judicial probe was ordered into the police action.<sup>19</sup>

The lawlessness of the police was further exemplified from incidents of extortion and “kidnappings” allegedly carried out by them for ransom. In March 2005, a court in Ambala directed the police to register a case against two officials of a police post of Ambala for allegedly kidnapping and torturing a local resident Megh Raj and his son Gagan for ransom.<sup>20</sup> In another case, an Assistant Sub-Inspector of police, a Head Constable and three other persons including a journalist were booked on the charge of extortion of Rs 40,000 from a local arhtiya of Janta Grain Market in Karnal in March 2005.<sup>21</sup>

### **3. Violence against women**

The National Crime Records Bureau recorded 4,161 cases of violence against women, including 461 rapes, 344 abductions, 212 dowry deaths, 2,075 cruelty by husbands and relatives, and 380 molestation cases in Haryana during 2005.<sup>22</sup>

The police personnel were allegedly responsible for sexual assault against women. In June 2005, the Kotwali police registered a case against a police constable on the charge of raping a girl of A.C Nagar in the NIT area in Faridabad. According to the complaint lodged by the mother of the victim, the accused police constable who used to visit their house on one pretext or the other raped her daughter when she was alone in the house.<sup>23</sup>

On 26 October 2005, Pushpinder Kaur, a social activist and an office-bearer of Chaudhary Devi Lal Yuva Club, lodged a complaint with the police alleging molestation by a police constable identified as Satbir Singh while she was waiting outside the Panchayat Bhavan in Sonapat. The accused constable was arrested.<sup>24</sup>

On 29 November 2005, a policeman was arrested on the charge of raping a widow from a JJ colony in Sector 31 in Faridabad. When the victim approached the police station alleging harassment from some anti-social elements, the accused policeman visited her house on the pretext of investigating and raped her.<sup>25</sup>

### **4. Violations of the rights of the Dalits**

The National Crime Records Bureau (NCRB) recorded 288 cases of violence against the Dalits in Haryana during 2005.<sup>26</sup> Although the number of crimes recorded by the NCRB

may be much less in comparison to that of Madhya Pradesh (4,356), persecution against the Dalits in Haryana was as systematic as in Madhya Pradesh. Haryana continued to witness serious violations of the rights of the Dalits - from physical attacks to rape of Dalit women.

### **a. Physical attacks**

The Dalits were targets of physical attacks by the upper caste people while the police and the administration remained silent spectators. The attack on the Dalits at Gohana is a case in point.

On 31 August 2005, hundreds of upper caste belonging to Jat community attacked the Dalits of Balmiki colony in Gohana in Sonapat district. 54 Dalit houses were set on fire and several others ransacked and looted by a mob of the Jats even as large number of police personnel deployed in the area watched the mayhem. The attack was reportedly in retaliation to the killing of a Jat youth allegedly by some Dalit youth of Balmiki colony on 27 August 2005. Following threats from the Jat community, the Dalits of the area had sought police protection but the police allegedly asked the Dalits to flee from their houses. As a result, about 1,000 Dalits reportedly fled from the Balmiki colony to safer areas between 27 August and 30 August 2005.<sup>27</sup> Field investigations by National Campaign for Dalit Human Rights<sup>28</sup> and the All India Lawyers Union<sup>29</sup> confirmed that the police remained silent spectators during the violence which lasted for nearly three hours. The National Commission for Scheduled Castes in its interim report to the Haryana government blamed the district administration for its failure to take any preventive measures, although the authorities had prior information about such a threat from the Jat community to the Dalits.<sup>30</sup> On 5 September 2005, Haryana Chief Minister Bhupinder Singh Hooda ordered an investigation by Central Bureau of Investigation to probe into the incident, and increased the compensation to Rs 1 lakh for each victim.<sup>31</sup>

The Gohana incident was followed up by attack on a Dalit family by about 50 upper caste people led by ex-sarpanch (former village head) Dalip Singh at Kirdhan village in Fatehabad district on 4 September 2005. Six member of the Dalit family including two women were reportedly injured in the attack. The injured were identified as Manphool, Prithvi, Inderaj, Sooraj Bhan, Seema and Rajo. Dalip Singh wanted to forcibly grab the lands of the Dalit family. But the police reportedly did not register any case in connection with this attack.<sup>32</sup>

Apart from failure to protect the Dalits from atrocities by the upper castes, the Haryana police was responsible for atrocities against the Dalits. The police atrocities against the Dalits reached full circle when in August 2005, a Dalit family comprising of five members

was reportedly forced to flee from Bahadurgarh in Jhajjar district due to alleged atrocities by the police.<sup>33</sup>

The Dalits were also denied the right to franchise and many faced attacks for exercising the right to vote. On 9 August 2005, Jaswant Singh, resident of Deeg village of Ballabhgarh subdivision under Faridabad district, was allegedly beaten to death by upper caste people for not casting his vote for the upper caste candidate in the Gram Panchayat elections. Medical examination reportedly confirmed that the deceased died due to injuries but the police allegedly refused to take action against the accused. It was only after the intervention of the Deputy Commissioner, Ms G. Anupama that the police registered a case on 12 August 2005.<sup>34</sup>

### **b. Violence against Dalit women**

Dalit women continued to be victims of violence by the upper castes. On 11 June 2005, a teenaged Dalit girl named Babli alias Sushma was allegedly abducted and killed by members of the Ahir community at Devas village in Mahendragarh district in order to take revenge against her uncle Rajesh for daring to become the Sarpanch (elected village head) of the village in April 2005 after the seat was declared reserved for the Dalits. The autopsy conducted on 15 June 2005 recorded “blow by a blunt and hard object on the head” as the probable cause of Babli’s death.<sup>35</sup>

On 14 September 2005, *The Asian Age* reported that a minor Dalit girl, daughter Moolchand, resident of Ballabgarh in Faridabad district, had been held hostage by a landlord of a neighbouring village since three months. Moolchand approached the local police station several times for help to rescue his daughter but the police allegedly got angry, made casteist remarks and beat him up. One senior police officer allegedly told Moolchand, “What will you do with your daughter, she is now pregnant?” Later, the National Commission for Scheduled Castes reportedly sought an Action Taken Report from the Superintendent of Police, Faridabad into the matter.<sup>36</sup>

### **c. Denial of access to public properties and services**

The Dalits were denied access to public properties and services. In Badhram village in Pulwal district, all the 45 Dalit villagers were reportedly socially ostracized and confined to their homes by the landlords after they offered prayers at the village temple on 20 July 2005. Following the diktat of the landlords, the Dalits were not allowed to buy essential commodities from the village shops. The Dalits were beaten up and the moustache of one Dalit man was reportedly shaved off every day as a part of humiliation. But the local police allegedly refused to take cognizance of the matter. On 11 August 2005, the National Commission for Scheduled Castes asked the Inspector-General of Police (Gurgaon range)

to provide security to the Dalit villagers and submit an Action Taken Report within 10 days.<sup>37</sup> Even as a Deputy Superintendent of Police visited Badhram village on 12 August 2005, the landlords set fire to three Dalit houses, beat up a Dalit identified as Bhim and attacked a Dalit woman (name withheld).<sup>38</sup>

Denial of entry into common temples led Dalits to construct their own temples in most of the villages in Haryana.<sup>39</sup>

## **5. Violations of the rights of the child**

The National Crime Records Bureau recorded 374 cases of crimes against children in the state, including 38 murder cases, 131 rape cases, 101 kidnapping cases during 2005.<sup>40</sup>

Children continued to be victims of violence in the State.

On 1 January 2005, two persons, including a naib tehsildar of the state government posted at Palwal town in Faridabad district of Haryana, abducted a 15-year-old girl student of Government Girls Secondary School, Palwal. Following her release, the victim alleged rape by her captors and medical examination also confirmed rape. But the police officials allegedly forced the victim to change her statement. On 6 January 2005, lawyers staged a demonstration alleging that a senior police official posted at Palwal called the victim to the police station on the pretext of personally hearing her and thrashed her to force her to change her statement.<sup>41</sup>

In October 2005, head constable Jagmal Singh was arrested and six other policemen were suspended and an inquiry under Inspector General P V Rathee was ordered by the State government after a television news channel showed a clip of a minor boy being tortured by the accused during illegal detention at the Crime Investigation Agency police station in Panchkula on 13 March 2005. The boy was allegedly assaulted for hours and was later tied to a tree upside down.<sup>42</sup>

# Himachal Pradesh

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## 1. Overview:

Ruled by the Indian National Congress, Himachal Pradesh remained virtually peaceful and witnessed no major crisis. However, the law enforcement personnel were responsible for human rights violations.

## 2. Human rights violations by the security forces

According to the National Crime Records Bureau (NCRB) of the Government of India, 210 complaints were received against the policemen in the state during 2005. Of these only 3 cases were registered, while 195 cases were declared false or unsubstantiated. 18 departmental inquiries, two magisterial inquiries and one judicial inquiry were instituted, while 5 police personnel were sent up for trials and one policeman was convicted during 2005.<sup>1</sup>

Even the religious leaders were not spared of police highhandedness. On 25 June 2005, two police constables, Rajesh and Rakesh reportedly beaten up a seer identified as Swami Maheshwaranand with a belt at Sadar police station for mistaking him as a gang leader of pickpockets. The Swami sustained injuries on the face including in one eye after being whipped by the belt by the policemen.<sup>2</sup>

Torture in custody was common. On 28 August 2005, a magisterial probe was ordered into the allegations made by an accused in a sex-racket, Amit Sood that he was allegedly beaten up in the police custody by the Station House Officer (SHO) Mr R P Jamwal of Dharamshala. The SHO was placed under suspension.<sup>3</sup>

Even children were not spared. On 2 March 2005, Khub Ram (13), a class VII student and resident of Panyali in Mandi district, was taken to the Rewalsar police post on the charges of stealing a mobile phone where he was beaten up with belt and hanged from a fan by the policemen. Later the father of the victim was called and forced to deposit Rs. 5,000. The boy could not appear for his examination as a result of the torture.<sup>4</sup>

## 3. Violations of the rights of the Dalits

The condition of the Dalits remained deplorable in Himachal Pradesh with National Crime Records Bureau recording 55 incidents of crime being committed against the

Scheduled Castes during 2005.<sup>5</sup> On 13 November 2005, Lekh Raj, General Secretary of the Kangra district Bahujan Samaj Party and district General Secretary of the Himachal Ambedkar Kalyan Samiti, was illegally confined by the police when he had visited the police station to inquire about the custody of two Dalit brothers of Sinnoo village.<sup>6</sup>

#### **4. Violence against women**

Himachal Pradesh witnessed several incidents of crime against women. According to NCRB, 793 incidents of crime against women were reported during 2005. Of these, 141 were rape incidents, 102 incidents were of kidnapping/abduction and two incidents of dowry deaths.<sup>7</sup>

Social malpractices showed a rise in 2005. Following the introduction of the 'only two child' norm in 2000 for contesting panchayat (Local Bodies) elections, which disqualified a candidate having more than two children from contesting panchayat elections, the number of abortions increased. In many cases, the third child was delivered surreptitiously. In April 2005, the State Assembly repealed the provision of two child norm for those contesting Panchayat elections.<sup>8</sup>

In addition, the female-male ratio in the 0-6 age-group was 897 females per 1000 males which revealed a high incidence of female foeticide.<sup>9</sup>

#### **5. Violations of the prisoners' rights**

According to the NHRC, there were 1,005 prisoners in the jails of Himachal Pradesh against the sanctioned capacity of 833 prisoners, thereby resulting in 20.65% overcrowding as of 31 December 2004. The undertrial prisoners (478) constituted 47.5% of the total prisoners.<sup>10</sup>

The condition of prisons was deplorable due to rampant corruption and denial of basic facilities. A convict identified as Sataya Prakash of the district jail at Dharamsala started an indefinite fast on 6 January 2005 demanding a CBI inquiry into the alleged human rights violations and drug trafficking by the jail staff. Sataya Prakash alleged that prisoners were denied food, clothing and medical facilities. He further alleged that the jail staff were involved in drug trafficking and 60 per cent of the prisoners in the jail had become drug addicts. The jail had the capacity of 104 prisoners, while usually the figure touches 150.<sup>11</sup>

## **6. Status of the internally displaced persons**

The conditions of people displaced by development projects did not improve. The Kol Dam Hydro Electric Project on river Sutlej reportedly displaced about 1,085 families from Kasol village in Bilaspur district. Out of the 1,085 displaced families of the 800 MW Kol Project, only one person from Kasol village was employed with the National Thermal Power Corporation (NTPC). The IDPs had been demanding land for cultivation and employment of at least one member from each displaced family with the NTPC.<sup>12</sup>



# Jammu and Kashmir

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## 1. Overview

Ruled by the People's Democratic Party (PDP) and the Indian National Congress alliance, Jammu and Kashmir continued to be afflicted by insurgency and violence. Human rights violations both by the security forces and the armed opposition groups (AOGs) continued to be extensively reported from the state. About 15,320 civilians had lost their lives in militancy-related violence in the state as of March 2005.<sup>1</sup> According to the State government of Jammu and Kashmir, the armed opposition groups killed 504 civilians in 2003 and 479 civilians in 2004.<sup>2</sup>

On 17 January 2005, the Government of India announced setting up of a three-member committee to hold talks with political parties in Jammu and Kashmir on the autonomy question.<sup>3</sup> Despite holding various parleys, little progress was made.

The NHRC had failed to record any case of deprivation of the right to life by the security forces whether in custody or in encounter during 2004-2005.<sup>4</sup> This is despite the fact that Asian Centre for Human Rights reported several instances of alleged extrajudicial killings of civilians by the security forces during 2004 in its "India Human Rights Report 2005". On 16 August 2005, Union Minister of State for Home, Sriprakash Jaiswal stated before the Lok Sabha that seven innocent persons were mistakenly killed by the security forces in the state between January and July 2005.<sup>5</sup>

On 27 September 2005, Jammu and Kashmir Chief Minister Mufti Mohammad Sayeed stated that 131 army personnel, 68 BSF personnel and 17 police personnel had been punished for violation of human rights during the past 15 years. Of the 131 army personnel, two were awarded life imprisonment, 59 rigorous imprisonments, 11 dismissed from service with one year's imprisonment, four others dismissed and 55 awarded other punishments.<sup>6</sup> But the details of the personnel were not made public.

The armed opposition groups like Save Kashmir Movement, Harket-i-Jehad Islami Tehreek-Jehadi Islami, Laskar-e-Toiba, Hizbul-Mujahideen etc were responsible for blatant violations of international humanitarian laws by resorting to medieval forms of torture, kidnapping and killing. On 31 January 2005, four members of a family identified as Naseema Begum, wife of Abdul Aziz, their daughters Rehana Banoo (5) and Razia Banoo (10), son Sabha Ahmed (15) were killed at Nashala Bijarani village about six kilometers from Doda town on 31 January 2005.<sup>7</sup>

Women in Jammu and Kashmir remained extremely vulnerable. As many as 1,099 women were reportedly killed in the state from 1991 till August 2005.<sup>8</sup>

More than 90 % of the Hindu population in the Kashmir Valley or 55,476 Kashmiri Pandit families remained internally displaced due to the armed conflict in the state.<sup>9</sup> The Government of India and the State government of Jammu and Kashmir sought to take steps to facilitate return of the Kashmiri migrants but the Kashmiri Pandits remained skeptic over their return due to security concerns.<sup>10</sup>

One of the primary violations of the prisoners' rights was alleged deliberate attempt on the part of the jail authorities to prolong the trials of the prisoners, especially if they were arrested in militancy related incidents. On 6 September 2005, the Union Home Ministry initiated the process of reviewing all cases of those detained under Public Safety Act and now-defunct Prevention of Terrorist Activity Act (POTA) in Jammu and Kashmir.<sup>11</sup>

## **2. Human rights violations by the security forces**

### **a. Deprivation of the right to life**

The NHRC had failed to record any case of deprivation of the right to life by the security forces whether in custody or in encounter during 2004-2005.<sup>12</sup> This was despite the fact that Asian Centre for Human Rights reported several extrajudicial killings of civilians by the security forces during 2004 in its "India Human Rights Report 2005".

The National Crime Records Bureau (NCRB) of the Government of India reported only one death in police custody in the state during 2005.<sup>13</sup> The NCRB does not record human rights abuses by the army and the paramilitary forces.

During 2005, the security forces in Jammu and Kashmir were responsible for serious human rights violations including extrajudicial executions, torture, rape, etc. On 16 August 2005, Union Minister of State for Home, Sriprakash Jaiswal stated before the Lok Sabha that seven innocent persons were mistakenly killed by the security forces in the state between January and July 2005.<sup>14</sup> However, the number could be much higher. Asian Centre for Human Rights documented killings of at least 22 civilians in alleged encounters by the security forces in the state during 2005. In a clear case of extrajudicial killings, an ambush party of Rashtriya Rifles shot dead three boys identified as Bilal Ahmed Sheikh, Wasim Ahmed Wani and Manzoor Ahmed Shah and injured another identified as Shabir Ahmed after mistaking them as cadres of armed opposition groups at Bagargund village in Kupwara district on the night of 23 July 2005.<sup>15</sup> Admitting the crime, the army

reportedly agreed to pay Rs 3 lakh each to the families of the deceased and Rs 2 lakh to the injured and ordered a court of inquiry.<sup>16</sup>

The other victims of alleged extrajudicial executions included Zahoor Ahmad Bhat of Madina Colony Bemina who was killed by a patrolling party of Border Security Force near Magam on the Srinagar-Gulmarg road on 6 February 2005;<sup>17</sup> Mohammad Maqbool Malla of Sunni-Saidnar village who was killed by 30th Rashtriya Rifles personnel on 17 February 2005;<sup>18</sup> Mohammad Rafiq Ganie of Ahgam and Mukhtar Ahmad Bhat of Bandapa Dozinapora who were killed by 17th Jammu and Kashmir Light Infantry personnel in Shardpora-Shopian on 27 February 2005 into which a judicial enquiry was ordered;<sup>19</sup> four persons, including Feroz Ahmad and Mohammad who were killed at Uri in April 2005;<sup>20</sup> three members of a family identified as Abdul Rafiq, his wife Zohra Begum and son Riaz Ahmed who were killed by 4th Bn BSF personnel at Seri Para in Gool area of Udhampur district on 6 June 2005 into which an inquiry was ordered by the BSF authorities;<sup>21</sup> Parvez Ahmad Dar who was killed by Rashtriya Rifles personnel at Check-Kangan in Pulwama district on 22 July 2005;<sup>22</sup> Mohammad Hanief, son of Abdul Aziz, who was killed by 5th Rashtriya Rifles personnel at Thanamang village in Darhal area of Rajouri district on 15 September 2005;<sup>23</sup> Ghulam Nabi, son of Assad Ullah of Nohorch who was killed in Deolmarg village in Gool under Udhampur district on 21 September 2005;<sup>24</sup> two persons of a family - Kumhar and Noora who were killed at Nabog in Kralpora on 30 September 2005;<sup>25</sup> Nishu Sharma of Roop Nagar Colony who was shot dead at Domana Township on 28 October 2005;<sup>26</sup> Mohammad Ismail, son of Noor Mohammad who was shot dead by the Special Task Force personnel at Butanaki in Kither Patnaji area in Doda on 19 November 2005;<sup>27</sup> and Ghulam Ahmed Rather who was killed by a guard of an army major who got panic after the major's service rifle went off accidentally during a search operation at Nar Baba Reshi village in Tangmarg area on 5 December 2005.<sup>28</sup>

In addition to the encounter killings, the security forces were also responsible for killing of civilians in their custody. The victims included Abdul Gani Dar who was allegedly tortured to death by Special Operation Group personnel at Magam police station in Budgam district on 19 January 2005;<sup>29</sup> Sajad Ahmed Budroo, an autorickshaw driver, who was allegedly killed in custody of Rashtriya Rifles and police in Dooru Anantnag on the night of 27 October 2005;<sup>30</sup> and Mushtaq Ahmad Bhat, son of Ghulam Qadir Bhat of Baboor district Doda who was allegedly killed in custody of the police in Doda on 17 August 2005.<sup>31</sup> Magisterial inquiries were ordered into all the above three cases of custodial deaths.

On 12 February 2005, Noor-u-Din Wangnoo, son of Abdul Rehman from Gasi Mohalla-safakadal in south Kashmir, reportedly disappeared after his arrest by the security forces.<sup>32</sup>

## **b. Arbitrary arrest, illegal detention and torture**

The security forces were responsible for arbitrary arrest and detention. On 16 December 2005, the Jammu and Kashmir High Court ordered for immediate release of two persons - Ghulam Hassan Lone, son of Abdul Ghaffar Lone of Gulgam-Kupwara and Sajad Ahmad Dar, son of Abdul Rahim Dar of Beerwah-Budgam, who were undergoing detention under the Public Safety Act.<sup>33</sup>

Torture during detention was a common practice. On the night of 23 January 2005, Mohammad Lateef Mir of Lassipora was subjected to torture including lying naked at the security forces camp at Bonora in Pulwama after being arrested by security forces. He was released in a serious condition on the morning of 24 January 2005.<sup>34</sup> In another case of custodial torture, in October 2005, personnel of 22nd Rajputana Rifles reportedly arrested Abdul Rashid of Yamberzal locality in Sopore while grazing cattle. He was allegedly subjected to third degree torture and later released in a serious condition.<sup>35</sup>

The other victims of torture included Javed Ahmad who was grievously beaten up by two police constables in civvies identified as Mohammad Ashraf Mir and Farooq Ahmad Malla at the Nehru Park in Srinagar on 8 May 2005,<sup>36</sup> Showkat Ahmad Shalla who was beaten up by police near the government Women's College, Nawa Kadal on 27 June 2005;<sup>37</sup> Manzoor Ahmad Sada, Imam of Malapora Masjid, his mother Saja Begam and a sister were beaten up by the personnel of Rashtriya Rifles at their house at Sadi Mohalla in Baramulla district on 8 November 2005.<sup>38</sup>

The security personnel used disproportionate force to control public protests. On 28 February 2005, at least 35 persons including some women and children were injured when police reportedly cane-charged stranded Srinagar bound passengers at Government Higher Secondary School Satwari.<sup>39</sup> On 9 June 2005, several civilian were injured, one seriously, after security forces opened fire during a protest demonstration in Ahmadnagar under Soura police station.<sup>40</sup> On 6 November 2005, around 20 persons including some women were reportedly injured, one critically, when police twice resorted to cane-charge and fired around 30 teargas shells to disperse an agitating mob on Toph Bridge on Akhnoor road.<sup>41</sup>

Harassment and torture of civilians were common during search operations by the security forces. More than a dozen persons including women were injured, when 24th Rashtriya Rifles personnel allegedly roughed up locals and committed atrocities on women during a cordon and search operation at Thewan village in Kangan area on 12 March 2005. A magisterial probe was ordered into the incident.<sup>42</sup>

### **3. Violations of international humanitarian laws by the AOGs**

#### **a. Deprivations of the right to life**

According to the State government of Jammu and Kashmir, the armed opposition groups (AOGs) killed 504 civilians in 2003 and 479 civilians in 2004.<sup>43</sup>

During 2005, the AOGs were also responsible for blatant violation of international humanitarian laws including arbitrary deprivation of the right to life. Several persons were killed by the alleged cadres of AOGs including Kanta Devi at Bagla Triath Village near Dharamsal in Rajouri district on the night of 27 January 2005;<sup>44</sup> four members of a family identified as Naseema Begum, wife of Abdul Aziz, their daughters Rehana Banoo (5) and Razia Banoo (10), son Sabha Ahmed (15) at Nashala Bijarani village about six kilometers from Doda town on 31 January 2005;<sup>45</sup> four members of a family including Gaffi, mother of Shabir, Shabir's wife Kali and their seven-day-old daughter at Hasote village of Budhal area in Rajouri district on the night of 26 March 2005;<sup>46</sup> Qamar Din, Roshan Din, Mohammed Shafi at Mahore area of Udhampur district on the night 13 April 2005;<sup>47</sup> and Imitiaz Ahmad Bakkerwal, son of Mohammad Iqbal, who was killed after abduction from his house at Beolian near Parakh in Udhampur district of Jammu on the night of 28 March 2005.<sup>48</sup>

The armed opposition groups killed many people on alleged charges of being “police informers”. On the night of 11 January 2005, 75-year-old Abdul Aziz was shot dead at Bharneli village of Mahore tehsil of Udhampur district.<sup>49</sup> Again on 10 July 2005, armed cadres tortured and beheaded a tribal identified as Hukam Din on the charges of being a police informer at Bhulla village in Udhampur district.<sup>50</sup>

Killings of political party workers and leaders by the armed opposition groups were also extensively reported from Jammu and Kashmir during 2005. On the morning of 18 October 2005, armed cadres shot dead J&K Minister of State for Education Dr Ghulam Nabi Lone in a fidayeen attack at his high security official residence at Tulsibagh in Srinagar. Terrorist outfit Al Masoorin has claimed responsibility for the attack.<sup>51</sup> Other political leaders and cadres killed by the AOGs included Haji Nund Wagay of National Conference who was killed after abduction on the night of 20 January 2005,<sup>52</sup> a National Conference candidate Ghulam Rasool at Pampore in Pulwama district on the night of 28 January 2005,<sup>53</sup> Ghulam Nabi Ganai, a PDP block president, at Frisal Yaripora in Kulgam tehsil on 7 March 2005,<sup>54</sup> Congress councilor of Baramulla municipal council, Fayaz Ahmad Mehjoo alias Bitra in Baramulla on 17 March 2005,<sup>55</sup> chairman of Pattan Municipal Committee Mohammad Ramzan Mian of the Congress at busy Pattan market in Baramulla district on 3 May 2005 by armed opposition group Al-Arifeen,<sup>56</sup> municipal

corporator Mohammad Ashraf Bala of National Conference in Srinagar on 3 June 2005,<sup>57</sup> Ghulam Rasool Bhat, zonal president of People's Democratic Party at Warlar, Ganderbal by Harkat-ul-Mujhadeen on the night of 18 June 2005,<sup>58</sup> and CPM leader Ghulam Nabi Ganai who was shot dead outside a mosque at Seer-hamdan village in Anantnag district on 17 October 2005.<sup>59</sup>

### **Killing of minorities**

Religious minorities of Jammu and Kashmir were specific targets of the AOGs. On 12 May 2005, the cadres of armed opposition groups threw a grenade into Tyndale Biscoe Memorial High School, a Christian missionary school at Lal Chowk, Srinagar killing two women guardians and injuring 50 others including 20 school children.<sup>60</sup>

On 29 July 2005, cadres of armed opposition groups reportedly slit the throats of five Hindus identified as Karnail Singh, son of Tota Singh, Dharam Singh, s/o Rambo, Saran Singh, s/o Sheru, Ashok Kumar and Sahber Singh both sons of Mangal Singh, after dragging them out of their houses at Dhar Sankari in Rajouri district of Jammu and Kashmir.<sup>61</sup>

Again on 10 October 2005, cadres of armed opposition groups reportedly slaughtered 10 Hindus of two families in the Budhal area of Rajouri district.<sup>62</sup> On 23 October 2005, seven Hindu families comprising of about 31 persons reportedly fled their hamlet in Rajouri district after militants threatened to kill them.<sup>63</sup>

### **b. Torture**

The armed opposition groups were responsible for brutal torture. The armed opposition groups slit the throats of the victims and chopped off the tongues or other body parts to create chilling fear. On 14 August 2005, suspected members of Lashker-e-Toiba abducted and chopped off the tongue of Abdul Majeed of Sariliya-Sumi area of Gandoh tehsil in Doda district on the charges of being an informer of security forces.<sup>64</sup>

## **4. Violence against women**

The NHRC recorded 2 cases of custodial rape in Jammu and Kashmir during 2004-2005.<sup>65</sup> The National Crime Records Bureau recorded 2,144 cases of violence against women, including 201 rape cases, 830 cases of molestation, 658 cases of abduction, 5 dowry deaths, etc. in the state during 2005.<sup>66</sup>

Women were the main victims of the armed conflict. According to news agency CNS quoting police sources, as many as 1,099 women were killed in the state from 1991 till

August 2005.<sup>67</sup> On 25 June 2005, Rubina Akthar, a lady teacher in an army school, was killed by alleged cadres of AOGs at Shrut Kulgam in Anantnag district.<sup>68</sup>

The security forces were responsible for rape and sexual molestation.<sup>69</sup> In June 2005, Assistant sub-inspector Mohammed Maqbool posted in Kulgam police station was suspended on charges of attempting to molest a woman at the police station.<sup>70</sup> On 18 September 2005, a police head constable Abdul Haneif was charged with raping his minor house maid in Sowjain area.<sup>71</sup>

The cadres of armed opposition groups also perpetrated serious atrocities. On 5 November 2005, a schoolgirl reportedly committed suicide after being gangraped by cadres of AOGs at her residence at Muradpur in Rajouri district.<sup>72</sup>

## **5. Violations of the rights of the child**

The National Crime Records Bureau reported 57 cases of crime against children in the state, including 4 murder cases, 4 rape cases, 48 kidnapping cases, among others, during 2005.<sup>73</sup>

Children were the disproportionate victims of the armed conflict. According to the Iqbal Memorial Trust, about 40,000 children had been orphaned due to the conflict in the state. Most of them have been living in miserable conditions.<sup>74</sup> According to a study conducted by the Institute of Jammu and Kashmir Affairs, 57.3% of the children have become fearful, 55.3 % suffer from depression and 54.25% cannot sleep properly in Kashmir region. While in Jammu region, the corresponding figures were 51.17%, 25.98% and 41.17% respectively.<sup>75</sup>

The security forces also allegedly used children as “human shields” during anti-insurgency operations. On 11 November 2005, security forces allegedly picked up eight boys and used them as “human shields” during an encounter in Shah Mohalla, Palhalan-Pattan in Baramulla district. While two of these boys identified as Shabir and Aijaz were killed in the gunbattle, the other six children escaped from custody.<sup>76</sup>

The cadres of AOGs were also responsible for killing children. On 13 June 2005, 14 persons including three students were killed in a powerful car bomb blast by armed cadres outside the central secondary school on the Shopian road in Pulwama district.<sup>77</sup>

## **6. Violations of the prisoners’ rights**

One of the primary violations of the prisoners’ rights was alleged deliberate attempt on the part of the jail authorities to prolong the trials of the prisoners, especially if they were

arrested in militancy related incidents. According to the report of a two-member High Court Bar Association team led by its president Mian Qayoom which visited Central Jail in June 2005 stated that there were 456 detainees, including 156 detained for militancy related cases, 269 in other cases and 6 under Public Safety Act and 25 convicts. Those detained for militancy related cases and facing trials at various courts were not provided police escort on one or other pretext while taking to court for hearings in order to prolong their cases. Even those who were released were re-arrested under fresh fake charges. In June 2005 alone, about a dozen such detainees were re-arrested after being released. Besides, the jail lacked proper medicare facilities.<sup>78</sup>

On 9 September 2005, a police party of Rainawari police station allegedly severely beat up and injured some prisoners, some seriously, in the premises of the central jail for observing hunger strike for not being allowed to attend the courts on time during trials.<sup>79</sup>

## **7. Status of the Internally Displaced Persons**

More than 90% of the Hindu population in the Kashmir Valley, the Kashmiri Pandits, remained internally displaced due to the armed conflict in Jammu and Kashmir.<sup>80</sup> About 55,476 families had been displaced due to the conflicts in Jammu and Kashmir since 1990. Of them, 34,088 families had been living in Jammu, 19,338 families in Delhi and 2,050 families in other States and Union Territories. The government had been providing assistance to 14,869 families in Jammu and 4,100 families in Delhi. In Delhi, 230 migrant families were living in 14 camps, while 5,778 families were living in 16 camps in Jammu. The government provided cash relief of Rs. 3,000/- per family per month plus basic dry rations in Jammu. In Delhi, the government provided cash relief of Rs 3,200 to non-camp migrants and Rs 2,400 to those living in camps besides dry rations.<sup>81</sup>

The Central government and the State government of Jammu and Kashmir sought to take steps to facilitate return of the Kashmiri migrants. According to the State Revenue and Rehabilitation Minister Hakim Mohammad Yaseen, 1,600 applications had been received from migrant families willing to return as of August 2005.<sup>82</sup> However, most of the Kashmiri Pandits remained skeptic over their return due to security concerns.<sup>83</sup>

## **8. Application of the national security laws**

The security forces continued to enjoy widespread and arbitrary powers under the Public Safety Act (PSA), Disturbed Areas Act and Armed Forces Special Powers Act (AFSPA).

While the PSA has been grossly misused for arbitrary detention, under the Disturbed Areas Act and the AFSPA, the security forces enjoyed extra-ordinary powers including

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opening fire, destroying property, etc.<sup>84</sup> On 6 October 2005, separatist Dukhtaran-e-Milat outfit leader Asiya Andrabi and 8 others were booked under the PSA.<sup>85</sup>

As on 12 July 2005, there were 91 POTA cases in the state.<sup>86</sup> On 6 September 2005, the Union Home Ministry initiated the process of reviewing all cases of those detained under Public Safety Act and now-defunct Prevention of Terrorist Activity Act (POTA) in Jammu and Kashmir.<sup>87</sup> On 4 October 2005, the State government cleared the release of the 44 prisoners detained under the Public Safety Act.<sup>88</sup>



# Jharkhand

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## 1. Overview

Ruled by Bharatiya Janata Party-led Arjun Munda government, Jharkhand witnessed serious violations of international humanitarian laws both by the law enforcement personnel and the Naxalites during 2005. The Maoists problem continued to plague the state of Jharkhand with the guerrillas reportedly being active in 16 of the 22 districts. More than 500 people were killed in the State in the last four years in the Naxalite conflict.<sup>1</sup> In a glaring example of violation of the right to life by the Naxalites, at least 15 villagers were killed and six others injured during an attack by alleged Naxalites at Bhelbadari village under Deuri police station in Giridih district on the night of 11 September 2005.<sup>2</sup>

The Adivasis, indigenous peoples, of Jharkhand continued to be victims of development projects and land alienation. Jharkhand Government had signed over 42 Memorandum of Understandings (MoU) with investors including Mittal Steel, Tata Steel, Jindal Steel and Power Company Limited since Jharkhand became a state in 2000. These projects could displace large number of Adivasis.<sup>3</sup> But the government failed to rehabilitate even those displaced between 1951 and 1991, nearly half of whom were tribals.<sup>4</sup>

In many parts of rural Jharkhand, a large chunk of tribal population did not have access to health care and still depended on *Ojhas* (exorcists).<sup>5</sup>

Many tribals also suffered from starvation. On 16 September 2005, one Samal Lohra of Tilaipidi village in the Bundu block under Ranchi district in Jharkhand reportedly died of starvation. Despite repeated appeals by the deceased's son, the administration instructed the local Public Distribution System vendor to give 10 kg rice to the family only after the death of the deceased.<sup>6</sup>

The conditions of women and children were deplorable. While women were killed and tortured for practicing witchcraft, the conditions of child labourers in the tribal belt of Jharkhand continued to be grim.<sup>7</sup>

The prisons were overcrowded with the Jaiprakash Narayan Central Jail having 3,445 inmates against its actual capacity of 1,130 prisoners<sup>8</sup> and Birsa Munda jail housing 3,000 convicts against its capacity of 605 by the end of 2005.<sup>9</sup>

The juvenile homes also remained overcrowded. The Human Rights Committee formed by the Jharkhand High Court found the living condition of inmates of the Deoghar Remand Home for girls as “extremely deplorable and inhuman”.<sup>10</sup>

Violence against the Dalits continued to show its ugly head with the killing of four members of a Dalit family who were shot dead at Saidpur village under Kako police station area in Jehanabad Assembly constituency on the night of 6 February 2005 allegedly for exercising their franchise in the first phase of the State assembly elections on 3 February 2005.<sup>11</sup>

## **2. Human rights violations by the security forces**

The security forces were responsible for human rights violations including arbitrary deprivation of the right to life. The NHRC reported 5 deaths in police custody and one death in encounter in Jharkhand during 2004-2005.<sup>12</sup> The National Crime Records Bureau (NCRB) of the Government of India failed to record any case of death in police custody in the state during 2005.<sup>13</sup> On 16 November 2005, Ali Hussain died in the custody of Palajori police station in Deogarh district after being arrested from Matiara village on the previous night. The police claimed that he committed suicide by using his shirt to hang himself from the ceiling at the custody.<sup>14</sup>

In April 2005, the Human Rights Committee established by Jharkhand High Court ruled on 33 different cases of human rights violations perpetrated by the police, including the alleged custodial death of Kuldeep Singh Chero, a Scheduled Caste, in the Manatu police station in 2003. According to the petition filed before the Human Rights Committee by the Adivasi Uthan Kendra, Chero was brutally tortured in the police station after he was arrested from his house on 21 November 2003. The petitioner alleged that the police had tried to hush up the matter. Taking cognizance of the complaint, the Committee directed Palamau Superintendent of Police to conduct a proper investigation in the alleged custodial death of Kuldeep Singh Chero.<sup>15</sup>

On 19 May 2005, 19-year-old Pintu Singh, a college student in Hazaribagh, was reportedly shot dead by constable Manu Yadav at Chouparan in Hazaribagh district. According to relatives of the deceased, Pintu and his friends decided to visit a hotel on the highway to drink in the night of 18 May 2005. While returning they had an altercation with a bus driver. The bus driver mistook them as robbers and informed the police. Following which officer-in-charge Radheyshyam Das and constable Manu Yadav chased Pintu inside a hotel and shot him dead although he was visibly unarmed. Later the police reportedly admitted that the deceased was innocent.<sup>16</sup>

The police high-handedness came to the fore in the case of Mohammed Israfil, a 'government witness' in a case (216/2003) related to the Dumaria police station. On 28 April 2005, Mohammed Israfil and his family members were roughed up by the police in Dumaria police station area under Ghatshila subdivision in East Singhbhum district. According to Israfil, the police led by officer-in-charge of Dumaria police station Bhola Nath Singh stormed into their house at 5 am on 28 April 2005. When such behavior of the police was objected, the police personnel manhandled the family members, including Israfil's wife. Israfil was dragged from his house and produced before the court of Ghtashila sub-judicial magistrate handcuffed. It was only in the court that Israfil came to know that he had been made a government witness. Israfil had not been served court's summon by the officials of the local police station, despite his residence being only 30 feet away from the Dumaria police station.<sup>17</sup>

### **3. Violations of international humanitarian laws by the AOGs**

Jharkhand faced a serious problem of Maoists violence with the guerrillas active in 16 of the 22 districts. More than 500 people had been killed in the Naxalite conflict in the State in the last four years.<sup>18</sup>

The Maoists killed at least one legislator and one panchayat secretary in 2005. Three suspected Maoists allegedly killed Mahendra Prasad Singh, Communist Party of India-Marxist Leninist (CPI-ML) legislator from Bagodar while he was talking to some physically challenged persons at Durgi Dhowaiya village in Giridih district on 16 January 2005.<sup>19</sup> A panchayat secretary was killed and three others were injured when alleged Maoists opened fire at the Kanker Collector SK Raju's carcade while they were returning from Koilebara on 11 November 2005.<sup>20</sup>

Others who were killed by the Maoists during 2005 included six police personnel and a driver who were killed in a bomb blast by suspected Communist Party of India (Maoist) rebels on 3 February 2005 while enforcing the Assembly polls boycott at Maraiya Bhalai village under Chattarpur police station limits in Palamau district,<sup>21</sup> a constable on 7 February 2005 who was killed in an alleged Maoist-triggered landmine blast at Manatu area of Palamau district,<sup>22</sup> two villagers identified as Hazibullah and Mohammad Quasim by alleged Maoists during a raid at Tarwadih village in Latehar on the night of 18 May 2005,<sup>23</sup> killing of 15 villagers and injuries to six others during an attack by alleged Naxalites at Bhelbadari village under Deuri police station in Giridih district in the late night of 11 September 2005<sup>24</sup> and killing of a street vendor identified as Md Neyaz at Mohanpur on 11 November 2005.<sup>25</sup>

The Maoists also continued to deliver Kangaroo justice through their “Peoples’ Court”, *Jana Adalat*. On 23 July 2005, Maoists reportedly killed one John Hembrom, chopped off the hands of two other persons and an ear of another, all of them hailing from different villages in Giridih district, following their convictions in the *Jana Adalat* conducted by the Maoists somewhere in the adjoining Jamui district in Bihar.<sup>26</sup>

## 4. Violence against women

The NCRB recorded 2,544 cases of violence against women in the state during 2005, including 753 rape cases, 293 molestation cases, 283 kidnapping cases and 257 dowry deaths.<sup>27</sup>

### a. Sexual violence

Women continued to be victims of sexual abuses in Jharkhand.

On 26 March 2005, Abinash Gurung and Rakesh Viswakarma of the Jharkhand Armed Police while undergoing a refresher course at the Traffic Training Institute in Burmamines reportedly went to a Harijan (Dalit) *basti* in plain cloths and picked up a teenaged girl and tried to rape her at a nearby vacant room during the middle of Holi festivities in Jamshedpur. The girl was rescued by the neighbours and the soldiers were arrested.<sup>28</sup>

On 13 September 2005, a 19-year-old young woman was allegedly gang raped by seven persons, including three Railway Protection Force personnel, a train ticket examiner Mr DN Upadhyay and three catering unit staff Md Aslam, Md Zafar and Md Nayem inside a first-class compartment of the Howrah-bound Toofan Express between Kiul and Madhupur Junctions in Jharkhand. A complaint of rape was lodged with the Madhupur Government Railway Police under Section 376G of the IPC.<sup>29</sup>

Eloping with tribal girl could invite the wrath of the village panchayat. On 12 April 2005, a 50-year-old woman was reportedly paraded naked at Baski village under Mandar police station limits on the outskirts of Ranchi after her son eloped with a tribal girl. Failing to track the eloped pair, the village Panchayat was convened, wherein the village elders decided to “punish” the woman for her son’s conduct.<sup>30</sup> 30 persons were arrested in this connection by the police on 14 April 2005.<sup>31</sup>

### b. Cultural cruelties: witch-hunting

Women in Jharkhand continued to be targeted as “witches”. Many of the alleged witches were meted out inhuman and degrading treatment. In early August 2005, 70-year-old woman Batti Devi was reportedly beaten up and forced to eat human excreta by a father-

son duo after being branded a witch at her home in Chaibasa.<sup>32</sup> In another incident on 19 November 2005, a septuagenarian woman identified as Panchami Devi was dragged out of her house on the suspicion of being a witch, beaten up and forced to eat human excreta in front of the public at Jhopapatti village in Dhanbad district of Jharkhand. A villager accused Panchami Devi of killing his son by using black magic. The police arrested two villagers identified as Kartik and Sanjay Sao.<sup>33</sup>

Many of the victims were murdered. On 8 August 2005, a woman identified as Salge Hembram was allegedly hacked to death with an axe in front of her son Jayaram by the villagers for unable to pay the fine of Rs 10,000 imposed on her on the charges of practicing witchcraft on one Vikram in Ranikunder village in Jamshedpur. The villagers reportedly burnt her body to wipe out any evidence despite pleading by her son for his mother's body to perform the last rites.<sup>34</sup>

Sometimes even men were targeted as witches. On 12 January 2005, a *tantrik* (occult practitioner) identified as Silbanis Toppo was hacked to death by villagers at Turbunga village under Raidih police station limits of Gumla district. The villagers accused him of killing an eight-year-old boy as part of a sacrificial ritual.<sup>35</sup>

## 5. Violations of the rights of the indigenous peoples

The National Crime Records Bureau recorded 483 cases of atrocities against the tribals in the state, which amounted to 8.5% of all the crimes against the tribals in India during 2005. By the end of 2005, 291 cases of atrocities against the tribals were pending investigation by the police and 442 cases were pending trial by the court. The rate of conviction for the crimes against the tribals in the state during 2005 was only 22.9%<sup>36</sup>

According to the 2001 Census report, the tribal population in Jharkhand has declined by 12 per cent in the last seven decades from 38.20% in 1931 census to 26.30% in 2001 census.<sup>37</sup> There were at least nine vulnerable tribes who were on the verge of extinction. The population of these tribes, which include Birhor, Ho, Savar, Kharia Sauria, Paharia, Birajia, Korba, Asur and Bal Paharia, was stated to be less than 10,000.<sup>38</sup>

The literacy rate among the nearly extinct tribals was also less than 10 per cent. In December 2005, the Jharkhand government issued a notification to induct members of the most primitive tribes directly in government jobs. Under the policy, graduates from the primitive tribes would not have to go through fresh examination to get jobs.<sup>39</sup>

The tribals were victims of "development projects". A study by People's Union for Civil Liberties (PUCL), a human rights organisation, showed that over 74 lakh tribals were displaced in Jharkhand by different projects between 1950 and 1990. Only 18.45 lakhs

were rehabilitated and the rest, 56.26 lakhs — over two-thirds of the displaced — have been left to fend for themselves. According to the report, industries had displaced 2.60 lakh tribals while different animal sanctuaries had forced about 5 lakh tribals to leave their homes.<sup>40</sup>

The tribals were also victims of land alienation through transfer of land to non-tribals in violation of the Chotanagpur Tenancy Act. The most popular method was by marrying tribal girls, buying tribal land in their names and acquiring the land by the non-tribals after dumping their tribal wives. In 2005, the government of Jharkhand identified 1,500 tribals in Ranchi who had lost their land to outsiders and decided to give back physical possession of their land under an action plan drawn up by the land revenue department.<sup>41</sup>

The tribals were also victimised under various forest laws. They faced forcible evictions, harassment and imprisonment by the police and the forest officials. On 8 June 2005, the timber mafia in alleged connivance with the forest officials attacked and burnt the houses of Agaria tribe at Kumba Kurd village under Nagar Untari police station limits of Garhwa district in Jharkhand after the tribals opposed the activities of the timber mafia. One eight-month-old baby was reportedly burnt alive and 140 huts of the Agaria tribe were burnt to ashes. A case was lodged with Nagar Untari police station against 23 persons including 13 forest officials. On the other hand, the forest department lodged an FIR against the Agaria tribals on the basis of which the police swiftly arrested eight Agaria tribal villagers. But the police refused to take action against the accused forest officials.<sup>42</sup>

## **6. Violations of the rights of the child**

The National Crime Records Bureau recorded 97 cases of crimes against children in the state including 33 murder cases, 22 rape cases and 11 kidnapping cases.<sup>43</sup>

On the night of 1 November 2005, a 10-year old boy identified as Ravi alias Chhotu of Gandhi Nagar in Dhanbad, Jharkhand, reportedly sustained bullet injury on his thigh after the drunk bodyguard of the Chief Judicial Magistrate of Dhanbad opened fire at him.<sup>44</sup>

Adivasi children continued to be disproportionate victims of discrimination and violence. According to a report compiled by a social organisation called AID, an estimated 18,000 children were involved in mica mining in two districts of Koderma and Giridih in Jharkhand. Employing children in illegal mica mining by organized groups was commonplace. The impact of mica mining has been glaring on their health. Children go 20 feet below the ground, mostly in loose soil in search for mica. Many reportedly died due to collapse of the ground soil. Diseases such as silicosis, asthma and bronchitis, T.B

and malnutrition were common among the child labourers. They were paid a meagre wage anything between Rs 6 and Rs 8 per day for a minimum of 10 hours work.<sup>45</sup>

The Adivasi girls were also easy target of sexual violence. On 22 October 2005, four tribal girls, aged between 14 and 16, were reportedly gang raped by eight persons at gunpoint repeatedly for two-and-a-half hours while returning in the evening from a factory after work at Paharabad in Dhanbad district. The medical tests confirmed rape. All the accused were arrested and sent to jail.<sup>46</sup> The victims were given Rs 25,000 each under the provisions of the Scheduled Castes/ Scheduled Tribes (Prevention of Atrocities) Act.<sup>47</sup>

The juvenile justice system remained highly inadequate. Proceeding in a Public Interest Litigation, in 15 July 2005 the division bench of the Jharkhand High Court comprising Chief Justice Altamas Kabir and Justice S.J. Mukhopadhaya directed the government to speed up the process of constituting the Juvenile Justice Boards to look after the welfare of juveniles lodged in the different remand homes of the state. The court also told the government to form the State Advisory Committee and Child Welfare Committee as provided in the Juvenile Justice Care and Protection Act, 2000.<sup>48</sup> On 25 August 2005, Juvenile Justice Board was formed to dispose of the cases and provide justice to the juveniles who have been languishing in seven districts—Ranchi, Deoghar, Dumka, Hazaribagh, Chaibasa, Jamshedpur and Dhanbad.<sup>49</sup>

The conditions of the juveniles were deplorable. According to the Human Rights Committee formed by the Jharkhand High Court, the living condition of inmates of the Deoghar Remand Home for girls was “extremely deplorable and inhuman.” There were 85 juveniles against the sanctioned capacity of 50 as on May 2005 and they were provided only rice and jaggery as food.<sup>50</sup> There were at least 500 juveniles languishing in observation homes in the state including 200 (190 males and 10 females) in Ranchi observation home and 153 (148 males and 5 females) in Jamshedpur as on September 2005.<sup>51</sup>

## **7. Violations of the prisoners’ rights**

The NHRC reported 66 deaths in judicial custody in the State during 2004-2005.<sup>52</sup>

In India, the punishment with life imprisonment was still ambiguous with controversies as to whether the life sentence was for the entire life or only 14 years imprisonment. All the 3,445 prisoners in Jaiprakash Narayan Central Jail in Hazaribagh reportedly launched an indefinite fast from 15 April 2005, which was spearheaded by the 38 life-convicts who had already spent 20 years or more in jail.<sup>53</sup>

The prisons were overcrowded with the Jaiprakash Narayan Central Jail having 3,445 inmates against its actual capacity of 1,130 prisoners<sup>54</sup> and Birsa Munda jail housing 3,000 convicts against its capacity of 605 by the end of 2005.<sup>55</sup>

During 2005, at least six prisoners reportedly died in Birsa Munda Central Jail in the state capital Ranchi. Some of them died on their way to the Regional Institute of Medical Sciences (RIMS) allegedly due to inordinate delay in the process of shifting the patients. On 15 November 2005, Indira Munda died on her way to RIMS. On 25 December 2005, one Malua Oraon, suffering from multiple disorders, died while he was being taken to RIMS for treatment. On 20 December 2005, another patient identified as Shyam Oraon died from diarrhoea at RIMS. Earlier, Bheega Ghagrai had died in the jail hospital on 8 November 2005.<sup>56</sup>

The jail hospital had only two doctors to look after 300-odd patients admitted there against a capacity of 100. According to a doctor of the jail hospital, some of the inmates “even have to stand and sleep” due to lack of space.<sup>57</sup>

## **8. Status of the Internally Displaced Persons**

Mining remained the largest cause for land alienation and displacement in Jharkhand. The Jharkhand Government signed over 42 MoUs with investors including Mittal Steel, Tata Steel, Jindal Steel and Power Company Limited worth about Rs 1,69,198.26 crores since Jharkhand became a state in 2000. These would require approximately 47,445 acres of land for the projects in mineral-rich Kolhan Region, which could affect about 10,000 families and cause deforestation of 5,715 square kms land.<sup>58</sup>

However, the State government did not rehabilitate most of the people displaced between 1951 and 1991. Over 34% lands were acquired for development projects between 1951 and 1991 for mining and about 7% of Jharkhand’s population was displaced, of which nearly half were tribals.<sup>59</sup>

In June 2005, the government of Jharkhand had reportedly proposed to acquire a total of 113 village areas for the Koel-Karo project for the building of two dams, one at Basia on the south Koel River and another at Lohajimi on the north Karo River. The project would displace thousands of tribals.<sup>60</sup>

A survey conducted by a team led by nuclear physicist Surendra Gadekar showed a sharp rise in the number of congenital deformities in children in villages around Jadugoda, where the Uranium Corporation Of India Limited’s uranium mines had been functioning since 1968.<sup>61</sup>

# Karnataka

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## 1. Overview

Ruled by the Indian National Congress-Janata Dal (Secular) alliance, Karnataka was increasingly being afflicted by the Naxalite conflict. Following the killing of seven Karnataka State Reserve Police personnel and one civilian in an attack on a police camp at Pavagada in Tumkur district on 10 February 2005, then Chief Minister N Dharam Singh announced setting up of two anti-naxal squads to tackle the menace.<sup>1</sup>

The security forces were responsible for gross violations of human rights such as custodial killings, arbitrary arrest and detentions, and torture. The NHRC registered 9 cases of deaths in police custody, 51 cases of deaths in judicial custody and 2 cases of deaths in encounters during 2004-2005.<sup>2</sup> Asian Centre for Human Rights documented death of four persons in police custody in the State during 2005. Often, such deaths were dismissed as suicides. On the night of 26 April 2005, S. Yesu died in Ashok Nagar police station in Bangalore. The deceased was picked up from his house by the crime staff of Ashoknagar police station during the day for interrogation in connection with a robbery case.<sup>3</sup> The police claimed that the deceased used the bed sheet provided to him to hang himself from the ventilator of the toilet.<sup>4</sup>

The Naxalites were also responsible for blatant violations of international humanitarian laws. On the night of 17 May 2005, suspected Naxalites shot dead a Congress tribal leader, P Seshaiyah at Menasinahadya village in Koppa taluk of Chikmagalur district.<sup>5</sup>

Untouchability against the Dalits was common. The statue of Dr BR Ambedkar was desecrated by some identified miscreants on the office premises of the Nipani Town Municipal Council on the night of 10 April 2005.<sup>6</sup>

The State Government of Karnataka failed to protect the rights of the child. There were reportedly more than 35 lakh children working in different sectors like industries, agriculture and domestic in Karnataka.<sup>7</sup>

Following the suicide of 14-year-old Santosh, an inmate of the Observation Home in Madivala police limits in Bangalore allegedly by hanging himself with a rope from the ceiling of the toilet, in January 2005, the NHRC raised a series of concerns about the protection of human rights of juveniles lodged in the observation homes in Karnataka.<sup>8</sup>

Prisons in Karnataka were reportedly flooded with drugs.<sup>9</sup>

## **2. Human rights violations by security forces**

### **a. Deprivation of the right to life**

The NHRC registered 9 cases of deaths in police custody and 2 cases of deaths in encounters during 2004-2005.<sup>10</sup> The National Crime Records Bureau (NCRB) of the Government of India recorded deaths of three persons in police custody during 2005. Of these, autopsy was conducted only in two cases and a case was registered in one case.<sup>11</sup>

Asian Centre for Human Rights documented death of four persons in police custody. Often, such deaths were dismissed as suicides. On the night of 26 April 2005, S. Yesu died in Ashok Nagar police station in Bangalore. The deceased was picked up from his house by the crime branch staff of Ashoknagar police station during the day for interrogation in connection with a robbery case.<sup>12</sup> The police claimed that the deceased used the bed sheet provided to him to hang himself from the ventilator of the toilet.<sup>13</sup>

The other victims included Abdul Rauf alias Rauf of Arakere in Hosur who died in the custody of Jayanagar police, Bangalore on 9 May 2005;<sup>14</sup> Abdul Hameed of Tannery Road, Bangalore who was allegedly tortured to death in the custody of Jnanabharathi police station, Bangalore on 25 August 2005;<sup>15</sup> and Hanamanthappa Shivappa, son of Shivappa of Ganganagar area in Gulbarga district, who died in police lock up on 15 October 2005.<sup>16</sup>

There were also allegations of killings in fake encounters. On 6 February 2005, two Naxalites identified as Saketh Rajan alias Prem, State secretary of the Communist Party of India (Maoist) and Shivalingu were shot dead by the police in alleged “fake encounter” at Kallugudde forest area of Menasinahadya village in Chikmagalur district.<sup>17</sup> Following protest by the Citizens’ Initiative for Peace, Chief Minister N Dharam Singh on 7 February 2005 ordered an inquiry into the encounter by the Development Commissioner Chiranjeev Singh.<sup>18</sup> Despite assurances by the Chief Minister to hand over the bodies to Citizens’ Initiative for Peace, the police reportedly forcibly removed the dead bodies from the Bowring Hospital mortuary and performed the last rites at Kalpalli crematorium under Fraser Town police station.<sup>19</sup> Such acts of the police only strengthened the suspicion that the deceased had been extra-judicially executed.

### **b. Arbitrary arrest, illegal detention and torture**

There were reports of arbitrary arrest, detention and torture. On 6 January 2005, the police allegedly assaulted Tauseef Nayeem, a student of NDRK College, Hassan district on charges of theft. The victim had to be admitted in a hospital in a critical condition.<sup>20</sup>

In one particular case, on 3 August 2005, the Director General of Police, B N P Albuquerque directed the Corps of Detectives to inquire into the alleged police atrocity on Janata Dal(U) National General Secretary B Sreepathi Rao in Bangalore, who was allegedly illegally detained and assaulted by the Sampangiramnagar police, Bangalore.<sup>21</sup>

There were also allegations that the police booked false cases against several innocent villagers of Venkatammanahalli under Pavagada district.<sup>22</sup>

### **c. Impunity**

The State government granted impunity to the State police for their human rights violations. One such glaring case of impunity was the protection given to the Special Task Force personnel who had been accused of perpetrating atrocities upon the tribals while pursuing notorious forest brigand Veerappan. On 23 February 2004, the NHRC sought the replies of the state governments of Karnataka and Tamil Nadu within three months on the report of Justice Sadashiva Panel set up by the NHRC to investigate the allegations of atrocities committed by Joint Special Task Force during anti-Veerappan operations. The NHRC sent repeated reminders to both the state governments in June 2004, September 2004 and on 8 February 2005.<sup>23</sup> But it was only after the NHRC on 7 March 2005 threatened to exercise its powers to inquire into complaints in absence of any reply from the governments' side that the Karnataka and the Tamil Nadu governments sent their responses on 2 May 2005 and 5 May 2005 respectively.<sup>24</sup> Non-cooperation by the state authorities resulted in inordinate delay in delivery of justice on one hand, and provided impunity to the accused on the other hand.

## **3. Violations of international humanitarian laws by the AOGs**

The Naxalites, also known as the Maoists, continued to increase their presence in the State and violated international humanitarian laws. On 11 February 2005, the Maoists blew up a camp of Karnataka State Reserve Force (which was a primary school building) in Venkatamannahalli in Tumkur district killing five policemen and a civilian passerby.<sup>25</sup>

On the night of 17 May 2005, suspected Maoists shot dead a Congress tribal leader, P Seshaiiah at Menasinahadya village in Koppa taluk of Chikmagalur district.<sup>26</sup>

On the night of 17 May 2005, suspected Maoists shot dead a bank official identified as Seshiyya of the Primary Land Bank at Menasinadya in Koppal taluk of Chikmagalur district.<sup>27</sup>

## **4. Violations of the rights of the Dalits**

The NCRB recorded 1,780 cases of crimes against the Dalits in Karnataka which amounted 6.8% of the total crimes against the Dalits in India during 2005.<sup>28</sup>

Untouchability was widespread. According to Dalit Sena State Vice-President Hanumanth Yalasangi, of the 1,530 villages in Gulbarga district, untouchability was being practiced in 542 villages. He claimed that on an average, six Dalits were being killed, and there were 40 atrocity cases reported in the district in a month.<sup>29</sup>

In October 2005, two upper caste landlord families arbitrarily constructed a compound wall and blocked the pathway used by the hundreds of Dalit families in the village of Kodlady village under Udupi district. When some Dalits protested, the two upper caste landlords threatened them with dire consequences.<sup>30</sup> On 18 October 2005, the workers of Karnataka Dalit Sangharsha Samithi staged a dharna in front of the Vemagal police station protesting against the atrocities on Dalits in Sithi Hesuru in Kolar district of Karnataka. They alleged that sub inspector N Krishnappa of Vemagal police station failed to take action against those involved in the attack on the Dalits and demanded his immediate suspension.<sup>31</sup>

The Dalits also faced discrimination in respect of carrying out development of their areas in Karnataka. On 12 December 2005, the Dalit Sena took out a protest rally in Gulbarga against willful deprivation of the Dalits of Gulbarga district from the benefits of various development schemes. According to Karnataka State Vice-President Hanumanth Yalasangi, Rs 5.4 lakh had been sanctioned to construct a government school at Muddadaga Dalit village but the construction of the building was yet to start. Similarly, 63 Dalit families in Nimbarga village had been allotted houses under the Ashraya scheme but the families had not been given the title deeds.<sup>32</sup>

## **5. Violations of the rights of the child**

The National Crime Records Bureau recorded 191 cases of crimes against the children in Karnataka during 2005, including 42 murders, 48 rapes and 35 abductions during 2005.<sup>33</sup>

There were reportedly more than 35 lakh children working in different sectors, including industrial, agricultural and domestic sectors, in the state.<sup>34</sup> The employers of child labourers were seldom convicted in courts. Out of the 22 cases of child death which came to the notice of the Campaign against Child Labour, Karnataka since 1997, court

conviction reportedly took place only in three cases while six cases were settled for paltry compensation and seven other cases were still pending.<sup>35</sup>

In May 2005, taking cognizance of a report by the HAQ-Centre for Children Rights, the National Human Rights Commission directed the State Government of Karnataka to look into allegations of child labour in the mines of Hospet and Sondur in Bellary and Ilkal in Bijapur district. In its report, the HAQ-Centre for Children Rights alleged that children, from the age of five, were employed in the mines at Hospet, Sandur and the Ikal belt in violation of child and labour laws. They were forced to carry out digging, breaking stones, loading, dumping, transporting and processing of iron ore with no safety equipment, fixed wages and working hours. They handled a high-level of toxic wastes and were exposed to mine dust, which was above the permissible level. The report said the mine-owner was blatantly violating labour laws by employing children and making them work under exploitative and inhumane conditions.<sup>36</sup>

In January 2005, the NHRC raised a series of concerns about the protection of human rights of juveniles lodged in the observation homes in Karnataka. On 13 December 2004, 14-year-old Santosh, an inmate of the Observation Home in Madivala police limits in Bangalore, allegedly committed suicide by hanging himself by a rope from the ceiling of the toilet. Allegations have been made that the staffers in the Observation Home were not trained properly to handle juveniles.<sup>37</sup>

## **6. Violations of the prisoners' rights**

The NHRC recorded 51 cases of deaths in judicial custody during 2004-2005.<sup>38</sup>

On 2 May 2005, an undertrial prisoner identified as Chikkayya died at Chikmagalur Sub Jail. While the police claimed that the deceased died due to ill health, the deceased's wife stated that her husband did not suffer from any disease.<sup>39</sup>

There were also reports of rampant use of drugs in the prisons. In June 2005, proceeding in a writ petition filed by Srirama Babu, Chief Justice of Karnataka High Court N.K. Sodhi stated that use of drugs inside the jails in the country including Karnataka was alarming. Among others, the petitioner alleged that there was rampant use of drugs in jails. He also alleged that the authorities had failed to control use of drugs in jails. The petitioner had also raised the issues like overcrowding, staff shortage, medical problems that were found common in the jails in Karnataka.<sup>40</sup>

On 4 November 2005, jail warden Mahesh Babu of Parappana Agrahara Central prison in Karnataka was reportedly caught red-handed by Superintendent of the Prison, C.S. Raju while he was allegedly supplying a packet of ganja to a prisoner.<sup>41</sup>

## **7. Status of the Internally Displaced Persons**

The Karnataka Planters' Association (KPA) raised strong objections to the proposed Upper Bhadra Project to be constructed on river Bhadra at Magundi village in Chikmagalur district. KPA alleged that an estimated 10,000 acres of prime forest land and about 12,000 acres of coffee, areca, pepper plantations and paddy fields would be completely submerged under water if the dam is constructed.<sup>42</sup>

The state government decided to regularize the lands encroached by 1300 tribal families in the Kudremukh National Park area in Chikmagalur district. On 17 February 2005, the State Cabinet decided to implement a Rs 23 crore package for rehabilitation of 201 tribal families who had agreed to move out from the Kudremukh National Park area. The government promised to rehabilitate these tribal families within a year by providing an assistance of about Rs 11 lakh per family.<sup>43</sup>

# Kerala

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## 1. Overview

Kerala with no record of armed insurgency faced serious human rights violations. The National Crime Records Bureau (NCRB) of the Government of India recorded three deaths in police custody in Kerala during 2005.<sup>1</sup> The NHRC had recorded 6 deaths in police custody in the state during 2004-2005.<sup>2</sup>

The police continued to use the infamous “Uruttu method” to torture people in custody. On 27 September 2005, a labourer identified as Udayakumar died at Fort police station in Thiruvananthapuram due to alleged torture by “Uruttu” method.<sup>3</sup>

On 14 December 2005, the governor of Kerala promulgated the Felonious Activities (Prevention) Ordinance known as “anti-goonda law” which empowered the government to order preventive detention up to six months of any suspects. In case a suspect is absconding, the government can confiscate his property.<sup>4</sup>

The National Crime Records Bureau reported 6,762 cases of crime against women in Kerala which included 478 cases of rape, 129 cases of kidnapping, 21 cases of dowry deaths, 3,283 cases of cruelty by husband and relatives, among others during 2005.<sup>5</sup> Justice continued to elude the victim of the infamous Suryanelli serial rape case of 1996 in which a school girl was sexually exploited for over 40 days by a number of persons. On 20 January 2005, the Kerala High Court acquitted the 35 accused who had been convicted by the lower court and found one Dharmarajan guilty only of crimes related to the sex trade (procuring and selling a minor for purposes of prostitution, etc.).<sup>6</sup>

Justice also continued to elude the tribal victims of police firing at Muthunga in Wyanad district on 19 February 2003. The Kerala government had ordered an enquiry by the Central Bureau of Investigation (CBI). In February 2005, the CBI probe report gave the police a clean chit over the police firing at Muthunga, and instead blamed 153 tribals for the incident.<sup>7</sup>

The National Crime Records Bureau also recorded 386 cases of crime against children in Kerala during 2005.<sup>8</sup> The state government failed to constitute the Juvenile Justice Boards as envisaged in the Juvenile Justice Act, 2003, despite the fact that as on 31 July 2005, there were 534 pending cases, registered between 2002 and 2005 against accused children in juvenile courts in the state.<sup>9</sup>

The jails in Kerala were overcrowded. As on September 2005, about 6,950 prisoners, excluding those on parole, were housed against the total sanctioned capacity of 5,415 prisoners.<sup>10</sup> Prisoners in the state's jails were regularly subjected to beatings, ill treatment and even sexual harassment.<sup>11</sup>

## **2. Human rights violations by the security forces**

The National Crime Records Bureau recorded three deaths in police custody in the state during 2005.<sup>12</sup> The NHRC had recorded 6 deaths in police custody during 2004-2005.<sup>13</sup>

The police still used the infamous "Uruttu method" to torture people in custody. This inhuman method of torture involves rolling an iron rod over the suspect's body with two policemen applying severe pressure on both ends. Sometimes they even sit on the rod. The method was widely used by the police during the days of emergency in Kerala against the suspected Naxalites.<sup>14</sup>

On 27 September 2005, a labourer identified as Udayakumar died at Fort police station in Thiruvananthapuram. The police allegedly used the "Uruttu method" after he demanded back Rs 4,000 which the police personnel had forcibly taken away from him. The report of the post-mortem which was conducted at Thiruvananthapuram Medical College Hospital stated that Udayakumar died of shock after his thigh bones were crushed with an iron rod.<sup>15</sup> Four police officers of the Fort station were suspended after the incident and two of them were arrested immediately.<sup>16</sup>

On 2 October 2005, Murukan allegedly committed suicide after being tortured at the Nemom police station for two days. On 5 October 2005, another youth was tortured using third degree methods by police at Koyilandi in Kozhikode district.<sup>17</sup>

The police were also responsible for arbitrary arrest and detention. In October 2005, a Communist Marxist Party activist identified as Shahim of Kattayikonam Kalladichavila was taken to Mangalapuram police station and beaten up by the police causing head injuries. The victim's relatives alleged that a police team led by a sub-inspector picked up Shahim and his friend Harshan while they were sleeping in the house.<sup>18</sup>

## **3. Violence against women**

The National Crime Records Bureau recorded 6,762 cases of crime against women in Kerala during 2005, including 478 cases of rape, 129 cases of kidnapping, 21 cases of dowry deaths, and 3,283 cases of cruelty by husband and relatives.<sup>19</sup>

On 27 December 2005, the then leader of the Opposition V. S. Achuthanandan, in a memorandum to the National Human Rights Commission urged the NHRC to intervene into the ice-cream parlour sex scandal case and ensure that the human rights of the girls sexually exploited by those involved in the racket were protected. He alleged that the accused in the case with connivance of the state government had coerced, threatened or influenced with bribes the key witnesses in the case. Earlier in October 2005, the Assistant Sessions Judge-II of Kozhikode while issuing charge in the case concluded that former Minister P. K. Kunhalikutty had been subjecting minor girls to sexual exploitation over a long period of time. However, the state government, instead of booking Mr. Kunhalikutty for the crime, had been allegedly connived with him to help him escape punishment.<sup>20</sup>

Justice continued to elude the victim of the infamous Suryanelli serial rape case. The Kerala High Court on 20 January 2005 acquitted the 35 accused who had been convicted by the lower court and found one Dharmarajan guilty only of crimes related to the sex trade (procuring and selling a minor for purposes of prostitution, etc.). Consequently, his sentence was reduced to five years and fines amounting to Rs. 50,000. The case involved a 16-year-old school girl from Suryanelli of Idukki district, who was transported from place to place across the state and sexually assaulted by a series of men, including some influential persons, over 40 days in 1996.<sup>21</sup>

#### **4. Violations of the rights of the indigenous/tribal peoples**

The National Crime Records Bureau recorded 82 cases of crimes committed against the tribals in Kerala during 2005.<sup>22</sup> In June 2005, a tribal woman identified as Maruthy of Padayal under Agali police station of Attappady in Palakkad district was allegedly raped and murdered by some unidentified men. The post-mortem report reportedly found 142 injuries on her body.<sup>23</sup>

The tribals continued to be denied access to land and resources. On 30 July 2005, Chennan, a tribal from Vadapuram Adivasi Colony, allegedly died of malnutrition at Kallunda Adivasi Colony in Nilambur district. However, the government officials denied that Chennan had died of malnutrition.<sup>24</sup>

Justice continued to elude the victims of police firing at Muthunga in Wyanad district. In 2001, the Kerala government had signed a land agreement with the adivasis. However, in complete violation of the so-called accord nothing was implemented. The Adivasis were forced to continue their protests demanding their land rights in the forest.<sup>25</sup> On 19 February 2003, police had opened fire on tribals and killed one tribal after they had allegedly took possession of a part of the Muthanga.<sup>26</sup> The Kerala government had ordered an enquiry by the Central Bureau of Investigation (CBI). In February 2005, the CBI probe

report gave the police a clean chit over the police firing at Muthunga, and instead blamed 153 tribals for the incident.<sup>27</sup>

The National Crime Records Bureau stated that 64 cases of atrocities against the tribals were pending investigation by the police while 414 cases were pending trial at the court by the end of 2005. Although the charge-sheeting rate was as high as 98.8%, the conviction rate for the crimes committed against the tribals in the state was merely 8% during 2005.<sup>28</sup> The acquittal of the police personnel responsible for the killing of a tribal at Muthunga<sup>29</sup> is an example of administrative bias.

## **5. Violations of the rights of the child**

The National Crime Records Bureau recorded 386 cases of crime against children, including 45 murder cases, 140 rape cases, 45 abduction cases, among others in Kerala during 2005.<sup>30</sup> According to Kerala government's Police Department figures, as many as 361 children became victims of crime in the State in 2004. Of this, 102 children were murdered, 159 raped and 74 reported kidnapped or abducted.<sup>31</sup>

The state government failed to constitute the Juvenile Justice Boards as envisaged in the Juvenile Justice Act, 2003. As on 31 July 2005, there were 534 pending cases, registered between 2002 and 2005 against accused children in juvenile courts in the state. Out of the 730 children involved in the cases, which include murder, rape, and one drug case, 701 were boys and the rest were girls.<sup>32</sup>

## **6. Violations of the prisoner's rights**

The jails in Kerala were overcrowded. As of September 2005, about 6,950 prisoners, excluding those on parole, were housed against the total sanctioned capacity of 5,415 prisoners. In the Central Prison, Thiruvananthapuram, 1,612 prisoners including 38 females were kept as against the authorized 1,000 prisoners.<sup>33</sup> Prisoners in state's jails were regularly subjected to beatings, ill treatment and even sexual harassment.<sup>34</sup>

The condition of the Poojappura Central Prison in Thiruvananthapuram, was deplorable. The Kerala State Human Rights Commission (SHRC) during its visit to the jail on 7 April 2005 received complaints of lack of medical attention, overcrowded cells and unclean toilets. There was only one doctor and the sick prisoners did not receive immediate and proper medical care. 30 prisoners were being housed in a room that had beds and facilities only for three. About 1,600 prisoners, including those in judicial remand were housed in cramped conditions. The toilets in the cells were unclean and lacked proper lighting.<sup>35</sup>

# Madhya Pradesh

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## 1. Overview

Ruled by the Bharatiya Janata Party, the law enforcement personnel in Madhya Pradesh were responsible for serious human rights violation including deprivation of right to life in the indiscriminate use of firearms. According to National Crime Records Bureau (NCRB) of the Government of India, 26 civilians were killed in police firing in the state during 2005.<sup>1</sup>

The NCRB further stated that 19,748 complaints were received against police personnel of the state during 2005. Of these, only 588 were registered and the rest were declared false/unsubstantiated. 52 cases were reported for regular departmental action and 18 sent for trials/chargesheet. Departmental inquiries were instituted in 5184 cases and magisterial inquiries were instituted in 603 cases. Disciplinary action were initiated against 339 personnel and 30 police personnel were dismissed/removed from service and major punishment were awarded to 66 police personnel and minor punishment to 275 police personnel.<sup>2</sup> One minor identified as Honey alias Aniket (6), son of Rajendra Gupta was killed when the police opened fire at a protesting mob at Banda in Sagar district on 15 March 2005.<sup>3</sup>

The Dalits continued to face atrocities and discrimination in Madhya Pradesh. According to NCRB, Madhya Pradesh reported the highest crime rate against the Dalits both in 2004 and 2005 which stood at 7.3 and 6.6 respectively. The NCRB recorded 4,356 incidents of crime against Dalits in the state during 2005.<sup>4</sup> On 15 August 2005, a Dalit woman sarpanch (village head) identified as Anita Bai Ahiwar of Patehra village under Damoh district was not allowed by government officials to hoist the national flag in a market place because she belongs to Dalit community.<sup>5</sup>

The tribals suffered atrocities and were often intimidated to withdraw the cases. On 20 October 2005, a Gond tribal identified as Suraj Singh Gond, the president of the Teacher-Guardian Association of the village school, was allegedly burnt alive by members of an upper caste family at Kataria village under Katni district of Madhya Pradesh for the failure to withdraw the cases filed against the upper caste.<sup>6</sup>

Madhya Pradesh along with Chhattisgarh had the highest incidence of child marriages. Child marriages were solemnized on mass scale on the occasion of Teej during the months of April-May every year.<sup>7</sup> The State government reportedly saved over 10,000 minor girls

from child marriage largely prevalent in the rural parts of the state through various campaigns.<sup>8</sup>

Prisons conditions remained deplorable in Madhya Pradesh. As of 31 December 2004, there were a total of 28,843 prisoners against the sanctioned capacity of 17,374 prisoners.<sup>9</sup> The women prisoners were reportedly denied the right to wear innerwear and not allowed to lock the toilet door because the authorities believed that these could be used to commit suicide.<sup>10</sup>

Malnutrition among children was rampant in Madhya Pradesh. According to the latest data collected in July 2005 by State Government sponsored Bal Sanjeevni Abiyaan, about 80,000 children had been suffering from acute malnutrition and were on the verge of death due to government departments' apathy.<sup>11</sup> According to another evaluation report, even though the children were saved, they would go blind due to lack of vitamin A.<sup>12</sup>

## **2. Human rights violations by the security forces**

The NHRC registered 2 deaths in police custody and 5 deaths in encounters in Madhya Pradesh during 2004-2005.<sup>13</sup> The National Crime Records Bureau recorded death a person in police custody during 2005.<sup>14</sup>

On 23 July 2005, an Indore Municipal Corporation employee identified as Vasu, who was picked up by police and detained under the Arms Act, died in police custody allegedly after an epileptic attack. Police claimed that he died on way to hospital.<sup>15</sup>

Police consistently used torture. In October 2005, Narayan Singh Pal of Bharatpur under Salamatpur in Raisen district, was reportedly beaten up and kicked and punched by head constable Sudhir Kulshrestha, constables Tejsingh and others of the area without reason when he went to Sunder Lal Hotel to take his payment of milk product. The policemen later made an excuse that they had beaten him up in misunderstanding.<sup>16</sup>

In few cases of custodial deaths the court awarded punishment and ordered arrest of guilty policemen. The Madhya Pradesh High Court on 23 June 2005 ordered arrest of the Superintendent of Police of Lokayukta, Bhopal, Mokham Singh Nayan, Inspector BP Singh and two constables in the custodial death of Deputy Commissioner of Commercial Tax Department, Rishabh Jain who died due to torture at the Lokayukta police office on the night of 15 July 2004.<sup>17</sup> In another order in July 2005, a special court in Shahdol district sentenced five policemen, sub inspector Anand Pratap Singh Parihar, additional Sub-Inspector Nand Kishore Mishra, constables Vijay Pandey, S Mishra and Mohan Singh, to five years of imprisonment and imposed a fine of Rs 500 on each for the

custodial death of Suhawan Kewat who was picked up for interrogation in a murder case which took place on 10 December 1997 at Mangthar at Umaria district.<sup>18</sup>

Several innocent people were killed in indiscriminate use of firearms. According to National Crime Records Bureau, 26 civilians were killed in police firing during 2005.<sup>19</sup> On 15 March 2005, six years old Honey alias Aniket, son of Rajendra Gupta, and Pappu Lodhi were reportedly killed when the police opened fire at a protesting mob at Banda in Sagar district.<sup>20</sup> Bal Singh and Ratan were killed when police opened fire at mob at Peepalkhedi village near Soyat in Shajapur district on 28 April 2005.<sup>21</sup>

Many police personnel were found to be involved in criminal activities. According to a list of tainted police personnel prepared by the Madhya Pradesh police department, Indore district was highest with 24 tainted police personnel. During the period between December 2003 and January 2005, a total of 171 police personnel were reportedly found to be involved in criminal activities.<sup>22</sup>

### **3. Violations of international humanitarian laws by the AOGs**

The Maoists continued to deliver kangaroo justices through *Jana Adalat* (People's Court). In early April 2005, the Maoists kidnapped Raishingh Ayatu Lohar from Muriyapara in Narayanapur district on the suspicion of being a police informer. On the first day, the Maoists allegedly tortured him. On the next day, a *Jana Adalat* was held at Kurusnar village, where the parents of Raishingh were also summoned. The Maoists announced that Raishingh should be punished for his misdeeds.<sup>23</sup>

### **4. Violations of the rights of the Dalits**

The Dalits continued to face atrocities and discrimination in Madhya Pradesh. According to National Crime Records Bureau (NCRB) of the Government of India, Madhya Pradesh reported the highest crime rate against the Dalits both in 2004 and 2005 which stood at 7.3 and 6.6 respectively. The conviction rate was only 32.1% during 2005. By the end of 2005, a total of 13,513 cases of atrocities against the Dalits were pending trial in courts while another 230 were pending investigation by the police in the state.<sup>24</sup>

Many Dalits were deprived of their right to life. On the night of 10 July 2005, three members of a Dalit family identified as Bhagirath, Kachru and Ramchandra were hacked to death by an upper caste Rajput family on alleged charge of stealing a buffalo near Bamankheda village in Ujjain. A compensation of Rs 5 lakh to the victim's family was announced by the district administration.<sup>25</sup>

On the night of 15 October 2005, Ranjeet Ahirwar, a Dalit was reportedly burnt alive by miscreants identified as Lallu, Pushpendra, Dadula, Anil, Ramnath and Vishramdin in Nokharh village under Singhpur police station in Satna district. The deceased had reportedly gone to a house of one Vishwanath to collect the remaining money of his bicycle when he was accosted by the accused.<sup>26</sup>

The Dalits were also subjected to inhumane and degrading treatment. In June 2005, a Dalit identified as Kunda Jatav, resident of village Laharra under the Pichore block of Shivpuri district, was severely thrashed, half of his moustache shaved off, face blackened and paraded after being garlanded with shoes on charges of theft by a group of influential people in the village.<sup>27</sup>

The Dalits women remained extremely vulnerable to abuses by the upper caste. On 24 July 2005, a Dalit woman was beaten to death by a bunch of youths allegedly over a private dispute in Other Backward Caste dominated Chhatarpur district.<sup>28</sup>

On 27 October 2005, a Dalit woman Sarpanch Kalawati Kori was reportedly beaten up by the deputy Sarpanch, Buddhi Singh in Nayagaon village under Sabhapur police station area in Satna district for refusing to pay 50 per cent of the panchayat fund to him. The victim's husband Babbu Kori was also beaten.<sup>29</sup>

The Dalits continued to face caste-based discrimination. On 15 August 2005, a Dalit woman sarpanch identified as Anita Bai Ahiwar of Patehra village under Damoh district was not allowed by government officials to hoist the national flag in a market place because she belongs to Dalit community.<sup>30</sup>

## **5. Violations of the rights of the indigenous/tribal peoples**

During 2005, Madhya Pradesh reported 28.3 per cent (1,615) of the total cases in the country. A total of 4,640 cases of atrocities against the tribals were pending trial in courts and another 102 cases were pending investigation in the state by the end of 2005. The conviction rate for the crimes against the tribals was as low as 29.6%<sup>31</sup>

The tribals were intimidated to withdraw the cases. On 20 October 2005, a Gond tribal identified as Suraj Singh Gond, the president of the Teacher-Guardian Association of the village school, was allegedly burnt alive by members of an upper caste family at Kataria village under Katni district of Madhya Pradesh.<sup>32</sup> Suraj Singh Gond had refused to withdraw the complaint of theft of school material against the accused.<sup>33</sup>

On the night of 9 December 2005, the right hand of a tribal woman Kamlabai was chopped off in an attack at her family by the upper caste men at Nigari village in Raisen district.

She had refused to withdraw her complaint of rape against two upper caste villagers Manmod Singh Mehra and Siyaram Raghuvanshi.<sup>34</sup> The police arrested five persons including a school teacher.<sup>35</sup>

In April 2005, a tribal woman identified as Radhabai was reportedly sold to three men, one of them identified as Laxman Singh of Nandavta, for Rs 20,000 by her own cousin Shantibai at Aroliya village in Ujjain district. The woman was held captive for two days during which she was assaulted and raped repeatedly. Police had registered a case under Sections 366, 376 of the Indian Penal Code and 2, 3, 5 sections of the SC/ ST (Prevention of Atrocities) Act .<sup>36</sup>

Funds meant for tribals were often misused. On 8 September 2005, after reviewing the implementation of the tribal welfare schemes in Madhya Pradesh, Union Minister of Tribal Affairs P.R. Kyndia conveyed his concern to the state government of Madhya Pradesh over the misuse of Central funds for the tribal development, and asked the state government to constitute monitoring committees to oversee the implementation of the schemes.<sup>37</sup>

The tribals were deprived of jobs. In mid-December 2005, the Madhya Pradesh Government ordered principal secretaries, secretaries, heads of departments and district collectors to ensure filling of the backlog posts of Scheduled Castes/ Scheduled Tribes and other backward classes latest by 31 December 2005. The departments and offices having backlog posts had not advertised these vacancies.<sup>38</sup>

## **6. Violations of the rights of the child**

Trafficking of girls and child marriage were rampant in Madhya Pradesh.

The tribal girls were more vulnerable to trafficking. On 14 March 2005, 15-year-old tribal girl Anita, daughter of Ashok Kumar of Harrai village in Chindwara district was reportedly abducted, sold at Rs 60,000 and finally forcibly married to one Umesh Tyagi, a driver at Agra in Uttar Pradesh.<sup>39</sup>

On 20 July 2005, a 14-year-old girl of Jethel village reached home after being kidnapped three months earlier by Suresh and Gopal of Ujjain and being sold to two men in Rajasthan. During the period, she was raped and molested when they tried to sell her in three other places.<sup>40</sup>

Child marriages were common in Madhya Pradesh. The practice is predominantly found amongst the tribals. Child marriages are solemnized on mass scale on the occasion of Teej during the months April-May every year.<sup>41</sup> The state government reportedly succeeded in

saving more than 10,000 minor girls from child marriage largely prevalent in the rural parts of the state although a large number of such marriages were solemnized without information of the administration. The State Government had launched a state-wide awareness drive involving Women and Child Development Department, Gramin Vikas and the Home department.<sup>42</sup> The State government had about one lakh anganwadi workers who were specially mobilised to work against child marriages.<sup>43</sup>

Those who opposed child marriages were physically attacked. On the night of 11 May 2005, Ms Shakuntala Verma, an anganwadi worker, sustained critical injuries and her arm was chopped off with a sword by an unidentified youth at her house in Rajgarh village in Dhar district for reportedly opposing child marriages in the district. The Supreme Court on 13 May 2005 issued notice to the Madhya Pradesh and directed the State Human Rights Commissions to inquire into the incident.<sup>44</sup> The state government assured all possible medical help to the victim and announced an aid of Rs 3 lakh for her treatment.<sup>45</sup>

## **7. Violations of the prisoners' rights**

Prisons conditions remained deplorable in Madhya Pradesh. Most of the jails were overcrowded. As of 31 December 2004, there were a total of 28,843 prisoners against the sanctioned capacity of 17,374 prisoners. The under-trial prisoners (15,777) constituted 54.7% of the total prisoners.<sup>46</sup>

As of December 2005, there were 2,164 women prisoners. The women prisoners were reportedly denied the right to wear innerwears and not allowed to lock the toilet door because the authorities feared that the innerwears could be used to commit suicide!<sup>47</sup>

The prisons lacked proper management and recruitment of new staff were delayed. There was no proper security in the jails. Arms and weapons, drugs and mobile phones were reportedly found in several jails.<sup>48</sup>

The medical facilities were inadequate. In January 2005, the Madhya Pradesh Human Rights Commission recommended to the state government to direct the Jail Department and the Health and Family Welfare Department to appoint doctors in jails where doctors were posted.<sup>49</sup> The Commission also recommended the state government to provide compensation of Rs 25,000 to the family members of one Shankar Lal, who died of negligence in treatment in Jabalpur Central Jail.<sup>50</sup>

Torture of the inmates was common. One Bablu Khachru and his brother, Ram Lakhani who were sent to Lahar sub-jail under framed up charges were allegedly subjected to inhuman treatment in the jail. Bablu and his mother Dhanwanti, in an affidavit, accused the Jail Sepoy Shrimant of demanding Rs 32,000 to stop the inhuman treatment. The

affidavit alleged that the Jail staffers Meenu, Mulu, Raghuraj and Chhaki also demanded Rs 50,000 for protecting Bablu.<sup>51</sup> The NHRC had registered 49 deaths in judicial custody during 2004-2005.<sup>52</sup>

## **8. Status of the Internally Displaced Persons**

A study report released on 8 February 2005 by Indian People's Tribunal on Environment and Human Rights (IPT) alleged violation of human rights and non-compliance in the rehabilitation process of the families affected by the Sardar Sarovar Project in Madhya Pradesh and Gujarat. The IPT concluded that the dam at a height of 110 metre violates the Narmada Water Dispute Tribunal Award of 1979 and the Supreme Court judgement of 2000.<sup>53</sup> The 133-mile-long Sardar Sarovar Project reservoir which stretches through Gujarat, Madhya Pradesh and Maharashtra, would drown an estimated 91,000 acres of land and would displace 200,000 people, besides affecting another 200,000. Of these, 56 per cent were Adivasis.<sup>54</sup>

On 15 March 2005, the Supreme Court ruled that those affected even "temporarily" by the 110 metre high Sardar Sarovar Project (SSP) on the Narmada river were entitled to alternative cultivable land allotment by the states. A three-judge bench comprising Justice Y K Sabharwal, Justice K G Balakrishnan and Justice S B Sinha also ruled that each major son of Project Affected Families (PAFs) are entitled to separate land allotments at alternative sites in addition to the land allotted to the PAF. The court also asked the Grievance Redressal Authority to work out the relief and rehabilitation package for the PAFs.<sup>55</sup>

On 7 April 2005, at least 65 people reportedly died in Dharaji village near Bhopal, and many went missing from flash floods as waters were released from the Indira Sagar megadam on the Narmada River.<sup>56</sup>

## **9. Special Focus: Right to health and food**

Malnutrition among children was rampant in Madhya Pradesh. According to the data collected in July 2005 by State Government sponsored *Bal Sanjeevni Abhiyaan*, about 80,000 children had been suffering from acute malnutrition and were on the verge of death due to government departments' apathy. Although the Women and Child Development Department was responsible for eradication of malnutrition, it failed to deal with the problem. The Women and Child Development Department provided porridge to the children upto the age of 6 years, but it proved very ineffective. The under-five mortality

rate was as high as 87 per 1,000 live births in the state compared to Kerala's 19 per 1,000 live births.<sup>57</sup>

The government also refused to recognise the deaths as malnutrition deaths. According to experts, 55.1 per cent were low birth weight babies who were more vulnerable to malnutrition deaths. According to another evaluation report, even though the children were saved, they would go blind due to lack of vitamin A. Although Anganwadi workers identified the malnourished children, they were unable to provide medical treatment due to the absence of the doctors or health workers.<sup>58</sup> In Gurva village under Betul district, eight children had reportedly died of malnutrition between 20 October and 17 November 2005.<sup>59</sup>

Tribals in Hingua village in Badwani district reportedly had to survive on *samai*, a wild grass which was usually found around the village pond. The tribals dried the grain from the grass, powdered it and used this to make chappattis to eat. But studies revealed that *samai* is neither nutritious nor filling. Starvation had been severe not only in Badwani district but also in Tikamgarh and Chatterpur districts, where tribals were forced to eat *samai* in the absence of foodgrains. But the government falsely stated that *samai* was the traditional food of the tribals.<sup>60</sup>

# Maharashtra

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## 1. Overview

Ruled by Indian National Congress and Nationalist Congress Party coalition, Maharashtra continued to reel under lawlessness and other serious human rights violations. Indiscipline of the police personnel was a major problem. In October 2005, Maharashtra Home Department reportedly prepared a list of at least 273 police personnel facing charges like coming drunk on duty, frequent absenteeism, insubordination, corruption and misconduct.<sup>1</sup> On 28 October 2005, Deputy Chief Minister and Home Minister R R Patil stated that the Maharashtra government had suspended 37 police personnel and terminated the services of five others after being found under the influence of liquor on duty in the last two years.<sup>2</sup>

The tribal belt of Maharashtra - Thane, Nandurbar, Nashik, Amravati and Gadchiroli districts - continued to face increasing conflict with the Maoists. On 6 July 2005, the Maharashtra Government announced an amnesty scheme for Maoists, which included cash rewards, rehabilitation, free education to children and police protection, and review of the cases of the surrendered Maoists, among others.<sup>3</sup> But it had little effect.

The tribal dominated districts remained under-developed and the indigenous peoples continued to be denied economic, social and cultural rights. On 25 August 2005, the government of Maharashtra admitted before the Bombay High Court that a total of 2,675 children died due to malnutrition in the tribal dominated districts of Thane, Nandurbar, Nashik, Amravati and Gadchiroli between April and July 2005. These included 1,085 infants below one year and 1,590 children in the age group of 1-6 years.<sup>4</sup> On 26 August 2005, Bombay High Court directed the Maharashtra government to submit a time-bound plan for implementation of the recommendations of the Evaluation Committee on Child Deaths headed by leading health activist Abhay Bang to tackle malnutrition deaths.<sup>5</sup>

The Dalits faced atrocities from the upper castes. On 3 September 2005, 25 Dalit houses were burnt to ashes by the upper caste Marathas at Belkhed village in Akola district in protest against the Dalits' participation in the celebration of the Pola festival.<sup>6</sup>

Both women and children remained insecure. The National Crime Records Bureau (NCRB) of the Government of India recorded 13,370 cases of crime against women in the state which amounted to 8.6 % of the total cases against women registered in India during 2005. These included 1,545 cases of rape, 3,228 cases of molestation, 851 cases of abduction, 341 dowry deaths, and 6,233 cases of cruelty by husbands and relatives.<sup>7</sup> On

21 April 2005, a 17-year-old college girl was raped by a drunken constable, Sunil Atmaram More inside a police post on Marine Drive in Mumbai.<sup>8</sup>

According to NHRC, there were 24,752 prisoners against the sanctioned capacity of 18,964 resulting in 30.5% overcrowding in the jails of Maharashtra as of 31 December 2004. There were 15,777 undertrial prisoners constituting of 63.7% of the total prisoners.<sup>9</sup>

On 11 June 2005, Special judge under the Prevention of Terrorism Act, Mr. Ashok P Bhangale acquitted all the eight accused - Dr. Mohammed Abdul Matin, Muzammil Jamil Ahmed, Imran Rehman Khan, Mohammed Altaf, Toufiq Hamid, Aarif Panwala, Rashid Ansari and Haroon Rashid Lohar - in the Ghatkopar bus blasts case of December 2002 as the prosecution failed to produce evidence against them.<sup>10</sup> The state government moved the Bombay High Court against the POTA court's verdict.<sup>11</sup>

On 14 June 2005, the Review Committee on POTA headed by Justice Usha Mehra in its recommendations to the State Secretary of Maharashtra asked to discharge two accused, Mohammed Ansari alias Urman Laduwala and Mommmed Ansar Sheikh alias Hasan Batteriwala, held for conspiring the twin blasts in Mumbai in 2003 as there was no evidence against them.<sup>12</sup>

The government also failed to check the rising numbers of suicides by farmers.

## **2. Human rights violations by the security forces**

### **a. Deprivation of the right to life**

According to the Maharashtra State Human Rights Commission, 218 cases of custodial deaths were registered during 1 April 2003-31 March 2004, and 95 custodial death cases were registered during 1 April 2004-31 August 2004 alone.<sup>13</sup> The National Crime Records Bureau recorded deaths of 17 persons in police custody and deaths of 19 civilians in police firing during 2005.<sup>14</sup> The NHRC received 23 cases of deaths in police custody and 138 cases of deaths in judicial custody in Maharashtra during 2004-2005.<sup>15</sup>

However, the denial on the part of the State government remained problematic. In April 2005, Deputy Chief Minister R R Patil stated in a written reply in Maharashtra Legislative Council that the state government of Maharashtra registered 47 custodial deaths in the state in 2003 and 2004. While 26 custodial deaths, including five natural deaths, one accidental and nine suicides were registered in 2003, 21 custodial deaths, including five natural deaths and two suicides were registered in 2004. Mr Patil stated that investigation was on in 11 cases and charge sheet had been filed against the accused in three cases.<sup>16</sup>

Some of the reported cases of custodial deaths are given below:

On 6 January 2005, T.C. Prashanth of Karnataka was beaten to death allegedly by the police in Mumbai. The deceased was working for Zuventus Health Care Ltd. in Mumbai.<sup>17</sup>

On 6 March 2005, Dayaneswhar Rai was found hanging in the police lock-up in Thane. He was allegedly beaten to death in the police custody, and later hanged to show it as a case of suicide. The deceased along with his brother-in-law Vinod Rai was arrested on charges of selling brown sugar and remanded to police custody. Three constables B W Bhosale, K C Chaudhary and R A Patil were suspended for dereliction of duty. State CID was asked to inquire into the incident.<sup>18</sup>

On 25 August 2005, Irshad Sheikh was killed by the police in an alleged encounter at Andheri (west). Irshad Sheikh was reportedly hit in the forehead and also had bullet injuries in the chest. In September 2005, the victim's brother Ashfaque Sheikh filed a complaint with the State Human Rights Commission of Maharashtra alleging extrajudicial killing.<sup>19</sup>

On 4 October 2005, Kiran Patkar died in the custody of railway police in Thane. The railway police claimed that Kiran Patkar had committed suicide inside the railway barracks where he was summoned for questioning for his alleged involvement in chain snatching and mobile theft cases. Police constable Shahji Madne was suspended for dereliction of duty on 6 October 2005.<sup>20</sup> A Criminal Investigation Department inquiry was also ordered.<sup>21</sup>

On 19 December 2005, Prashant Shyamraon Humne, an accused in a kidnapping case, died in Sakoli police station in Bhandara district. Following strong public protest, head constable Tejram Uikey (Buckle No. 572), constables Kundalik Kathane (Buckle No. 323) and Vishnu Khandate (Buckle No. 706) were suspended.<sup>22</sup>

On 24 December 2005, Aslam Shaikh died in the custody of Ootur police station in Pune. The victim was detained by the Pune Rural Police for questioning in connection with motorcycle theft. According to Police Inspector S H Kengar, Aslam Shaikh tore the blanket given to him and hanged himself in the police station.<sup>23</sup>

The police made all attempts to hide custodial killings. On 23 February 2005, suspended Sub-Inspector Pratap Kakade, an accused in the infamous multi-crore fake stamp scam involving Abdul Karim Telgi, died under mysterious circumstances in the Yerawada jail. While Deputy Inspector General of Prisons Dhanaji Chaudhari claimed that Kakade had died due to a heart attack, the post mortem report found that Kakade had "multiple injuries under the neck and chest anterior".<sup>24</sup> A magisterial inquiry was ordered into Kakade's death.<sup>25</sup>

The police also extrajudicially executed by using fire-arms. On 3 May 2005, Sub Inspector Bhausuheb Magre attached to the Venkatpura sub-police station shot dead Shankar Parkiwar when the latter objected to Magre's attempt to molest his wife Nirmala at their home at Venkatpur village near Aheri in Gadchiroli district. Sub-Inspector Bhausuheb Magre had gone along with a colleague to question Shankar Parkiwar who was listed in police records as a Naxal sympathiser. Deputy Superintendent of Police (Home) Subash Gujar however claimed that Magre had killed Shankar Parkiwar in self-defence.<sup>26</sup> On 5 May 2005, Superintendent of Police (Gadchiroli) Shirish Jain stated that it was constable Tekam and not Magre who had shot at Shankar Pakirwar and killed him on the spot.<sup>27</sup>

On 25 April 2005, Railway Protection Force (RPF) constable G S Pandey shot dead Dudhnath Yadav following an argument at Sewree railway station in Mumbai. The constable accused the deceased of stealing scrap from a godown at Sewree station.<sup>28</sup>

Police enjoyed virtual impunity. In a rarest case, on 17 January 2005, the Nagpur bench of the Bombay High Court sentenced 12 police personnel, including retired DSP Sadashiv Bhalerao, Inspector Arun Bhadikar and Police Sub-Inspector Shankar Shende to life imprisonment for the custodial death of Dilip Bhosale in Arvi in Wardha district in November 1987.<sup>29</sup>

## **b. Arbitrary arrest, illegal detention and torture**

Arbitrary arrest, illegal detention and torture were rampant. On 29 April 2005, a railway police constable Simon Koli, posted in a ladies' second-class compartment of a Virar-bound fast local train, was arrested at Borivali railway police station in Mumbai for allegedly slapping and abusing a two-month pregnant woman in the train. Koli was allegedly drunk on duty.<sup>30</sup>

Lawless law enforcement was widespread. In July 2005, the Maharashtra government reportedly agreed to pay Rs 1 lakh to the widow of a man who succumbed to police brutality after his arrest during raid on gambling dens in 2002.<sup>31</sup>

On 25 December 2005, a kerosene dealer identified as Mukesh Patel was allegedly beaten up in full public view at the local police station at Navegaonbandh in Bhandara district. The police had picked him up following complaint of black-marketing against him. Police Inspector G R Kankale who was involved in the incident was reportedly suspended.<sup>32</sup>

### **3. Violations of international humanitarian laws by the AOGs**

The tribal dominated districts continued to face increasing conflict with the Maoists. On 6 July 2005, the Maharashtra Government announced an amnesty scheme for the Maoists “who are active in the State and registered in Maharashtra, Chhattisgarh and Andhra Pradesh”. Under the scheme, the surrendered Maoists were offered cash prize at the time of surrender and additional money for their surrendered weapons. The surrendered Maoists offered land and house or Rs 50,000 in lieu of the house, free education to their children and protection. The government also offered to review the cases filed against the surrendered Maoist cadres. The scheme was applicable for six months.<sup>33</sup> But the surrender policy failed to curb the Maoists’ menace.

The Maoists continued to target civilians as “police informers”. On 19 May 2005, the Maoists killed two villagers identified as Karuram Poya and Kisan Madavi on the charges of being police informers in Gadchiroli district. While Karuram Poya was shot dead, Kisan Madavi was beheaded.<sup>34</sup> In another incident on the night of 24 July 2005, Naxalites shot dead a tribal identified as Bapu Roshan Kumbhri at Garkapeth village under Rompalli Police Assistance Centre in Gadchiroli on the charges of being a police informer.<sup>35</sup>

Those who held public posts were also attacked. On the night of 27 September 2005, the Maoists killed Mondhi alias Deepak Gawde, sarpanch of Umanur village under Jimalgatta Sub-police Station in Aheri taluka in Gadchiroli district.<sup>36</sup>

The Maoists were also responsible for hostage taking. On 18 January 2005, Naxalites abducted a Border Roads Organisation Supervisor Major Unnikrishnan from village Gumankonda in Gadchiroli district and demanded Rs four lakh as ransom.<sup>37</sup>

### **4. Violence against women**

The National Crime Records Bureau recorded 13,370 cases against women in the state which amounted to 8.6 % of the total cases against women recorded in India during 2005. These included 1,545 cases of rape, 3,228 cases of molestation, 851 cases of abduction, 341 dowry deaths and 6,233 cases of cruelty by husbands and relatives.<sup>38</sup>

The law enforcement personnel were responsible for rape and sexual harassment of women. On 21 April 2005, a 17-year-old college girl was raped by a drunk constable identified Sunil Atmaram More inside a police post on Marine Drive. The constable took the girl inside the police post for “questioning” after she was found loitering with a male friend.<sup>39</sup> The incident triggered public anger. On 24 April 2005, Sunil More was dismissed

from service.<sup>40</sup> On 26 September 2005, the State Government informed the Bombay High Court that it had already paid Rs 3 lakh compensation to the rape victim.<sup>41</sup>

On the night of 17 October 2005, a drunken head constable identified as Chandrakant Pawar attached to Sahar police station raped a 15-year-old ragpicker after taking her to an isolated place near the Mumbai airport. Medical examination at Nagpada police hospital confirmed rape. The accused was arrested and remanded to police custody till 25 October 2005.<sup>42</sup>

On 30 April 2005, a railway police constable Simon Koli was suspended on the charges of molesting a woman passenger in a local train in Mumbai.<sup>43</sup>

On 8 May 2005 at around 10.15 pm, two drunken constables identified as Sunil Dhanaji Sawant and Subhash More allegedly molested a 42-year-old married woman in front of her husband and daughter at platform no. 2 of Thane railway station. Both the police constables were arrested on charges of molestation and remanded to judicial custody.<sup>44</sup>

On 10 June 2005 at around 9.30 pm, a drunken SI Sudesh Shinde reportedly molested a beauty parlour owner after barging into her parlour opposite Mahim church in Mumbai. Following a complaint by the victim with the Mahim police station, the accused was arrested on 14 June 2005.<sup>45</sup>

On 16 November 2005, a minor girl was allegedly raped by an army jawan along with two civilians at the army's branch recruitment office compound in Nagpur. The army jawan was reportedly arrested.<sup>46</sup>

## **5. Violations of the rights of the Dalits**

The National Crime Records Bureau recorded 865 cases of violence against the Dalits during 2005. A total of 6,626 cases of atrocities against the Dalits were pending trial in courts and another 248 cases were pending investigation by the police in the state by the end of 2005. Although the charge-sheeting rate was 97.4%, the conviction rate for the crimes against the Dalits in the state was merely 5.9% during 2005.<sup>47</sup>

The Dalits continued to face repression of the upper castes. On 23 September 2005, the upper caste Marathas burnt down 25 Dalit houses during an attack at Belkhed village in Akola. The Marathas had objected to participation of the Dalits in celebration of the Pola festival, an agricultural festival where cattle are worshipped. Around 70-80 Dalits reportedly fled their homes.<sup>48</sup>

In November 2005, a Dalit youth identified as Banesh Malayya Pulluri was beaten up in full public view and humiliated by forcing him to wear garland of chappals. He was also

forced to eat human excreta at the order of the Gram Sabha (village council) for writing a love letter to an upper caste girl at Jamanpalli village under Sironcha tehsil in Gadchiroli district. On 11 December 2005, police arrested four persons in this connection.<sup>49</sup>

## **6. Violations of the rights of the child**

The National Crime Records Bureau recorded a total of 2305 cases of crimes against children in Maharashtra which amounted to 15.4 % of all the crimes against children registered in India during 2005. Of these 2,305 cases, 189 were murder cases, 634 cases of rape and 420 cases of kidnapping.<sup>50</sup>

Maharashtra had high incidence of child labour. On 1 June 2005, Mumbai police during a raid in coordination with NGOs rescued over 400 child labourers from various industrial units in Madanpura, central Mumbai and arrested 42 employers.<sup>51</sup> Following NHRC's intervention on 9 June 2005 seeking a report from the Chief Secretary of Maharashtra on the action initiated against the erring employers of industrial units within two weeks,<sup>52</sup> the state government instituted a task force comprising police and the personnel from the labour department and rescued 80 underaged workers and arrested four industrial unit employers in Mumbai on 10 June 2005.<sup>53</sup>

On 23 July 2005, Mumbai police in cooperation with the Labour Department, the Women and Child Welfare Department and several NGOs raided 17 zari (embroidery) units in Gowandi in north-east Mumbai and rescued 72 children. At least 10 employers were taken into custody.<sup>54</sup>

## **7. Special Focus I: Starvation deaths**

The deaths of tribal children in five tribal dominated districts of Maharashtra i.e. Thane, Nandurbar, Nashik, Amravati and Gadchiroli due to malnutrition proved that the fruits of development did not reach the tribals. On 25 August 2005, the government of Maharashtra admitted before the Bombay High Court that a total of 2,675 children died due to malnutrition in the tribal dominated districts of Thane, Nandurbar, Nashik, Amravati and Gadchiroli between April and July 2005. These included 1,085 infants below one year and 1,590 children in the age group of 1-6 years.<sup>55</sup> On 26 August 2005, Bombay High Court directed the Maharashtra government to submit a time-bound plan for implementation of the recommendations of the Evaluation Committee on Child Deaths headed by leading health activist by Abhay Bang to tackle malnutrition deaths.<sup>56</sup>

The apathy of the state government was clear from its policies. The state government decreased budgetary allocation for providing relief to the malnutrition victims from Rs 742 crore to Rs 227 crore in the 2004-2005 budget despite the situation being so grave.<sup>57</sup>

The state of denial made the things worse. On 24 December 2005, it was reported that eight children identified as Balya Balkrishna Kanekar of Gardenpur, Pratiksha Sanju Sahare of Kadoli, Baby Vijay Belsare of Kumbitola, Sumeet Rajkumar Puram of Eitkheda, Bali Deenbandhu Lade of Kadoli, Deepa Suresh Loni of Morgaon, Balu Rajesh Gote of Eitkheda and Pinku Baban Karade of Peethatola in Arjuni Morgaon tehsil of Gondia district died of malnutrition in the last two months. But the district authorities including the District Health Officer and Block Development Officer offered reasons such as pneumonia, premature birth, jaundice, 'being mentally retarded', hiccups etc for their deaths. In one case, the authorities even claimed that the baby died due to "excessive crying".<sup>58</sup>

Earlier, on 8 August 2005, the Union Agriculture Minister Sharad Pawar stated in the Lok Sabha that no incidence of starvation death was reported by any state government or Union Territory during 2004.<sup>59</sup>

The state government also under-reported the cases of malnutrition death. A survey by NGO Punarvasan Sangharsh Samiti (PSS) released in 27 August 2005 claimed that 98 children died between April and June 2005 in Akkalkuwa block of tribal-dominated Nandurbar district alone. Of them, 71 died of malnutrition. The PSS alleged that the government of Maharashtra deliberately hid the actual number of the malnourished children. For example, the PSS recorded 188 severely malnourished children in April 2005 while the government records showed only 20 malnourished children.<sup>60</sup>

## **8. Special Focus II: Farmers' suicide**

As in Andhra Pradesh, the farmers of Maharashtra faced serious distress because of crop failure, indebtedness and the government's apathy. The most affected districts are Yeotmal, Amravati, Akola, Washim and Buldana in Amravati Division, and Wardha in Nagpur Division.

In its final report submitted to the Mumbai High Court on 16 March 2005, Tata Institute of Social Sciences stated that a total of 644 farmers committed suicide in Maharashtra from 1 March 2001 to 31 December 2004, including 448 deaths in Amravati, 90 in Aurangabad, 66 in Nagpur, 38 in Nashik and 1 each in Pune and Kolhapur. Of these, 41 died in 2001, 73 in 2002, 129 in 2003 and 401 in 2004. The report concluded that "Repeated crop failures, inability to meet the rising cost of cultivation, and indebtedness

seem to create a situation that forces farmers to commit suicide. However, not all farmers facing these conditions commit suicide — it is only those who seem to have felt that they have exhausted all avenues of securing support have taken their lives.”<sup>61</sup>

The government failed to provide the accurate figures. On 13 July 2005, Agriculture Minister Balasaheb Thorat in a written reply to a question raised by BJP legislator Vinod Tawade in Maharashtra Legislative Council stated that a total of 524 farmers had committed suicide in 2004.<sup>62</sup> Earlier, in July 2005, the Maharashtra government reportedly told the NHRC that only 140 farmers ended their lives between 2001 and 2004 due to “crop failure because of drought and heavy indebtedness”.<sup>63</sup> Again on 4 December 2005, Maharashtra Chief Minister Vilasrao Deshmukh stated that during the last five years a total of 1041 farmers committed suicides; 92 per cent suicides were due to indebtedness. He stated that compensation was given to family members of 223 farmers who ended their lives.<sup>64</sup>

On 6 November 2005, Pardesh Pachkawdu Jata, a tribal farmer from Dhamditola village in Gadchiroli district, reportedly became the 100th farmer to end his life in Vidarbha region of Maharashtra in 2005.<sup>65</sup>

About 178 committed suicide during 2005. Of them, 35 farmers ended their lives in the first 11 days of December 2005.<sup>66</sup> On 9 December 2005, Maharashtra Chief Minister Vilasrao Deshmukh announced a comprehensive special package of Rs.1,075 Crores for the farmers in the Vidarbha region.<sup>67</sup>



# Manipur

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## 1. Overview

Ruled by the Indian National Congress, Manipur continued to witness high intensity armed conflict. There were about two dozens armed opposition groups in Manipur. The Central government also deployed a large number of security forces to deal with insurgency.

Manipur witnessed serious human rights violations both by the security forces and the armed opposition groups in 2005. About 364 civilians were reportedly killed in insurgency related violence in the state since 2002 till May 2005.<sup>1</sup> Of these, 68 civilians were killed from 1 January 2005 to May 2005.<sup>2</sup>

Under the cover of the Armed Forces Special Powers Act (AFSPA) of 1958, the Central security forces carried out arbitrary arrest, torture and extrajudicial killings with impunity in the name of fighting insurgency.

The armed opposition groups were also responsible for gross violations of international humanitarian laws, including killing, kidnapping, torture and extortion. In some cases, the armed opposition groups played the role of moral police and carried out execution of civilians in the most brutal ways for failing to comply with their diktat.<sup>3</sup>

The conflict between the security forces and the armed opposition groups led to internal displacement of about 50 villagers from Barak circle during “Operation Tornado” launched on 27 October 2005.<sup>4</sup>

Women and children were victims of societal violence including rape and molestation. According to Women Action for Development, 28 women were raped and 14 murdered in Manipur during January 2005 - October 2005.<sup>5</sup> Yet the state government failed to establish State Women Commission to deal with the violence against women.

## 2. Human rights violations by the security forces

### a. Deprivation of the right to life

The NHRC registered 2 deaths in the custody of the defence/para-military forces and 1 death in encounter in Manipur during 2004-2005.<sup>6</sup> The National Crime Records Bureau

(NCRB) of the Government of India however did not record any case of custodial killing by the police during 2005!

Both the State police and the Central security forces were responsible for arbitrary deprivation of the right to life. On 20 December 2005, Manipur Human Rights Commission chairman Justice W.A. Shisak called upon the state police to “go by the rulebook and respect the people’s right to live with dignity”.<sup>7</sup>

Asian Centre for Human Rights documented several cases of alleged extrajudicial executions by the security forces during so-called anti-insurgency operations. The victims of alleged “fake encounters” included Saikhom Samungou, son of (s/o) late Saikhom Amuyaima of Nongbrang Awang Leikai, Sanasam Ngongo Meitei (15), s/o Sanasam Naba of Nongbrang Makha Leikai and Thiyam Sunder, s/o late Thiyam Nabachandra of Thiyam Khunjao Awang Leikai, who were killed by 28th Assam Rifles personnel in a joint operation with State Police Commandos at Bonghol Khullen under Yairipok Police Station in Thoubal district on 10 January 2005;<sup>8</sup> Zangkhopao Kuki who was killed by 9th Assam Rifles personnel in between Pashang and Molnom village under Litan police station in Ukhrul district on 12 January 2005;<sup>9</sup> Keshorjit Singh of the Nongada area in Imphal East district who was killed on 21 June 2005 by the Assam Rifles personnel;<sup>10</sup> Ahanthem Rameshwor who was killed by the Assam Rifles personnel based at Sagolmang on 30 June 2005;<sup>11</sup> and Laishangthem Indramani, s/o L Tomba Singh of Kairenbikhok Awang Leikai, who was killed by the police at Pechinching under Yairipok police station in Thoubal district on 11 October 2005.<sup>12</sup>

Asian Centre for Human Rights also documented many reported cases of deaths of persons taken into custody during anti-insurgency operations. The victims of custodial death included Kamal Kumar Chhetry, son of (s/o) Yuda Bir Chhetry, who was killed by 14th Assam Rifles personnel at Chandraman Nepali village under Kangpokpi police station after being picked up from his house on 17 February 2005;<sup>13</sup> Kamkhosei Khongsai of Lhungjang village under Saikul subdivision who was killed by 13th Assam Rifles personnel on the night of 24 April 2005 after being arrested without arrest memo,<sup>14</sup> Ahanthem Rameshwor of Bamon Kampu, working at the Pukhao Leitanpokpi Primary School at Leitanpokpi, who was killed by the Assam Rifles personnel based at Sagolmang on 30 June 2005;<sup>15</sup> and Ng Ingocha of Ningel who allegedly died on 22 August 2005 following torture by 37th Assam Rifles personnel after being arrested on 18 August 2005 from Moreh in Thoubal district.<sup>16</sup>

Many innocent civilians were also killed in arbitrary use of fire-arms by the security forces. The National Crime Records Bureau stated that 3 civilians were killed and 32 others were injured in police firing in the state during 2005.<sup>17</sup> The victims killed in

indiscriminate firing by the security forces included Solet Mate, chief of Nongkhong village in Chandel district, who was killed by the Assam Rifles personnel during an operation in the village on 30 October 2005,<sup>18</sup> and three persons identified as Lianzang, Kailian, both from Maultam village and Punchinhou alias Hahou of Zoumum village who were killed on the night of 14 December 2005, when security forces opened indiscriminate firing to disperse a mob demanding compensation and rehabilitation due to displacement as a result of the construction of the Khuga dam in Churachandpur district.<sup>19</sup>

### **b. Arbitrary arrest, illegal detention and torture**

Arbitrary arrest, detention, torture and other abuses in the garb of fighting insurgency were regular across Manipur. On 25 July 2005, L Premananda was allegedly arrested by security forces from his house at Kwakeithel Moirang Pural Leikai. The victim claimed third degree torture during illegal detention including by pouring chilly powder and sauce on the anus and electric shocks at the private part. Later, the victim was reportedly kicked down from a moving vehicle with his eyes blindfolded at Langol area.<sup>20</sup>

Others who were arbitrarily arrested by the security forces included Jamkhomang Haokip, secretary of M Jangnomphai village under Sapermeina police station and Ngamsei Kipgen, secretary of Moising village under Kangpokpi police station, who were arrested by the 14th Assam Rifles personnel from Sapermeina on 13 January 2005;<sup>21</sup> six villagers including Hemin Khongsai who were picked up by 14th Assam Rifles personnel from Kangpokpi area during 6-9 February 2005;<sup>22</sup> Tongbram Ibungomcha Singh of Thanga and four others including Kh Ranjan Singh and Ph Robi Singh of Phumlou who were arrested by the Assam Rifles personnel from Phumlou area of Bishnupur district on 7 March 2005;<sup>23</sup> and two youths identified as Ch Mohon Singh from Phumlou Bazar and Thongram Ibungomacha of Moirang who were arrested on 7 March 2005.<sup>24</sup> Most of the victims were arrested without being issued any arrest memo and were allegedly tortured in custody.

The Assam Rifles personnel also harassed and tortured innocent villagers in rural areas in retaliation to attacks by the armed opposition groups on the security forces. On 16 February 2005, the Assam Rifles personnel allegedly beat up several villagers, including women at Kumbi in Bishnupur district following killing of five Assam Rifles personnel by the members of Kanglei Yawol Kanna Lup, a banned armed opposition group, at Kumbi.<sup>25</sup>

### **c. Impunity**

The Central security forces enjoyed absolute impunity under the Armed Forces Special Powers Act, 1958. In January 2005, the state government of Manipur appointed retired district and session judge C Upendra to simultaneously conduct three inquiries into the (i)

killing of three Kuki students – Limkhougam Baite, LS Thangkhopao Baite and Thanmingthang Baite by the State police commandos at KR Lane near New Checkon on 25 October 2004; (ii) killing of retired teacher LD Rengtuiwan and injuring his wife Thangmuchin by the 28th Assam Rifles personnel at Bungte Chiru on 16 November 2004; and (iii) killing of K Bimol of Moirang by the State police commandos at Nongren Chingmang in Imphal East on 29 December 2004.<sup>26</sup> However, on 11 March 2005, the Assam Rifles challenged the legality of instituting the Judge C Upendra panel by the State Government of Manipur to probe the killing of a retired teacher LD Rengtuiwan at Bungte Chiru by the Assam Rifles personnel in November 2004 on the ground that the State Government had no jurisdiction to inquire into the conduct of the personnel belonging to the armed forces under the AFSPA of 1958.<sup>27</sup>

With regard to the killing of Thangjang Manorama Devi in July 2004, on 23 June 2005 the Guwahati High Court directed Manipur State Government to hand over the report of Justice (ret'd) C Upendra Singh Commission to the Union Ministry of Home Affairs for necessary action against those indicted in the inquiry report without loss of time.<sup>28</sup> No action has been taken.

The orders of the Gauhati High Court to pay compensation to the victims of torture at the hands of the security forces during the previous years only added credence to the allegations of human rights violations by the security forces. On 18 May 2005, the Gauhati High Court directed the State Government to pay Rs 75,000 as compensation within three months to one Ningthoujam Pishak-macha Devi who was tortured by the police at Ingkhol in Pheija Leitong on 2 March 1996.<sup>29</sup> On 10 November 2005, the Gauhati High Court also ordered the Assam Rifles to pay compensation of Rs. 1 lakh each to the kin of two persons, Mayengbam Bisheshwar and Maibam Naobi who were killed by 8th Assam Rifles personnel on 22 July 2000 in Tharoijam.<sup>30</sup>

### **3. Violations of international humanitarian laws by the AOGs**

The main armed opposition groups were United National Liberation Front (UNLF), People's Revolutionary Party of Kangleipak (PREPAK), Kanglei Yaol Kanba Lup (KYKL), People's United Liberation Front (PULF), North East Minority Peoples Front (NEMPF), Islamic National Front, Islamic Revolutionary Front (IRF), United Islamic Liberation Army (UILA), both Issac-Muivah and Kaplang factions of the National Socialist Council of Nagaland, Kuki National Army (KNA), Kuki National Front (KNF), Kuki Revolutionary Army (KRA) and Zomi Revolutionary Army (ZRA).<sup>31</sup>

## **a. Deprivation of the right to life**

The armed opposition groups were responsible for gross violations of international human rights including arbitrary deprivation of the right to life.

Asian Centre for Human Rights documented several killings allegedly by the members of the armed opposition groups. In some cases, the armed opposition groups played the role of moral police and carried out execution of civilians in the most brutal way for failing to comply with their diktat.

On the night of 22 April 2005, cadres of the proscribed Kanglei Yawol Kann Lup (KYKL)<sup>32</sup> killed five alleged drug dealers Md Sikandar, Md Sajid Khan, Md Munal, Md Balal and Md Sanideer at Khetrigao area in Imphal East district.<sup>33</sup> On the night of 31 May 2005, two non-tribal tobacco sellers were shot dead and another injured by unidentified gunmen at Kakching Bazar in Thoubal district of Manipur. Earlier banned Revolutionary People's Front announced that it would punish those found selling and chewing zarda and khaini.<sup>34</sup>

The other victims of extrajudicial killings by the members of the armed opposition groups included Irom Maikoi alias Jiten of Kakching Hawairou who was killed for playing cards at Hawairou under Kakching police station in Thoubal district on 3 January 2005;<sup>35</sup> Tontang Koshang, son of Tontang Anrong of Thawai village, who was allegedly killed near Molnom Kuki village in Ukhrul district on 7 January 2005;<sup>36</sup> Sinam Deben of Yurembam Maning Leikai who was killed at Yurembam under Patsoi police station on 10 January 2005;<sup>37</sup> Laishram Panchami who was killed at Heinou Makhong in Moreh in Chandel district on 12 January 2005;<sup>38</sup> Moirangthem Birbabu Singh who was abducted and killed in Wangjing in Thoubal district on 3 February 2005;<sup>39</sup> Aribam Basantakumar, a betel shop owner, who was abducted and killed in Imphal East district on 8 February 2005;<sup>40</sup> Suonkhomang alias Mangboi, son of Jamdhohen who was tortured to death after abduction from his residence at Vengnuam New Lamka on 22 March 2005;<sup>41</sup> Leimapokpam Kumarjit Singh and P Shankar who were killed at Moreh town in Chandel district on 2 May 2005;<sup>42</sup> schoolteacher Hemkhojang Haokip alias Ngamyang of Pangmol village who was killed in Imphal district on 23 November 2005, Yum-lembam Geetchandra alias Geet of Keishampat Leima-jam Leikai under Porompat police station who was killed on 25 November 2005;<sup>43</sup> Nongmaithem Bijoy, Sapam Yaiskul and Premjit, all from Lairenkabi village under Lamsang police station in Imphal West district who were killed on 28 November 2005;<sup>44</sup> Angom Ibomcha Meitei of Sugnu Awang Leikai, Angom Sadananda alias Inao of Sugnu Mayai Leikai, Wahengbam Gouramohan of Sugnu Awang Leikai and Paokholal of Sugnu Zou Veng who were killed in an ambush by alleged underground cadres at Umathel Sandumba Achouba under Sugnu police station at

Umathel on 10 August 2005<sup>45</sup> and Maibam Kanhai, member of the Kadangban Gram Panchayat under Lamsang Police Station, who was killed at Sham-bei Khun, Wakanthong on 7 December 2005.<sup>46</sup>

### **b. Extortion**

Extortion by the armed opposition group was rampant in Manipur. On 2 March 2005, the Principal of the Manipur Institute of Technology, Takyelpat, Mr. Thingom Kulachandra, was shot at his leg by unidentified gunmen at Mongsangei in Imphal allegedly for not paying Rs five lakh extortion that an underground outfit had demanded from the staff of Manipur Institute of Technology Takyelpat a few days before the incident.<sup>47</sup> In June 2005, more than eight senior professors including some head of the departments of the Regional Institute of Medical Sciences in Imphal resigned from their posts following alleged extortion demands from underground outfits in Manipur.<sup>48</sup> On 26 October 2005, the government employees in Thoubal district went on leave *en masse* in protest against extortion demands by the armed opposition groups.<sup>49</sup>

On 11 November 2005, at least two persons were killed and 19 others injured at a blast carried out by banned Kanglei Yawol Kann Lup at a Market in Imphal. The KYKL stated that the bomb attack was carried out to target a particular shop which had refused to pay money to the outfit.<sup>50</sup>

## **4. Violence against women**

The National Crime Records Bureau reported 140 cases of violence against women in Manipur, including 25 cases of rape, 69 cases of abductions, 25 cases of molestation, among others during 2005.<sup>51</sup> An NGO viz. Women Action for Development also stated that 28 women were raped and 14 murdered in Manipur during January 2005- October 2005.<sup>52</sup> Yet, the state government failed to establish State Women Commission to deal with the violence against women.

The security forces were also responsible for sexual assault. On 17 January 2005, Kongbrailatpam Kiran Devi, wife of Bimol Sharma, was allegedly molested by a jawan of 11th Garhwal Rifles, B Coy, after entering her house on the pretext of asking for water at Ngankha Lawai under Moirang police station.<sup>53</sup>

## **5. Violations of the rights of the child**

The National Crime Records Bureau recorded 20 cases of crimes against children in Manipur, including 3 murder cases, 4 rape cases and 13 abduction cases during 2005.<sup>54</sup>

Children were victims of the armed conflict, as many children were killed during 2005 in crossfire between the security forces and the members of the armed opposition groups.

On 18 January 2005, a woman identified as Lourembam Maipak and a 9-year-old girl identified as Thokchom Puspa, daughter of Th. Sobita, were shot dead while trying to flee upon hearing gunshots during an encounter between the armed opposition groups and personnel of the 132 Bn Central Reserve Police Force at Wangoo Nongyaikhong Mapal Chingongleimakhong in Thoubal district.<sup>55</sup> On 19 January 2005, Chief Minister Okram Ibobi Singh announced an ex-gratia of Rs 1 lakh each to the family members of the deceased; but rejected a demand for a judicial inquiry.<sup>56</sup>

On 5 May 2005, two women and an 18-month-old child<sup>57</sup> were reportedly killed during an encounter between the Assam Rifles and Kuki armed opposition groups at Saitu village under Sapermeina police station in Senapati district of Manipur. The Assam Rifles has reportedly agreed to pay compensation of Rs 1 lakh to the family of the deceased and others as per the Kuki customary laws.<sup>58</sup>

On 19 November 2005, 10-year-old Rajanglung was killed along with his parents Duothaolung Rongmei and Chuncham Liu, and grandfather Meithuanlung were killed in crossfire between 38th Assam Rifles personnel and members of an armed opposition group at Longmai part-III under Longmai police station of Tamenglong district.<sup>59</sup>

## **6. Violations of the prisoners' rights**

According to NHRC, the total capacity of the three jails of Manipur was 1140. There were only 391 prisoners of which undertrial prisoners (359) constituted an overwhelming 91.8% as on 31 December 2004.<sup>60</sup>

However, the condition of the Sajiwa jail, which is the biggest jail in the state, remained deplorable. With the detention of over 450 activists of Meetei Eron Eyek Loinasinlon Apunba Lup (MEELAL) in April 2005 for protesting against use of the Bengali script in the state, the accommodation in the jail had become a great problem. The jail had a capacity of only 700 prisoners. In the face of shortage of accommodations, some of the MEELAL activists were forced to share a room with the drug addicts. The MEELAL activists told the visiting newsmen that the jail had just one bed and pain killers as medicine. There was only one van for the entire jail for transporting the prisoners. There was no ambulance to meet any emergency. According to the Inspector General of Police (Prison), PM Goud, Union Ministry of Home Affairs (MHA) had released Rs 3.14 crore for modernization of the Sajiwa jail.<sup>61</sup>

## **7. Status of the Internally Displaced Persons**

The armed conflict also displaced people from their land. About 50 villagers from Barak circle (which comprised of eight villages) were forced to flee fearing persecution by the security forces during “Operation Tornado” launched on 27 October 2005. Several houses were reportedly damaged in the operation. A team of Manipur Human Rights Commission visited the displaced camping at a relief camp at a town hall in Jiribam district.<sup>62</sup>

# Meghalaya

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## 1. Overview

Ruled by Congress-led Meghalaya Democratic Alliance, Meghalaya's human rights protection record remained grim. The ceasefire agreement signed on 23 July 2004 between the State government and the proscribed Achik National Volunteers Council (ANVC) was extended by another six months on 17 January 2005<sup>1</sup> and again for a year with effect from 22 July 2005.<sup>2</sup>

The law enforcement personnel were responsible for gross human rights violations, including arbitrary arrest, illegal detention, torture and extrajudicial killing of civilians. The extrajudicial killing of at least nine tribal students at Williamnagar in East Garo Hills district and at Tura in West Garo Hills district in indiscriminate firing by the Central Reserve Police Force personnel on 30 September 2005<sup>3</sup> was a case of gross human rights violation. The state government ordered separate judicial enquiries into the firing incidents in December 2005.<sup>4</sup>

The freedom of the press was systematically muzzled. On 10 June 2005, two editors, Padmashree Manas Chaudhuri of *The Shillong Times* and Mr MA Venugopal, the executive editor of *The Meghalaya Guardian* were harassed by the Meghalaya police after publication of news reports related to the displacement of the Khasi families at Lumdorbar and its communal repercussion in Meghalaya<sup>5</sup>

The armed opposition groups often violated ceasefire agreements and indulged in extortion.

## 2. Human rights violations by the security forces

The National Crime Records Bureau (NCRB) of the Government of India recorded 33 complaints against police personnel in the State during 2005. Departmental inquiries were instituted in 27 cases, while magisterial inquiries were instituted in 6 cases. Disciplinary actions were taken against 81 police personnel, major punishment was awarded to 24 police personnel while minor punishment was awarded to 170 police personnel.<sup>6</sup>

### a. Deprivation of right to life

The NCRB recorded death of one person in police custody in Meghalaya during 2005.<sup>7</sup> The NHRC had recorded 2 deaths in police custody in the state during 2004-2005.<sup>8</sup>

The police and the Central paramilitary forces were responsible for indiscriminate use of fire-arms. According to National Crime Records Bureau, 25 civilians were killed and 75 civilians injured in police firing during 2005.<sup>9</sup>

On 29 September 2005, one Linus Sungoh was shot dead by the police in an alleged fake encounter in Khliehriat sub-division.<sup>10</sup>

On 30 September 2005, at least nine tribal students were killed –five students at Williamnagar in East Garo Hills district and 4 students at Tura in West Garo Hills district in indiscriminate firing by the CRPF personnel while they were protesting against the transfer of the headquarters of the Meghalaya Board of Secondary Education from Tura to Shillong, the capital of Meghalaya.<sup>11</sup> Although a judicial probe was announced immediately after the incident, the state government of Meghalaya appointed two retired judges - Justice DN Baruah and Justice DN Chaudhuri in December 2005- to inquire into the firing incidents. The judges were given 60 days time to submit their reports.<sup>12</sup> Video clippings available with the Asian Centre for Human Rights show that the security personnel were firing by keeping the guns above their shoulders to cause maximum damage. The security forces fired not to control the mob but to kill innocent people.

### **b. Arbitrary arrest, illegal detention and torture**

The police and the Central paramilitary forces were responsible torture. On 2 August 2005, about 18 civilians were beaten with batons and hit with rifles butts by the Central Reserve Police Force personnel of 114th Battalion from Dakopgre camp in retaliatory attack after a CRPF driver was stabbed by an unidentified person at Araimile market in Tura. They reportedly sustained injuries.<sup>13</sup> A magisterial enquiry was ordered into the incident.<sup>14</sup>

On 15 October 2005, a senior medical doctor, Debasis Sarkar was beaten with batons by a large group of CRPF personnel led by M I Singh and local police personnel at his house at Tura Bazar for keeping a pile of sand outside the door of his house for construction purpose. He sustained severe bruises all over his body besides a fracture on his right hand.<sup>15</sup>

Failure to provide information about the armed opposition groups could invite the wrath of the police. On the night of 20 December 2005, Grammar Syiemlieh of Pyndensohsaw village near Balat in East Khasi Hills was allegedly tortured by the police for failing to provide information about his younger brother Bahheh Iong, a senior cadre of Hynniewtrep National Liberation Council. He was beaten up, taken to a place called Riat Mawniuh and asked to jump into a deep gorge at gun point. He was released the next day and admitted to the Civil Hospital with both internal and external injuries.<sup>16</sup>

The police were responsible for arbitrary arrest, illegal detention and torture. Even children were not spared. In February 2005, a 12-year-old boy was allegedly tortured in police custody by N Islam, Officer-in-Charge of Hallydiganj police outpost in West Garo Hills district without any reason. The boy reportedly sustained a fracture in his right leg due to the beating.<sup>17</sup>

### **3. Violations of international humanitarian laws by the AOGs**

The major AOGs in Meghalaya included Achik National Volunteer Council (ANVC) and Hynniewtrep National Liberation Council (HNLC).<sup>18</sup>

The armed opposition groups (AOGs) were responsible for torture and extortion. The ANVC allegedly extorted from local coal barons and other businessmen in South and East Garo Hills in violation of the ceasefire agreement. The police sources said that the 70-odd ANVC cadres, who had put up at the two camps at Samada and Chokpot following the signing of the ceasefire, constituted just 25 per cent of the outfit's total strength. The rest of the activists were allegedly indulging in rampant extortion.<sup>19</sup>

### **4. Ethnic conflicts**

Block I and II areas in Karbi Anglong district of Assam remained a disputed area between Assam and Meghalaya for a long time. In 1951, these areas had been transferred to the Karbi Anglong (then called United Mikir and North Kachar Hills) after slicing them from the erstwhile Khasi and Jaintia Hills district and these remained with Assam even after the birth of Meghalaya in 1972. Since then the Khasi-Pnars of the area have often expressed their desire to be a part of Meghalaya. While the Khasi-Pnars faced atrocities from the Karbis in Assam, the Khasis often retaliated against the Karbis in Meghalaya. The conflict led to frequent internal displacement.

On 10 March 2005, cadres of the armed opposition groups- Karbi National Volunteers (KNV) and United People's Democratic Solidarity (UPDS)- armed with sophisticated weapons went to Lamalong market at Mawhati in Ri-Bhoi district in Block-II and assaulted four persons after threatening them at gunpoint.<sup>20</sup> Earlier, on 5 March 2005, armed Karbi militants of UPDS and KNV looted the Khasi-Pnar residents of Moolber village in the disputed Block-I area in Jaintia Hills.<sup>21</sup>

On 7 June 2005, the Joint Action Co-ordination Committee of Meghalaya issued quit notice to all Karbis residing in the state to leave immediately in retaliation to alleged burning down of 27 houses belonging to Khasis at Lumdorbar in Block-II of Karbi Anglong district by the Assam government on 6 June 2005. As many as 220 people were

displaced by the drive and they were given temporary shelter at Umsaw under Raid Tyrso in Ri-Bhoi District.<sup>22</sup> They were not rehabilitated till the year's end.<sup>23</sup> On the contrary, they were served with a-month notice to vacate the land by the land owners in November 2005.<sup>24</sup> Following the quit notice several Karbi students left Shillong and Karbi houses were reportedly torched in Ri-Bhoi district.<sup>25</sup>

## **5. Violations of the prisoners' rights**

The NHRC recorded 6 deaths in judicial custody during 2004-2005.<sup>26</sup>

On 5 December 2005, Krolin Kharkongngor from Lawmei near Sohiong was declared brought dead due to cardiac arrest at Shillong Civil Hospital after he allegedly collapsed in the district jail after his arrest by police a day before in connection with selling of illicit liquor.<sup>27</sup>

# Mizoram

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## 1. Overview

Ruled by Mizo National Front, Mizoram Government failed to solve the Bru crisis despite signing of a 10-point Memorandum of Understanding (MoU) with the Bru National Liberation Front in Aizawl on 26 April 2005, and the surrender of the Bru rebels pursuant to the MoU.<sup>1</sup> The Government of Mizoram refused to take back the Bru refugees who had been living in Tripura since their expulsion from Mizoram in 1997. The peace accord of 26 April 2005 was virtually thrown out of the window.

The Mizoram police were responsible for human rights violations including custodial deaths. Surprisingly, the National Crime Records Bureau failed to record any case of death in police custody in Mizoram during 2005.<sup>2</sup> According to David M Thangliana, Editor, *Newslink*, at least four persons died in custody during 2005. While three of them died under police custody, one died in the Central Jail.<sup>3</sup> On 29 March 2005, while replying to Congress legislator H. Rohluna, Home Minister of Mizoram Mr Tawnluia told the State Assembly that one man had died at Khawzawl police station lock-up on 22-23 February 2005 and police inquiry as well as magisterial inquiry had been initiated into the case. But no police official was suspended.<sup>4</sup>

The State government failed to curb vigilante violence. The members of the Young Mizo Association (YMA) took law into their hands and created terror under the garb of controlling drugs and alcohol. Asian Centre for Human Rights documented deaths of three persons allegedly at the hands of the members of the Young Mizo Association. On 11 November 2005, Central Young Mizo Association (CYMA) reportedly apologized for the death of Zothantluanga at the hands of YMA members.<sup>5</sup> But the culprits went unpunished.

Though women generally enjoyed freedom in the society of Mizoram, they were subjected to sexual abuse and domestic violence. The Mizo women were discriminated under the archaic Mizo customary laws drafted in 1927.<sup>6</sup> Members of vigilante groups allegedly sexually harassed women during anti-drug campaign on the charges of selling drugs or wine.<sup>7</sup>

During 2005, there were consistent reports of child abuse including exploitation and sexual assault. Aizawl-based Centre for Peace & Development recorded a total of 156 cases of rape during 2001- April 2005. Of the 156 rape cases, 100 cases were rape of minors below the age of 14 years.<sup>8</sup> A conservative estimate by the Social Welfare

Department of Mizoram stated that 10 children were sexually abused every year on an average.<sup>9</sup>

The members belonging to the minority communities lived under fear of attacks by the members of vigilante groups and the police. In May 2005, a Chakma woman was raped by Thanthuama, the branch YMA president of Phairuankai in Lunglei district.<sup>10</sup> Bru minorities were specifically targeted.<sup>11</sup>

The armed opposition groups operating in Mizoram such as Bru Liberation Front of Mizoram and Hmar People's Convention (Democratic) were allegedly responsible for abductions and extortion.

## **2. Human rights violations by the security forces**

The security forces were responsible for human rights violations, including custodial deaths. In March 2005, a 27-year-old man from Aizawl reportedly died under mysterious circumstances in the lock-up of Bairabi police station in Aizawl. Mizoram police had arrested the victim after banned proxyvon capsules were allegedly recovered from him.<sup>12</sup>

Torture by the police was common. But such incidents were seldom reported. On 24 February 2005, Laldusiamia, son of Lalfeli of Serchhip, was allegedly tortured by the Sub-Inspector Pope at the police station in Serchhip. The victim was picked up by the police on a complaint of theft against him filed by one Rajen, a mechanic in Serchhip Bazaar. Laldusiamia had to be admitted in Serchhip civil hospital in a serious condition and was referred to Aizawl civil hospital. An X-ray reportedly revealed that the victim had sustained bone fractures in two parts of his body. The victim reportedly filed an FIR against Sub-Inspector Pope with the Serchhip police station on 7 March 2005.<sup>13</sup>

On 15 June 2005, personnel of the 42nd Assam Rifles posted at Thingsulthliah allegedly beat up three student leaders of Tlungvel Constituency Students' Union identified as K Lalringliana, Lalhrulaitluanga and V Lalchhanhima when they had gone to the army camp to check the inner line permits of the army canteen employees.<sup>14</sup>

On 29 July 2005, Lalsangmawia had to be admitted to the Aizawl civil hospital after he was allegedly meted out third degree punishment by the second Officer-in-Charge of Ngopa police station. The victim was arrested in connection with a burglary of Ngopa community health centre's canteen on the night of 12 July 2005. The victim's parents alleged that the second officer-in-charge stamped on the victim's stomach and beat him on the thighs and legs inside the police station.<sup>15</sup>

### 3. The Bru crisis

There were about 35,000 Brus (also known as Reangs) from Mizoram languishing in six refugee camps at Kanchanpur in Tripura since they were expelled from Mizoram during ethnic riots that erupted in October 1997. The government of Mizoram had been refusing to take them back despite directions of National Human Rights Commission of India in October 1999.

#### a. Failure to repatriate Bru IDPs

The 10-point Memorandum of Understanding (MoU) signed between the Bru National Liberation Front (BNLF) and the Mizoram government in Aizawl on 26 April 2005 failed to resolve the Bru embroglio due to the lack of political will of the government of Mizoram. The MoU provided for, among others, laying down of arms by BNLF, repatriation and resettlement of the Bru refugees by the Mizoram government, a development package for the Brus, and measures to be taken by the Mizoram government for the inclusion of eligible Bru voters in the electoral rolls.<sup>16</sup>

On 25 July 2005, the Bru National Liberation Front formally laid down arms before the Mizoram police pursuant to the peace accord at Tuipuibari Transit Camp in western Mizoram. But the surrendered BNLF cadres and their kin had been the only beneficiaries of the peace accord. While 195 surrendered BNLF cadres and their families totaling 285 persons were resettled in 42 houses at Sidan Transit Camp,<sup>17</sup> most of the Brus' grievances remained unfulfilled. Except the casting of votes by 1733 out of 2406 Bru voters in the Kawrthah by-election and 971 out of the total 1240 Bru voters in the Phuldungsei bye-election held in December 2005,<sup>18</sup> other main issues like resettlement and rehabilitation remained unattended. This was primarily because of the shortcomings of the peace accord which failed to specify a timeframe for such repatriation or the number of the Bru IDPs to be repatriated by the Government of Mizoram. The government of Mizoram continued to drag its feet over the question of the number of bonafide Brus of Mizoram. While the Bru leadership and the government of Tripura put the number of Bru IDPs of Mizoram at over 35,000 persons,<sup>19</sup> the government of Mizoram was ready to accept only 16,000 Brus whose names were enlisted in the 1995 electoral rolls of Mizoram.<sup>20</sup>

The political parties, Young Mizo Association and Mizo Zirlai Pawl vehemently opposed the return of the Brus to Mizoram.

Despite assurance by Prime Minister Manmohan Singh in November 2005 to the representatives of Mizoram Bru Displaced People's Forum (MBDPF) to bring an early solution to the Bru crisis,<sup>21</sup> the government of Mizoram failed to repatriate a single Bru IDP from Tripura.

## **b. Continued atrocities**

Bru minorities continued to face atrocities. On 27 January 2005, six jum huts belonging to Bru cultivators were torched by unidentified persons at Kolalian village in Mamit district. Earlier the Bru jum cultivators were asked to leave the village by students from a nearby village on the charges that they were not bonafide residents of Mizoram.<sup>22</sup>

Shortly after the abduction of engineer Charanjeet Singh and Mizo labourer Zoramsanga, who were employees of Tuiram Hydekl Project in Mamit district allegedly by the Bru Liberation Front of Mizoram (BLFM) on 8 August 2005,<sup>23</sup> members of Young Mizoram Association (YMA) and Mizoram Armed Police (MAP) personnel illegally entered into Tripura and attacked the Brus of Bambobari, Therma, Sailot and Vellian villages on the Tripura-Mizoram border. They laid a siege upon the villages from 8-17 August 2005 and beat up 20 villagers in the name of searching for abducted persons.<sup>24</sup> On 8 August 2005, the YMA activists and the MAP personnel allegedly killed Hulendra Reang, headman of Bhungbupara village after abducting him.<sup>25</sup> The MAP personnel also picked up three other Bru villagers identified as Pabanjay Reang of Bambubari village, Udayjay Reang and Bhujanjay Reang of Sailot village in the name of interrogation without obtaining permission from the Tripura Government.<sup>26</sup>

## **c. Condition of the Bru IDPs in the relief camps**

The Bru IDPs had been living in pathetic conditions in six relief camps. On 31 January 2005, Union Home Minister Shivraj Patil announced a relief package of Rs 28.65 crore for Bru IDPs living in Tripura.<sup>27</sup> But the conditions of the IDPs did not improve at all.

The daily cash dole of Rs 2.90 i.e. Rs 87/- per month given to each adult Bru was extremely inadequate. During a field mission in December 2005, Asian Centre for Human Rights found that since 2001, the new-born babies had been included only in the census but not in the relief cards, making them ineligible for food items. Those who became adult in the last five years continued to be given rations as minor. The ration of 450 grams of rice was so inadequate that displaced Brus had not even been reporting deaths for the fear of further reduction of the rations being provided.

Medical facilities were non-existent. The literacy rate among the Bru IDPs was only 10%.<sup>28</sup> The Tripura government also did not extend the Central Government sponsored Sarva Siksha Abhiyan (Education for All) programme to the Bru IDP camps. Effectively, over 5,000 minors were denied the right to education and an entire generation of the Brus had been kept illiterate in the last eight years.

## 4. Vigilante justice

The State government failed to curb vigilante violence. The main vigilante group Young Mizo Association (YMA) took law into their hands under the garb of controlling drugs and alcohol. The atrocities were so severe that the Governor of Mizoram, A R Kohli had to personally intervene to advise the Central YMA to exercise care in implementing the so-called war against drugs.<sup>29</sup> On 13 October 2005, Newslink editor, David M. Thangliana submitted his resignation as a member of the Central Young Mizo Association's Literature Sub-Committee in protest against YMA atrocities in their campaign against drugs and alcohol.<sup>30</sup>

Asian Centre for Human Rights documented deaths of three persons allegedly at the hands of the members of the Young Mizo Association.

On 18 May 2005, Rajendra Singh died at Bethesda Hospital in Aizawl following beating by the alleged members of YMA on the charges of being a drug peddler. The victim was caught, blindfolded and brutally beaten up on the night of 17 May 2005 in the Tlangnuam locality of Aizawl. Earlier, the YMA had locked the victim's house in Bawngkawn following the arrest of his wife, N. Mimi, on Proxyvon peddling charges. A doctor at Bethesda Hospital stated that "blood tests showed that his red blood corpuscles were damaged, which indicates injuries in any of the kidney, spleen or liver."<sup>31</sup>

On 10 October 2005, Zothantluanga died following brutal torture allegedly by members of YMA, Mission Vengthlang branch, on the night of 9 October 2005. The victim was summoned by the YMA in connection with a burglary case at the nearby Presbyterian Girls Hostel and brutally beaten up.<sup>32</sup> The police arrested 10 persons in connection with the death of Zothantluanga.<sup>33</sup> On 11 November 2005, Central Young Mizo Association (CYMA) reportedly apologised to the victim's family.<sup>34</sup>

Members of vigilante groups allegedly sexually harassed women during anti-drug campaign on the charges of selling drugs or wine.<sup>35</sup> On the night of 15 May 2005, Thanthuama, the branch YMA president of Phairuankai in Lunglei district, raped a 26-year-old Chakma tribal woman after YMA members found 32 cakes of yeast used for making country liquor during a raid at her *jum* hut. Instead of handing over the victim to the police, the accused took her to his home in the pretext of investigation and raped her. The accused was arrested and he reportedly confessed to raping the victim before the Lunglei police.<sup>36</sup>

Many were also subjected to torture. On the night of 2 June 2005, Lalthanngura alias Ngurtea was allegedly severely beaten up by YMA activists after picking him up from his house at Bawngkawn on the accusation of drinking wine. The next day the victim was

admitted at Aizawl Civil Hospital with brain haemorrhage. A head scan revealed internal bleeding at two places. The mother of the victim filed a complaint with Banwngkawn police naming V. Lalkunga, president of the Kumpulan committee chairman and Vanlalfela, an executive member of the YMA, Bawngkawn branch, as the accused. On the other hand, YMA Banwngkawn branch president Rinawma Sailo said the man had hit his head against a concrete post when they tried to tie up his hands.<sup>37</sup>

On 4 June 2005, activists of Central Young Mizo Association's Supply Reduction Service reportedly beat up six women and six men after tying their hands behind and blindfolding them after liquor was recovered from their houses during a raid in Rangvamuah locality in Aizawl. They were later handed over to the Mizoram Excise police.<sup>38</sup>

On the night of 19 September 2005, a group of locals led by YMA reportedly torched the house of a widow identified as Selziki in Sihphir on the charges of selling liquor. The widow had been repeatedly warned by the Sihphir branch YMA to stop her illegal trade.<sup>39</sup> On 20 September 2005, six YMA leaders of Sihphir surrendered to the police. They were charged under sections 436 and 34 of the Indian Penal Code.<sup>40</sup>

## **5. Violations of international humanitarian laws by the AOGs**

Following the surrender of the Bru National Liberation Front (BNLF) in July 2005, its break-away faction, Bru Liberation Front of Mizoram (BLFM) became the main armed opposition group. A few other AOGs such as Hmar People's Convention (Democratic) and Chin National Confederation also reportedly operated inside Mizoram. The armed opposition groups reportedly resorted to abductions and extortion.

On 29 March 2005, alleged cadres of BNLF kidnapped a student of Kanhmun High School, Lalrinawma, and taken inside neighbouring Cachar District in Assam. The abductors demanded a ransom of Rs 4 lakh for his release. The boy was released after his parents reportedly paid Rs 25,000. The BNLF however denied having a hand in the abduction of Lalrinawma.<sup>41</sup>

On 8 August 2005, suspected BLFM cadres kidnapped an engineer Charanjeet Singh and Mizo labourer Zoramsanga working at Teirei hydel project under Mamit police station in Mamit district.<sup>42</sup> The armed opposition group reportedly demanded Rs two crore as ransom from the government of Mizoram for their release.<sup>43</sup> The two were released, reportedly unconditionally, on the night of 20 October 2005.<sup>44</sup>

The Hmar People's Convention (Democratic) was also accused of sending extortion letters to the salaried persons of Vairengte village.<sup>45</sup>

## **6. Violations of the rights of the child**

Despite several reports of child abuse including exploitation and sexual assault in Mizoram, the National Crime Records Bureau failed to record any case of child abuse in the state during 2005 in its 2005 Annual Report.

Aizawl-based Centre for Peace & Development recorded a total of 156 cases of rape during 2001- April 2005. Of the 156 rape cases, 100 cases were rapes of minors below the age of 14 years. The other crimes committed on children are murder, kidnapping, molestation and hurt. While three children were murdered, nine were kidnapped and 63 molestation cases against children were registered during the same period.<sup>46</sup>

A study conducted by the Mizoram social welfare department and two NGOs - Human Rights and Law Network and Atrocity Against Women and Children – found that child abuse was increasing at an alarming rate in the state. A conservative estimate by the Mizoram social welfare department stated that 10 children are sexually abused every year on an average.<sup>47</sup>

In May 2005, the Government of Mizoram formed Child Welfare Committee under the Juvenile Justice (Care and Protection of Children) Act, 2000. On 18 November 2005, Child Welfare Committee admitted that sexual or physical abuse of children in Mizoram was rampant. According to Lalengruali, chairman of the Child Welfare Committee, many cases went unreported. As a result, only a few cases of child abuse had been reported to the CWC.<sup>48</sup>

## **7. Violations of the prisoners' rights**

During a visit to the Central Jail in Aizawl in June 2005, journalists and members of Human Rights & Law Network found that the jail did not have a permanent doctor and the jail's infirmary had no medicines. A doctor visited the jail twice a week, which was insufficient. Besides, there were no safeguards for healthy inmates from the infected ones. In the Aizawl Central jail, about 40 male inmates in each ward shared a single blade for shaving purposes. Since the HIV positive inmates were not segregated from the non-HIV inmates, there was imminent risk of proliferation of HIV/AIDS among the prisoners. Human Rights & Law Network recorded a total of 14 cases where chargesheet had not been made within the stipulated time of 90 days and they were not released on bail. There were 520 prisoners including 64 women in the Central jail. There were also four children, including an infant, in the jail with their mothers.<sup>49</sup>

On 14 February 2005, a 23-year-old undertrial prisoner identified as Vanlalwama reportedly died in Aizawl Central Jail after complaining stomach ache. The victim was

apprehended by members of the local vigilance squad at Treasury Square in Aizawl for carrying packets of country liquor in his taxi two days earlier and later handed over to the police. According to Jail authorities, the victim had suffered severe internal injuries at the hands of those who had nabbed him and died due to those injuries.<sup>50</sup>

# Nagaland

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## 1. Overview

Led by Democratic Alliance of Nagaland, Nagaland remained relatively peaceful as a result of the ongoing peace process between the government of India and Naga armed opposition groups - the National Socialist Council of Nagalim (Issac-Muivah) and the National Socialist Council of Nagalim (Kaplant). The government of India had entered into formal ceasefire agreement with the National Socialist Council of Nagalim (I-M) with effect from 1 August 1997.<sup>1</sup> Despite relative peace, the Armed Forces (Special Powers) Act was extended for another year in July 2005 in Nagaland.<sup>2</sup>

According to the Annual Report-2005-06 of the Ministry of Home Affairs, violence has increased with 192 incidents in 2005 as against 186 in 2004. However, the number of civilians killed came down from 42 in 2004 to 28 in 2005.<sup>3</sup>

The National Crime Records Bureau (NCRB) of the Government of India reported that eight complaints were received against policemen in Nagaland during 2005. Of these, four cases were registered and one out of the four police personnel sent for trials was convicted. Departmental inquiries were instituted in two cases and judicial inquiry was instituted in one case.<sup>4</sup>

The armed opposition groups continued to impose tax in violation of the 'ceasefire ground rule'. On 8 November 2005, unidentified gunmen suspected to be cadres of the National Socialist Council of Nagaland (Khaplant)<sup>5</sup> allegedly shot at the former Nagaland Director General of Police (DGP) H Hesso Mao at his residence after he had refused to meet extortion demand of Rs 10 lakh. He succumbed to his injuries at a private nursing home.<sup>6</sup>

On 7 June 2005, unidentified gunmen suspected to be self-styled "self-defence force" of the Chang tribe reportedly abducted nine passengers from a taxi near Tobu town in Mon district and later killed two of them. Eight of the abducted passengers were labourers of the Public Works Department/Housing department who were going to Mon district to collect their monthly wages.<sup>7</sup>

The armed opposition groups also suppressed the right to freedom of association and assembly. On 10 November 2005, suspected cadres of NSCN (I-M) allegedly kidnapped 7 persons including Pfutserao Town Council Chairman Dingulo Khutso, Chakhesang pastor Nuvosaye Vese and village elder Puneru Chakhesang in Phek district. They were

allegedly kidnapped for participating in a rally against the NSCN (I-M) in September 2005.<sup>8</sup>

Women and girls continued to be vulnerable. According to National Crime Records Bureau, 17 cases of rape and 9 cases of kidnapping/abduction were reported during 2005.<sup>9</sup> On 5 May 2005, a 36-year-old school teacher identified as Sony Koshy of Mezoma Middle School in Khonoma village was reportedly raped and murdered by one Pezazoto. She was from Kerala and a mother of two children. This was the third rape incident in a month.<sup>10</sup>

The media persons also came under attack. On the night of 24 November 2005, Xavier Rutsa, senior correspondent of *Nagaland Post* and Ato Liezietsu, President of Kohima Press Club, were reportedly shot at by gunmen suspected to be militants while they were returning home on a scooter from work in Kohima. Rutsa was hit on the hip, while Liezietsu was hit on the lower abdomen resulting in excessive bleeding.<sup>11</sup>

# Orissa

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## 1. Overview

Ruled by Biju Janata Dal, Orissa remained a highly lawless state with high incidence of atrocities against the Dalits and the Adivasis, the indigenous peoples. While the National Crime Records Bureau (NCRB) of the Government of India reported 2 deaths in police custody during 2005,<sup>1</sup> Asian Centre for Human Rights recorded three deaths in police custody during the same period. During 2004-2005, the NHRC had recorded 3 deaths in police custody.<sup>2</sup>

The Maoists were also responsible for gross violations of the international humanitarian laws. The atrocities of the Maoists could be gauged from the fact that villagers of Jujomora area in Sambalpur district had to send their daughters and young brides away to undisclosed locations due to fear of abduction and killing by the Maoists.<sup>3</sup> The Orissa government stated that there were 133 Maoists in different jails of the state as on 30 November 2005.<sup>4</sup>

Violence against women was high in Orissa. The National Crime Records Bureau reported 6,249 cases of violence against women, including 799 rape cases, 547 abduction cases, 334 dowry deaths, and 1,671 cases of cruelty by husband and relatives, among others in Orissa during 2005.<sup>5</sup> According to the Government of Orissa, 2,550 cases were registered relating to dowry and non-dowry torture in 2005.<sup>6</sup> Women were killed on the charges of being “witches”.

The National Crime Records Bureau reported 86 cases of child abuse in Orissa during 2005, including 9 murder cases, 28 rape cases, and 16 kidnapping cases, among others.<sup>7</sup> Trafficking had been on the rise.

The Dalits, who constituted 16.53% of the states’ total population, were a neglected lot. About 52.30% of the Dalits lived below the poverty line.<sup>8</sup> The National Crime Records Bureau reported 1,439 cases of crimes against the Dalits in Orissa during 2005.<sup>9</sup> Their houses were burnt and they were denied access to public places and services such as community tube well and temples. The Dalit women were specific target of violence and they were also denied jobs as cooks in schools under the mid-day meal scheme despite government directive for recruitment of women preferably from Scheduled Castes and Scheduled Tribes for the scheme.<sup>10</sup>

The tribals constituted 22.13% of the state's total population according to 2001 census. About 73.08% of the tribals lived below the poverty line. Their literacy rate was as low as 37.37%.<sup>11</sup> The National Crime Records Bureau reported 602 cases of atrocities against the tribal peoples in Orissa, which amount to 10.5% of the total cases of atrocities against the tribals in India during 2005.<sup>12</sup> The police also tortured tribals and filed false cases to arrest them on the charges of sheltering the Maoists.

The State government of Orissa did not recognise the land rights of the tribals in the state, and suppressed any movement by tribals demanding such rights.<sup>13</sup> During 2002-2005, the Orissa government signed 42 Memorandum of Understandings (MoUs) with companies for proposed steel and other plants in the state as a result of which thousands of tribals would be displaced.<sup>14</sup> About 1.4 million people, most of them tribals, had been reportedly displaced in Orissa between 1951 and 1995 due to dams, canals, mines and other industries. Majority of the displaced persons had not received compensation and rehabilitation.<sup>15</sup>

A total of 14,365 prisoners including 438 females were in the prisons of Orissa as on 30 November 2005 against the actual capacity of 9,167.<sup>16</sup> The NHRC had recorded 39 deaths in judicial custody during 2004-2005.<sup>17</sup> In addition, 43 children below 5 years were living with their mothers in different jails.<sup>18</sup> But there were no proper facilities for these children. On 12 November 2005, one-year-old baby named Raimoti died in Burdwan sub-jail.<sup>19</sup>

## **2. Human rights violations by the security forces**

The security forces were responsible for extrajudicial executions, arbitrary arrest, detention and torture. The National Crime Records Bureau reported 2 deaths in police custody during 2005.<sup>20</sup> The NHRC had recorded 3 deaths in police custody during 2004-2005.<sup>21</sup>

Asian Centre for Human Rights recorded three deaths in police custody during 2005. On 3 March 2005, Dilip Kumar Sahoo alias Swain died in the custody of Shahid Nagar police station in Bhubaneswar after being arrested in connection with a snatching incident. The police claimed that he hanged himself from a railing by using his shirt.<sup>22</sup> The other victims of custodial death were Gajendra Bag alias Majhia, a tribal who allegedly committed suicide with his lungi at Kuchinda police station in Sundergarh district on 17 March 2005,<sup>23</sup> and Manoj Mahapatra of Mahavir Bazar was allegedly beaten to death at the Town Police station in Dhenkanal district on 7 June 2005.<sup>24</sup>

The police were responsible for indiscriminate use of force. On the night of 27 April 2005, a 70-year-old woman Gaji Muduli died following police assault during a raid by a police

team on her house at Sorana village under Tangi police station limits in Khurda district. The victim was assaulted when she protested arrest of her husband Haribol Muduli. The Khurda district administration announced an ex gratia of Rs 10,000 to the victim's family, and a probe by Khurda Additional District Magistrate, Niranjana Das.<sup>25</sup>

The police also resorted to indiscriminate use of fire-arms which led to the violations of the right to life. Dillip Mahanta was hit by a bullet on his head when the police opened fire to disperse a mob agitating in front of the Champua police station in Keonjhar on 8 June 2005 and died.<sup>26</sup>

The police were responsible for arbitrary arrest, detention and torture. On 21 March 2005, Chief Minister Navin Patnaik stated in the State Assembly that the state crime branch had issued instructions to all the Superintendents of Police to strictly implement the guidelines of the Supreme Court in its judgment in the case of *D K Basu versus State of West Bengal* as well as the guidelines of National Human Rights Commission on custodial deaths in order to check custodial crimes.<sup>27</sup> But it had little impact.

Bisikeshan, son of Partha Sunani of Chancharabhadi village reportedly died on 19 April 2005 after his release from Junagarh police station lock-up in Kalahandi district due to brutal assault by the Officer in-Charge Anirudhha Routray during illegal detention. Anirudhha Routray was suspended following public protests.<sup>28</sup> On 26 October 2005, plainclothes policemen arbitrarily arrested a tribal leader identified as Rabindra Jarika after a meeting in Bhubaneswar.<sup>29</sup>

In a rarest case, on 30 July 2005 Bhubaneswar sub-divisional judicial magistrate Debashis Nayak sentenced two policemen - Somnath Dixit, Inspector-in-Charge of Lingaraj Police Station and assistant Sub-Inspector Narsingha Bala to six months of rigorous imprisonment for unlawfully confining Manmohan Mohanty of Basantpedi village in police custody for three days in 1998.<sup>30</sup>

### **3. Violations of international humanitarian laws by the AOGs**

The Maoists were responsible for violations of the international humanitarian laws. On 11 August 2005, the Maoists attacked Jujomora area in Sambalpur district. Villagers were forced to send their daughters away to undisclosed locations due to fear of abduction and killing. Almost all the estimated 10,000 families of Chhamunda and Meghpal Gram Panchayats under Sambalpur district had sent their daughters and young women away due to fear of the Maoists.<sup>31</sup>

The Maoists were responsible for killing of civilians either after accusing them of being police informers or inability to pay extortion or violating their dictat. The victims included

businessman Abdul Sukru Khan who was shot dead in Rayagara town in Rayagara district on 28 March 2005;<sup>32</sup> three villagers - Kanhu Sahu, his son Dibakar and Ashwini Barik who were killed at Burda village under Jujumara police station limits in Sambalpur district on the night of 27 May 2005;<sup>33</sup> five villagers - Janam Majhi, Iswar Majhi, Desi Mirdha, Gurucharan Nayak and Surubaba Podha, a teacher of Lorabira primary school, who were killed after being accused of as police informers during a raid on Chamaprisingha, Banjaritika and Lorabira villages under Jujumara police station in Sambalpur district on the night of 6 July 2005;<sup>34</sup> and a contractor identified as Subhas Biswas who was killed at MV-88 village under Motu police station limits on the night of 29 September 2005.<sup>35</sup>

The Maoists also resorted to abduction. On 9 February 2005, suspected Maoists abducted 23 labourers from Phulkusuma and Podanala villages in Sambalpur district. While four labourers were released on the same day,<sup>36</sup> 14 others were released on 12 February 2005.<sup>37</sup> On 18 May 2005, suspected Maoist rebels kidnapped the sarpanch of Chhamunda gram panchayat Ram Bhoi and two contractors, Rajeev and Bindhani from their houses from Gobardhan Badmal village under the Jujumara police station of Sambalpur district.<sup>38</sup>

#### 4. Violence against women

According to the State government of Orissa, 2,550 cases were registered relating to dowry and non-dowry torture in 2005. Of these, charge-sheets were filed in 1,247 cases, final report submitted in 7 cases, 27 cases turned out Mistake of Fact/Mistake of Law, 6 turned out to be non-cognizable and 18 false. The remaining 1,245 cases were pending for investigation.<sup>39</sup>

Women were victims of sexual violence. On the night of 9 January 2005, Circle Inspector of Nandapur in Orissa S K Odu, a local youth and a doctor P K Rath of Nandapur Community Health Centre allegedly gang raped a 30-year-old tribal woman at the official residence of the Circle Inspector after luring her into the house by promising a job. Inspector SK Odu and the youth identified as Nageswar Rao were arrested on 12 January 2005.<sup>40</sup>

On 16 April 2005, the Sarpanch of Shyamsundar gram panchayat, Mr Fakir Charan Behera allegedly molested two women ward members of the panchayat during a *palli sabha* meeting for leveling of some corruption charges against him near Purussottampur village in Kendrapara. An FIR was lodged on 19 April 2005 a case under Section 354 of the Indian Penal Code against the sarpanch.<sup>41</sup>

Women were also subjected to torture and degrading treatment. On 15 July 2005, Annapurna of Ghadimala village under Rajnagar block in Kendrapra district was reportedly paraded naked and beaten up in full public view by the villagers on the behest of her husband Arun for suspecting her of having an illicit relationship with another man of the village. She was rescued by the police the next day and admitted to Rajnagar Hospital after her father lodged an FIR at the Rajnagar police station.<sup>42</sup>

Killing of women on the charges of being “witches” was prevalent in most of the districts of Orissa. At least 50 such deaths were recorded in Sundhargarh district since 2001, while in Ganjam district 34 suspected witches were killed since 2001<sup>43</sup> and Mayurbhanj district recorded 15 deaths since 2003.<sup>44</sup> Twenty-three people were arrested in connection with these murders.<sup>45</sup>

The victims included a 70-year-old Jayanti Chatar of Belabahali village under Tomka police station limits in Jajpur district, who was killed on 17 November 2005,<sup>46</sup> and Muni Bandra, Jhala Bhengra and Rani Birua who were brought out of their homes and beaten up on the suspicion of being witches at Uttam Basti on the outskirts of Rourkela in December 2005.<sup>47</sup>

## **5. Violations of the rights of the Dalits**

The Dalits (60,82,063) constituted 16.53% of the states’ total population (3,68,04,660), according to 2001 census. About 52.30 % of the Dalits lived below the poverty line. Their literacy rate was only 55.53%.<sup>48</sup>

During 2005, the National Crime Records Bureau recorded 1,439 cases of crimes against the Dalits in Orissa.<sup>49</sup> In June 2005, a Dalit youth identified as Sukanta Mallick of Badiha village in Kendrapara district was killed by the brothers of an upper caste girl for falling in love with her. Police investigation reportedly found prima facie evidence of murder, as there were marks of strangulation and other injuries on the body.<sup>50</sup>

Dalit properties were targeted. On 25 April 2005, the upper caste people of Kurumpada destroyed at least 10 houses belonging to the Dalits at Bhoi Sahi in Narangada village in Khurda district in a caste-related violence.<sup>51</sup>

Dalit women were often subjected to torture, inhuman and degrading treatment. On 19 September 2005, a group of Dalit women belonging to the barber community were reportedly dragged out of their houses and paraded naked on the streets by upper-caste Khandayat community in Bhubanpati village in Puri district. The women had been punished as their husbands refused to wash the feet of a bridegroom and other members of the barati during an upper-caste marriage held in July 2005.<sup>52</sup>

The Dalits were not allowed to have access to public places and services such as community tube wells and temples. On 14 November 2005, over hundred Dalits belonging to washermen community were denied the right to draw water from government-dug community tube well by the panchayat representatives of Kandarpur village in Mangalpur Gram Panchayat (village council) under Derabish block in Kendrapara district. An FIR was lodged with Kendrapara police station.<sup>53</sup>

In December 2005, four Dalits women identified as Sebati Muduli, Annapurna Mahali, Jharana Jena and Sakuntala Muduli were reportedly beaten up by the upper caste villager for daring to enter the Jagannath temple in Keraragard village in Kendrapara district. Later, the village panchayat imposed a fine of Rs 1,001 on them for temple-purification rituals.<sup>54</sup> The district administration ordered the Tehsildar to conduct an inquiry into the matter.<sup>55</sup>

In Kendrapara district, Dalit women applying for the job of cooks in schools under the mid-day meal scheme were allegedly turned away by the school authorities for the fear that upper caste students might not take the food cooked by Dalits. This was in contrary to the government directive for recruitment of women preferably from Scheduled Castes and Scheduled Tribes for the scheme<sup>56</sup> in about 1,420 primary schools in the district. The National Human Rights Commission in December 2005 issued a notice to the district administration for not appointing Dalit women as cooks in schools.<sup>57</sup>

## **6. Violations of the rights of the indigenous/tribal peoples**

The indigenous peoples, the Scheduled Tribes, (81,45,081) constituted 22.13 % of the state's total population (3,68,04,660) according to 2001 census. About 73.08 % of them lived below the poverty line. Their literacy rate was only 37.37%.<sup>58</sup>

### **a. Atrocities**

The National Crime Records Bureau recorded 602 cases of atrocities against the tribals in Orissa, which amounted to 10.5 % of the total cases of atrocities against the tribals in India during 2005.<sup>59</sup>

Tribals who lived in forest areas were often targeted for allegedly sheltering the Maoists. On 7 April 2005, around 100 grey hound personnel from Andhra Pradesh along with CRPF personnel entered the Pedaguda village near Ramnaguda in Rayagada district and threatened and beat several tribals including Dasuru Patika, Bidika Kusia, Patika Indica and a 65-year-old-woman, Droupadi Bidika, on the charge of sheltering the Maoists.<sup>60</sup>

On 11 March 2005, in a high-level meeting presided over by Chief Minister Navin Patnaik, the state government claimed that a total 2531 cases against the tribals in the Naxal-affected districts of the state had been withdrawn, and 1183.40 acres of land were returned to the tribals.<sup>61</sup> However, the claim of the government was challenged by state convenor of Daman Pratirodh Manch, Mr Dandapani Mohanty and his counterpart in Jana Pratirodh Manch, Mr Barada Thatoi. They stated that not a single police case had been revoked and only five out of 18 persons who were arrested on their way back from the Maoist rally on 14 September 2004 were released after three months. 13 others were put behind the bars, out of whom, nine were girls in the age group of 15-25 years. Around 170 persons were languishing in Malkangiri jail alone, who had been arrested as suspected Maoists.<sup>62</sup> The Orissa government stated that there were 133 Maoists in different jails of the state as on 30 November 2005.<sup>63</sup>

The tribal girls were subjected to rape and other violence. On 24 March 2005, the Orissa government ordered a departmental inquiry into the alleged torture and sexual abuse of tribal migrant labourers from Sundargarh and Bhadrak district in a brick kiln of Patkura area in Kendrapara district. Several tribal women were found to have been sexually abused and male workers were beaten up by the brick kiln management during their over three months' stay in the brick manufacturing unit. They had faced the wrath of the brick owner because they dared to ask for settlement of the unpaid dues. Acting on the complaint by one of the abused workers who had fled from the spot, police rescued 14 labourers and arrested five persons.<sup>64</sup>

Instead of taking action against the rape of a minor tribal girl from Noto village in Mayurbhanj district by four men including one Shatrugan, the police arrested two NGO activists, who organized a fund-raising campaign for the victim, on charges of instigating communal violence and attempt to murder.<sup>65</sup>

## **b. Forcible displacement and alienation of land**

About 1.4 million people, most of them tribals, had been reportedly displaced in Orissa between 1951 and 1995 due to dams, canals, mines and other industries. Majority of the displaced persons had not received compensation and rehabilitation. Another 80,000 to 1,00,000 tribals from 50 villages in Subdega and Balisankra blocks in Jharsuguda district of Orissa faced imminent displacement due to the proposed dam on the Ib river.<sup>66</sup>

During 2002-2005, the Orissa government signed 42 Memorandum of Understandings (MoUs) with companies for proposed steel and other plants in the state which would displace thousands of tribals.<sup>67</sup> The MoU with Korean steel major Pohang Steel Company (Posco) signed on 22 June 2005 for setting up a steel plant at Paradeep in Jagatsinghpur

district in Orissa with a total investment of \$12 billion would displace around 4,000 tribal families.<sup>68</sup>

The alienation of the lands of the tribals in violation of the Orissa Scheduled Areas Transfer of Immovable Property (by Scheduled Tribe) Regulations continued unabated. The State government of Orissa suppressed the movement of the tribals for land rights.<sup>69</sup> On 9 May 2005, four tribals including two children were killed in police lathicharge while protesting against non-payment of dues for land acquired for the construction of Steel Plants and delay in rehabilitation by the State Government in Kalinganagar in Jajpur district. As a result of brutal beating, some tribals were reportedly rendered into paralysis due to breaking of backbones. The police also arrested 26 people, 25 of them women, some included newly married and in advance stage of pregnancy. The state government had sold land at Rs 3.50 lakhs per acre to various steel companies coming to Kalinganagar area, while it had paid only Rs 37,000 to the evicted persons.<sup>70</sup> In July 2005, the National Human Rights Commission taking suo-motu cognisance of a news report sent a special rapporteur A B Tripathy to inquire into the matter.<sup>71</sup>

On 2 February 2005, at a meeting with Chief Secretary Subas Pani, the Parliamentary Affairs Committee on environment asked the state government to displace 65 tribal villages from within the Similipal National Park in Mayurbhanj district, and rehabilitate them elsewhere in the district.<sup>72</sup>

The tribal areas in Orissa remained inaccessible. About 84 inaccessible pockets had Anganwadi centres as on June 2005. UNDP had been supporting Rs 430 crore tribal livelihood project in all the 30 districts of the state.<sup>73</sup> In 2003, the World Bank had sanctioned Rs 430 crore to the State government to implement the tribal livelihood projects in the tribal-majority districts of the state. However, the Orissa government had spent only Rs 2.21 crore out of a total World Bank aid of Rs 430 crore on the 10-year tribal development project in two years as on August 2005.<sup>74</sup>

The tribals suffered from malnutrition related diseases especially during the rainy season.<sup>75</sup> Reports of child sale due to abject poverty were reported from the state. In March 2005, a tribal woman Sabita Munda sold her newborn son for a mere Rs 400 in Sundergarh district. Deserted by her husband, the 30-year-old tribal woman was struggling to make ends meet.<sup>76</sup>

## **7. Violations of the rights of the child**

The National Crime Records Bureau reported 86 cases of child abuse in Orissa during 2005, including 9 murder cases, 28 rape cases and 16 kidnapping cases.<sup>77</sup>

Juveniles were subjected to torture. On 27 May 2005, the police detained Jagannath Bag(12) for interrogation on charges of stealing Rs 3,000 from the house of Umakanta Pradhan, where his mother Diptirani Bag worked. When the boy denied his involvement, the police squeezed his right palm with a pincher and even applied electric shock on his private parts to extract a confession. Under duress the boy named his friend Shankar Harijan (8), who was later arrested by the police. When Shankar Harijan expressed ignorance, police allegedly applied electric shock to his private parts as well and made him kneel-down on the varandah of the police station. Jagannath Bag had to be admitted to Muniguda Project Hospital on 28 May 2005 in a critical condition.<sup>78</sup>

There were also reports of sexual assault. On 13 July 2005, a 5-year old minor girl, daughter of a daily wage labourer, was reportedly raped by one Manguli Oram, inside the Vishwa Hindu Parishad's office premises near College Square under Malgodown police station while she was playing inside the premises. The girl was later sent to the SCB Medical College and Hospital for medical examination.<sup>79</sup>

Trafficking was rampant in Orissa. A study conducted by the Bhubaneswar-based Institute of Socio-Economic Development in collaboration with United Nations Development Fund for Women (UNIFEM) revealed that the holy place of Puri remained the main destination of victims of trafficking with 43.83 per cent, followed by capital city of Bhubaneswar with 30 per cent. The study covered 13 out of the State's 30 districts and identified 559 cases of trafficking from 275 villages in 83 blocks under 21 districts. These districts include the coastal ones of Ganjam, Puri, Khurda, Kendrapara, Jagatsinghpur, Cuttack, Jajpur, Bhadrak and Balasore and the districts bordering other States-Koraput, Rayagada, Nuapada and Mayurbhanj with industrial and mining towns, tourist spots and large urban centres. The study further revealed that sex work was the primary means of survival for most of the victims within the age group of 18 to 35 years. The reasons behind falling victim to trafficking were poverty, lure of employment, promise of marriage, betrayal of lovers and domestic violence. About 49 per cent of the victims were brought through promise of marriage, while nearly 11 per cent of them fall victims to poverty and 7 per cent were lured by promise of employment. Of the victims of trafficking 69.08 per cent in the state were illiterate. Muslim women, accounting to 3 per cent of the victims, were all illiterate.<sup>80</sup>

## **8. Violations of the prisoners' rights**

According to the Orissa Home Department, the total capacity in the 70 jails in the state was 9,167 including 8,577 males and 590 females. But there were 14,365 prisoners

including 13,927 males and 438 females as on November 2005. Another 43 children below 5 years were living with their mothers.<sup>81</sup>

The NHRC had recorded 39 deaths in judicial custody during 2004-2005.<sup>82</sup> Those who were killed in judicial custody in 2005 included an under trial prisoner Parameswar Das of Balasore jail who died on 10 August 2005,<sup>83</sup> Sankar Patra, an under-trial prisoner of Balasore jail who died on 15 November 2005,<sup>84</sup> and one-year-old baby named Raimoti in Burdwan sub-jail on 12 November 2005.<sup>85</sup>

In March 2005, about 90 inmates of Alipingal subjail in Orissa's Jagatsinghpur district launched an indefinite hunger strike demanding transfer of the jail superintendent. The prisoners leveled several allegations including poor quality food, lack of proper drinking water, overcrowdedness,<sup>86</sup> collection of bribe money to facilitate visits of relatives and irregular medical attention. The Inspector General (prisons) ordered an inquiry by a circle superintendent of jail.<sup>87</sup>

Prisoners continued to be illegally detained in the jails even after acquittal by the court. In September 2005, the Orissa High Court after hearing a petition filed by human rights activist Prabir Kumar Das asked the state government to submit details of the alleged illegal detention of tribal youth Pratap Naik in prison for nearly eight years after his acquittal. The victim, a resident of Ghimuhani village under Puruna Katak police station in Boudh district, was a minor (aged 14) when he was first sent to jails for a murder case by the Phulbani district and session's judge court. He was acquitted by the High Court in October 1994 but was released from jail only on 22 January 2003. The victim's mental health deteriorated due to long confinement and was reportedly undergoing psychiatric treatment in VSS Medical College in Burla.<sup>88</sup>

# Punjab

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## I. Overview

Ruled by the Indian National Congress, Punjab continued to be plagued with human rights violations. Punjab State Human Rights Commission (PSHRC) received a total of 17,144 complaints of human rights violations, including 9,835 cases against the police, 6 cases against the defence forces and 1 against the para military forces during 2005.<sup>1</sup> This means, 57.4% of the total cases registered by the PSHRC were against the security forces, particularly the police.

Arbitrary arrest, detention and torture were common. Asian Centre for Human Rights documented deaths of two persons, both of them Dalits, in police custody during 2005 due to alleged torture. In February 2005, Assistant Sub Inspector Sanjeev Kumar was booked for torturing and forcing three persons identified as Subhash Chander, Raj Kumar and Gurmail Singh to dance in nude in police lock-up in Division No. 2 police station of Pathankot in Gurdaspur.<sup>2</sup>

The incidents of caste discrimination against the Dalits in Punjab was exemplified by the inhuman way in which the officials at Jalandhar jail tattooed “Neevi Jaat” (lower caste) with hot iron rod on the back of a Dalit under-trial prisoner, Mohan Lal on 24 April 2005.<sup>3</sup> The Dalits continued to be denied access to public places and services including water wells in villages.

Asian Centre for Human Rights (ACHR) documented deaths of at least four persons in prisons. Of them, inquiries were ordered only in two cases – a judicial inquiry into the death of Subhash Basra of Jalandhar Central Jail<sup>4</sup> and a magisterial inquiry into the death of Gurpreet Singh of Barnala sub-jail.<sup>5</sup>

As per official figures, 2,116 cases of farmer suicides were reported from Punjab from 1998 to 2005.<sup>6</sup> Farmers in Punjab have to depend upon the unorganized sector for meeting their credit needs. The interest rate varies from 36 to 60 per cent a year. No proper institutional support from government, banks and marketing agencies come their way. Most of those who had committed suicides were marginal, small or medium farmers and owned less than 10 acres of land. According to Statistical Abstract of Punjab-2004, about 50 per cent of farmers were having less than 2 hectares of land in the state. A Punjab Agricultural University study-2000 reveals that the annual income of a family owning two hectares of land comes to Rs 42,180 only.<sup>7</sup>

About 51 persons remained incarcerated under the Terrorist and Disruptive Activities Prevention Act. In April 2005, Chief Minister Amarinder Singh announced review of 17 cases of those detained on terrorism charges.<sup>8</sup> He also announced review of 13 of the 61 cases against police officials involved in human rights violations.<sup>9</sup>

## **2. Human rights violations by the security forces**

### **a. Violations of the right to life**

The security forces were responsible for killings in “fake encounters” In October 2005, two persons identified as Gajinder Singh and Arun Meesih, were shot dead in an alleged fake encounter by the Punjab police in Gurdaspur district. According to the parents of one of the deceased, the body of Gajinder Singh had four injury marks.<sup>10</sup>

According to the 2005 Annual Report of National Crime Records Bureau of the Government of India, one person died in police custody in Punjab during 2005. In its 2004-2005 Annual Report, the NHRC stated that 6 persons had died in police custody in the State during 2004-2005.

Asian Centre for Human Rights documented deaths of two persons in police custody during 2005. On 6 February 2005, Satnam alias Satta, a Dalit, reportedly died immediately after his release due to alleged police torture at Lohian police station in Jalandhar district. The deceased was picked up on 5 January 2005 in connection with a theft case but was later released as he was found innocent. However, he was again picked up on the morning of 6 February 2005 and subjected to torture. He died soon after he was released on the evening of 6 February 2005.<sup>11</sup> A criminal case was registered against three police personnel – ASI Vijay Kumar, Head Constable Surjit Mali and Home Guard Balkar Singh under Sections 302, 323, 342 and 34 of the Indian Penal Code, and SHO Kewal Krishan was suspended.<sup>12</sup>

On 21 April 2005, Balbir Singh, a Dalit, died at Sadar police station in Kapurthala within six hours of his arrest on the charge of fleeing with a tractor-trailer loaded with 300 bags of wheat. The inquiry officer Sub-Inspector Satnam Singh stated in his report submitted before the Sub-Divisional Magistrate, Mr Dilraj Singh Sandhwalia that the deceased had strangled himself to death in the lock-up.<sup>13</sup> Following a complaint filed by Asian Centre for Human Rights, the NHRC in May 2005 issued notice to the Director General of Police and Superintendent of Police, Kapurthala of Punjab seeking explanation as to why intimation regarding the death of Balbir Singh in police custody was not sent to the Commission within 24 hours as per the Commission’s guidelines issued on 14 December 1993.<sup>14</sup>

## **b. Arbitrary arrest, illegal detention and torture**

Arbitrary arrest, illegal detention and torture by the Punjab Police were common. On 25 July 2005, a farmer identified as Tejinder Pal Singh was allegedly subjected to third degree torture after tying his hands and feet by the Station House Officer of Lambran police station. The victim had been summoned to the police station for interrogation in connection with a theft of a trolley in June 2005.<sup>15</sup>

Even women were not spared. On 5 April 2005, Ms Sarabjit Kaur and Ms Jagdish Kaur were allegedly thrashed by three police personnel after barging into their house in the absence of their husbands at Nangal Khera village near Phagwara. The victims had to be hospitalized due to the beating.<sup>16</sup>

A few cases were taken up before the courts. In February 2005, Assistant Sub Inspector Sanjeev Kumar was booked for allegedly torturing and forcing three persons identified as Subhash Chander, Raj Kumar and Gurmail Singh to dance in nude in police lock-up in Division No. 2 police station of Pathankot in Gurdaspur.<sup>17</sup>

In another incident, on 8 October 2005, two constables identified as Harpreet Singh and Gurcharan Singh were suspended on charges of torturing a shopkeeper Jaswinder Singh and his son Maninder Singh (17) in police custody. The accused policemen had allegedly urinated on the face of Jaswinder Singh and forced Maninder Singh to pull the beard of his father during their illegal custody.<sup>18</sup>

## **3. Violations of the rights of the Dalits**

The Dalits continued to face discrimination from the upper castes. On 4 January 2005, Punjab State Human Rights Commission ordered a probe<sup>19</sup> into the incident in which three Dalit boys identified as Gurbax Singh, Bittu Singh and Piara Singh were forced to drink urine from the shoes of the upper caste landlords at Patrewal village near Abohar in Ferozepur district on 27 November 2004.<sup>20</sup>

The Dalit girls were extremely vulnerable. On 23 June 2005, a Dalit girl was gang-raped by six youths inside a house while she was passing by the house of one of the rapists in Dashmesh Nagar locality of Sangrur district. The police had arrested two youths identified as Sonu and Gursewak on 28 June 2005, while their four accomplices, Tikka, Dhaula, Raju and Happy were absconding.<sup>21</sup>

On 18 June 2005, *The Tribune* reported that Dalits of Jangala village in Pathankot district continued to be denied access to the water well by the upper caste people despite a court

order in 2002 upholding the rights of the Dalits over the water well. The local administration failed to implement the court order, as a result of which the Dalit villagers were forced to drink contaminated water.<sup>22</sup>

#### **4. Violations of the rights of the child**

Reports of children being subjected to torture were common. On 16 January 2005, 10-year-old Sumit, a student of Class IV, was picked up and allegedly given electric shocks by Salwinder Singh, Sub-Inspector of Central Investigating Agency Staff in Amritsar. The boy was released after his father handed over a cheque for Rs 2.35 lakh – signed under coercion to the accused.<sup>23</sup> Following intervention by a few political leaders, the Amritsar district police chief, Mr R.P.S.Brar, suspended Salwinder Singh on 20 January 2005.<sup>24</sup>

In early May 2005, an eight-year-old girl was raped by a Special Police Officer of Punjab Police in his house located in a police colony. A case of rape against the accused was registered.<sup>25</sup>

#### **5. Violations of the prisoners' rights**

Prisoners were routinely subjected to torture. On 24 April 2005, Jalandhar Jail officials allegedly tattooed *Neevi Jaat* (lower caste) with a hot iron rod on the back of a Dalit under-trial identified as Mohan Lal. Mohan Lal told a local court in Ludhiana that the jail officials denied permission to enter a temple on the jail premises because he belonged to Scheduled Caste and forcibly branded him with hot iron rod when he dared to enter the temple.<sup>26</sup>

In its 2004-2005 Annual Report, the NHRC stated that 65 persons died in judicial custody in the state during 2004-2005.

Asian Centre for Human Rights documented several cases of deaths in judicial custody during 2005. The victims included Subhash Basra, an undertrial at Jalandhar Central Jail who died on 26 May 2005;<sup>27</sup> Gurpreet Singh, an undertrial at Barnala sub-jail who died on 11 July 2005;<sup>28</sup> Rajinder Pal, an undertrial at Kapurthala jail who died on 31 July 2005<sup>29</sup> and Suraj Bhan of Bathinda Central Jail who died on 1 October 2005.<sup>30</sup>

# Rajasthan

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## 1. Overview

Ruled by the Bharatiya Janata Party, Rajasthan faced no internal armed conflicts but witnessed gross human rights violations by the law enforcement personnel during 2005.

Killings by disproportionate use of firearms were commonplace. At least five farmers including a pregnant woman<sup>1</sup> were killed and about 12 others were injured after the police fired at a gathering of farmers who turned violent while agitating for irrigation water at Pipli village, 60 km from Jaipur on 13 June 2005.<sup>2</sup> On 6 June 2005, a 14-year-old Devendra Gujjar of Gangri village was killed outside the Kanchanpur police station in Dholpur district when police opened 14 rounds of fire to disperse an angry mob of about 700-800 persons protesting against the death of a person in police custody.<sup>3</sup>

In a rarest case, on 21 December 2005, Additional District Judge Mr Chandra Sekhar Sharma of Fast Track Court, Barmer awarded life sentence to constable Kishore Singh and 10 and 5 years' rigorous imprisonment respectively to Assistant Sub-Inspector Sumer Dan and Sohan Singh, then SHO of the Barmer police station for severing the private part of Jugta Ram, an employee in a local shop in Barmer and subjecting him to torture under illegal custody.<sup>4</sup>

While women continued to be victims of sexual abuse by the police, other forms of societal cruelties including witch killing were reported in 2005. The State government owned Rajasthan Tourism Development patronized the evil practice of Sati. In its latest guidebook titled "Popular Deities of Rajasthan" released on 30 May 2005, Rajasthan Tourism Development glorified Sati and described Rajasthan as "best-known for various Sati Matas".<sup>5</sup>

The conditions of Dalits remained deplorable. Accountability for violations of the rights of the Dalits was seldom established. The findings of the Justice K S Lodha Commission which probed the Kumher massacre in Rajasthan in which 17 Dalits were burnt alive in June 1992 was not made public by the state government despite a High Court order to place the report in the State Assembly.<sup>6</sup> The Dalits were dispossessed of their lands either by the influential upper caste people who illegally occupied it or by the government who declared the land as Government property under Rajasthan Tenancy Act, 1955.<sup>7</sup>

In January 2005, the Rajasthan government started granting citizenship to the Hindu refugees from Pakistan residing in the State following approval from the Centre. On 4 January 2005, more than 30 refugees were granted Indian citizenship in Barmer district.<sup>8</sup>

Unofficial estimates put the number of Hindu refugees from Pakistan at about 20,000 who had been living in half-a-dozen districts of northwestern Rajasthan. They had migrated to Rajasthan at various stages after the 1965 war due to ill treatment in Pakistan.<sup>9</sup>

The state government of Rajasthan failed to fully rehabilitate the oustees of the Bilaspur dam project in Tonk district as of September 2005.<sup>10</sup> The government also failed to give any compensation to the villagers affected by the Rajasthan State Mines & Minerals Limited (RSMML)'s projects in Jaisalmer district as on September 2005.<sup>11</sup>

## **2. Human rights violations by the security forces**

The police were responsible for arbitrary deprivation of right to life including custodial death and killing in disproportionate use of firearms. The National Crime Records Bureau reported five custodial deaths and eight deaths in police firing during 2005.<sup>12</sup> The NHRC had recorded 50 deaths in judicial custody and 1 death in the custody of the army/paramilitary forces during 2004-2005.<sup>13</sup>

On 2 June 2005, Rambabu, son of Harbilas Thakur of Darbisha village under Baseri police station who was taken into custody along with four brothers on the charge of brewing illicit liquor was allegedly tortured to death by the police. However, the police maintained that it was a case of suicide. The Chief Minister ordered compensation of Rs.1 lakh to the family of the deceased. According to official sources, all the policemen at the Kanchanpur police station were sent to the lines as punishment.<sup>14</sup>

On the night of 12 August 2005, Jitendra Agarwal of Sastri Nagar area reportedly died after being taken into custody of Brahmपुरi police station for questioning in a case of murderous assault on one Kanhaiya Gujjar on 11 August 2005. He was among the five persons to be taken into custody in connection with the case. According to police authorities, Jitendra died of heart attack after he was rushed to the Sawai Man Singh Hospital where he was declared brought dead. The police authorities have ordered an enquiry led by Additional Superintendent of Police, Ashok Kumar into the incident.<sup>15</sup>

The police used disproportionate force to suppress public protest. On 13 June 2005, five farmers including a pregnant woman<sup>16</sup> were killed and at least 12 others injured after the police fired at a gathering of farmers who turned violent while agitating for irrigation water at Pipli village, 60 km from capital Jaipur. The state government ordered a judicial probe into the incident.<sup>17</sup> The police filed FIR against as many as 49 farmers under Sections 147, 148, 149 (carrying fatal weapons), Sections 151, 152, 153 (conspiracy) and still more serious Sections like 307 (attempt to murder) and 395 (Armed dacoity) of the Indian Penal Code (IPC). However, when the state unit of Peoples Union for Civil

Liberties team tried to get FIRs registered on behalf of the victims at Baroni police station under the provision of Section 154 of IPC, they were turned back by the station house officer and the Deputy Superintendent of Police.<sup>18</sup>

### **3. Violence against women**

Women continued to be target of sexual violence by the security forces and they also suffered from cultural cruelties. According to the National Crime Records Bureau, 11,657 incidents of crime against women were reported during 2005. Of these, 993 were incidents of rape, 1,549 were incidents of kidnapping/abduction, 361 incidents of dowry deaths, 5,997 incidents of cruelty by husband/relatives and 1 Sati incident, among others.<sup>19</sup>

The State government continued to glorify evil social practice like *Sati*. The Rajasthan Tourism Development in its guidebook, Popular Deities of Rajasthan, released on 30 May 2005 glorified Sati and described Rajasthan as “best-known for various Sati Matas”.<sup>20</sup>

Although police arrested 11 persons including a 42-year-old woman, Basanti Devi, who allegedly attempted to commit Sati at a temple at Sumel village in Rajasthan’s Pali district on 20 March 2005 in front of over 10,000 villagers from Pali, Ajmer and Nagaur districts in Rajasthan,<sup>21</sup> all the 18 cases relating to Sati glorification in the state resulted in acquittal when tried in court. All the 38 accused including PWD minister Rajendar Singh Rathore were acquitted. When women’s groups demanded for an appeal against the order of acquittal by the trial court, the state government rejected it. The cases were registered after Roop Kanwar was forced to commit sati on the funeral pyre of her husband on 4 September 1987 in Deoral village of Sikar district.<sup>22</sup>

Women were also victimized after being branded as witch. In early July 2005, a Dalit woman, Badam Bai was reportedly beaten to death by four men inside her house at Bhunein village in Sultanpur in Kota district suspecting her to be a witch and using her witchcraft on their family.<sup>23</sup>

In yet another incident in November 2005, a 55-year-old woman Mani Ben was reportedly stripped, tied to a pole and set on fire in full public view on the suspicion of being a witch by the villagers in Dungarpur district. She was admitted to a hospital with serious injuries. Seven persons including four women were arrested in connection with the case.<sup>24</sup>

### **4. Violations of the rights of the Dalits**

The National Crime Records Bureau recorded 3,795 cases of violations against the Dalits in Rajasthan which amounted to 14.5% of all the violations committed against the Dalits

in the country during 2005.<sup>25</sup> However, the conviction rate under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act was abysmally low because of an “inherent bias” against the Dalits. It often led to weakening of cases by the prosecution.<sup>26</sup> The State government of Rajasthan even failed to make public the findings of the Justice K S Lodha Commission which probed the Kumher massacre in Rajasthan in which 17 Dalits were burnt alive in June 1992 despite a High Court order to place the report in the State Assembly.<sup>27</sup>

Dalits faced violence for exercising their right to franchise. On 10 February 2005, Sosar Devi Raigar, Dalit woman member of Deoli Panchayat in Tonk district was dragged into the mustard fields and beaten allegedly by the Bharatiya Janata Party workers to prevent her from voting against the party candidate during the elections for local bodies. The police had arrested many of the accused on the basis of the FIR registered on the victim’s complaint.<sup>28</sup>

Many Dalits were murdered. On 1 March 2005, a group of persons including a former Congress MLA reportedly killed a Dalit youth identified as Mohanlal Meghwal in broad daylight in Bedkalan village in Pali district. The deceased was first stabbed with a dagger and later a tractor was run over his body in broad daylight. The accused was arrested with his two accomplices.<sup>29</sup>

On 17 May 2005, a Dalit youth identified as Ghewa Ram of Dhira village under Barmer district was reportedly murdered by dominant Rajputs and thrown out into a well to make out as a suicide case. The police failed to arrest any of the accused named in the FIR as on September 2005. No assistance or relief was provided to the victim’s family.<sup>30</sup>

The Dalits were subjected to inhuman torture and degrading treatment. On 10 October 2005, the nose of Babulal Jatava, a Dalit, of Rampur village under Gadhi Bajna Police station in Bharatpur district was allegedly punctured with a needle by Kalua Gujar and others belonging to powerful farming community.<sup>31</sup>

### **Caste-based discrimination:**

Dalits in Rajasthan continue to be discriminated on the basis of their caste and were dispossessed of their land. Land of Dalits were illegally encroached upon and occupied by the upper caste people. In southern Rajasthan, agricultural land of Dalits and tribals were either transferred to the influential people of higher caste allegedly by subterfuge or declared as government property by misusing the legal provisions under the Rajasthan Tenancy Act over the past two decades.<sup>32</sup> Vacancies in government services reserved for the Scheduled Castes and Scheduled Tribes were allegedly filled up with the general candidates through “back door methods”.<sup>33</sup>

Dalit children were discriminated even in respect of the nutrition programme in schools.<sup>34</sup>

There were reports of instances of Dalits lawyers practicing in the district and sub-divisional courts being subjected to ridicule by their colleagues and judges for their caste.<sup>35</sup>

The Dalits were not only denied entry into the temples but also assaulted for worshipping on their own land. In September 2005, a Dalit family of Krishna Gopal Dhanaka in Nimora village near Jaipur reportedly threatened to commit suicide due to continued harassment by upper caste people in collusion with the police over the last two years. The family was subjected to assault by Brahmins for building a Hanuman temple and worshipping the deity on its own land. In addition, a fine of Rs 21,000 was imposed on them. The police were uncooperative as their names were mentioned in the FIR being lodged.<sup>36</sup>

#### **Violence against Dalit women:**

The Dalit women were victims of sexual abuses. On 19 June 2005, a 32 year old Dalit woman labourer of a crusher unit at Todaraisingh in Tonk district was reportedly gang raped and later killed by two employees of the factory. The National Campaign on Dalit Human Rights in a memorandum to the State Women's Commission alleged that the duo after calling her on the pretext of paying her wages repeatedly raped her and later threw her into the crusher in order to destroy the evidence and to make out a case of accident. Although, an FIR in the case was registered under Sections 302 and 376 of Indian Penal Code and under 3(i)(xii), 3(i)(ii) and 3(i)(v) of the SC/ST Prevention of Atrocities Act, police failed to arrest the suspects citing lack of evidence as it was an accident case.<sup>37</sup>

On 5 October 2005, a Dalit woman sarpanch of Rojhana village in Jhalawar district reportedly accused the Station House Officer, Fateh Singh Chouhan of the Gangdhar police station, an assistant sub-inspector Ganga Ram and two local BJP leaders of raping her on the night of 22 September 2005 when she had gone to the police station to complain against the corporal punishment meted out to the students of local school by two teachers. According to the victim, when she went to the police station the policemen present there first scolded her by her caste names and then raped her inside the police station. No case was registered on her complaint and no medical examination was done.<sup>38</sup>

## **5. Violations of the rights of indigenous/tribal peoples**

Endemic hunger and food insecurity were rampant especially in tribal dominated areas of Rajasthan. In October 2005, the New Delhi-based Centre for Environment and Food Security (CEFS) in its survey report revealed that 99 per cent of Adivasi households had

lived with one or another level of endemic hunger and food insecurity throughout 2004 in the tribal dominated areas under Udaipur and Dungarpur districts.<sup>39</sup>

According to reports, about 80 persons belonging to the Sahariya tribe and other backward classes had allegedly died of starvation and malnutrition in Baran district in September 2005. They had been allegedly deprived of employment and basic amenities including proper medical facilities.<sup>40</sup> However, a Supreme Court fact-finding committee had concluded that the deaths took place due to lack of proper health service in the area.<sup>41</sup>

Tribal women were specifically targeted for sexual violence. On 2 June 2005, a 25-year-old tribal woman was allegedly raped by two police constables after taking her to a river bank in Sanganer in Subhash Nagar area in Bhilwara district. On the basis of a complaint by the victim, a case was registered.<sup>42</sup> On 1 October 2005, another tribal woman of Basni was allegedly gang raped by four men in the outer periphery of Ranchordas temple in Jodhpur. Police arrested two persons in connection with the case. The National Commission for Women urged the Rajasthan government to set up a fast track court to try the case.<sup>43</sup> On the night of 30 December 2005, a 25-year-old woman, wife of Ramniwas Meena, an Aanganwadi worker with the Women and Child Development Department, was allegedly gang raped by her seniors in a room during a training programme in Karauli district.<sup>44</sup>

# Tamil Nadu

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## 1. Overview

In July 2005, Tamil Nadu government banned the Communist Party of India (Maoist) under the Criminal Law Amendment Act, 1908.<sup>1</sup> The state government converted the Special Task Force, previously dealing with operations against forest brigand Veerappan, into a special force to fight the Naxalites.<sup>2</sup> Dharmapuri and Krishnagiri districts were identified as Naxal-prone.<sup>3</sup>

Illegal detention by the police continued in 2005. On 6 September 2005, a Division Bench of Madras High Court comprising Justice P D Dinakaran and Justice S K Krishnan ordered immediate release of four persons, two identified as Kuppan and Murugan, who were illegally detained to pressure on Bommi of Thoraipakkam to withdraw her writ petition seeking a probe by the Central Bureau of Investigation into the encounter killing of three persons in November 2002 after Public Prosecutor K Duraisamy submitted that their further custody was not required for any other case.<sup>4</sup>

According to National Crime Record Bureau (NCRB) of the Government of India, 8,648 cases of violence against women were reported during 2005. Of these, 571 were rape cases, 783 cases of kidnapping and abduction and 215 cases of dowry deaths.<sup>5</sup> In one case of sexual violence involving policeman, in August 2005, the State Human Rights Commission ordered police Head Constable Jayavel of Tiruttani police station to pay Rs. 10,000 as compensation to a sex worker identified as Lakshmi of Tiruttani who was beaten up by him after she refused to have sex with him. According to the doctor who treated the woman, found a “swelling over the middle of the right forearm with an abrasion of 3 cm x 2 cm.” The victim was working as secretary of the “Protection of Health care for Women” and campaigned for the protection of sex workers and their rehabilitation.<sup>6</sup>

The Dalits continued to face atrocities and societal discrimination including political freedom. On 23 April 2005, Dalit candidate Azhagumalai reportedly resigned after within five minutes after taking charge of panchayat post as per diktat of his upper caste bosses in Keeripatti village.<sup>7</sup> In his resignation letter, Azhagaumalai had stated that it was not proper for the Dalits, a minority in the village, to occupy the post of president.<sup>8</sup>

The Dalits faced systematic violence. The upper castes did not spare the children. A 15-year-old boy C Muthukumar of Arunthathiyar Colony in North Kaavalaakurichi under the Ooththumalai police station limits was tortured by an upper caste youth Kaalaisamy on 27

January 2005. The accused thrashed the Dalit boy, tied his hands at the back and then suspended him from his genitals in a well. Instead of taking stern action, the police allegedly released the accused without registering any case.<sup>9</sup>

The conditions of about 20,000 tsunami-hit Dalits families remained deplorable due to discrimination in the rehabilitation assistance as on August 2005. According to Dalits' Rights Organisation, the survivors did not receive any relief for loss of property or livelihood and they were even discriminated in the construction of permanent shelters by segregating them despite over 70 orders having been passed by the government in the Dalit affected districts.<sup>10</sup>

## **2. Human rights violations by the security forces**

The National Crime Records Bureau recorded deaths of 3 persons in police custody and death of 3 civilians in police firing in Tamil Nadu during 2005.<sup>11</sup> The NHRC recorded 9 deaths in police custody and 98 deaths in judicial custody in the state during 2004-2005.<sup>12</sup>

On 21 January 2005, S. Auto Bhaskar reportedly died at a government hospital at Cheranmahadevi in Tirunelveli district while being in the custody of a Special Investigation Team. He had been arrested on the previous night in connection with a murder case. The Deputy Inspector-General of Police, Tirunelveli Range, K. Gopalakrishnan stated that a head injury the deceased had sustained earlier could be the cause of his sudden death.<sup>13</sup>

On 9 August 2005, the Madras High Court asked the Central Bureau of Investigation to probe the alleged encounter death of Karnan, resident of Nainakaundanur village in Salem district, who was shot dead by an Inspector of Police in alleged "self-defense" on 25 February 2004. In the petition filed by the deceased's wife had alleged that her husband was subjected to brutal torture to obtain a confession during police custody.<sup>14</sup>

Corruption was rampant among the police personnel. On 5 February 2005, Inspector Sampath Kumar and head constable Johan Badash, attached to the Avudaiyar Kovil Police Station, were arrested by Vigilance and Anti-Corruption officials for taking bribe for relieving a panchayat chairman from a criminal case in Pudukottai district.<sup>15</sup>

## **3. Violations of the rights of the Dalits**

The National Crime Records Bureau recorded 1,206 cases of atrocities against the Dalits in Tamil Nadu which amounted to 4.6% of all the cases of atrocities against the Dalits in India during 2005. A total of 236 cases of atrocities against the Dalits were pending

investigation by the police and another 2304 cases were pending trial in courts by the end of 2005. The conviction rate for the crime against the Dalits was only 25.2% during 2005.<sup>16</sup>

### **a. Denial of political freedom**

Four village panchayats were reserved for the Dalits in Tamil Nadu. These were Keerippatti, Pappapatti and Nattarmangalam in Madurai district and Kottakkachiyendal in Virudhunagar district. But the upper caste Hindus had been preventing the Dalits from becoming panchayat heads.<sup>17</sup> On 23 April 2005, Azhagumalai, a Dalit, reportedly handed over his resignation within five minutes after being elected the head of Keerippatt village as per diktat of his upper caste landlords. He was fielded by the upper caste Thevars for the panchayat president election against a candidate of Dalit Panthers of India.<sup>18</sup> In his resignation letter, Azhagaumalai had stated that it was not proper for the Dalits, a minority in the village, to occupy the post of president.<sup>19</sup>

Earlier on 12 April 2005, Karayanpatti Narasingam, a Dalit candidate of Dalit Panther party for the reserved constituency of Papapatti in Madurai district, was found dead with blood oozing out of his nose and mouth at Karayanpatti village under Uthappanaickuanur police station.<sup>20</sup>

### **b. Caste-based discrimination**

The Dalits were victims of caste-based discrimination. About 15 Dalit families of Keeripatti village in Madurai district were reportedly deprived of work. They were also denied access to the village shops. A Dalit woman identified as P Lakshmi alleged that she was denied provisions in shops on 27 April 2005 despite presence of two police constables.<sup>21</sup>

The Dalits were also denied participation in the Hindu religious Kandadevi car festival despite Madras High Court direction to the administration to ensure participation of all Hindus on 16 June 2005.<sup>22</sup>

The conditions of the Tsunami-hit Dalits were deplorable. Tsunami-hit Dalits in 14 districts continued to face discrimination in the rehabilitation assistance as of August 2005. About 20,000 Dalit families were affected by the tsunami in the state. According to Dalits Rights Organisation, the survivors did not receive any relief for loss of property or livelihood and they even discriminated in the construction of permanent shelters by segregating them despite over 70 orders having been passed by the government in the Dalit affected districts such as Nagapattinam and Cuddalore.<sup>23</sup> While powerful Meenavars were being sheltered in relief camps “exclusively” built for them, the equally

battered Muslims, Dalits, Nadars, Pillais, Devars and other lower castes— mostly non-fishermen— were living in separate camps which lack basic amenities.<sup>24</sup> Social activist Medha Patkar, who toured the tsunami-affected villages in the district, alleged that ex-gratia payment to relatives of those Dalits killed in the tsunami had also not been paid.<sup>25</sup>

#### **4. Status of Tamil refugees**

About 50,750 Tamil refugees from Sri Lanka were staying in 103 refugee camps in Tamil Nadu and one camp in Orissa. In addition, about 17,064 refugees were staying outside the camps on their own.<sup>26</sup> In August 2005, the Union Home Ministry reportedly withdrew the subsidy on rice being provided to them citing administrative inconvenience. The Central Government's annual commitment on rice subsidy was Rs 7 crore per year while the State government bore an expenditure of around Rs 25 crore on cash doles, shelter, food, clothing and utensils in the camps, which were subsequently reimbursed by the Union Government.<sup>27</sup> The Government of India reportedly spent around Rs. 354 crore for providing relief and accommodation to them from July 1983 to December 2005.<sup>28</sup>

#### **5. Application of the national security laws**

In September 2004, the United Progressive Alliance (UPA) government repealed the controversial Prevention of Terrorism Act (POTA) and gave one year to the three Central POTA Review Committees, instituted in 2003, to review all the POTA cases. The Justice Usha Mehra Review Committee reviewed cases in seven states including Tamil Nadu.<sup>29</sup>

However, the constitutional validity of the Central POTA Review Committees and their decisions on POTA cases were challenged by the State government of Tamil Nadu. In January 2005, the Tamil Nadu Government challenged two key provisions of the Prevention of Terrorism (Repeal) Ordinance 2004, promulgated in September 2004, and sought to quash all the proceedings of the Central POTA Review Committee. The first of the two impugned provisions, Section 2(3)(a), pertained to a mandate to review all cases registered under the POTA within 12 months. The other, Section 2(4)(b), conferred the powers of a civil court on the committee with powers to call for any public record from any court or office.<sup>30</sup> On 21 July 2005, the Madras High Court quashed the December 2002 Tamil Nadu Government order declaring the entire State a notified area for the purpose of Section 4(a) of the Prevention of Terrorism Act. The court also quashed the charge under Section 4(a) of POTA against Mr R.R. Gopal, editor of Tamil bi-weekly 'Nakkheeran', by which he was accused of possessing a firearm within a 'notified area'.<sup>31</sup>

# Tripura

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## 1. Overview

Ruled by Communist Party of India, Tripura witnessed serious human rights violations perpetrated by both the security forces and the armed opposition groups in 2005.

According to the Union Ministry of Home Affairs, 21 alleged members of the armed opposition groups, 11 security forces and 28 civilians were killed in Tripura in 2005.<sup>1</sup>

Violence against women increased during the year. According to official estimates, as many as 41 cases of crime against women including dowry death and sexual harassment were reported in July 2005 alone.<sup>2</sup> In March 2005, the National Human Rights Commission informed Asian Centre for Human Rights (ACHR) that pursuant to the ACHR complaint (5/23/2003-2004-WC) pertaining the rape of a minor tribal girl, three Special Police Officers Sudhir Mullick, Sudip Saha and Surjya Das were arrested and that victim was awarded compensation of Rs 50,000 by the State Government of Tripura.

Tripura also faced serious displacement problem. According to an official source more than 100,000 tribals and 300,000 non-tribals were displaced over the past decade due to insurgency.<sup>3</sup>

The tribals continued to suffer from lack of access to education, health care and food.

## 2. Human rights violations by the security forces

The National Crime Records Bureau of the Government of India recorded two deaths in police custody in Tripura during 2005.<sup>4</sup> The NHRC had registered 1 death in police custody during 2004-2005.<sup>5</sup>

Often, custodial deaths were dismissed as suicide deaths. On 11 August 2005, Amar Chandra Das, employee with State Bank of India, was allegedly tortured to death by sub-inspector Dipen Debbarma and constable, Ranjit Debbarma who had beaten him with belt and clubs at Subroom police station in South Tripura district. The deceased was picked up by the police while returning from Dak Banglow on the previous night.<sup>6</sup> The deceased's body reportedly bore deep cut marks and bruises including in the head and genitals. However, the police claimed that he committed suicide using his shirt.<sup>7</sup>

The security forces were responsible for extrajudicial killing of civilians during anti-insurgency operations. The victims included Budhu Debbarma, a school student, who was

killed when police fired at a tribal mob at Mandai under Jirania police station of West Tripura demanding withdrawal of two Tripura State Rifles (TSR) camps in the area on 31 January 2005;<sup>8</sup> an unidentified tribal youth who was killed by Tripura State Rifles personnel allegedly in cold blood after using him as a guide in Sadar subdivision on 22 March 2005;<sup>9</sup> and Akkas Ali who was killed by Border Security Force (BSF) personnel while working at his field near the border in North Tripura on 1 July 2005.<sup>10</sup>

The police were responsible for indiscriminate use of fire-arms. According to National Crime Records Bureau, 18 civilians were killed and 9 civilians injured in police firing in the state during 2005.<sup>11</sup>

In March 2005, Jhantu Das, a lorry driver, was killed and three others were injured when BSF personnel led by Assistant Commandant W Rajendra Singh of 46 Bn BSF resorted to indiscriminate firing at the premises of Kalamchoura police station in West Tripura district. The deceased had reportedly gone to the police station to lodge a complaint against the BSF personnel.<sup>12</sup> On 2 April 2005, the Sub-divisional Judicial Magistrate (SDJM) of Sonamura in West Tripura district, Manik Lal Chakraborty issued an arrest warrant against six BSF personnel including Assistant Commandant W Rajendra Singh on the charge of killing Jhantu Das.<sup>13</sup>

Arbitrary arrest, illegal detention and torture were common. In September 2005, Rajesh Debbarma, resident of Dayarampara in West Tripura district, reportedly sustained injuries after being tortured by jawans of Tripura State Rifles after being arrested on fake charges.<sup>14</sup> On 6 September 2005, Zasimuddin, son of Hasemuddin, local CPM leader of Nayapara, was reportedly tortured in custody by sub-inspector Suman Acharya attached to Kadamtala police station under Dharmanagar sub-division in North Tripura district on charge of theft. The policeman was reportedly suspended.<sup>15</sup>

### **3. Violations of international humanitarian laws by the AOGs**

#### **a. Deprivation of the right to life**

The armed opposition groups were also responsible for deprivation of the right to life. As many as 39 people were killed in 41 insurgency related incidents in 2005.<sup>16</sup>

The victims included Parimal Sukladas, truck driver, who was killed by the cadres of National Liberation Front of Tripura (NLFT-Biswamohan faction) at Bagaigota in West Tripura district on the night of 21 January 2005;<sup>17</sup> tribal youth Alindra Tripura who was killed with a sharp weapon by unidentified men at his house at Rambadra under Natunbazar police station of South Tripura district on 5 March 2005;<sup>18</sup> two railway

workers who were killed by militants while returning from work at Swapnabari under the Atharamura Hill ranges in West Tripura on 16 April 2005;<sup>19</sup> Dominic Hrankawl, an engineer with the Oil and Natural Gas Commission who was killed by alleged All Tripura Tiger Force at Montfort village in West Tripura district on the night of 17 April 2005;<sup>20</sup> Ashok Kumar Chakma, Swapanjay Chakma, Bakrabahu Chakma, Sushanta Chakma and Arogya Chakma who were killed by alleged NLFT militants in remote villages of Jorendrapara and Madanjaypara under Raisyabari police station in Dhalai district on the midnight of 10 May 2005;<sup>21</sup> tribal CPM leader Kishore Debbarma who was killed by alleged National Liberation Front of Tripura (NLFT) militants belonging to the Biswamohan faction at Shanitola under Sidhai police station in Sadar (north) district on 15 May 2005;<sup>22</sup> Manoj Debbarma who was killed by alleged National Liberation Front of Tripura militants in West Tripura district on the night of 23 May 2005;<sup>23</sup> Premadamoyee Debnath, Amulya Debnath, Amar Chan Debnath, Aurobindo Debnath (4), Nirodh Debnath, Fulkumari Debnath (female), Niva Debnath (female) and Chapala Debnath (female) who were killed by alleged Liberation Front of Tripura (NLFT) at their village near Bridabanghat in West Tripura district on 25 September 2005;<sup>24</sup> two CPM leaders Kartik Tripura who was killed by NLFT militants for defying their diktat in Manughat in Dhalai district and Bidya Debbarma from Champaknagar who was killed by Tripura Tiger Force militants in October;<sup>25</sup> Anil Kanti Sen who was killed by alleged NLFT cadres at his house at Kanchanpur under Ambassa police station in Dhalai district on night of 30 October 2005;<sup>26</sup> and Santarai and Laxmi Debbarma who were killed by alleged Liberation Front of Tripura (NLFT-BM) in Khowai subdivision in West Tripura district on 28 December 2005.<sup>27</sup>

The AOGs also kidnapped many people. Those who were kidnapped included Paltu Banik, Ramani Deb and Debendra Sarkar who were kidnapped by alleged National Liberation Front of Tripura (NLFT-BM) cadres at Ranasaipara under Ambassa police station on 17 January 2005;<sup>28</sup> Ashok Paul who was kidnapped by alleged National Liberation Front of Tripura (NLFT-BM) at Basanaroujapara under Manu police station on 26 January 2005;<sup>29</sup> Pradip Deb and Ranjan Paul who were kidnapped by NLFT-BM cadres at Dewanbari village under Killa police station on 1 April 2005;<sup>30</sup> Subrata Sil and Suman who were kidnapped by NLFT cadres at Hildi in North Tripura district on the night of 9 May 2005;<sup>31</sup> Nabalata Debbarma and Sukhini who were kidnapped by All Tripura Tiger Force at Jyotilalapara under Jirania police station in West Tripura district on 25 May 2005;<sup>32</sup> Dipankar, son of Ramani Debnath who was kidnapped by alleged NLFT-BM cadres at Bagber under Kalyanpur police station in West Tripura district on 7 June 2005;<sup>33</sup> Five teachers, Phanindra Shil, Parimal Deb, Ms Rita Paul, Bijay Debbarma and Akhil Debbarma, who were kidnapped by alleged All Tripura Tiger Force from

Utalbari under Khowai subdivision on 27 July 2005;<sup>34</sup> defeated congress candidate Prasenjit Debbarma from Ramchandragahat Assembly constituency who was kidnapped by alleged ATTF outfits from Manaicherra under Khowai police station in West Tripura district on 8 September 2005;<sup>35</sup> Ram Mohan Tripura and Suwel who were kidnapped by National Liberation front of Tripura cadres at Chayakumarpara under Langthorai valley police station in Dhalai district on 4 October 2005;<sup>36</sup> and Jantrana Tripura, tribal CPM leader and chairman of village development committee under the Autonomous District Council in South Tripura who was kidnapped by alleged National Liberation Front of Tripura on 2 November 2005.<sup>37</sup>

#### **4. Violence against women**

The National Crime Records Bureau recorded 840 cases of violence against women in Tripura during 2005, which included 162 rape cases, 161 molestation cases, 43 kidnapping cases, 34 dowry death cases, 439 cases of cruelty by husbands and relatives, among others.<sup>38</sup>

Although the state government made the Marriage Recording Act mandatory, it failed to bring down dowry cases. The state government reportedly announced a plan of Rs 149.82 crore to improve the living condition of women through various schemes.<sup>39</sup>

The security forces were responsible for sexual abuses. In December 2005, two Tripura State Rifles personnel were arrested for raping a tribal housewife under the guise of NLFT militants.<sup>40</sup>

The women were victims of trafficking. On 24 May 2005, police reportedly arrested five Panjabi businessmen allegedly engaged in trafficking<sup>41</sup> and rescued two tribal girls identified as Fulkumari Tripura and Debanjana Tripura of Raishyabari from being trafficked to a brothel in north Indian states.<sup>42</sup>

#### **5. Status of the Internally Displaced Persons**

There were over one lakh people displaced due to militancy in the state. The government failed to rehabilitate them.<sup>43</sup>

The ongoing project of barbed wire fencing along the Tripura-Bangladesh border also uprooted about 40,000 people from their homes.<sup>44</sup> They were not provided rehabilitation. About 11,375 hectares of cultivable land belonging to farmers fell outside the international border due to the border fencing.<sup>45</sup>

## 6. Special Focus: ESCRs of the tribals

Although the Government of India announced several schemes for the development of the tribals and the Karbong tribals of Tripura were on the verge of extinction due to government's apathy. Only 23 families comprising of about 100 members of Karbong tribe were reportedly surviving. They were extremely poor, illiterate and without basic amenities. The only primary school in Karbong Para village was set up in 1989 by the Tripura Tribal Areas Autonomous District Council, but it started to function only from 1993. Three teachers were appointed and fifteen students enrolled in the first batch. However, most of the students left the school even before they reached the third standard due to financial problems.<sup>46</sup>

In October 2005, the State government announced a plan to regroup over 5,883 tribal families. In Dhalai district, over 3000 families had been identified as beneficiaries. The beneficiaries were to be engaged in different cultivations like medicinal plants, bamboo & cane etc for their livelihood. As many as 1326 families, mostly poor and jumma people would be rehabilitated around the Rohidapara Joint Forest Management Committee (JFMC) in the district, while Naitongcherra, Hathimatha and Jeolcherra JFMC were being identified as other rehabilitation places.<sup>47</sup>

Although the Tripura Tribal Areas Autonomous District Council (TTAADC) comprises two-third of the state's total area and the tribals formed one-third of the state's total population, the TTAADC remained under developed. The TTAADC had always been denied its due share of fund.<sup>48</sup>

### a. Right to health

The tribals had little access to healthcare facilities. Despite claim by the State Health Minister Tapan Chakraborty in September 2005 that only 11 persons died of malaria,<sup>49</sup> independent sources stated that enteric Malaria and other water borne disease claimed about 50 lives during the last two weeks of March 2005 alone.<sup>50</sup> In June 2005, seven persons reportedly died of malaria and enteric diseases in Kamalpur and Dharmanagar sub-divisions.<sup>51</sup>

In many rural areas the health centres did not function properly due to insurgency and shortage of adequate doctors and para-medical staff. As many as 1,062 health sub-centres and 72 primary health centres were reportedly not functioning as on 1 April 2005. There were 227 vacancies for the posts of doctors.<sup>52</sup>

## **b. Right to education**

Schools in Tripura especially in tribal dominated areas were in deplorable conditions. There were serious shortages of teachers. Besides, as many as 38 schools in tribal areas were being used by security forces as security camps to counter insurgency. There was no school at Shivbari village in North Tripura district where about 73 Reang families lived. The only school run under the Sarba Shiksha Abhijan scheme was closed down since long.<sup>53</sup>

## **c. Right to food**

In July 2005, at least nine persons reportedly died due to starvation and many others were in severe food crisis in three tribal dominated villages in North Tripura. However, the state government claimed that the deaths were not starvation deaths but due to malnutrition. According to the villagers, they were surviving on wild foods due to non-existent of stable ration. These alleged deaths had occurred despite implementation of rural development scheme.<sup>54</sup>

In August 2005, some of those who died due to starvation included Mallika Munda of Mohanpur tea garden,<sup>55</sup> Krishna Bhim of Laxmilunga tea estate and Lalu Orang of Tufanialunga in West Tripura district. However, the government dismissed these starvation deaths.<sup>56</sup>

Many mothers had to sell their children due to extreme poverty. On 11 August 2005, Mani Rishidas reportedly sold her newborn baby within 24 hours of delivery for Rs 2000 in Agartala.<sup>57</sup>

# Uttaranchal

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## 1. Overview

Ruled by Indian National Congress, Uttaranchal faced no internal armed conflict. However, human rights violations continued to be perpetrated by the security forces. The National Crime Records Bureau (NCRB) of the Government of India recorded the killing of 9 civilians and injuring of 2 others in police firing in 2005.<sup>1</sup>

## 2. Violations of the rights of the Dalits

The conditions of Dalits, like elsewhere in India, remained deplorable. According to NCRB, 99 incidents of crime were committed against the Scheduled Castes during 2005.<sup>2</sup> In March 2005, a Dalit couple was subjected to beating with iron rods, hung from a rooftop upside down and paraded with their faces blackened in Najarpura village of Hardwar district following a diktat issued by the village panchayat for having alleged illicit relations with men from outside the village. The Panchayat also ordered banishment of the woman, Brajesh, who was a mother of five children, from the village.<sup>3</sup>

The State government of Uttaranchal failed to return back about 1,168 acres of land to the displaced Dalits families of Kundeshwari village in Shaheed Udham Singh Nagar district. Despite a favourable Supreme Court verdict they had not been given land entitlement as on January 2005. More than 150 dalits families were displaced in 1991 when the entire administration under the grip of a private company raided the village and forcefully evicted the villagers. The company named Escort Farms Ltd claimed that the land belong to them and approached the local administration to clear the land. When the people resisted the move to demolish their houses they were brutally beaten up. Women, old men and children were put under house arrest.<sup>4</sup>

## 3. Status of the Internally displaced persons

As of December 2005, both the Uttaranchal and the Central governments failed to properly rehabilitate hundreds of oustees from the old Tehri town and adjoining villages facing submergence by waters of the Bhagirathi River.<sup>5</sup> One Dhan Singh Negi, a tenant living in Tehri town since 1981 alleged of not having receive even a single penny as compensation.<sup>6</sup>

The government had not announced any new rehabilitation scheme following the closure of the T-2 tunnel on 29 October 2005.<sup>7</sup> With a height of 260.5 metres, the 2400 MW Tehri Dam once fully filled would spread over 43 square kilometers and about 5291 families of Tehri town and 5000 families from 37 nearby villages would be fully affected and nearly 4000 families in 88 other villages would be partially affected.<sup>8</sup> The Tehri Hydro Development Corporation (THDC) stated that the submersion would be completed by April 2006.<sup>9</sup>

However, the Chief Secretary of Uttaranchal, M Ramachandran claimed that people uprooted from villages had been settled under different schemes and plans and the government has spent around Rs 600 crore in this regard.<sup>10</sup> In November 2005, the Union Power Ministry agreed to provide an additional grant of Rs 15 crore to the Uttaranchal government for rehabilitation.<sup>11</sup>

As per the Tehri Hydro-Electric Development Corporation, a total of 5,291 families in urban areas and 5,429 in rural areas had been rehabilitated. However, the Rehabilitation Directorate of the state government had a total of 12,547 displaced families on its records. A meagre compensation of Rs 20,000 was announced to per displaced family.<sup>12</sup>

#### **4. Violations of the prisoners' rights**

Prison conditions remained deplorable and women inmates were potential victims of sexual exploitation by the male officials of the jails, sometimes with the help of the female prison guards.

On 2 February 2005, NHRC sought a factual report from the DG (Prisons), Uttaranchal and Secretary, Health, Government of Uttaranchal following media report that the jail officials in connivance with the female guards had been sexually abusing a 30-year-old woman prisoner in Haridwar district jail. A letter sent by a convict from the Haridwar district jail to the Sub-Divisional Magistrate of Haridwar and to the media alleged that the victim was forced to terminate her pregnancy in the District Hospital on 27 January 2005.<sup>13</sup>

# Uttar Pradesh

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## 1. Overview

Ruled by Samajwadi Party, Uttar Pradesh witnessed widespread violations of human rights in 2005. Asian Centre for Human Rights documented at least three cases of political killings: Member of Legislative Assembly (MLA) of Bahujan Samaj Party, Raju Pal who was killed by unidentified gunmen in Allahabad on 25 January 2005;<sup>1</sup> former Member of Parliament of the Bharatiya Janata Party (BJP), Laxmi Narayan Tripathi who was shot dead by unidentified men at his home at Vikasnagar in Aliganj on 19 June 2005<sup>2</sup> and BJP MLA Krishnanand Rai who was killed with six others by unidentified gunmen in an ambush at Basania village under Bhanwarkol police station in Ghazipur district.<sup>3</sup>

The law enforcement personnel were responsible for widespread violation of human rights in Uttar Pradesh including arbitrary deprivation of life in alleged encounters, deaths in custody and indiscriminate use of firearms. According to National Crime Records Bureau (NCRB) of the Government of India, eight persons died in custody and 42 civilians died in police firing during 2005.<sup>4</sup> Besides, at least 87 persons were killed in alleged encounters between January and March 2005 alone, while the figure stood at 238 in 2004 and 214 in 2003.<sup>5</sup>

Violence against women including rape, kidnapping and dowry deaths were rampant in Uttar Pradesh. The National Crime Records Bureau recorded 1,217 cases of rape, 2,256 cases of kidnapping/abduction and 1,564 cases of dowry deaths during 2005.<sup>6</sup> Asian Centre for Human Rights documented one of the worst cases of violence against women committed by the police. On 23 September 2005, Rama Shankar Yadav, a constable posted at the Transport Nagar police station in Gorakhpur, allegedly set on fire a teenaged girl identified as Poonam, daughter of Radhey Shyam, after failing to molest her. The girl succumbed to her burn injuries on the way to hospital. A case under Sections 376, 511 and 302 of the Indian Penal Code was registered with the Cantonment police station.<sup>7</sup>

There was no improvement of the conditions of the Dalits. They continued to face violence for expressing their political freedom. On the night of 21 October 2005, a Dalit woman identified as Prabhavati Devi, contesting local elections on a Bahujan Samaj Party ticket was reportedly set ablaze by her rivals for refusing to pull out from the fray in Mujehra Khurd village in Mirzapur district of Uttar Pradesh.<sup>8</sup> She succumbed to her over 90 per cent burn injuries on 5 September 2005 in the district hospital. The police have failed to arrest the accused.<sup>9</sup>

The conditions of prisons remained deplorable due to overcrowding. There were more than 2,200 prisoners housed at Dasna jail against the capacity of 720 as of May 2005.<sup>10</sup> Many prisoners allegedly died due to torture and in some cases inordinate delay in providing medical care proved fatal. In December 2005, the National Human Rights Commission, while confirming the death of an undertrial prisoner identified as Babu Lal due to inordinate delay in taking him to the hospital by the jail administration of Banda District Jail in November 2000, held that technical considerations for shifting a patient to the hospital cannot outweigh the right to life of the patient.<sup>11</sup>

## **2. Human rights violations by the security forces**

### **a. Violation of the right to life**

According to the National Crime Records Bureau (NCRB), 5,283 complaint cases were received during 2005. Out of these, 1,378 were registered and the rest were declared false. While 1,324 cases were sent for regular departmental actions and 54 cases were sent for trial or filing chargesheet. Departmental inquiries were instituted in 1,363 cases, magisterial inquiries were instituted in 13 cases and judicial inquiries were instituted in two cases. Disciplinary actions were initiated against 1,787 police personnel, of these, 50 were removed/dismissed, major punishment was awarded to 244 personnel and minor punishment was awarded to 1,309 police personnel.<sup>12</sup>

According to NCRB, 42 civilians were killed in police firing in Uttar Pradesh during 2005.<sup>13</sup>

Human rights violations including arbitrary deprivation of the right to life through alleged encounters, custodial torture and indiscriminate use of fire-arms were perpetrated. Those who were killed in custody included school teacher Balwan who was tortured to death in the custody of Baraut police station in Baghpat district after being arrested on 11 May 2005 during a raid at his house at Madhuban Colony;<sup>14</sup> Idris, relative of an Uttar Pradesh minister for Haj, who was beaten to death after being summoned by Station House Office Gajendra Singh of Bhavanpur police station in Meerut district for interrogation on 21 May 2005<sup>15</sup> and Rashid, Block Development Committee member of Rahimabad who was tortured to death by police and later hung from a tree near a graveyard under Malihabad police station to give the impression of suicide on 3 December 2005 after being arrested on 26 November 2005.<sup>16</sup>

Some other cases of deprivation of the right to life documented by Asian Centre for Human Rights in 2005 included six persons including a woman who were run over by an express train after some army personnel allegedly pushed passengers out of a train

compartment during a scuffle at Shikohabad railway station in Firozabad district on 23 January 2005;<sup>17</sup> Mohit Gupta, a student of BNSD Inter College, Kanpur, who was killed in an alleged crossfire between the police of Gwaltoli police station and dreaded gangster Vinod Katani at the Upika in Kanpur on 12 February 2005;<sup>18</sup> Yaseen alias Vicky who was killed when police opened fire at a mob in Baradari police circle in Bareilly on 22 April 2005;<sup>19</sup> and Umed Sharma and a 14-year-old boy Rakesh who were killed when the Railway Protection personnel opened fire at a mob over a ticket-row at the Dadri railway station near Noida on 10 June 2005.<sup>20</sup>

In a rarest case, in December 2005, the Uttar Pradesh government announced a compensation of Rs five lakh to the families of three junk dealers Aasif, Merherban and Arshad of Nai Abadi who were killed in police custody during interrogation on 26 October 2004. Seven policemen including Station House Officer, Alok Sharma of Kasna police station in Greater Noida were charged for the killing.<sup>21</sup>

### **b. Arbitrary arrest, illegal detention and torture**

Torture by police personnel was common. On 10 March 2005, a car driver Deepak Sharma was beaten up by the traffic policemen including Inspector Deepak Singh, Assistant Sub-Inspector Mahesh Chand in Ghaziabad which resulted in rapture of one of his kidneys.<sup>22</sup> On 21 December 2005, the Uttar Pradesh government suspended four police officials, ASP Umesh Srivastava, Circle Officer Mukul Dwivedi and two policewomen, Inspector Madhu Malati and Sub-Inspector Mamata Gautam after the police had roughed up a number of couples sitting in the Gandhi Park in Meerut district on the previous day under 'Operation Majnu' in the name of checking "indecentcy" and "eve-teasing" at public places.<sup>23</sup>

Police personnel were found to be involved in looting. On 25 October 2005, four armed Government Railway Police constables identified as Sunil Kumar, Naresh Kumar, Pramod Kumar and Rajbeer reportedly boarded the 2506-down North-East Express and looted money from dozens of passengers at gun-point and critically injured Arshad when they resorted to firing at passengers while the train was running between Tundla and Kaurara stations near Etawah.<sup>24</sup>

## **3. Violence against women**

Violence against women including rape, kidnapping and dowry deaths were rampant in Uttar Pradesh. National Crime Records Bureau recorded 1,217 cases of rape, 2,256 cases of kidnapping/abduction and 1,564 cases of dowry deaths during 2005.<sup>25</sup>

Asian Centre for Human Rights documented some cases of sexual abuses committed by law enforcement personnel including molestation and burning to death of Poonam by constable Rama Shankar Yadav on 23 September 2005.<sup>26</sup> Other victims who faced sexual abuses by police personnel included an unidentified woman of Khanpur area of Bulandshahar in Meerut district, who was gang raped by three constables Vijay Pal, Madan Mohan and Monoj in a drunken state after being forcibly taken to an isolated area on 3 December 2005<sup>27</sup> and attempted rape of Manju Devi of Ludhpura village by the officer-in-charge of Bidhuna police station in Auraiya district when she had gone to the police station to file a complaint against her husband in connection with a quarrel on 10 February 2005.<sup>28</sup>

Women were victims of cruel cultural practices. On 6 March 2005, a 21-year-old woman Usha was allegedly tonsured, stripped, beaten and paraded through the village on a donkey by local goons while residents of Chandupur village in Kaushambhi district remained mute spectators. A local exorcist had named her as the killer of a small child whose body had been discovered a few days earlier. The police lodged a complaint only after the intervention of the local legislator.<sup>29</sup>

On 7 May 2005, a 75-year-old Ram Kumari, wife of Jageshwar Tewari allegedly committed Sati by burning herself on her husband's pyre in Bahundari village under Jaspur police station in Banda district. The police reportedly threatened the woman's son with dire consequences when he had gone to inform about the incident. A magisterial probe was ordered into the incident.<sup>30</sup>

Illegal trafficking of women was rampant especially in western Uttar Pradesh. Poor women from West Bengal, Bihar, Uttaranchal and Nepal were allegedly brought and sold to people of rural areas in many districts of Uttar Pradesh. On 19 January 2005, police rescued a woman from Bihar who had been sold to one Ratiram of village Tilpara under Nanota Police Station in Saharanpur. The police also arrested Ratiram and Dharampal of village Tilpara.<sup>31</sup>

#### **4. Violations of the rights of the Dalits**

The conditions of the Dalits remained deplorable in Uttar Pradesh. In February 2005, two Dalits Rajesh, son of Valmiki and Satti Ram, son of Shanga Lal Dohre of Rampur under Thathiya block were reportedly stripped, beaten up and burning bidi butts were repeatedly applied on their private parts at gunpoint by unidentified armed miscreants after being awakened from their sleep. Later the miscreants tied the hands and legs of both and dumped them under the hay. Yet, the police refused to register a case claiming that the

victims received the injuries in a fight between themselves and even denied the occurrence of any such incident.<sup>32</sup>

In September 2005, the body of 18-year-old Dalit, Shyam was recovered from a pond after he was allegedly kidnapped with four others by one Shiv Singh on the charge of stealing his bicycle in Sabalpur Bithoor village in Kanpur.<sup>33</sup>

The Dalit women were more vulnerable to violence including rape and killing. On 30 June 2005, a 14-year-old Dalit girl, daughter of Mrs Sumitra Devi of Bhatipura under Kithore police station, was allegedly abducted at gunpoint by three youths Johny, Bhule Ram Kuldeep and Ravindra when she went to answer the call of nature. She was repeatedly raped for several days. Later, they sold her to a rickshaw-puller for Rs 4,000. Although, the girl was recovered from an orphanage on 27 July 2005, the police registered the case only in September 2005. Medical examination of the victim also reportedly confirmed the rape.<sup>34</sup>

Earlier, on 23 June 2005, a 45-year-old Dalit woman was allegedly tounded and beaten up following a diktat by a community panchayat in Bijnore district on the charge of having a “loose character.”<sup>35</sup>

Exercise of political freedom invited the wrath of the majority. On the night of 21 October 2005, a Dalit woman identified as Prabhavati Devi, contesting local elections on a Bahujan Samaj Party ticket was reportedly set ablaze by her rivals for refusing to pull out from the fray in Mujehra Khurd village in Mirzapur district.<sup>36</sup> She succumbed to her over 90 per cent burn injuries on 5 September 2005 in the district hospital. The police have failed to arrest the accused.<sup>37</sup>

## **5. Violations of the prisoners’ rights**

The conditions of the prisons remained deplorable in Uttar Pradesh. According to the statistics of National Human Rights Commission, there were a total of 52,771 prisoners against the sanctioned capacity of 33,538 prisoners in the 59 jails in Uttar Pradesh as on 31 December 2004.<sup>38</sup> There were more than 2,200 prisoners against the capacity of 720 convicts in Dasna jail as of May 2005.<sup>39</sup>

In a case of gross negligence, in January 2005, a prisoner from Punjab, Surjit Singh who was lodged in the District Jail in Meerut, appealed to the National Human Rights Commission seeking a probe into his illegal confinement. He alleged that he was not being released by the jail authorities even after the completion of his sentence and that he was being tortured because of his refusal to pay Rs 10,000 to the jail authorities as bribe.<sup>40</sup>

Many prisoners allegedly died due to torture. The prisoners who died due to alleged torture by jail authorities included Devendra who died in Meerut district jail in February 2005;<sup>41</sup> Inter Services Intelligence (ISI) agent Rafeeq of Udham Singh Nagar in Uttaranchal who died while in detention under POTA in the Meerut district jail on 13 April 2005;<sup>42</sup> Qamruddin, lodged in Barrack Number 11 of Dasna jail, who was allegedly beaten to death by the jail authorities on the night of 2 May 2005<sup>43</sup> and two prisoners, Kuldeep who allegedly committed suicide following torture and humiliation by jail staff and Aslam who reportedly died under mysterious circumstances in Agra district jail on 25 September 2005;<sup>44</sup>

Inordinate delay on the part of the prison authorities proved fatal for the prisoner. In December 2005, the National Human Rights Commission, while confirming the death of undertrial prisoner Babu Lal, who succumbed to his burn injuries due to inordinate delay in taking him to the hospital by the jail administration of Banda District Jail of Uttar Pradesh in November 2000, held that technical considerations for shifting a patient to the hospital cannot outweigh the right to life of the patient.<sup>45</sup>

# West Bengal

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## 1. Overview

Ruled by the Communist Party of India (Marxist), West Bengal continued to be a state where hunger and starvation deaths were common. An independent Public Tribunal consisting of retired judges of different High Courts, physicians and social activists that investigated into the starvation deaths at Jalangi Subdivision in Murshidabad district from 23-24 September 2005 found that “Starvation.... is rampant among men, women and children everywhere. No one is sure of his or her next meal”.<sup>1</sup> But the state government remained indifferent to the pitiful plight of the starving villagers of Jalangi, the workers in the tea gardens in North Bengal and tribals in Amlasol in West Midnapur district and elsewhere, who died of hunger and diseases. Majority villagers of Jalangi who were dying of hunger were even not recognized by the State as “below the poverty line” (BPL) families!<sup>2</sup>

The security forces were responsible for extrajudicial killings, including in custody, alleged encounters and in indiscriminate firing at protestors. The National Crime Records Bureau (NCRB) of the Government of India recorded 7 deaths in police custody, and deaths of 8 civilians and injury to 21 civilians in police firing during 2005.<sup>3</sup> The NHRC had recorded 11 deaths in police custody, one death in the custody of the defence/para military forces and two deaths in encounter deaths during 2004-2005.<sup>4</sup>

Torture was part of the administration. Nothing can be more demonstrative than the beating up of CPI (M) Member of Parliament Amitava Nandy and the personal assistant of former Chief Minister Jyoti Basu by the Rapid Action Force during the civic poll at Bidhannagar in Kolkata on 19 June 2005.<sup>5</sup> When even an honourable Member of Parliament was not spared, how can a common man feel safe at the hands of the police?

The Maoists were responsible for violations of international humanitarian laws. On the night of 9 July 2005, the Maoists gunned down two CPI-M district leaders identified as Raghunath Murmu and Bablu Mudi at Majgeria village under Barikul police station in Bankura district.<sup>6</sup> On 8 October 2005, the Maoists killed Abdul Latif Mondal, a member of the CPM’s Karimpur branch committee, at his residence at Fasilnagar in Thanerpara in Nadia district.<sup>7</sup>

The condition of women in the state was deplorable with West Bengal contributing 7.6% to total cases of violence against women in India in 2005. The National Crime Records Bureau recorded 11,887 cases of violence against women in West Bengal during 2005,

including 1,686 rape cases, 1,039 kidnapping cases and 446 dowry death cases.<sup>8</sup> The security forces were responsible for rape and molestation. Male policemen were deployed to control protests by women and they molested female protestors.<sup>9</sup> Women were branded as “witches” and killed by relatives to grab their property.

The rights of the juveniles were blatantly violated by the police. On 27 October 2005, the police picked up 10-year-old Raja Kabiraj and detained him in Singur police station in Hooghly district after they failed to arrest Raja’s father Mantu Kabiraj in connection with a robbery case.<sup>10</sup>

The State Government of West Bengal sought to paint a rosy picture of the state of affairs of the jails in the state by renaming them as “Correctional Homes” with effect from 14 April 2000. Following a visit to Krishnagar district jail in Nadia, on 2 February 2005, West Bengal State Human Rights Commission chairman Shyamal Sen rued the Nadia administration for the “pathetic state” of the jail and the jail hospital.<sup>11</sup> The NHRC had recorded deaths of 64 persons in judicial custody in West Bengal during 2004-2005.<sup>12</sup>

## **2. Human rights violations by the security forces**

Security forces were responsible for extrajudicial killings, including in custody, alleged encounters and in indiscriminate firing at protestors. On 16 June 2005, Sunil Roy, a businessman, was found hanging from the ceiling of a Government Railway Police lock-up at Santragachhi railway station with his leather belt tied around the neck. The railway police claimed that the victim was arrested at the Santragachhi railway station on charges of pickpocket. But the family members rejected the allegation as “absurd” as the deceased had a flourishing business in the Howrah fish market. A case of unnatural death was registered and a magisterial inquiry was ordered into the death.<sup>13</sup>

The security forces also killed people in alleged encounters. On 9 February 2005, an innocent villager Kadir Seikh was killed in an alleged encounter by the personnel of 63rd Battalion Border Security Force (BSF) at Sobhapur village under Vaisnabnagar police station in Malda, near the India-Bangladesh border. The BSF officials claimed that Kadir was found loitering suspiciously near the international border with a gang of five Bangladeshi smugglers, and that he was killed in retaliatory fire when the gang hurled bombs at the patrolling team. But the villagers refuted the BSF’s claim. District superintendent of police Sashi Kant Poojari ordered an inquiry into the incident.<sup>14</sup>

The security forces were also responsible for indiscriminate use of fire-arms against the protestors. On 4 August 2005, two persons were killed when police opened fire at the protestors near the Sub Divisional Officer office at Hemtabad in Raiganj in North

Dinajpur district. The protestors were protesting the rape of a minor girl by unknown persons.<sup>15</sup>

On 20 September 2005, two persons were killed in police firing at Khagrabari, near Coochbehar town. The Inspector General of Police (North Bengal) K L Meena said police fired when the activists of Greater Coochbehar Peoples Association tried to forcibly enter Siliguri town in a procession violating section 144 of CrPC.<sup>16</sup>

Arbitrary arrest, detention and torture were common. On 14 December 2005, Vijay Kumar Jaiswal, son of late Uma Shankar Jaiswal, was illegally picked up by the police from his house at K.S. Path, Kharda in 24 Parganas (North) District without any arrest or search warrant. The police had actually come in search of Vijay Kumar Jaiswal's brother but not finding him at home, the police picked up Vijay Kumar Jaiswal and detained him for about 4 days at Kharda Police Station without any charge! He was tortured during illegal detention by Ashis Dutta, Assistant Sub Inspector and other police officers of Kharda Police Station. On 18 December 2005, Vijay Kumar Jaiswal was produced before the Sub Divisional Magistrate on fabricated charges.<sup>17</sup>

### **3. Violence against women**

The security forces were responsible for rape and molestation. On 9 January 2005, Lance corporal R. C. Garai was arrested in connection with murder of Indira Sharma, wife of a Sikkim Armed Police constable. The victim's body was recovered from the unused septic tank at the defence cantonment at Burtuk on 7 January 2005.<sup>18</sup>

On 3 May 2005, a woman identified as Kiranbala Das was allegedly shot dead by a jawan of 106th Battalion of the BSF identified as Pravin Kumar after arresting her at Ghoadanga near Bashirhat in North 24 Parganas district. The victim was shot in the abdomen and died at R.G. Kar Medical College and Hospital in Kolkata. According to BSF officials, the victim was arrested when she was running towards the border but was "accidentally" killed when she tried to escape from custody.<sup>19</sup> But the police stated that Pravin Kumar was drunk and tried to rape her when she went to the fields to feed goats. Hundreds of villagers attacked the BSF border outpost bordering Bangladesh in protest.<sup>20</sup> According to the BSF sources, the accused jawan was placed under suspension and a DIG-level inquiry was initiated to probe into the incident.<sup>21</sup>

The police were responsible for indiscriminate use of force against women demonstrators. Male policemen were deployed to control female protestors and they allegedly molested female protestors. On 28 July 2005, at least seven nurses were badly injured in police lathi-charge when nurses under the aegis of Calcutta Nurses Action Forum tried to enter

the Swastha Bhavan in Salt Lake, Kolkata to submit a memorandum to health department officers against their failure to fill several hundred vacancies for nurses in hospitals across the state. According to the Calcutta Nurses Action Forum Secretary, Rituparna Mahapatra, the male policemen also misbehaved with the nurses.<sup>22</sup>

On 29 July 2005, police resorted to lathicharge on agitating women of Khanpur village, 32 km from Balurghat who were protesting against alleged police inaction in a molestation case. At least five women were injured, one of them critically.<sup>23</sup>

Many women faced harassment while registering cases of domestic violence. In August 2005, Sakina Bibi lodged a complaint with the North 24-Parganas Superintendent of Police alleging that whenever she went to the police station, Sub-Inspector Sukesh Ranjan Pal at Haroa police station asked for sexual favours or bribe in return for police action against her husband.<sup>24</sup>

“Witch hunting” was common in many tribal dominated areas of West Bengal. In many cases, women were branded witches and killed by relatives to grab their property. The victims who were killed as witches included 60-year-old aunt, Lakshmi Murmu who was hacked to death at Kumodda village in Sagardighi in Murshidbad district on 5 June 2005 on the charges of being a witch;<sup>25</sup> and a tribal couple – Soli Oraon and his wife Mungri – who were dragged to a nearby jungle and hacked to death by some villagers on 12 October 2005 after being suspected as “witches” for a wave of malarial fever at Mill Bagan tea estate in Darjeeling.<sup>26</sup>

Many innocent women were tortured in the name of “witch hunting”. On 16 October 2005, Yoshodhara Devi was reportedly locked up by her neighbour Raj Kumar Mallick and his relatives at his residence at Kanchanpally in South Port police station area in Kolkata after an ‘ojha’ (witch-doctor) held her responsible for the death of Mallick’s child. However, Ajay Ranade, DC (Port), said that the matter was resolved ‘amicably’ and no case was filed against the accused.<sup>27</sup>

On 2 December 2005, a widow identified as Lakshmi Murmu was beaten up, locked up in a room and tried to be set on fire by a group of villagers led by her uncle Lippo who suspected her of being a witch at Bohar Mandirtala village near Memari, about 90 km from Calcutta. Earlier, an ojha (witchdoctor) had told Lakshmi’s uncle Lippo that his daughter Pushpa was suffering from mental illness because of Lashmi’s witchcraft influence.<sup>28</sup>

#### **4. Violations of the rights of the child**

The rights of the juveniles were blatantly violated by the police. On 27 October 2005, the police picked up 10-year-old Raja Kabiraj and detained him in Singur police station in Hooghly district after they failed to arrest Raja's father Mantu Kabiraj in connection with a robbery case.<sup>29</sup>

On 22 December 2005, a police officer M.B. Khawash picked up Ramesh Tamang (14), a student of Class IX of Municipal Boys' High School, Darjeeling, without any cause when he was returning home along with eight others from Chandmari. Ramesh Tamang was taken to the police station and beaten up. The boy had to be admitted to Darjeeling Sadar Hospital after he suffered injuries on his leg due to the beating.<sup>30</sup>

On 11 March 2005, Calcutta High Court directed the West Bengal Human Rights Commission to visit Liluah Rescue Home to investigate into alleged mismanagement and trafficking of girls by the authorities of the home for destitute. The direction was issued in response to a public interest litigation filed by advocate Tapas Kumar Bhanja, who accused the home employees of trafficking in girls. Tapas Kumar Bhanja alleged that some of the inmates had conceived during their stay at the home; but the authority, despite having knowledge of the fact, didn't take any action. He alleged that the state government had not implemented the earlier recommendations of the West Bengal Human Rights Commission submitted in 2000 following a direction from the High Court to submit a report on the state of affairs of the home.<sup>31</sup>

Trafficking was rampant in West Bengal. On 4 September 2005, Chief Justice of Calcutta High Court V.S. Sirpurkar and the Justice Y.K. Sabharwal of Supreme Court of India expressed concern over the alarming rise in girl trafficking in Murshidabad while hearing the complaints from the victims of trafficking and their families at Behrampore, where they went as a part of a mobile court programme, an initiative to bring justice to the villages. As on 4 September 2005, only 23 cases of girl trafficking were recorded by the police in Murshidabad since January 2005. The victims and their family members alleged that the police often refused to register cases.<sup>32</sup>

#### **5. Violations of the prisoners' rights**

The NHRC registered deaths of 64 persons in judicial custody in West Bengal during 2004-2005.<sup>33</sup> Those who were killed in judicial custody in the State during 2005 included Prajit Das of Alipurduar Special Correctional Home who died on the way to the hospital on 8 March 2005,<sup>34</sup> Arunodoy Banerjee who died at the district hospital in Jalpaiguri on 8 July 2005,<sup>35</sup> and Bhagat Rajbangshi who died in Raiganj district jail in North Dinajpur

district on 11 July 2005.<sup>36</sup> Bhagat Rajbhangshi fell ill while eating lunch. It was alleged that Bhagat was taken to the hospital only an hour after he choked while eating food. He was reportedly taken to hospital on a cycle rickshaw although the jail had an ambulance.<sup>37</sup>

According to the State government, West Bengal 19,348 prisoners against the sanctioned capacity of 19,722 prisoners as of December 2005. Of the total prisoners, 74.6 % were under-trial prisoners (14,445). The population of female prisoners was 1,598 including 1,048 under-trials.<sup>38</sup>

The State Government of West Bengal sought to paint a rosy picture of the state of affairs of the jails in the state by renaming them as “Correctional Homes” with effect from 14 April 2000. In the website of West Bengal prison, the state government claims - “All prisoners shall have three meals a day the early morning meal before the hour of labour, a mid day meal, and an evening meal before they are locked up for the night. Normally the prisoners are served adequate quantity of rice, lentil and vegetables in the lunch and chapatti, vegetables and lentil in the supper. Mutton and fish are served to them once every week. Tea is served twice daily”.<sup>39</sup>

Following his visit to Krishnagar district jail in Nadia, on 2 February 2005, West Bengal State Human Rights Commission chairman Shyamal Sen criticized the Nadia administration for the “pathetic state” of the jail and the jail hospital. He found extreme overcrowding condition in the jail which housed 600 inmates in space insufficient for even 500. The inmates of the jail were being served “foul-smelling food” and they lived in “congested surroundings”. In the hospital, 14 patients, including infants, were sharing four beds. The jail hospital had a capacity of about 200 patients but the number of patients was three times higher. Sen described the Krishnagar district jail as the worst of all jails in the state.<sup>40</sup>

## **6. Special Focus: Hunger and starvation deaths**

West Bengal, ruled by the Communist Party of India (Marxists) since 1977 faced widespread hunger and starvation deaths in 2005. The victims included the workers in the tea gardens in Jalpaiguri district of North Bengal, tribals in Amlashol in West Midnapur district and the villagers uprooted by land erosion by the Padma river in Malda and Murshidabad districts.

The Supreme Court in its various interim orders in Writ Petition (civil) No. 196/2001 (PUCL Vs Government of India & Ors.) directed the government of India and the State governments/Union Territories to take steps to prevent hunger and starvation by identifying persons living Below Poverty Line (BPL) and making them beneficiaries of

various poverty alleviation programmes of the government such as National Food For Work Programme. But the government of India and the State governments failed to effectively implement the Supreme Court orders.

On 15 March 2005, opposition Congress and Trinamul Congress legislators walked out of the State Assembly of West Bengal in protest against the state government's "failure to stop starvation deaths" in different parts of the state.<sup>41</sup> In June 2005, the Supreme Court directed the West Bengal State Human Rights Commission to investigate into the alleged starvation deaths in Murshidabad district.<sup>42</sup>

In Murshidabad district, "starvation deaths" were reported from Dayarampur, Udaynagar, Suryanagar and Paraspur villages of Jalangi block under Domkal Subdivision. An independent Public Tribunal consisting of retired judges of different High Courts, physicians and social activists that investigated into the starvation deaths at Jalangi from 23-24 September 2005 found that "Starvation.... is rampant among men, women and children everywhere. No one is sure of his or her next meal". The Public Tribunal revealed that the interim orders of the Supreme Court in Writ Petition 196/2001 had been blatantly violated. Despite widespread malnutrition, majority villagers of Jalangi had not been identified as being below the poverty line and poverty alleviation programmes had not been extended to them; the identification of beneficiaries for Antyodaya Anna Yojana had not been done; the villagers were deprived of work although Murshidabad district had been declared as a backward district under the National Food for Work Programme.<sup>43</sup>

A few families who were issued BPL ration cards did not get their rations properly as rice was not always available in the government designated ration shops. A few who got job under the National Food for Work Programme were not paid full wages. The workers were supposed to get five kilograms of rice and Rs 32 in cash but the CPI-M cadres deduct two rupees from each day's cash wage and 300 grams from the ration as donation to party fund.<sup>44</sup> On 2 April 2005, a 16-year-old girl identified as Rumpa Sharma hung herself from the roof of her mud house after three days of starvation at Dayarampur village in Murshidabad district.<sup>45</sup> On 9 September 2005, Hazrat Mollah died of starvation in Dayarampur village in Murshidabad district. He had been suffering from malnutrition for a long period of time.<sup>46</sup>

The tribals in Amlashol of West Midnapore district were worst affected. Majority villagers of Amlashol, despite their acute poverty, were not enrolled as BPL families and only a few families had been listed under Annapurna Yojana. A few villagers had ration cards. The shop from which they were supposed to collect their rations was 35 kilometres away from the food storage. There was no medical facility.<sup>47</sup>

On 19 February 2005, a 30-year-old tribal woman Parbati Shabar died of starvation in Amlashol. Her family members stated that the deceased had nothing to eat for a month. But the Belpahari Block Development Officer (BDO) Subhashis Bej claimed that her death was due to illness and not starvation.<sup>48</sup> On 16 April 2005, 42-year-old tribal Lula Shabar died of starvation in Amlashol. According to Lula's nephew Rathu Shabar, Lula cried "bhat dey, bhat dey" (give me rice, give me rice) for three days before he died. But there was virtually nothing to eat in the family. The district administration, however, attributed Lula's death to tuberculosis.<sup>49</sup>

Tea gardens also witnessed wide-spread hunger. In 2005, about 2000 tea garden workers had been reportedly facing stark starvation ever since the Potong tea estate near the Indo-Nepal boarder under the Mirik block in Darjeeling district was closed down in March 2000 by the Tea Trading Corporation India (TTCI) owned by the central government.<sup>50</sup>

Ms Anuradha Talwar, adviser to the commissioners of the Supreme Court in West Bengal, in her investigative report submitted to the Supreme Court in September 2005 confirmed deaths of 10 workers at Raipur Tea Estate in Jalpaiguri district between 6 July 2005 and 27 August 2005, including two persons identified as Sunita Suwasi and Phulmani Suwasi who died of starvation. The Supreme Court had appointed Anuradha Talwar to look into matters related to hunger and starvation and to ensure that orders passed by it from time to time were followed. The Raipur Tea Estate had shut down on 17 October 2003 and reopened in March 2005 after an agreement with estate employees that they would work for half the wages. However, the owners abandoned the garden on 5 July 2005. Since then the workers had been left without any work and basic amenities, including food, water and healthcare. On the other hand, the state government failed to introduce Antodaya Anna Yojna rations for the workers. Work under the Swarna Jayanti Rojgar Yojna started only a few days before the team's visit. There was no *anganwadi* centre for coverage of health of mothers and children and the workers were forced to drink water from the open wells. Employers abandoned the plantation without paying wages and the workers did not get assistance of Rs 500 under the assistance to workers of locked-out industries scheme, despite state government's pledge in the Supreme Court.<sup>51</sup>

The tea garden workers were denied proper wages. In 18 tea gardens in North Bengal, the workers were owed Rs. 144,842,831.00 as Provident Fund, Rs. 46,206,762.91 as gratuity and Rs. 175,194,059.62 as salary, wages and other benefits by the owners of the tea gardens.<sup>52</sup>

A survey titled "Nutritional Survey of Tea Workers on Closed, Re-Opened, and Open Tea Plantations of the Dooars Region, West Bengal, India" jointly conducted by Paschim Banga Khet Majoor Samity (West Bengal Agricultural Workers' Association), the

International Union of Foodworkers and the American Jewish World Service from August–October 2005 on six tea gardens concluded - “Malnutrition exists on all six gardens surveyed. Even workers on open gardens endure lean periods due to decreased or delayed wage payments and food rations, as well as inconsistently provided benefits that they are due by law. Based on World Health Organization criteria for Body Mass Index, all four open gardens surveyed can be labeled as “starving communities” or “at critical risk for mortality from starvation.” Based on daily caloric intake, 42.5% of the closed garden populations classified as Below Poverty Line (BPL), followed by 40% BPL in sick gardens and 30% BPL in open gardens. All six gardens together, averaged 37% BPL, which is higher than the national average.”<sup>53</sup>

### **Denial of starvation deaths by the administration:**

The denial of the State government further compounded the crisis of starvation deaths. The government officials often attributed the deaths to various diseases and old age. On 4 August 2005, a tribal identified as Gantu Shabar died of starvation at Amlashol in West Midnapore. The deceased’s wife Pulumoni and other villagers confirmed that Gantu Shabar had died of starvation. But the block development officer Subhashis Bej denied this saying, “We do not know how he [Gantu] died. But we can assure you that there is no shortage of jobs and so there is no reason why one should die of starvation”.<sup>54</sup>

It was on rare occasion that on 11 November 2005, West Bengal Urban Development and Municipal Affairs Minister Ashok Bhattacharya reportedly admitted that malnutrition existed in several pockets of Naxalbari village in Darjeeling district.<sup>55</sup>

The government displayed a strong sense of apathy and neglect towards the poor and the helpless citizens. While the rich families enjoyed all comforts and privileges, the starving people were even denied Below Poverty Line status. A poor couple at Biddhannagar colony in Malda district had to sell their child to a neighbour for a token price of 25 paise in April 2005 in order to draw government’s attention towards their plight after having been denied a BPL card by the administration.<sup>56</sup>

In 2005, the government was reportedly providing rotten foodgrains in the name of BPL rations to the lower caste people living in horrendous conditions at the Belgachia garbage dump after they were forcibly evicted by the government from the Bellilious Park in Howrah municipality in Kolkata. The foodgrains provided by the government as BPL rations were reported to be unfit for human consumption.<sup>57</sup> On 11 March 2005, 5-year-old E.M. Lachhmi, daughter of E.M. Parvathi, died of starvation at the Belgachia garbage dump in Kolkata.<sup>58</sup>



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