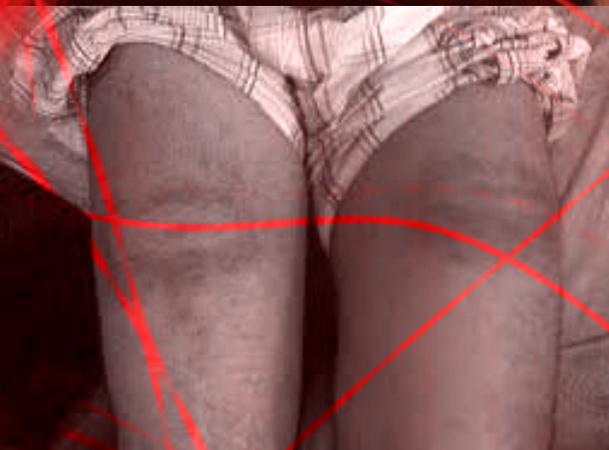


TORTURE IN INDIA 2011

14,231 custodial deaths from 2001 to 2010



Asian Centre for Human Rights



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ASIAN CENTRE FOR HUMAN RIGHTS

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Preface

Due to the lack of financial resources, *Torture in India 2011* covering the incidents of 2010 cannot be printed and is only available online. *Torture in India* series which started in 2008 were previously published under the National Campaign for the Prevention of Torture – a programme funded by the European Commission. The project from the European Commission had ended in April 2010 but the National Campaign for Prevention of Torture continues as there has not been any reduction on the use of torture in India.

Torture in India series have been instrumental for bringing national and international spotlight on torture in India. The Government of India regrettably has been reluctant to address torture. It drafted Prevention of Torture Bill, 2008 with only four operative clauses. The Asian Centre for Human Rights (ACHR) responded by drafting alternate "Prevention of Torture Bill, 2009" through a National Conference held on 24-25 June 2009. In fact, when the Lok Sabha passed the Prevention of Torture Bill, 2010 with the same operative clauses on 6 May 2010, the Government of India had to refer the Bill to the Parliamentary Select Committee of the Rajya Sabha headed by Mr Ashwini Kumar, the current Minister of State for Planning. The Prevention of Torture Bill, 2010 as drafted by the Parliamentary Select Committee incorporates many of the recommendations adopted by the National Conference organized by the ACHR.

As this report indicates, more than four persons have been killed each day in the last decade from 2001 to 2010. The same findings in *Torture in India 2008: A State of Denial* made national and international news. It shows that there has been no reduction of incidents of torture in India.

It comes as no surprise that the government of India once again failed to introduce the Prevention of Torture Bill, 2010 as drafted by the Parliamentary Select Committee in the forthcoming parliamentary session (9th Session of Fifteen Lok Sabha and 224th Session of the Rajya Sabha) commencing on 22 November 2011. The lack of political will to stamp out torture requires little introduction.

Suhas Chakma
Director

I. 14,231 custodial deaths from 2001 to 2010: India must enact anti-torture law

From 2001 to 2010, the National Human Rights Commission (NHRC) recorded 14,231 i.e. 4.33 persons died in police and judicial custody in India. This includes 1,504 deaths in police custody and 12,727 deaths in judicial custody from 2001-2002 to 2009-2010.¹ A large majority of these deaths are a direct consequence of torture in custody. These deaths reflect only a fraction of the problem with torture and custodial deaths in India. Not all the cases of deaths in police and prison custody are reported to the NHRC. The NHRC does not have jurisdiction over the armed forces under Section 19 of the Human Rights Protection Act. Further, the NHRC does not record statistics of torture not resulting into death. Torture remains endemic, institutionalised and central to the administration of justice and counter-terrorism measures. India has demonstrated no political will to end torture.

Torture and deaths in police custody: Maharashtra tops the chart

The NHRC recorded 1504 deaths in police custody during 2001-2010 which includes 165 deaths in 2001-2002;² 183 deaths in 2002-2003;³ 162 deaths in 2003-2004;⁴ 136 deaths in 2004-2005;⁵ 139 deaths in 2005-2006;⁶ 119 deaths in 2006-2007;⁷ 187 deaths in 2007-2008;⁸ 142 deaths in 2008-2009; 124 deaths in 2009-2010 and 147 deaths in 2010-2011.⁹

The Asian Centre for Human Rights (ACHR) has consistently underlined that about 99.99% of deaths in police custody can be ascribed to torture and occur within 48 hours of the victims being taken into custody.

Maharashtra recorded the highest number of deaths in police custody with 250 deaths; followed by Uttar Pradesh (174); Gujarat (134); Andhra Pradesh (109); West Bengal (98); Tamil Nadu (95); Assam (84); Karnataka (67); Punjab (57); Madhya Pradesh (55); Haryana (45); Bihar (44); Kerala (42); Jharkhand (41); Rajasthan (38); Orissa (34); Delhi (30); Chhattisgarh (24); Uttarakhand (20);

1. For 2009-2010, custodial cases are covered for the period up to 28 February 2010.

2. 2001-2002 Annual Report of the National Human Rights Commission

3. 2002-2003 Annual Report of the National Human Rights Commission

4. 2003-2004 Annual Report of the National Human Rights Commission

5. 2004-2005 Annual Report of the National Human Rights Commission

6. 2005-2006 Annual Report of the National Human Rights Commission

7. 2006-2007 Annual Report of the National Human Rights Commission

8. 2007-2008 Annual Report of the National Human Rights Commission

9. Unstarred Question no. 1475, Answered by Minister of State in the Ministry of Home Affairs, Mr Jitendra Singh in the Lok Sabha on 9.08.2011, see Annexure to the reply at <http://164.100.47.132/Annexure/lq15/8/au1475.htm>

Meghalaya (17); Arunachal Pradesh (10); Tripura (8); Jammu and Kashmir (6); Himachal Pradesh (5); Goa, Chandigarh and Pondicherry (3 each); Manipur, Mizoram and Nagaland (2 each); and Sikkim and Dadra and Nagar Haveli (1 each).

According to provisional 2011 census, Maharashtra has a total population of 112 million in comparison to 199 million in Uttar Pradesh. That more people were killed in police custody in Maharashtra than Uttar Pradesh shows that torture is more rampant in Maharashtra.

State-wise cases of deaths in police custody from 2001-2002 to 2010-2011 is given below:¹⁰

State/UT	2001 -02	2002 -03	2003 -04	2004 -05	2005 -06	2006 -07	2007 -08	2008 -09	2009 -10	2010 -11	Total
Maharashtra	27	26	32	23	20	21	25	25	20	31	250
Uttar Pradesh	11	16	18	7	18	11	32	30	16	15	174
Gujarat	8	17	20	15	20	7	16	13	9	9	134
Andhra Pradesh	16	10	10	13	11	5	9	12	9	14	109
West Bengal	17	16	13	11	8	7	8	5	8	5	98
Tamil Nadu	7	17	12	9	7	16	6	7	8	6	95
Assam	10	15	6	4	7	8	12	9	6	7	84
Karnataka	9	16	4	9	5	8	5	3	3	5	67
Punjab	7	9	7	6	6	1	7	5	3	6	57
Madhya Pradesh	7	1	3	2	4	10	10	5	8	5	55
Haryana	5	6	2	2	4	2	9	6	6	3	45
Bihar	2	4	9	3	1	2	8	5	4	6	44
Kerala	4	4	4	6	5	3	6	2	6	2	42
Jharkhand	4	6	3	5	4	3	3	2	5	6	41
Rajasthan	5	6	5	0	7	3	2	4	4	2	38
Orissa	7	1	1	3	2	2	6	2	3	7	34
Delhi	5	2	3	5	3	3	6	0	0	3	30
Chhattisgarh	4	3	2	5	2	3	2	1	1	1	24
Uttarakhand	3	1	2	3	1	1	5	0	0	4	20
Meghalaya	3	3	3	2	0	1	3	1	1	0	17
Arunachal Pradesh	2	2	2	0	1	1	0	2	0	0	10
Tripura	1	1	0	1	1	1	1	1	0	1	8
Jammu & Kashmir	0	0	0	0	1	0	3	0	0	2	6

10. NHRC Annual Report 2001-2008 & Unstarred Question No. 1475, Answered by Minister of State in the Ministry of Home Affairs, Mr Jitendra Singh in the Lok Sabha on 9.08.2011

Himachal Pradesh	1	0	0	0	0	0	1	0	3	0	5
Goa	0	0	0	0	1	0	0	0	0	2	3
Chandigarh	0	0	0	1	0	0	1	1	0	0	3
Pondicherry	0	1	1	1	0	0	0	0	0	0	3
Manipur	0	0	0	0	0	0	0	0	0	2	2
Mizoram	0	0	0	0	0	0	0	0	0	2	2
Nagaland	0	0	0	0	0	0	0	0	1	1	2
Sikkim	0	0	0	0	0	0	1	0	0	0	1
D & N Haveli	0	0	0	0	0	0	0	1	0	0	1
A & N Islands	0	0	0	0	0	0	0	0	0	0	0
Daman & Diu	0	0	0	0	0	0	0	0	0	0	0
Lakshadweep	0	0	0	0	0	0	0	0	0	0	0
Total	165	183	162	136	139	119	187	142	124	147	1504

Torture and deaths in judicial custody: Uttar Pradesh tops the chart

The NHRC also recorded 12,727 deaths in judicial custody from 2001-2002 to 2009-10.¹¹ These included 1,140 cases in 2001-2002;¹² 1,157 cases in 2002-2003;¹³ 1,300 cases in 2003-2004;¹⁴ 1,357 cases in 2004-2005;¹⁵ 1,591 cases in 2005-2006;¹⁶ 1,477 cases in 2006-2007;¹⁷ 1,789 cases in 2007-2008;¹⁸ 1,532 cases in 2008-2009; 1,389 cases in 2009-2010 upto 28 February 2010.¹⁹ In other words, an average of 1,416 persons died year during this period.²⁰

A large number of deaths in judicial custody also take place as a result of torture, denial of medical facilities and inhuman prison conditions that amount to torture, inhuman or degrading treatment. In August 2010, Mr B.D. Sharma, Additional Director General of Prisons of West Bengal reported in his investigation into

11. For 2009-2010, custodial cases are covered for the period up to 28 February 2010.

12. 2001-2002 Annual Report of the National Human Rights Commission

13. 2002-2003 Annual Report of the National Human Rights Commission

14. 2003-2004 Annual Report of the National Human Rights Commission

15. 2004-2005 Annual Report of the National Human Rights Commission

16. 2005-2006 Annual Report of the National Human Rights Commission

17. 2006-2007 Annual Report of the National Human Rights Commission

18. 2007-2008 Annual Report of the National Human Rights Commission

19. Unstarred Question no. 2683, Answered by Minister of State in the Ministry of Home Affairs, Mr Ajay Maken in the Lok Sabha on 10.08.2010, see Annexure to the reply at <http://164.100.47.132/Annexure/lq15/5/au2683.htm>

20. Statistics for nine years i.e. from 2001-2002 to 2009-2010 (up to 28.02.2010)

21. Five jail staffers suspended for prison torture, The Times of India, 16 September 2010

a torture case underlined that “it was becoming a practice in the jail to punish prisoners by physically assaulting them in gross violation of human rights.”²¹

The state-wise cases of deaths in prison custody are given below:²²

State/UT	2001 -02	2002 -03	2003 -04	2004 -05	2005 -06	2006 -07	2007 -08	2008 -09	2009-10 (Upto 28.2.10)	Total
Uttar Pradesh	183	169	199	219	259	241	312	287	302	2171
Bihar	144	153	139	150	246	193	222	133	132	1512
Maharashtra	125	117	148	138	115	130	174	124	105	1176
Andhra Pradesh	81	112	114	116	134	118	132	131	99	1037
Tamil Nadu	48	51	106	98	101	103	104	69	64	744
Punjab	70	65	81	65	100	87	100	70	101	739
West Bengal	54	49	43	64	76	69	89	99	58	601
Jharkhand	55	41	53	66	62	59	77	61	67	541
Madhya Pradesh	38	36	30	49	44	59	97	86	81	520
Karnataka	41	49	52	51	67	56	76	72	32	496
Rajasthan	49	55	45	50	50	54	58	56	74	491
Gujarat	44	34	37	54	52	54	55	74	54	458
Haryana	34	41	49	49	58	51	59	52	38	431
Orissa	49	41	52	39	42	53	50	48	42	416
Kerala	33	50	51	51	44	37	56	40	40	402
Chhattisgarh	28	29	42	26	52	50	45	40	39	351
Delhi	27	30	22	27	29	25	33	19	12	224
Assam	20	13	18	11	27	17	19	27	13	165
Uttarakhand	8	7	7	9	10	7	14	13	16	91
Himachal Pradesh	1	2	2	5	5	3	3	5	3	29
Tripura	0	1	0	4	4	5	4	6	2	26
Meghalaya	2	3	3	6	4	1	0	3	2	24
Chandigarh	1	3	4	3	3	2	1	3	3	23
Goa	5	1	0	4	4	1	0	2	1	18
Arunachal Pradesh	0	2	1	2	0	1	1	1	1	9
Pondicherry	0	0	0	0	1	1	2	2	2	8
Jammu & Kashmir	0	0	0	0	0	0	2	1	3	6
Nagaland	0	0	0	0	0	0	2	3	1	6
Mizoram	0	2	2	0	0	0	0	0	0	4
Sikkim	0	0	0	0	0	0	1	0	2	3

A & N Islands	0	0	0	1	2	0	0	0	0	3
Manipur	0	1	0	0	0	0	0	0	0	1
D & N Haveli	0	0	0	0	0	0	1	0	0	1
Daman & Diu		0	0	0	0	0	0	0	0	0
Lakshadweep	0	0	0	0	0	0	0	0	0	0
Total	1140	1157	1300	1357	1591	1477	1789	1527	1389	12727

Uttar Pradesh recorded the highest number of deaths in judicial custody with 2171 deaths, followed by Bihar (1512); Maharashtra (1176); Andhra Pradesh (1037); Tamil Nadu (744); Punjab (739); West Bengal (601); Jharkhand (541); Madhya Pradesh (520); Karnataka (496); Rajasthan (491); Gujarat (458); Haryana (431); Orissa (416); Kerala (402); Chhattisgarh (351); Delhi (224); Assam (165); Uttarakhand (91); Himachal Pradesh (29); Tripura (26); Meghalaya (24); Chandigarh (23); Goa (18); Arunachal Pradesh (9); Pondicherry (8); Jammu and Kashmir and Nagaland (6 each); Mizoram (4); Sikkim and Andaman and Nicobar Island (3 each); and Manipur and Dadra and Nagar Haveli (1 each).

NHRC data does not reflect the true picture:

The data of the NHRC does not reflect the actual extent of custodial death in India. As stated above not all custodial deaths are reported to the NHRC. For example, the Asian Centre for Human Rights filed a complaint with regard to the custodial death of Jumchi Nguso (35 years) as a result of torture at the Naharlagun police station in Papumpare district of Arunachal Pradesh on 15 July 2010 (NHRC Case No. 23/2/10/2010-AD). The NHRC registered the case and closed it after the State government awarded compensation of Rs 5 lakhs. Yet the NHRC's official statistics for 2010-2011 show that there was no custodial death during the year in Arunachal Pradesh. Similarly, ACHR filed two complaints of custodial deaths from Meghalaya i.e. death of Dilip Dohkrud (35 years) due to alleged torture at the Bholaganj Police Check Post under Shella Police Station in East Khasi Hills district on 27 January 2010 (NHRC Case No. 7/15/2/2010/UC/M5) and the death of Dexstarwise Bamon (28 years) at the Ladrymbai Police lock-up in Jowai on 26 January 2010 (NHRC Case No. 6/15/3/2010-AD). However, the official statistics record only one death during April 2009 to March 2010.

Worst, the number of deaths in police custody from conflict afflicted states like Jammu and Kashmir and Manipur do not reflect the gravity of the situation. The NHRC registered only six deaths in police custody in Jammu and Kashmir

22. NHRC Annual Report 2001-2008 & Unstarred Question No. 1475, Answered by Minister of State in the Ministry of Home Affairs, Mr Jitendra Singh in the Lok Sabha on 9.08.2011

from 2001-02 to 2010-11, while only two cases of deaths in police custody were recorded from Manipur during the same period. This is despite the fact that on 31 March 2011 Jammu and Kashmir Chief Minister Omar Abdullah in a written reply to a question in the Legislative Council stated that 341 persons had died in police custody in the state since 1990.²³

Furthermore records of custodial deaths do not include deaths in the custody of the armed forces. The NHRC has been denied a mandate to investigate human rights violations by the armed forces under Section 19 of the Protection of Human Rights Act, 1993 as amended in 2006. This is despite the fact that currently, Indo-Tibetan Border Police (ITBP), deployed along Indo-China border, and Sashastra Seema Bal (SSB) have the powers of search, seizure and arrest. Further, the NHRC directives on reporting incidents of custodial deaths do not apply to the armed forces. In the last nine years, the NHRC recorded only 25 cases of death in the custody of the military/paramilitary forces.²⁴

Beyond data collection and compensation

Since its inception, the NHRC has played a crucial role in the protection and promotion of human rights including combating torture in custody. Under Section 18 of the Protection of Human Rights Act, the NHRC has the power to recommend monetary compensation to the victims of human rights violations and to initiate proceedings for prosecution of the guilty public officials.

The NHRC regularly awards monetary compensation. On 9 March 2010, Mr Ajay Maken, then Minister of State in the Ministry of Home Affairs, Government of India stated in the Lok Sabha that the NHRC recommended monetary relief of Rs 5,59,45,000 to the next of kin of the deceased in 386 cases of custodial death/rape across the country from 1 April 2006 to 28 February 2010. These included Rs. 1,62,5000 in 19 cases in 2006-2007; Rs. 1,16,75,000 in 82 cases in 2007-2008; Rs. 2,05,75,000 in 144 cases in 2008-2009; and Rs. 2,20,70,000 in 141 cases in 2009-2010 up to 28 February 2010.²⁵

ACHR acknowledges that compensation is a vital part of the provision of redress to victims of human rights violations and their relatives. And it is commendable that NHRC compensation awards are becoming more frequent and larger.

However, the failure of the NHRC to establish accountability and ensure punishment of perpetrators remains a matter of grave concern. On 9 August 2011, Minister of State in the Ministry of Home Affairs, Mr Jitendra Singh stated

23. 341 custodial deaths in J-K since 1990, The Indian Express, 31 March 2011

24. Annual Reports of NHRC from 2001 to 2008 and Unstarred Question no. 2683, Answered by Minister of State in the Ministry of Home Affairs, Mr Ajay Maken in the Lok Sabha on 10.08.2010, see Annexure to the reply at <http://164.100.47.132/Annexure/lsq15/5/au2683.htm>

25. Starred Question no.175, Answered by Minister of State in the Ministry of Home Affairs, Mr Ajay Maken in the Lok Sabha on 09.03.2010, see Annexure B to the reply at <http://164.100.47.132/Annexure/lsq15/4/as175.htm>

in the Lok Sabha that the NHRC had recommended compensation in 45 cases of custodial deaths and 17 cases of custodial torture during 2008-2009 till 31 July 2011 but the "NHRC did not make any recommendation for disciplinary action/prosecution of the erring public servant".²⁶ The NHRC's failure to seek prosecution undermines its clear responsibility to uphold international standards and the rule of law in India. Unless the NHRC recommends prosecution of the guilty public officials, torture is unlikely to end.

India's refusal to stamp out torture:

India signed the United Nations Convention Against Torture (UNCAT) in 1997 and stated that ratification will follow soon. However, 14 years later, India is yet to ratify the UNCAT.

On 6 May 2010, the Lok Sabha passed an extremely weak Prevention of Torture Bill, 2010. It had only four operative clauses as it was "considered necessary to ratify the UNCAT and to provide for more effective implementation". However, at the Rajya Sabha, the Government had to refer the Bill to a parliamentary Select Committee. The Parliamentary Select Committee headed by Ashwani Kumar, the current Minister of State for Planning, presented a revised Prevention of Torture Bill, 2010 in December 2010 after calling for inputs from stakeholders and testimony from various experts including Asian Centre for Human Rights. The revised Bill seeks to comply with the UN Convention Against Torture. Apparently, the Ministry of Home Affairs has objected to the many of the provisions recommended by the Parliamentary Select Committee and therefore, the new Bill has not been introduced in the parliament as yet.

During the examination of India's human rights records under Universal Periodic Review (UPR) on 8 April 2008, the UN Human Rights Council recommended India to "expedite ratification of the Convention against Torture". India accepted the recommendation and informed the UNHRC that "the ratification of the Convention against Torture is being processed by Government of India".

After three years, ratification of the UNCAT had not been processed but India was once again required to submit voluntary pledges in February 2011 for membership to the UNHRC. India this time reiterated that it "remains committed to ratifying the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment".

On 24 August 2011, the Calcutta High Court issued notice to the government of India to file affidavits within three weeks on the steps taken for ratification of the UNCAT to facilitate extradition of Kim Davy, the prime accused in the 'Purulia arms drop case' and what further steps had been taken for extradition of Mr. Davy and his two associates, Peter Heastrup and Brian Thune, from Denmark for their

26. Available at: <http://164.100.47.132/LssNew/psearch/QResult15.aspx?qref=105861>

prosecution in the case.²⁷ A PIL was filed on 30 June 2011 after the Danish High Court refused to allow extradition of Kim Davy on the ground that he would risk “torture or other inhuman treatment” in India, which has not ratified the UNCAT.

On 15 September 2011, the Ministry of Home Affairs and the Central Bureau of Investigation sought two more weeks time from the Calcutta High Court to file the affidavits on the ground that their officials were busy in the case relating to the blast outside the Delhi High Court on 7 September 2011. If the Calcutta High Court directs the Government of India to ratify the UNCAT to facilitate the extradition of Kim Davy in public interest, Kim Davy might go down in history as contributing not just to the largest illegal air drop of arms, but equally for his role to combat torture in India.

Asian Centre for Human Rights recommends to the Government of India to take all necessary measures to enact the Prevention of Torture Bill, 2010 as drafted by the Parliamentary Select Committee without any dilution into a law.

Asian Centre for Human Rights recommends to the NHRC to recommend prosecution of the guilty public officials in all the cases in which compensation is recommended.

27. In the Purulia arms drop case, a Latvian aircraft dropped several hundred AK-47 rifles and more than a million rounds of ammunition over a large area in Purulia district of West Bengal on the night of 17 December 1995.

2. Torture in police custody

I. Patterns and practices of torture in police custody

Torture remained widespread and integral to law enforcement. Deaths in police custody are reported at regular intervals. These deaths were often passed off as suicides, sudden medical complications, self-inflicted injuries and natural deaths. For example, out of the total 84 cases of death in police custody recorded by the National Crime Records Bureau (NCRB) of the Ministry of Home Affairs during 2009, deaths in 80 cases were attributed to hospitalisation/treatment (9 cases); accidents (4 cases); by mob attack/riot (2 cases); by other criminals (3 cases); by suicide (21 cases); while escaping from custody (8 cases); and illness/natural death (33 cases).²⁸

Torture is used to extract confession, demand bribes, settle personal scores etc. Terror suspects are at increased risks of torture given the immense pressure on the police to solve the crimes.

A. Custodial deaths

During 2010-2011, the highest number of death in police custody was reported from Maharashtra with 31 cases followed by Uttar Pradesh (15); Andhra Pradesh (14); Gujarat (9); Assam and Orissa (7 each); Bihar, Punjab, Tamil Nadu and Jharkhand (6 each); Karnataka, Madhya Pradesh and West Bengal (5 each); Uttarakhand (4); Delhi and Haryana (3 each); Goa, Jammu and Kashmir, Kerala, Manipur, Mizoram and Rajasthan (2 each); and Nagaland, Tripura and Chhattisgarh (1 each).

i. Individual cases of custodial deaths through torture:

As ACHR has stated above, a large majority of the cases of custodial deaths took place as a result of torture. Torture remains endemic, institutionalised and central to the administration of justice and counter-terrorism measures.

ACHR documented a number of cases of death in police custody during 2010.

On 1 January 2010, Mr Rajendra Yadav (20 years), son of Mr Dashrath Prasad Yadav, died due to alleged torture at the Chhatarpur Police Station in Palamau district of Jharkhand. Mr Yadav was taken into custody on 30 December 2009 for questioning in a murder case. Post-mortem report of the deceased revealed injury marks.²⁹

On 27 January 2010, Mr. Dilip Dohkrud (35 years), a labourer, died due to alleged

28. 2009 Annual Report of the NCRB

29. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 5 January 2010

torture at the Bholaganj Police Check Post under Shella Police Station in the East Khasi Hills district of Meghalaya. Mr Dohkrud was taken into custody by two policemen in civil dress on the night of 26 January 2010. Mr Dohkrud was allegedly subjected to torture in custody and sustained serious injuries. Following his release, the family members took him to the hospital but he succumbed to his injuries. The deceased's family member alleged that Mr. Dohkrud died due to police torture.³⁰

On 15 February 2010, Mr. Sanjay Nishad (22 years) and Mr. Ashok Nishad (30 years) died due to alleged torture at Ghoorpur police station in Allahabad of Uttar Pradesh. Police picked-up both the deceased along with two others on the night of 14 February 2010 on the charge of firing on a police constable. The police subjected all the four persons to torture throughout the night. When they fell unconscious, they were rushed to the hospital. However, Mr. Sanjay Nishad and Mr. Ashok Nishad were declared brought dead. The relatives of the victims alleged that all the four persons were tortured by subjecting them to beating with sticks and hitting with rifle butts at the police station throughout the night, which resulted in the death of the two.³¹

On 21 March 2010, Mohd Umar alias Badkau was arrested and taken to Haldi Police Station in Bahraich district of Uttar Pradesh. Mohd Umar was accused of kidnapping and rape. At about 5.30 am, police claimed that Mohd Umar attempted to commit suicide by hanging himself with a towel inside the lock-up, following which he was immediately taken to hospital where he died during treatment. Following NHRC intervention the inquest, post-mortem and magisterial enquiry reports were submitted. The inquest report revealed only one black sign of injury on the neck of the deceased. The post mortem report found eight contusions on various parts and ligature mark around the neck and indicated that the cause of death was due to asphyxia as a result of ante mortem hanging. The magisterial enquiry report opined that deceased died due to police torture and held Incharge of the Police Station, Brij Kishore Yadav, Head Moherar Sanjay Verma, Lock up Sentry, Constable Ishwardin Shukla and Co-prisoner Vijay Shankar Pandey jointly responsible for this death. While Investigating Officer of case S.K. Surya (Sub Inspector) and Constable Dev Baksh Singh were found responsible for tampering of documents.³²

On 30 March 2010, Mr. Sampath (25 years), a murder accused, died due to alleged torture in the custody of Palakkad North police station in Palakkad district of Kerala. Mr. Sampath was picked up for questioning in the murder case. Later, the

30. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 1 February 2010

31. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 16 February 2010

32. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 22 March 2010, NHRC Case No. 10570/24/9/2010-AD

deceased was taken to various parts of Coimbatore. The police claimed that the deceased complained of chest pain and died at hospital. However, the deceased's relatives alleged he died due to torture.³³ The post-mortem report revealed that Sampath had died of internal hemorrhage due to heavy head injuries suffered due to torture. The report also said there were 63 injuries in his body. Three of his ribs had been broken due to the use of extreme torture methods. The injuries were caused due to punching with hard objects, the post-mortem report confirmed.³⁴

On 5 April 2010, Vinod Sharma (35 years), a resident of Kathua district in Jammu and Kashmir, died at the Gulabi Bagh police station in North Delhi. On 9 September 2010, Chief Metropolitan Magistrate (CMM) Kaveri Baweja ordered the Station House Officer of Gulabi Bagh police station to register a First Information Report against the erring police officers. The CMM passed this order on the basis of an inquiry report submitted by Metropolitan Magistrate Twinkle Wadhwa who found that Vinod Sharma died due to injuries sustained in the assault in custody. A three-member medical board concluded that he died of "cerebral damage caused following various injuries on head and consequent shock which was sufficient to cause death in ordinary course and some injuries were caused by a blunt object."³⁵

On 7 April 2010, Mr. Velji Parmar (45 years), who was accused of stealing, died due to alleged torture at the Tadaja police station in Bhavnagar district of Gujarat. Police claimed the deceased complained of chest pain and was taken to hospital where he was declared dead. However, the deceased's wife, Mrs Manjula alleged that Mr Parmar was tortured to death in custody. The post-mortem report reportedly revealed about 37 injury marks on the deceased's body.³⁶

On 13 June 2010, Arun Bharath (21 years) was picked up from his house by a police team including Sub-Inspector Sreekumar attached to Sattankulam police station in Tuticorin district of Tamil Nadu in a petty case. Mr Bharat was allegedly tortured during interrogation. Relatives alleged that the deceased died of torture in custody.³⁷

On 16 June 2010, Tilak Raj (20 years), son of Shambu Raj, died due to torture in the custody of Railway Police at Mukerian railway station in Hosiarpur district of Punjab. The deceased, a resident of Himachal Pradesh, along with his niece was waiting at Mukerian railway station to board a train to New Delhi, when they were taken to the railway police station, where the deceased was subjected to torture

33. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 31 March 2010

34. Kerala custody death: Court to monitor CBI probe, *The Pioneer*, 23 December 2010

35. Probe ordered against cops for beating accused to death, *The Pioneer*, 10 September 2010

36. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 12 April 2010

37. Custodial death alleged, *The Hindu*, 19 June 2010

during questioning. As a result the deceased fell unconscious following which he was taken to the hospital where he was declared brought dead.³⁸

On 20 June 2010, Mathura Prasad (60 years), a physically-challenged, died due to alleged torture in police custody in Nawabganj area in Pratapgarh district of Uttar Pradesh. Mathura Prasad was arrested for allegedly supplying illicit liquor on 19 June 2010. The deceased's relatives alleged that Mathura Prasad was tortured to death in police custody.³⁹

On 22 June 2010, Rajendra Soni alias Raju (46 years), son of Lal Chand Soni, died due to alleged torture in police custody during police remand in Jodhpur district of Rajasthan. Rajendra Soni, a goldsmith by profession, was arrested by the police on the charge of buying stolen jewelry on 4 June 2010. The police produced him before the court which remanded him to four days in police custody at Ratanara police station in Jodhpur district. On the night of 22 June 2010, the condition of the deceased deteriorated and was admitted to a hospital where he died. The deceased's relatives alleged that Rajendra Soni died due to torture by police while in police custody during police remand.⁴⁰

On 23 June 2010, Lalpiangliana (46 years), an undertrial prisoner at Aizawl Central Jail, died due to alleged torture by policemen attached to Luangmual police outpost in Aizawl, Mizoram. The deceased was arrested on 18 June 2010 in a murder case and sent to the Central jail. On 19 June 2010, the police attached to Luangmual police outpost took him out of Aizawl Central Jail for investigation. In the custody of the police, the deceased was allegedly tortured before he was brought back to the jail in the evening of the same day. The jail officials noticed multiple injuries suffered by the victim in police custody but admitted him to the hospital only when his condition deteriorated on 21 June 2010. The victim succumbed to his multiple injuries on 23 June 2010.⁴¹

On 27 June 2010, Ansar Ahmed, a Government Railway Police (GRP) personnel, died due to alleged torture at Saini Police Station in Kaushambi district of Uttar Pradesh. The deceased was taken into custody after he had allegedly snatched the cash bag from the conductor of a bus in which he was travelling. The deceased's relatives alleged that Ansar Ahmed was tortured to death by the police including Inspector Raja Ram Singh. Post-mortem examination of the deceased revealed

38. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 18 June 2010

39. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 21 June 2010

40. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 24 June 2010

41. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 24 June 2010

that he had died of multiple ante-mortem injuries.⁴²

On 29 June 2010, Brijesh Kumar Bajpayee (22 years) died due to alleged torture at Saadatganj police station in Lucknow, Uttar Pradesh. Brijesh Kumar Bajpayee was taken into police custody on the intervening night of 28-29 June 2010. On 29 June 2010, the deceased was taken to Balrampur hospital following his release, where he died. The deceased's relatives alleged that Brijesh Kumar Bajpayee died as a result of torture during police custody.⁴³

On 29 June 2010, Pheru Lal (60 years) died due to alleged torture at Sowna police station in Shravasti district of Uttar Pradesh. The police summoned Pheru Lal on the night of 28 June 2010 at the Sowna police station in connection with a land dispute case. Pheru Lal was detained in the police station overnight and allegedly tortured. On 29 June 2010, the police rushed Pheru Lal to a hospital but he died on the way. The deceased's relatives alleged that Pheru Lal died as a result of torture.⁴⁴

On 4 July 2010, Bhoomaiah, a theft accused, died due to alleged torture at Dornala police station in Prakasam district of Andhra Pradesh. Mr Bhoomaiah, a resident of Rajapalli in Kadapa district, was picked up by the police in connection with the theft case on 2 July 2010. Mr Bhomaiah's relatives alleged that he was tortured to death during his illegal custody.⁴⁵

On 15 July 2010, Jumchi Nguso (35 years), an employee with the Transport Department, died due to alleged torture at the Naharlagun police station in Papumpare district of Arunachal Pradesh. Jumchi Nguso was hit by an escort vehicle of the State's Chief Minister and reportedly sustained minor injuries. However, instead of providing medical treatment, he was taken to the police station and detained for about two hours and allegedly tortured. The police admitted him to the hospital only when his condition deteriorated but died shortly. The deceased had injury marks all over his body, including in the back. The family alleged that the death was due to torture.⁴⁶

On 21 July 2010, Nazar Hussain (45 years) died due to alleged torture at the Nakhasa Police Station in Moradabad district of Uttar Pradesh. The deceased was taken into custody in connection with a case of theft. The deceased's family

42. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 28 June 2010

43. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 1 July 2010

44. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 1 July 2010

45. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 5 July 2010

46. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 16 July 2010

alleged that Nazar Hussain died due to torture during questioning.⁴⁷

On 24 July 2010, Tariq Ahmed Dar (25 years) of Fidarpora Rafiabab died due to alleged torture at Panzala police station in Baramullah district, Jammu and Kashmir. The deceased was arrested on the charge of being a Lashkar-e-Toiba operative. The police claimed that the deceased had committed suicide. However, the family members of the deceased alleged that he died due to torture as the dead body bore visible torture marks.⁴⁸

On 25 July 2010, Tamirul Haq (42 years), a teacher, died due to alleged torture at Kotar Police Camp under Itahar Police Station in North Dinajpur district, West Bengal. On the night of 24 July 2010, Mr. Tamirul Haq had gone to Bariol market to buy cigarettes where he saw two persons being dragged towards Kotar police camp by five police personnel identified as Ganesh Sarkar (Assistant Sub Inspector), Koushik Burman, Mir Rajesh Ali, Apurba Roy and Nitish Chandra Das, all constables, attached to Kotar police camp. Mr. Haq asked the said police personnel why the two persons were being dragged in such a way. At this, the police personnel got furious and started beating Mr Haq with sticks and rifle butts. Thereafter, Mr Haq was taken to the Kotar police camp where he was further subjected to torture till he lost his consciousness. When Mr Haq's condition deteriorated, two of the personnel rushed him to Raigunj District Hospital but the doctors declared him brought dead.⁴⁹

On 29 July 2010, Rama Shankar (32 years) died due to alleged torture at the Sakaldeehah police station in Chandauli district of Uttar Pradesh. The deceased was picked up in connection with a case of assault. The deceased's relatives alleged that Rama Shankar was tortured to death by six police personnel including Sub-Inspector Mahendra Ram and five constables, during questioning.⁵⁰

On 6 August 2010, Subeg Singh died due to alleged torture at the Khemkaran police station in Tarn Tarn district of Punjab. The deceased was arrested after he was booked for quarreling on 19 June 2010. On 25 June 2010, the deceased was sent to the Patti Sub-Jail in Tarn Tarn district. On 26 July 2010, the deceased was admitted to Patti Civil Hospital when his condition deteriorated in judicial custody. On 27 July 2010, Subegh Singh was shifted to another hospital, where he died. The deceased's family members alleged that the deceased was tortured at

47. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 23 July 2010

48. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 26 July 2010

49. Joint complaint of Asian Centre for Human Rights and Banglar Manabadhikar Suraksha Mancha to National Human Rights Commission, 29 September 2010

50. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 4 August 2010

the Khemkaran police station.⁵¹

On 14 August 2010, Raghunath Patel died due to alleged torture at the Ameelia police station in Sidhi district of Madhya Pradesh. The deceased's family members and residents alleged that he died due to torture in custody.⁵² Enraged villagers burnt the police station demanding a judicial probe into the custodial death.⁵³

On 2 September 2010, Sanyasi Gamanga (60 years), a tribal of Dididrisingi village under Patrapur block in Gamjam district, died allegedly due to torture in police lock up at Jarada police station in the district. Gamanga had surrendered to the police on the night of 1 September 2010 after allegedly killing a boy "accidentally" with his gun while he was hunting in a nearby jungle. There were reportedly injury marks on the body of the deceased including in the left leg suggesting that he was tortured in police custody. The post-mortem was conducted without informing the deceased's family.⁵⁴

On 4 September 2010, Rajendra Singh Arora (50 years), an employee of Haridwar Roadways, died due to alleged torture in the Kotwali police station, Haridwar in Uttarakhand. The deceased was picked up from his home on 30 August 2010 for questioning in a theft case. The deceased's family members alleged that Rajendra Singh Arora died of torture during illegal detention.⁵⁵

On 5 September 2010, Santosh Behera (18 years) died due to alleged torture at Kharvel Nagar police station in Bhubaneswar, Orissa. Police claimed that the deceased, a scrap dealer, was taken into custody on the charge of moving suspiciously in the street on 4 September 2010 and released on the same day. However, Ms. Subhadra Behera (sister of the deceased) alleged that Mr. Bahera was picked up on 1 September 2010 and tortured during the illegal detention as there were injury marks on his body.⁵⁶

On 1 October 2010, a physically challenged Dalit identified as Nakka Suresh (28 years) died allegedly due to torture in custody at the Fifth Town Police Station in Vizag city in Andhra Pradesh. The victim was taken into custody for interrogation on 30 September 2010 in a cheating case.⁵⁷

51. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 7 December 2010

52. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 17 August 2010

53. Probe death of man in police custody in Sidhi district: Ajay, CNN-IBN, 16 August 2010

54. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 3 September 2010

55. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 10 September 2010

56. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 28 September 2010

57. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 4 October 2010

On 2 October 2010, Bala Murgesh died due to alleged torture during illegal detention at the Mudigubba police station in Anantapur district of Tamil Nadu. The deceased, a resident of Kadiyamam village in Cudalore district, was taken to the police station in connection with theft cases on 30 September 2010. The deceased was illegally detained in the police station and allegedly tortured during interrogation, resulting in his death.⁵⁸

On 18 November 2010, Haripada Barman (26 years) died in the custody of temporary police camp at Syedpur village in Malda district, West Bengal. The deceased, a labour supplier, was illegally detained on 16 November 2010 by the In-Charge of the camp in collusion with two persons after he failed to supply labourers. Three persons including a police constable and a personnel of the National Volunteers Force were arrested in connection with the case.⁵⁹

On 27 November 2010, 20-year-old Dalit R. Jay Kumar died due to alleged torture at the Chitilapakkam Police Station in Kanchipuram district of Tamil Nadu. The deceased, a school van cleaner, was picked up for questioning in connection with a case of assault on 14 November 2010. The deceased was released on 15 November 2010 after his mother allegedly paid a bribe of Rs. 1000. However, he had to be hospitalized at the hospital where he died. The deceased's mother alleged that her son sustained injuries due to torture by two constables, which resulted in his death.⁶⁰

ii. Custodial death through torture: alleged suicide

In a number of cases the police claimed that the accused committed suicide in police detention. However, the mystery over as to what had led them to take the extreme act and how they commit suicide with strange objects like shoe laces, blankets, jeans, etc are never answered. How the victims had access to the means for committing suicide like poisons, drugs, electric cables, etc in custody remained unknown.

Some of the cases of alleged suicide documented by ACHR are given below.

On 31 December 2009 night, Bishnu Bahadur (56 years) was arrested from Gunnu Nullah area near Chamba town in Chamba district, Himachal Pradesh for allegedly possessing *charas* (contraband item). He was taken to Sadar Police Station and detained overnight. On 1 January 2010, Mr Bahadur was produced in the court and was remanded to police custody for four days for investigation. Mr Bahadur was found dead in the lock-up room of the police station on 2 January

58. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 10 November 2010

59. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 22 November 2010

60. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 3 December 2010

2010 morning. Police claimed Mr Bahadur committed suicide by hanging himself with his *pyjama* from the ventilator of the lockup room. Police further claimed Mr Bahadur committed suicide by “taking advantage” of the power failure due to the tripping of the Northern Grid Lines. But, the deceased’s family alleged that Mr Bahadur died after being tortured at the police station during interrogation.⁶¹

On 7 January 2010, G. Tata Rao (33 years) died in police custody at Gajuwaka police station in Vishakapatnam district of Andhra Pradesh. According to the police, Mr. Rao was arrested in connection with several criminal cases after a non-bailable warrant was issued against him by court on the same day. Police claimed Mr. Rao tried to commit suicide at about 6 pm by hanging himself with a long plastic wire from the ventilator grill of the bathroom following which he was rushed to the hospital where he died. However, a fact-finding team of Human Rights Forum (HRF) found the police version false. The team found that Mr Rao was not arrested on the afternoon of 7 January 2010 as the police claimed but was picked up by the police at about 9 am on 6 January 2010 from Appikonda Chepalapalem. Tata Rao ran away when he saw two police in plainclothes (Patrudu and Ramprasad). But he was nabbed following a chase, beaten and taken with them on their motorcycle.⁶²

On 12 January 2010, a team of Mumbai Police (Maharashtra) arrested Annu Pathan and his friend Aqueel in connection with a case of dacoity. The Mumbai Police handed over Annu Pathan and Aqueel in the custody of Baduani police station in Datia district of Madhya Pradesh for the night. Later, Annu Pathan was found dead in the lock-up. The police claimed that both Annu Pathan and his friend attempted suicide by hanging themselves. Police further claimed Annu Pathan died in the police station, while his friend was admitted to a nearby hospital and in critical condition. However, the residents of the area alleged that the police tortured Pathan and Aqueel in custody. Following public pressure, four policemen were suspended.⁶³

On 25 January 2010 morning, Komath Veetil Nazar (38 years), a resident of Jaseela Manzil in Muzhappilangad, along with his friend M. K. Moosakkutty was picked up by police in connection with a cheating case. The police took both of them to Thalassery police station in Kannur district of Kerala. At about 10.30 am (on the same day), Komath Veetil Nazar was found dead inside the toilet of the police station. The police claimed that Komath Veetil Nazar committed suicide by using his *lungi* (loin cloth) from the iron-grills of the toilet. However, the residents of the area alleged that Komath Veetil Nazar died due to torture. They

61. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 5 January 2010

62. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 11 January 2010

63. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 15 January 2010

further questioned the police version because the deceased was wearing pants and not *lungi* when he was taken into custody.⁶⁴ Later, in a report submitted to the NHRC the police claimed that the deceased committed suicide by using a *lungi* of a constable. However, no explanation was given as to how the deceased got the *lungi*.

On 25 January 2010, Dexstarwise Bamon (28 years) of Rymbai in the Jaintia Hills district of Meghalaya was arrested after a complaint was lodged against him by his father in connection with a theft case at the Ladrymbai Police Beat House in Jowai. Mr Bamon was found dead on the morning of 26 January 2010. The police claimed that Mr Bamon was kept in the temporary lock-up where he committed suicide by hanging. However, no explanation was given as to how he committed the suicide.⁶⁵ The NHRC issued a show cause notice to the state government as to why monetary relief be not recommended. The state government stated that the deceased was unmarried. As a result, the NHRC closed the case considering that even if monetary relief is recommended, there would be no eligible person to receive it. The NHRC chose not to recommend compensation to the deceased's father as it was on the basis of his complaint the deceased was arrested.

On 29 March 2010, Asodhi Nagi Reddy (37 years), a farmer, was taken into custody at the Bapatla Rural Police station in Guntur district of Andhra Pradesh. According to the police, Mr Reddy was brought to the police station by some people after he was found to be behaving indecently with a woman. Mr Reddy was found hanging in a room of the police station in the wee hours of 30 March 2010. Police claimed that the deceased committed suicide and died while being taken to hospital. The police further claimed that the deceased was supposed to be lodged in the lock up room, but they had to keep him in another room as the lock up was being used to store answer sheets of Class X examinations. However, the deceased's family members and the residents alleged custodial torture resulting in the death.⁶⁶

On 25 March 2010, a tribal identified as Bhukya Soma Naik (34 years), a resident of Dalapurigadda in Kodakandla mandal in Warangal district of Andhra Pradesh, was taken into police custody in connection with a murder case. On 31 March 2010, the deceased was found dead in police custody. Police claimed that the deceased committed suicide by consuming acid in the toilet of the police station fearing punishment. The deceased was taken to MGM Hospital, Warangal where the doctors declared him dead on arrival. The deceased's relatives alleged that he was tortured in custody, resulting in the death. According to the police, he was

64. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 29 January 2010

65. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 29 January 2010

66. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 31 March 2010

supposed to produced before court on the day same day he died. However, it was not known whether Mr Naik was produced before the court earlier or illegally detained for five days till his death.⁶⁷

On 5 April 2010, Abhiram Nayak (45 years) was picked up from Chalia Nala village and taken to the Baria police station in Keonjhar district, Orissa for questioning in connection with a case of extortion. On the morning of 6 April 2010, Mr Nayak was found hanging from the ventilator of the lock-up. Police claimed the deceased committed suicide inside the lock-up. But, the residents of the village alleged torture which resulted in the death. Three policemen identified as Officer-In-Charge Tarakant Khatua, Assistant Sub-Inspector Pitambar Sahoo and Constable Srikant Jena were suspended following the incident.⁶⁸

On 13 April 2010, Dhirendra alias Dheeru (32 years), son of Randheer Singh, was found hanging at Bahadurgarh police station in Ghaziabad district of Uttar Pradesh. The police claimed that deceased who was taken into custody on 12 April 2010 for questioning in connection with a murder and loot case had committed suicide. The deceased's family members alleged that Dhirendra was picked up four days ago from home without giving any reason. They further alleged that Dhirendra died as a result of torture as the post-mortem examination report reportedly indicated anti-mortem injuries on the body.⁶⁹

On 6 May 2010, Srinivasulu, a resident of Munagala village in Nandyal Mandal in Kurnol district of Andhra Pradesh, was taken to the Nandyal One Town police station for questioning in connection with a theft case. On the next day, Srinivasulu was found hanging inside the lock-up of the police station. Police claimed Srinivasulu committed suicide by hanging himself from the ventilator of bathroom of the lock-up with his pant and towel in the early hours of 7 May 2010 following which he was shifted to the Nandyal government hospital. The doctors declared him brought dead. The deceased's relatives alleged that Srinivasulu was taken into custody few days ago and died due to torture during illegal detention.⁷⁰

On 20 May 2010, Paramjit Singh (35 years), son of Tirath Singh, was picked up from his residence at Gurudwara Road under Bakshi Nagar police station in Jammu region of Jammu and Kashmir by a District Special Branch (DSB) team on the alleged charges of being involved in drug peddling. In the afternoon of the same day, Mr Singh was handed over to the Bakshi Nagar police station. The

67. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 5 April 2010

68. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 8 April 2010

69. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 16 April 2010

70. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 11 May 2010

police claimed the Mr Singh consumed the drug during DSB custody, resulting in overdose and he started shivering when he was handed over to the police station. The police shifted him to Government Medical College Hospital, Jammu where he was declared as brought dead. However, the deceased's family members alleged that while the deceased was being picked up by the DSB team, Jammu headed by Deputy Superintendent of Police Parshotam Mengi they dragged him out of the house and took him to the police station beating him in public. They further alleged that the deceased was tortured at the police station by the police including by Station House Officer Inspector Tahir, which resulted in his death.⁷¹

On 12 June 2010, Ram Larait (35 years) died in police custody at Bela Police Station in Auraiya district of Uttar Pradesh. A FIR was lodged by one Ramnath against Ram Larait in connection with the theft of his vehicle on 10 June 2010. According to the police, Ram Larait was arrested for questioning on the evening of 12 June 2010. Police claimed the deceased due to his own guilt committed suicide by hanging himself by the wing of his own shirt from an iron bar of the ventilator in the lock-up. However, the deceased's relatives and residents of the area alleged that Ram Larait died due to torture and his body was hanged to give it a suicide theory. They further alleged that Ram Larait was arrested earlier but showed him arrested on 12 June 2010.⁷²

On 30 June 2010, four policemen identified as Vinod Kumar and Rajat Tathana (both Sub-Inspectors) and Narendra Singh and Naresh Arya (Constables) were suspended in the in the custodial death of Balwinder Singh at the Rudrapur police station in Udham Singh Nagar district of Uttarakhand. Balwinder, a resident of Bandukhera Raipur village, was picked up on 29 June 2010 for questioning on the suspicion of being involved in a theft case. He died on the same day. Police claimed the deceased committed suddenly consumed poisonous substance following which he was rushed to the hospital where he was declared brought dead. However, the family members alleged that Balwinder was tortured in custody and died.⁷³

On 30 June 2010, Ngurhmingthanga (26 years) died in the police lock-up at New Vervek in Aizawl district of Mizoram. Ngurhmingthanga was taken into custody in connection with a case of assault on 29 June 2010. The deceased was found dead in the wee hours of 30 June 2010. Police claimed the deceased committed suicide by hanging himself with a piece of curtain torn off from the room of the Officer-In-Charge. However, the deceased's relatives alleged that he died as a

71. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 29 November 2010

72. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 14 June 2010

73. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 1 July 2010

74. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 1 July 2010

result of torture.⁷⁴

On the night of 9 July 2010, Satish Kumar alias Chandran (41 years), a resident of Nedumcaud in Thiruvananthapuram district of Kerala, was picked up by a patrolling police and was taken to the Karamana police station on the basis of a complaint filed by his wife for creating drunken ruckus in front of the family members. Since then, Sathish Kumar was kept at the police station and was not let off as nobody had approached to take him on bail. According to the police, by around 6.45 am on 11 July 2010, Satish Kumar was allowed to go to the toilet located on the premises of the police station. Once he came out of the toilet, he told the sweeper that he had consumed poison. Subsequently, he was taken to the Medical College Hospital, where he died. Refuting the police suicide theory, the deceased's relatives including Satish Kumar's wife alleged that he was tortured, resulting in death.⁷⁵

On 11 August 2010, Mandangi Subarao (42 years), a resident of Kondabaredi village in Ramnaguda area in Rayagada district of Orissa, died under mysterious circumstances in the anti-Maoist cell of Orissa Police. The deceased, a former Maoist, deserted the Maoists some years back and was reportedly working as a police informer. According to the police, the deceased was under threat from the Maoists and kept in the anti-Maoist cell with a Special Police Officer (SPO) after he expressed fear that the Maoists could kill him anytime. The police claimed that the deceased committed suicide by hanging himself with a rope in the office room on 11 August 2010 when the SPO had gone outside to attend nature's call. However, the police failed explain why the deceased had committed suicide after seeking police protection.⁷⁶

On 10 September 2010 morning, Nazimuddin, (25 years) was found dead during police remand at the East Police Station in Dimapur, Nagaland. The deceased was convicted for murder and dacoity and was undergoing the sentence at the Central Jail, Dimapur. On 9 September 2010, Nazimuddin was taken to the police station under remand along with four others for interrogation in another case. Police claimed the deceased committed suicide with a piece of cloth from the ventilation bars of the toilet. However, the deceased's relatives alleged that Nazimuddin died due to torture as there were signs of torture marks and dried blood on the neck, mouth and legs. They further alleged that the deceased was subjected to electric shocks as there were injury marks in his private parts. Four other persons were also allegedly tortured.⁷⁷

75. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 12 July 2010

76. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 13 August 2010

77. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 13 September 2010

On 18 October 2010 night, Lalbuanga died under mysterious circumstances in the lock-up of Lungsen police station in Lunglei district of Mizoram. The deceased was picked up on the same day in connection with a murder case and kept in the Lungsen police station. According to the police, angry residents of Lungsen flocked to Lungsen police station urging the police to quickly solve the murder case. The police secured the lock-up gates in a bid to prevent any untoward incident and also appealed to the crowd to disperse. After the crowd dispersed, the suspect was found hanging with a blanket from the iron bar of the ventilator inside the lock-up. However, the police failed to explain how the deceased could commit suicide with a blanket.⁷⁸

On 24 October 2010, Hanif Mia (25 years), a resident of Barijala village under Bishalgarh Sub-division in West Tripura district, Tripura, was arrested from Agartala in connection with a case of theft and snatching. He was taken to Bishalgarh police station. At around 6 pm on the same day, Hanif Mia was found hanging in the toilet of the police station. Police claimed the deceased committed suicide by using a piece of blanket from the ventilator fearing conviction. However, the deceased's relative alleged that the deceased died due to torture.⁷⁹

On 27 October 2010 night, Balistar (40 years) died at the Nababad Police Station in Jhansi district of Uttar Pradesh. The deceased was picked up by the personnel of the Special Operations Group (SOG) on the same day in connection with a robbery case. The police claimed Balistar committed suicide. However, the deceased's relatives alleged that Balistar died of police torture. They further alleged that the police did not allow them to meet him after his condition deteriorated in the police station and the police had taken the deceased to the hospital only after he had died to conceal their crime.⁸⁰

On 1 November 2010, Vikas (25 years), a resident of Vijay Vihar in Outer Delhi, died at the Vijay Vihar police station. The deceased was taken into custody on the charges of having an affair with a married woman. A local reporter who was present at the police station alleged that the deceased was kicked and beaten with batons. Later, he was taken to the Ambedkar Hospital, but declared brought dead. According to the police, the investigating officer of the case went to the woman's residence to record her statement and on his return he found Vikas hanging from a window of the police station. The police further claimed Vikas used his sweater to hang himself when no one was present in the room.⁸¹

78. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 21 October 2010

79. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 26 October 2010

80. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 1 November 2010

81. Man hangs self in police station, *The Asian Age*, 3 November 2010

At about 3 pm on 10 November 2010, Dalit Hardeep Singh (27 years), son of Kesar Singh, was brought to the Khamano police station in Ludhiana district of Punjab in connection with theft of mobile phones. Within few hours of his detention, Hardeep Singh was found dead under mysterious circumstances in the police station. Police claimed that Hardeep Singh was kept in the lock-up and on the pretext of attending to nature's call he went to the toilet and locked himself and committed suicide by hanging with his jeans from the iron grill of the ventilator. Refuting the police suicide theory, the residents and the deceased's relatives alleged torture, which resulted in the death.⁸²

On 16 November 2010 night, Kashanna Goud (52 years), a resident of Thadoor village under Nagarkurnool police station in Mahabubnagar district in Andhra Pradesh, died under mysterious circumstances in the custody of excise officials of Nagarkurnool division. The deceased was taken into custody by the excise officials following complaints of illegally transporting and selling toddy and kept in their custody for the night. On the morning of 17 November 2010, when the relatives of the deceased reached the excise office they were told the Kashanna Goud committed suicide. The residents and family members alleging torture staged a protest demanding action against the excise personnel.⁸³

On 26 November 2010, P Kishtaiah (45 years), a daily wager, was taken to Dharur police station in Ranga Reddy district of Andhra Pradesh for his alleged involvement in a murder case. According to the police, P Kishtaiah attempted suicide by hanging himself with a 'shoe lace' on the late night of 26 November 2010 and died on the morning of 27 November. However, the police failed to explain how the deceased can commit suicide with a shoe lace and from where he got access to the same. The local residents and relatives alleged that the deceased died due to torture during interrogation. Three policemen were suspended following the death.⁸⁴

On 29 November 2010, Gautam Pal (30 years) died due at Pradhannagar police station in Darjeeling district in West Bengal. The deceased, a resident of Prakashnagar, was arrested along with his friends in connection with a theft case on 26 November 2010. He was produced before court on 27 November and remanded to police custody. According to the police, Gautam Pal was found hanging in the lockup bathroom at about 4 am in the morning of 29 November. The police claimed that Gautam Pal committed suicide by using his trouser (jeans) from the ventilator of the lockup bathroom. However, Gautam Pal's brother refuting the police suicide theory alleged that his brother was tortured as he had seen several

82. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 12 November 2010

83. Toddy tapper's death in custody sparks protest, *The Hindu*, 18 November 2010

84. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 29 November 2010

85. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 30 November 2010

injury marks on the body. He further stated that the body was strung up after he died to conceal their crime.⁸⁵

On 24 December 2010, Vattikuti Lakshmana Rao, a construction labourer, was found dead under suspicious circumstances at Penugonda police station in West Godavari district, Andhra Pradesh. The victim was allegedly involved in theft of LPG cylinders and cycles and taken into custody by the Penugonda police on 23 December 2010 from Rajahmundry police in whose custody he was being kept since a few days earlier. Police claimed the deceased committed suicide with a curtain in the police station after having breakfast.⁸⁶

iii. Custodial death through torture: alleged medical complications

A large number of victims who are hale and healthy prior to their arrest suddenly develop medical complications once they are taken into custody and die in police custody. In reality, the victims are subjected to torture and murdered. With the acquiescence of the medical fraternity, the police are able to get away by describing the death as medical complications.

A number of cases of death in police custody as a result of alleged medical complications are highlighted below.

On 3 January 2010, Babu (58 years), a labourer, died due to alleged torture at Kattakada Police Station in Thiruvananthapuram in Kerala. Babu was taken into custody on a warrant in connection with a clash over a land dispute in 2002. Police claimed Mr. Babu collapsed at the police station and was rushed to hospital where he died. However, the deceased's family alleged that he was tortured resulting in the death.⁸⁷

On 29 January 2010, Aftab Alam (27 years) died due to alleged torture at Aati Police Station in Gaya district of Bihar. The deceased, a resident of Bhaon village in Gaya district, was working as a tailor in Mumbai, Maharashtra. Alam returned home to attend a religious ceremony at home. Police claimed Alam fell down and died while being taken to court. However, the deceased's family members alleged that he was picked up on the night of 28 January 2010 and was taken to Aati police station where he was subjected to torture which resulted in his death.⁸⁸

On 31 January 2010, Ramapati (55 years) died due to alleged torture at Maharajganj police station in Faizabad district of Uttar Pradesh. The deceased was taken into custody by a police team from his residence in connection with a land dispute

86. Labourer dies in custody of police, The Deccan Chronicle, 25 December 2010

87. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 14 January 2010

88. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 2 February 2010

89. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 2 February 2010

case. Police claimed Ramapati died due to illness. The deceased's relatives alleged that Ramapati died after being tortured by Sub-Inspector M.P. Singh along with constables - Anil Kumar, Awdhesh Kumar and Kamlesh Kumar.⁸⁹

On 19 March 2010, Hori Lal (50 years) died due to alleged torture at Surir Police Station in Mathura district of Uttar Pradesh. On 2 March 2010, Lal was arrested along with seven others in connection with a case pertaining to violence in the village. Police claimed Lal died due to injuries suffered during a clash on 2 March 2010. However, the deceased's family members alleged that Lal died due to head injuries sustained after being tortured in police custody.⁹⁰

On 5 April 2010, Soman (37 years), a resident of Chayikulam died due to alleged torture at Kattakada police station in Thiruvananthapuram in Kerala. Soman was arrested and taken to Kattakada police station following a complaint of domestic violence filed against him by his wife. Soman was released on bail on the same day. However, Soman was found lying unconscious on the road by the residents of Chayikulam village. The residents immediately rushed him to the Government Hospital at Nedumangad, where he died. Police claimed Soman was a drug addict and died after having consumed alcohol before his death. However, the residents alleged Soman died due to torture.⁹¹

On 5 April 2010, Senthilkumar (37 years) died due to alleged torture at Vadamadurai police station in Dindigul district of Tamil Nadu. On 4 April 2010, Senthilkumar was picked up for questioning by a police team led by Sub-Inspector, Thirumalai Muthusamy for creating nuisance during a temple festival. Later, he was produced before the Veda sandur Judicial Magistrate. Police claimed the deceased died on the way to prison. However, the deceased's relatives alleged that Senthilkumar died after being tortured by seven police personnel including the Sub-Inspector of the Vadamadurai police station.⁹²

On 15 April 2010, Brijesh Yadav (30 years), son of Munnar Yadav, died due to alleged torture at Rani ki Sarai police station in Azamgarh district of Uttar Pradesh. Yadav was taken into custody for interrogation in connection with a case. Police claimed the deceased was ill and as his condition deteriorated he was rushed to the hospital, where he died. However, the deceased's family alleged that he died due to custodial torture.⁹³

On 17 April 2010, Vijay Singh (50 years) died due to alleged torture at Aliganj

90. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 22 March 2010

91. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 8 April 2010

92. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 8 April 2010

93. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 17 May 2010

area of Etah district of Uttar Pradesh. The deceased was picked up from his house for questioning by a police team comprising of Inspector Ranvir Singh, Sub-Inspectors, Ranvir Malik, and Tejvir Singh along with four constables attached to Aliganj police station in connection with a case related to his son. Police claimed the deceased suffered a heart attack while being brought to the police station following which he was rushed to a hospital where he died. However, the deceased's family alleged that Singh sustained serious injuries in his head and body due to torture in custody during questioning which resulted in his death.⁹⁴

On 16 May 2010, Mukesh Beldar, son of Mrs Sakri Devi, died due to alleged torture by police at Dhaniabaghich village under Delha police station in Gaya district of Bihar. On 14 May 2010, the police had gone to the deceased's house looking for his brother Rakesh who was a suspect in a bank loot case. Police claimed that on seeing the police Mukesh Beldar jumped from the roof and injured himself which resulted in his death on 16 May 2010. However, the deceased's mother alleged that Mukesh Beldar died after he was tortured by the police.⁹⁵

On 24 May 2010, Hetal alias Bittu died in police custody at Naroda police station in Ahmedabad in Gujarat. Hetal, arrested on 21 May 2010 in connection with a firing case, was under police remand. Police claimed Hetal died while being taken to hospital after he apparently suffered heat stroke.⁹⁶

On 1 June 2010, Mool Chand, a truck driver, died due to alleged torture in the custody of Sales Tax officials in Rampura-Dabri area under Chomu police station in Jaipur district of Rajasthan. The deceased was taken into custody while he was carrying goods for a departmental store. The Sale Tax officials claimed that the deceased suddenly fell down and died on the spot during questioning. However, the residents of the area alleged that the deceased died due to torture during questioning.⁹⁷

On 2 June 2010, Mardi Kaiska, a tribal, (35 years) died due to alleged torture in the custody of Special Operation Group (SOG) at Kerangaguda village under Chandrapur police station in Rayagada district of Orissa. Police claimed the deceased suddenly fell unconscious on 2 June 2010 during interrogation and was admitted to hospital where he died. The deceased's uncle George Kaiska alleged that Mardi Kaiska died as a result of torture by the SOG personnel.⁹⁸

94. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 19 April 2010

95. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 20 May 2010

96. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 25 May 2010

97. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 5 July 2010

98. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 5 June 2010

On 20 June 2010, P. Lokesh (22 years) died due to alleged torture at Hennur Police Station in Bangalore, Karnataka. Mr Lokesh was arrested on 19 June 2010 in connection with a theft case. Police claimed that deceased died due to illness after being admitted to a hospital. However, the deceased's relatives alleged that he died due to torture.⁹⁹

On 10 August 2010, Rishi (19 years), son of Sher Singh, died due to alleged torture at a police station in Loni town in Ghaziabad district of Uttar Pradesh. On 9 August 2010, the deceased was playing cards with his friends near his home when he was picked up by the police in connection with a case. Police claimed the deceased complained of uneasiness during interrogation and he was taken to Guru Tegh Bahadur Hospital in Delhi, where the doctors declared him brought dead. However, the deceased's family alleged that Rishi was picked up without any reason and tortured to death.¹⁰⁰

On 14 August 2010, Jitendra Rajendra Vaidya (30 years) died due to alleged torture at the Gondia police station in Gondia district of Maharashtra. Mr Vaidya was arrested on 13 August 2010 on the alleged charge of financial misappropriation. He was produced before a court which remanded him to one-day in police custody. Police claimed the deceased complained of uneasiness after having dinner and taken to Government-run KTS Hospital in a sub-consciousness state where the doctors declared him brought dead. However, the deceased's relatives alleged that Mr Vaidya died due to torture in custody.¹⁰¹

On 26 August 2010, Ram Naresh Yadav (47 years) died due to alleged torture at Kotwali Police Station in Jalaun district of Uttar Pradesh. The deceased had gone to the Kotwali police station along with another person for recovery of his motorcycle which was seized by the police. Police claimed that deceased suffered a heart attack following an argument at the police station and died. However, the deceased's family alleged that the deceased died after being tortured at the police station.¹⁰²

On 16 September 2010, Baruvantavide Ismail (55 years) died due to alleged torture in police custody under Chokli police station limits in Kannur district of Kerala. Mr Ismail was picked up from his residence on the night of 15 September 2010 for questioning in connection with a complaint filed by one Nawaz. Police claimed the deceased developed signs of exhaustion when he was taken to his

99. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 21 June 2010

100. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 11 August 2010

101. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 17 August 2010

102. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 30 August 2010

103. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 23 November 2010

home after questioning. So he was being taken to hospital but died on the way to hospital. However, the locals and the family members alleged that the deceased died due to police torture.¹⁰³

On 24 September 2010, Ch. Shankar (40 years) died due to alleged torture during police remand at the Gandhari Mandal Headquarters (Police Station) in Nizamabad, Andhra Pradesh. Mr Shankar was remanded to police custody on 16 September 2010. Police claimed that the deceased died of heart attack, while deceased's relatives alleged that he was tortured to death during questioning.¹⁰⁴

On 11 October 2010, Md. Siddique Hussein died due to alleged torture at the Bagaribari police station in Dhubri district of Assam. Mr Hussein, a teacher, was arrested after his wife lodged a complaint of harassment against him on 7 October 2010. On 9 October 2010, the deceased was produced before the court which remanded him to judicial custody in Kokrajhar jail. On 11 October 2010, the deceased health deteriorated and was admitted to Rupnath Brahma Civil Hospital, Kokrajhar where he died. Police claimed that the deceased died of asthma attack while undergoing treatment at the hospital. However, the victim's family members stated that the deceased never had history of asthma and alleged that he was subjected to torture during police custody at Bagaribari police station. The jailor of the Kokrajhar Jail stated that when the deceased was brought to the jail the deceased was not in good health and there were injury marks on his body.¹⁰⁵

On 14 October 2010, Pratap Bhavarlal Prajapati (39 years) died due to alleged torture at the Paud Police Station in Pune, Maharashtra. The deceased was arrested on the charge of selling liquor on 2 October 2010. Police claimed the deceased fell unconscious after suffering convulsions in custody and taken to a hospital where he died during treatment.¹⁰⁶

On 17 November 2010, Dharendra Singh (30 years), son of Sundar Singh of Birni Nawadih in Bokaro district in Jharkhand, arrested on the suspicion of being a Maoist died in the police custody at Barwaddah police station in Dhanbad district. The police claimed Mr Singh complained of abdominal pain following which he was admitted to hospital. He was brought back to the police station after some time, but he complained of uneasiness again and was admitted to a Nursing Home. But, his condition deteriorated and he was shifted to Patliputra Medical College and Hospital where he was declared brought dead. Deceased's father alleged that the body of his son bore injury marks suggesting that he died due to torture.¹⁰⁷

104. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 29 September 2010

105. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 18 October 2010

106. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 18 October 2010

107. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 23 November 2010

On 29 November 2010, Anil Agarwal (58 years), resident of Tilok Road, died due to alleged torture at Patelnagar police station in Dehradun district of Uttarakhand. The deceased was picked up for questioning in connection with a property dispute. Police claimed the deceased fell unconscious during questioning and rushed to a nearby hospital where the doctors declared him brought dead. However, the deceased's relatives and local residents alleged that Anil Agarwal died due to torture.¹⁰⁸

On the night of 14 December 2010, Manoj Kumar (35 years), son of Joginder Pal of Ward Number 3, Reasi district in Jammu and Kashmir, was picked up from his residence and detained at the Reasi police station on charge of being a bootlegger. On the morning of the 15 December 2010, Manoj was hospitalized with injuries at the GMC hospital where he died on the evening of the same day. Police claimed that Manoj collapsed in the police station due to fit and suffered head injuries and shifted to the hospital. However, the deceased's family members alleged that Manoj was tortured to death in custody.¹⁰⁹

B. Torture not resulting in deaths

Torture remains endemic and majority of torture cases do not result in the death. Unlike custodial deaths, the police are not mandatorily required to report cases of torture which do not result in deaths to the NHRC.

Yet, the NHRC recorded a number of cases of police torture not resulting in deaths. In the last three years, 2,044 cases of police torture were registered to the NHRC. These included 574 cases in 2008-2009, 615 cases in 2009-2010 and 855 cases in 2010-2011.¹¹⁰ The statistics has gone up every year. However, these cases are only a fraction. Majority of the cases go unreported.

i. Torture to extract confessions

Torture of the victims during interrogation is common across India. There is no scientific method of investigation. Torture remained integral to investigation to obtain confessions from suspects. Terror suspects are at increased risks of torture given the immense pressure on the police to solve the crimes.

ACHR has documented a number of cases of torture to extract confessions during 2010.

On 3 June 2010, four youths identified as Johny, Deepak, Surinder and Dimple

108. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 30 November 2010

109. Reasi custodial death - Protests, DC orders enquiry, The Kashmir Times, 17 December 2010

110. Unstarred Question no. 1475, Answered by Minister of State in the Ministry of Home Affairs, Mr Jitendra Singh in the Lok Sabha on 9.08.2011, see Annexure to the reply at <http://164.100.47.132/Annexure/lsq15/8/au1475.htm>

were released by a warrant officer of the Punjab and Haryana High Court from the custody of Crime Investigation Agency-II in Karnal, Haryana following a habeas corpus petition filed by the brother of one of the victims. Police claimed that all four were involved in a case of motor cycle theft and detained for interrogation on 2 June 2010. However, lawyer of the detained youths alleged that they were subjected to torture to obtain confessions at Indri police station after they were picked up from their houses on 30 June 2010.¹¹¹

On 18 July 2010, Tanong Tamuk, Vice-President of Adi Students' Union (AdiSU), was subjected to torture by Sub-Inspector PK Chatterjee at Pasighat police station in East Siang district, Arunachal Pradesh. The victim was taken to the police station for questioning after he had an argument with a police official. Medical examination of the victim revealed that he suffered severe injury in the left ear drum.¹¹²

On 23 July 2010, Yashpal Sharma (a scholar of University of Jammu) was allegedly tortured at Nehru Police Post in Jammu region of Jammu and Kashmir. The victim alleged that he was taken to the Nehru Police Post where he was stripped, tortured and forced to confess to a crime he did not commit.¹¹³

On 25 July 2010, a labourer, Subhash (son of Bal Krishan) was allegedly tortured at the Purmandal Police Station in Samba district, Himachal Pradesh. The victim was picked up from his house on the basis of a complaint filed against him. The victim sustained injuries and had to be admitted to Government Medical College and Hospital in Jammu in a critical condition. The victim's father alleged that Subhash was tortured for five hours by police.¹¹⁴

On 28 July 2010, Kulwant Singh was allegedly tortured in the custody of the Special Operation Cell (SOC) of Intelligence Wing of Punjab Police in Amritsar. He was arrested on the same day along with four other persons on the suspicion of being members of Babbar Khalsa group. Kulwant Singh was allegedly tortured and subjected to electric shocks on the ears and private parts during interrogation in custody. He had to be admitted in serious condition at Guru Nanak Dev Hospital (GNDH), Amritsar. Dr. Saurabh Dhanda of GNDH, stated that "There were electric shock injuries on his (the victim's) ear and private parts. Kulwant's stomach also had injuries owing to severe beating with batons."¹¹⁵

111. ILLEGAL DETENTION CASE - Youths were booked for theft, claim cops, The Tribune, 4 June 2010

112. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 26 July 2010

113. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 13 September 2010

114. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 13 September 2010

115. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 6 August 2010

On 28 July 2010, Mohammed Javed Shaikh, an accused in the rape and murder of a minor in Kurla, Mumbai, Maharashtra alleged that the police at Nehru Nagar station tortured him in order to extract a confession. Shaikh alleged that police did not allow him to sleep and was flogged with a belt on his palms and soles during the first six days of detention since 1 July 2010. The police also allegedly tried to scare him by firing three bullets in the air when he refused to confess.¹¹⁶

On 28 July 2010, Prakyath (21 years), a resident of K.R. Puram and a student of BHS College, Jayanagar, was allegedly tortured in police custody at Mallandur police station in Chikmagalur district, Tamil Nadu. The victim was picked up by a police team headed by Sub-Inspector Shiv Kumar on the suspicion of sheltering one Basavaraju who was wanted in connection with a case. According to the victim, he was tortured from the moment he was picked up at 6.30 pm on 28 July 2010 till he was released at around 4.30 am on 29 July 2010. As a result, the victim reportedly sustained injuries including a broken left rib, concussion in the head, scarred ears and a badly bruised body.¹¹⁷

On 16 August 2010, one Shamim, who was arrested in a criminal case on 3 August 2010 by Delhi Police's special cell, filed a complaint before the Chief Metropolitan Magistrate (CMM) alleging torture by Inspector Lalit Mohan, Sub-Inspector Kailash Chander, Assistant Sub-Inspector Samer Pal and other police personnel in their custody. At the order of the CMM, medical examination was conducted and the medical report found that the victim was assaulted with "hard, blunt and cylindrical objects". The police inquiry however gave clean chit to the accused police officials. On 2 September 2010, the CMM referred the complaint to an Additional CMM for recording statement of witnesses against the accused police officials. The CMM relied on the medical report which noted injuries on the body of Shamim.¹¹⁸

On 2 September 2010, 19-year-old Mohammad Rafi (son of Nazir Ahmed Mochi) was allegedly tortured at Thathri police station in Doda district, Jammu and Kashmir. The deceased, a driver by profession, was taken into custody Rafi was being taken to Thathri police station in connection with a missing girl case for questioning. Unable to bear humiliation, the deceased committed suicide by jumping in Chenab River on the same day.¹¹⁹

On 4 September 2010, police allegedly tortured one Rahul Malakar of Bakalia

116. Kurla rape case: Accused Javed Shaikh alleges police torture, Dnaindia.com, 29 July 2010

117. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 4 August 2010

118. Cops in dock for thrashing an undertrial in custody, The Times of India, 8 September 2010

119. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 13 September 2010

town in Karbi Anglong district of Assam. The victim sustained severe injuries and had to be taken to Guwahati for specialized medical treatment. Police reportedly picked him up for questioning on the basis of a complaint lodged by the guardians of a girl with whom Rahul was in love.¹²⁰

In September 2010, three persons identified as Vishal Yadav, Deepak Ranjan and Watan Deep Gupta were picked up in an alleged case of theft and possessing illegal arm and illegally detained at the Ghazipur police station in Ghazipur district of Uttar Pradesh. When the police produced them in court, the victims stated that they were subjected to electric shocks and burnt with cigarette butts. The victims further stated that the police picked them up on 1 September 2010 but showed them arrested on 7 September 2010.¹²¹

On 28 October 2010, a video clip (MMS) showing a suspected thief (name unknown) being tortured by three police personnel, Assistant Sub-Inspector Avtar Singh, Head Constable Jagir Singh and Harjinder Singh, a Home Guard of the Bhogpur police station in Jalandhar, Punjab was published in media and shown on televisions. The video clip showed the victim being forced by three police personnel to stressed out down on the floor and one police personnel beating him with a leather belt on the buttock and back with full force. While another police personnel was sitting on the chest of the victim holding both of his arms.¹²²

On 9 November 2010, a Dalit identified as Bantu was arrested by the police of Sadar Police station, Tohana in Fatehabad district of Haryana. The victim was arrested on the alleged charge of stealing 10 kg of paddy and allegedly subjected to torture.¹²³

On 10 November 2010, Salim (18 years) arrested for alleged theft was allegedly tortured causing serious injuries at the Sunlight police station in South East district in Delhi. Three police officials namely Sub Inspector Rambir Singh Tomar, Head Constable Fateh Khan and constable Anil Pande were suspended.¹²⁴

ii. Torture resulting from a failure to pay bribes

Unable to pay bribes demanded by the police has also regularly resulted in torture by the police. During 2010, ACHR documented a number of such cases.

On 2 June 2010, a constable was arrested and three others, including Shailendra Singh, Station House Officer (SHO) of Puwayan police station in Shahjahanpur

120. AASU, NSU, Bangali Samaj rally against police atrocities, The Sentinel, 8 September 2010

121. Ghazipur police accused of torturing accused, The Times of India, 10 September 2010

122. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 29 October 2010

123. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 7 December 2010

124. Sunlight torture case: 3 cops suspended, The Tribune, 19 December 2010

district, Uttar Pradesh were suspended for illegally detaining Khatib Ahmed for three days and extorting money against his release. On 28 April 2010, a police team led by the SHO raided his house and picked him up. The SHO threatened the victim to implicate in a false case if he did not arrange Rs. 40,000 for his release.¹²⁵

On 13 July 2010, one Sneha Kumar Chakma, son of Direndra Chakma of Silkur village in Lunglei district was assaulted by a personnel of Mizoram Armed Police (MAP) at Demagiri market place in Lunglei district. The victim had come to sell “dry fish” in the market and was reportedly assaulted when the victim’s wife objected to the MAP personnel who forcibly tried to take away dry fish without paying its price.¹²⁶

In the first week of August 2010, one personnel of the Border Security Forces (BSF) beat up one Ajit Das (35 years-old) of Charbazar area of Karimganj town, Assam with a stick while the victim was returning back home from market allegedly for his refusal to give the assailant security personnel about 25 coconuts free of cost a couple of days earlier.¹²⁷

On 14 August 2010, Dalit Ram Pal (21 years), son of Ayodhya Prasad, was arrested by police on the charge of eloping with a girl and taken to Karore police chowki under Barkhera police station in Pilibhit district of Uttar Pradesh. Ram Pal was tortured by In-charge of Karore police chowki and other policemen. The police allegedly demanded money from the father of the victim. When Ram Pal’s condition worsened, he was taken to Sharda Hospital in Pilibhit and later shifted to Ram Murti Hospital, Bhojipura, Bareilly. Ram Pal was finally shifted to the District Hospital on 22 September 2010. He was in coma for 38 days and was declared dead on 23 September 2010.¹²⁸

On 27 October 2010, Sabir (38 years), a Saw Mill owner, died due to alleged torture by two police constables for refusing to pay bribe at Madhpur area in Balrampur district of Uttar Pradesh. The body of the deceased was found in the Madhpur area in Balrampur on 28 October 2010. Post-mortem examination of the deceased confirmed that the deceased died of physical torture.¹²⁹

iii.. Other cases of torture not resulting in death

Torture being a common practice is the primary reason why police stations and prison cells are feared. It would be hard to find any police station or jail where

125. Cop arrested, 3 others booked for illegal detention of youth, *The Indian Express*, 4 June 2010

126. Chakma villager assaulted by Mizoram cop, *The Sentinel*, Assam, 22 July 2010

127. Youth beaten by BSF jawan, hospitalized, *The Sentinel*, 9 August 2010

128. HC orders probe into custodial torture, *The Times of India*, 10 February 2011; Complaint of Asian Centre for Human Rights to National Human Rights Commission, 17 August 2010

129. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 1 November 2010

the inmates are not subjected to torture and other cruel, inhuman or degrading treatment or punishment.

On 4 September 2010, an army personnel was beaten up by the traffic police personnel near Ward's Lake in Shillong, Meghalaya. The victim and his pregnant wife were returning from a hospital riding a two-wheeler when the victim was intercepted for violating traffic rules. Following an argument, the victim was beaten up by traffic police personnel and later taken to Sadar police station leaving his pregnant wife crying on the road.¹³⁰

On 10 July 2010, Mukesh Mittal, a scrap dealer, was subjected to torture at Vasundhara police post for hours in Ghaziabad, Uttar Pradesh. The victim alleged that he was taken to the police post and tortured after he hit his car into a Special Operation Group personnel's vehicle. The victim was released only after his family paid money to the police personnel for the repair of the vehicle. The medical examination revealed that his ear drum was torn due to torture.¹³¹

On 12 July 2010, police beat up Rajkumar, a Member of Legislative Assembly of the ruling Bharatiya Janata Party in Dehradun, Uttarakhand. Following an argument the policemen allegedly dragged Rajkumar out of his vehicle and assaulted him. They later took him to Premnagar police station.¹³² Eight policemen, including a sub-inspector were suspended and booked on charges of rioting, voluntarily causing hurt, intentional insult with intent to provoke breach of peace, criminal intimidation and attempt to murder under the Indian Penal Code.¹³³

In October 2010, V. A. Johnson (30 years), resident of Ezhupunna South, was allegedly tortured at Panangad police station in Thrissur district, Kerala. The victim alleged that Siby Thomas (Sub-Inspector) and two constables stopped his motorcycle and beat him up on the alleged charge that he did not stop when signaled. Thereafter, he was taken to the police station and again beaten up.¹³⁴

On 19 November 2010, during their appearance before the court of Metropolitan Magistrate, Andheri, Mumbai, Maharashtra four detainees namely Rajkumar Tiwari, Kamlesh Mishra, Sanjay Shrivastava and Gaurav Chaurasia alleged that the duty officer at DN Nagar police station assaulted them. Gaurav Chaurasia, who showed his back, bore the mark of injuries caused by whipping. The four were accused of obstructing a government officer's work as they protested against

130. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 6 September 2010

131. Scrap dealer: Police beat me up after accident, *The Indian Express*, 10 July 2010

132. Eight police personnel suspended for beating up BJP MLA, *The Times of India*, 13 July 2010

133. *Ibid*

134. Police torture alleged, *The Hindu*, 20 October 2010

135. Accused drag cops to court over torture in custody, *The Times of India*, 25 October 2010

demolition at Andheri. The court sent the detainees for medical examination and directed that all of them be shifted to judicial custody instead of police custody.¹³⁵

II. Custodial torture of women

Torture of women in custody including rape is reported regularly in India. Custodial rape remains one of the worst forms of torture perpetrated on women by law enforcement personnel.

A. Torture including custodial deaths

Women are particularly vulnerable in the custody of the security forces due to their gender. The gender based violence include torture resulting in the death of the victims in custody.

On 17 February 2010, a Dalit woman Mrs Sangeeta Kumar, accused in a murder case, was tortured during interrogation by Kailash Nath Dwivedi, Station-in-Charge at the Musafirkhana police station in Sultanpur district, Uttar Pradesh. Police initially claimed the woman had confessed to the crime, but, she later backtracked. This infuriated the Station House Officer (SHO), Mr Kailash Dwivedi and he slapped, abused, pushed and beaten the woman repeatedly to extract a confession in full public view.¹³⁶ Following public outcry, the state government terminated the service of the police officer.¹³⁷

On 2 April 2010, Ms. Swapna Salvi (25 years) died due to alleged torture during police remand at Goregaon East Police Station in Mumbai, Maharashtra. Ms. Salvi, a resident of Gujarat, was arrested by Gujarat Police in connection with a cheating case on 30 March 2010. She was handed over to Mumbai Police on the next day and produced before the court which remanded her to police custody till 5 April 2010. Police claimed Ms Salvi committed suicide by hanging herself by using her *dupatta* (scarf) in the ceiling fan in the ladies room of the police station.¹³⁸

On 18 June 2010, 18-year-old girl Ms Sarabjit Kaur alias Shabbo died due to alleged torture at Gate Hakiman police station in Amritsar in Punjab. Ms Kaur was arrested along with her mother Joginder Kaur on 17 June 2010 in connection with a theft case. Police produced them in court on 18 June 2010 which sent them

136. Complaint of Asian Centre for Human Rights to National Commission for Scheduled Caste, 18 February 2010

137. Inspector sacked for beating up Dalit woman in custody, *The Hindu*, 19 February 2010

138. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 5 April 2010

139. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 21 June 2010

to one-day police remand. Police claimed Ms Kaur committed suicide by hanging herself with her 'dupatta' from the roof of the police station when her mother was away with a police party to a village in Tarn Tarn district for recovery of a stolen item. However, the deceased's relatives alleged that Ms Sarabjit Kaur died due to torture.¹³⁹

On the night of 28 July 2010, a 25-year-old woman was allegedly beaten, molested and her clothes torn off while her mother was kicked in the stomach by drunken traffic cops and police constables attached to the Bhalswa Dairy police station in Delhi. The woman along with her parents had gone to inquire about her elder brother who was earlier in the day detained by the police for alleged violation of traffic rule. The woman's brother was detained by traffic policemen near his house in the Bhalswa Dairy area. The traffic policemen were allegedly drunk and they thrashed him badly after a minor argument and handed him over to the Bhalswa Dairy police station. The victims also alleged that the police threatened to frame them in false cases unless they kept quiet.¹⁴⁰

On 9 July 2010, a Dalit girl identified as Monika (18 years) and her two minor brothers (names withheld) were allegedly tortured at Chandimandir police station in Panchkula, Haryana. The victims were summoned at the police station after a complaint was lodged against the victims' father Puran Chand for failing to repay a loan amount to the complainant. The victims suffered injuries in their bodies due to the torture. Monika suffered injuries in one of her ears.¹⁴¹

In another incident in July 2010, a woman Chandrawati (name changed) was subjected to torture at a Mahila Thana (Women Police Station) in Moradabad district, Uttar Pradesh. In her complaint to the police, the victim stated that she was taken to the police station for questioning, illegally detained for seven days and tortured. The victim was hanged upside down from the ceiling and beaten with a cane. The police also poured petrol and chilly powder in her private parts. She was released with threats. Signs of torture were found during medical check-up. The Deputy Inspector of Police ordered an enquiry.¹⁴²

On 11 August 2010, Miss Maman Das (19 years), a Class XII student, committed suicide after being allegedly forced by police to file an attempt to rape case in Burdwan, West Bengal. The girl went to the Burdwan Town police station to file a case after she was molested by a person on 10 August 2010. However, the police allegedly forced her to file a rape case and sent for a medical test against her wish. The girl's relatives alleged that unable to bear the humiliation by the police, she took the extreme step.¹⁴³

140. Cops tore my clothes, alleges 25-yr-old in Delhi, NDTV, 30 July 2010

141. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 13 July 2010

142. Cops detain, brutally torture innocent woman, The Times of India, 31 July 2010

143. Suicide after cop 'harassment', The Telegraph, 12 August 2010

On 27 October 2010, Ms Parveen Akhtar Sheikh (23 years) died due to alleged torture at Daigarh police station in Thane district of Maharashtra. Ms Sheikh was picked up along with her brother Mahammad Azhar from their residence on 22 October 2010 in connection with a theft case. The deceased and her brother were released only when the complainant retracted from his statement and stated that the two were not involved in the theft. Both the deceased and her brother sustained injuries due to the torture. However, the condition of the deceased deteriorated and she died at the hospital.¹⁴⁴

On 3 November 2010 night, a woman (name not known), a resident of Senchum village, was tortured by a woman police officer at the Dimapur West Police Station, Nagaland. The victim was taken to the police station after a FIR was lodged against her for kidnapping a girl.¹⁴⁵

B. Sexual assaults including custodial rapes

On 9 March 2010, Mr Ajay Maken, then Minister of State in the Ministry of Home Affairs, Government of India stated in the Lok Sabha that the National Human Rights Commission registered 39 cases of rape from judicial and police custody from 2006 to 2010 up to 28 February 2010. These included 9 cases, including 2 in judicial custody and 7 in police custody, in 2006-2007; 17 cases, including 2 in judicial custody and 15 in police custody, in 2007-2008; 7 cases, including 2 in judicial custody and 5 in police custody, in 2008-2009; and 6 cases, including 1 in judicial custody and 5 in police custody in 2009-2010 up to 28 February 2010.¹⁴⁶

ACHR documented the following cases of rape including custodial rape in 2010.

On 3 May 2010, a woman was allegedly raped by Narayan Nayak, Inspector in-Charge of Dhusuri police station in Bhadrak district of Orissa. The victim had gone to the police station in connection with a divorce case. The police officer, who was not at the police station, asked the victim to reach his official residence adjacent to the police station. However, the moment the victim entered, the accused reportedly increased the volume of the TV and allegedly raped her. The accused was arrested and sent to judicial custody.¹⁴⁷

On 10 June 2010, a woman (name not known) alleged that she was raped by four police personnel after her arrest in a case of theft in Ernakulam, Kerala. In November 2010, the Kerala State Human Rights Commission directed the Home

144. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 16 November 2010

145. Disciplinary action on woman police officer demanded, Eastern Mirror, 12 November 2010

146. Starred Question no.175, Answered by Minister of State in the Ministry of Home Affairs, Mr Ajay Maken in the Lok Sabha on 09.03.2010, see Annexure B to the reply at <http://164.100.47.132/Annexure/lsq15/4/as175.htm>

147. Probe begins into rape by cop, The Telegraph, 5 May 2010

Secretary to order a high-level inquiry into the allegation after the woman, who was lodged in the Viyyur Central Jail, made the disclosure to Kerala State Human Rights Commission (SHRC) during a surprise visit to the prison. The woman became pregnant following the alleged rape.¹⁴⁸

On 18 July 2010, Maloti Kalandi (33 years), wife of Badal Kalandi, was allegedly raped by Sub-Inspector Sahidul Rahman of Tamulpur police station at his official quarter at the Tamalpur police station premises in Baksha district of Assam. The victim along with children who were rescued from being trafficked, were handed over to the Tamulpur police station for safe custody. At about 11 pm, Sub-Inspector Sahidur Rahman summoned the victim to his official quarter and raped her.¹⁴⁹

In early October 2010, two constables – Tulsiram Rathore, a cook and Deshraj, a driver – accused in the sensational case of rape and murder of 22-year-old woman constable Maya Yadav were arrested following protest.¹⁵⁰ The victim was found murdered at the guesthouse of Chechat Police Station in Kota, Rajasthan where she was posted on 30 September 2010. She was first raped and bludgeoned to death. There were reportedly five major stabs with a crooked knife, three on the neck and one on each breast while her fingers from both her hands were chopped off and a bunch of hair yanked out.¹⁵¹ The police made all attempts to hush up the case. The police even failed to inform the family of the victim about her fate.¹⁵²

On 19 and 20 October 2010, a woman was allegedly raped in police custody at the Bhikhiwind police station in Tarn Taran district, Punjab. The victim allegedly eloped with her paramour on 18 October 2010. The police picked up the duo and the victim was kept under illegal detention at the police station on 19 and 20 October where she was allegedly raped by a police personnel who was working as a reader at the police station.¹⁵³

On 9 November 2010, two girls (names withheld) including a minor were allegedly raped by four police personnel inside the Dharmjaigarh police station premises in Raigarh district of Chhattisgarh. The victims had gone to the Dharmjaigarh police station to see their relatives who were picked up by the police on the night of 9 November 2010. However, the accused police personnel forcibly took the victims to a house in the police station premises and gang raped them one by one.

148. SHRC orders probe into rape charge, *The Hindu*, 3 November 2010

149. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 21 July 2010

150. Constable raped on police station premises, cops held, *The Indian Express*, 3 October 2010

151. Raped Mutilated Murdered, *The Pioneer*, 10 October 2010

152. Raped Mutilated Murdered, *The Pioneer*, 10 October 2010

153. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 3 November 2010

154. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 16 November 2010

Later, the accused allegedly threatened the victims with dire consequences if they complaint to anybody.¹⁵⁴

Women have become victims of the lust of security forces engaged in anti-Naxal operations.

In the early hours of 22 January 2010, four tribal women belonging to Khond tribe were allegedly raped by the personnel of Greyhounds Special Police at Baaluguda village under Munchingput Police Station in Visakhapatnam district of Andhra Pradesh during an anti-Naxal operation.¹⁵⁵ Following pressure, a criminal case was registered against the special police team on 26 January 2010.¹⁵⁶

On 8 July 2010, a medical examination was conducted on six women from Jungalmahal area who were allegedly raped by security forces on 30 June 2010. The six victims, aged between 25 to 50 years, alleged that the security forces raped them during a raid at their houses at Jungalmahal area under Jhargram Sub-division in West Midnapore district of West Bengal following an encounter with Maoists.¹⁵⁷

On the night of 12 October 2010, a tribal woman named Kunjami Mangli (name changed) was allegedly raped by Koya commandos of Chhattisgarh Police during a raid in Bade Bidme panchayat in Dantewada district. The victim stated that she was sleeping when four uniformed policemen forced into the house at 2 a.m. and raped her. According to the villagers the raid was conducted after cutting off power supply in two Panchayats namely Bade Bidme and Phulpar panchayat in Dantewada district.¹⁵⁸

III. Custodial torture of children

Across India, the Juvenile Justice (Care and Protection of Children) Act, 2000 amended in 2006 remains poorly implemented. The Act protects the rights of the “juveniles in conflict with law” and the “child in need of care and protection”. But the lack of implementation of the Juvenile Justice Act means that children are often illegally detained at police stations and prisons, and subjected to torture.

A. Custodial torture of juvenile in conflict with law

Illegal detention and torture of juveniles in conflict with law were common place. Torture was so cruel that it resulted in the deaths of a number of children in

155. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 29 January 2010

156. Cops booked for ‘rape’, The Times of India, 27 January 2010

157. Medical exam conducted on 6 women ‘raped’ by forces, The Indian Express, 9 July 2010

158. Fresh allegations of sexual assault by security forces surface in Chhattisgarh’s Dantewada district, The Hindu, 26 October 2010

custody.

ACHR documented a number of cases of custodial torture of juveniles.

On 25 August 2010, Omar Qayoum Bhat (17 years), son of Abdul Qayoum Bhat, died due to alleged torture at the Soura Police Station in Srinagar, Jammu and Kashmir. The deceased was picked up by police during a protest on 20 August 2010. The deceased's family members alleged that Omar Qayoum Bhat was detained for a night at the police station and subjected to torture, including electric shocks. According to the doctors of S K Institute of Medical Science, the deceased had suffered severe internal injuries including liver, lungs and intestinal injuries.¹⁵⁹

On 4 September 2010, Subrata Sardar (16 years), a Class XI student of Buniadpur High School, was picked up by police and taken to Bansihari police station in South Dinajpur district of West Bengal. On 6 September 2010, the minor died at a hospital. Family members alleged that the minor was tortured in custody, following which he had to be admitted at the hospital under unconscious condition and died. But, the police claimed that the deceased sustained injuries in an accident and denied that the deceased died due to torture in their custody.¹⁶⁰

Some other cases of torture on juveniles in conflict with law documented by ACHR during 2010 are given below:

On 5 June 2010, three minor children (name withheld), aged between 13-14 years were allegedly tortured at the Sivakasi East Police Station in Virudhunagar district of Tamil Nadu. The minors were picked up by a police team from their houses in connection with a theft case. The police told the family members of the victims that the children were being taken to the police station to identify some suspects. However, the police subjected the minors to torture during questioning in custody. The police pierced needles through T. Kalirajan's nails. All the three victims suffered deep bruises on their bodies.¹⁶¹

On 1 September 2010, an 11-year-old boy (name withheld), son of Gopal Nayak, was allegedly tortured at Vittal police station in Dakshina Kannada district of Karnataka. The victim was picked up along with his three brothers (names withheld) who were also minors, on the suspicion of stealing a mobile phone. The victim was kept in a separate lock-up where he was beaten and stripped and forced

159. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 27 August 2010

160. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 7 September 2010

161. Complaint of Asian Centre for Human Rights to National Commission for Protection of Child Rights, 12 June 2010

162. Complaint of Asian Centre for Human Rights to National Commission for Protection of Child Rights, 6 September 2010

to kneel down for hours besides subjecting him to severe interrogation at a regular interval to obtain a confession during the detention. Due to torture the victim was unable to stand straight and walk properly.¹⁶²

On 22-24 October 2010, three minor boys, aged 11, 12 and 13, were illegally detained and tortured by the police and owner of a restaurant at the Circular Road in Dimapur, Nagaland. The three minors, rag-pickers and students of National Child Labour Project, a school supported by Government of India, were accused of stealing a dog of the restaurant owner on 22 October. The restaurant owner called the police who tortured the minors during questioning to obtain a confession. The torture allegedly included stabbing with ball pen, burning with cigarettes¹⁶³ and one of them was trampled on the toe with boots. Not satisfied, the owner later handed the minors to East Police station where they were again beaten up before being transferred to Women Cell on the same night where they were further tortured and kept without providing food the entire night. On 23 October 2010 evening, the Women Cell handed over the minors to the owner of the restaurant where they were again tortured. A dog was also allegedly let loose on a minor and was bitten.¹⁶⁴

On the night of 23 October 2010, 13-year-old Alok (name changed), son of Shraavan Kumar, was illegally detained at the Sector 20 Police Station in Noida, Uttar Pradesh. The minor was picked up along with an adult on the charge of possessing ganja (cannabis) and detained over night. The police claimed that the minor had himself asked the police to detain him at the police station.¹⁶⁵

On 28 October 2010, 15-years-old Pintu (name changed) was allegedly tortured in the custody of William Nagar police station in the East Garo Hills district, Meghalaya. The victim was picked up from Medical Colony for reportedly trying to create trouble. The victim was slapped, punched and kicked in custody, resulting in multiple bruises and swelling all over the body. The victim also sustained internal injuries.¹⁶⁶

From 29 October to 4 November 2010, a 10-year-old boy was illegally detained at the Chowk Kotwali (Police Station) lock-up in Lucknow district, Uttar Pradesh. The victim, who can hardly speak, was detained on the charges of duping people.¹⁶⁷

163. Police probe in minors' torture completed, Eastern Mirror, 28 October 2010

164. Breach of Juvenile law; 3 minors assaulted, Nagaland Post, 24 October 2010

165. Complaint of Asian Centre for Human Rights to National Commission for Protection of Child Rights, 25 October 2010

166. Complaint of Asian Centre for Human Rights to National Commission for Protection of Child Rights, 10 November 2010

167. Complaint of Asian Centre for Human Rights to National Commission for Protection of Child Rights, 8 November 2010

On 17 November 2010, 17-year-old Sonu Mohanty (name changed), son of S.C. Mohanty of Netaji Nagar was allegedly tortured by Satyanarayan Senapati, Assistant Sub-Inspector at Madhupatna police station in Cuttack district of Orissa. The minor was taken to the police station in connection with a case where he was illegally detained for more than 48 hours. The victim was forced to confess the offence. Though the victim was detained on 17 November 2010, the police records show that he was arrested on 18 November 2010.¹⁶⁸

The rights of the children were seriously violated during the uprising in Jammu and Kashmir. Hundreds of minors who were part of the stone-throwing protestors were arbitrarily arrested and detained in jail where they were forced to share space with hardened criminals, exposing them to grave risks. Many were detained under the draconian Public Safety Act (PSA), 1978, which provides for up to two years of preventive detention.¹⁶⁹

In June 2010, the High Court of Jammu and Kashmir directed the state government to set up juvenile courts and observation homes after hearing PILs that the authorities had illegally detained minors.¹⁷⁰

In June 2010, Mushtaq Ahmad (14 years), a class VI dropout, was picked up during a stone-pelting protest against an alleged fake encounter killing of a teenager. Mushtaq Ahmed was kept at a police station along with hundred others juveniles. The police charged him under the Public Safety Act. Later, Mushtaq Ahmed was shifted to a jail in Jammu as his family could not manage money for bail.¹⁷¹

On 28 June 2010, 15-year-old Sheikh Ikram (son of Zulfikar Ahmad Sheikh), a class 9 student from Bagh Jogi Lankar Rainawari, was detained under PSA vide order no DMS/PSA/26/2010. Despite being a minor, he was lodged at Kotbalwal Jail in Jammu and had to share space with hardened criminals. Sheikh Ikram was accused of leading a mob in the area and pelting stones.¹⁷²

B. Custodial rape of minors

Minors, in particular the girls, are particularly vulnerable to torture and sexual violence in custody. ACHR documented a number of cases of custodial rapes of minors during 2010.

In July 2010, the Allahabad High Court directed the Central Bureau of Investigation to inquire into the alleged gang rape of two minor girls inside the Kubersthan

168. Complaint of Asian Centre for Human Rights to National Commission for Protection of Child Rights, 23 November 2010

169. J&K teens thrown into jails full of criminals, The Times of India, 18 September 2010

170. Ibid

171. Ibid

172. Hundreds of students in Police custody, The Rising Kashmir, 28 September 2010

173. Gang rape inside police station: HC orders CBI inquiry, The Hindustan Times, 10 July 2010

police station in Kushinagar district of Uttar Pradesh on 19 April 2010. In her petition to the High Court, the victims' mother alleged that her daughters were raped by five persons including four police personnel and a gram pradhan (village head).¹⁷³

On 9 September 2010, a police team from Ahiyapur police station in Muzaffarpur, Bihar while patrolling the streets at night caught a 14-year-old girl wandering on the streets. They brought her to Ahiyapur police station and detained her for two days. The minor victim who hailed from Adigopalpur village under Ahiyapur police station alleged that two policemen raped her twice during her detention and thereafter asked her to leave the police station.¹⁷⁴

On the night of 27 October 2010, a 14 year-old girl was raped by Officer-in-Charge of Kamalpur police station Dilip Guha at his official residence at Kamalpur in Dhalai district, Tripura. The victim was taken to the official residence of the accused by a woman identified as Minati Das on the pretext of visiting Kamalpur. The victim was forced to drink liquor and raped repeatedly by the accused police officer. The victim escaped from the house on the next morning.¹⁷⁵

On 5 May 2010, a minor girl was allegedly raped by constable Brijesh Kumar at the premises of Kunjer police outpost under Ataru police station in Baran district of Rajasthan. The accused was arrested and suspended.¹⁷⁶

Children were also subjected to sodomy. In September 2010, a constable identified as Indrajeet Singh was sent on punishment transfer on charges of sodomizing at least a dozen schoolchildren at a police outpost in Kishangarh town in Ajmer district in Rajasthan. The matter came to light when an NGO approached the police and media along with children, including some victims. The victimized children study at a government school situated near the police outpost where the accused constable was deputed.¹⁷⁷

C. Violations of child rights in juvenile/children homes

On 9 March 2010, Mr Ajay Maken, then Minister of State in the Ministry of Home Affairs, Government of India stated in the Lok Sabha that 592 children died in Juvenile Home and Children Home from 2006 to 2010 up to 28 February 2010.

174. Complaint of Asian Centre for Human Rights to National Commission for Protection of Child Rights, 13 September 2010

175. Complaint of Asian Centre for Human Rights to National Commission for Protection of Child Rights, 29 October 2010

176. Cop rapes minor at outpost, held, The Times of India, 7 May 2010

177. Policeman sodomizes a dozen schoolchildren in Rajasthan, The Times of India, 4 October 2010

178. Starred Question no.175, Answered by Minister of State in the Ministry of Home Affairs, Mr Ajay Maken in the Lok Sabha on 09.03.2010, see Annexure B to the reply at <http://164.100.47.132/Annexure/lq15/4/as175.htm>

These included 4 deaths in Juvenile Home and 179 in Children Home during 2006-2007; 1 death in Juvenile Home and 204 in Children Home during 2007-2008; 1 death in Juvenile Home and 112 in Children Home during 2008-2009; and 1 death in Juvenile Home and 90 in Children Home during 2009-2010 upto 28 February 2010.¹⁷⁸

In a shocking incident, one member of the Karnataka State Commission for Protection of Child Rights (KSCPCR) was found guilty of molesting children. On 8 September 2010, the state government issued an order restraining Balakrishna Masali, a member of the Child Welfare Committee II of the Bangalore Urban district, from holding sittings of the Child Welfare Committee, after he was found guilty of molesting girls by the KSCPCR. In its report the KSCPCR stated that the accused took the advantage of his position and used the opportunity to sexually molest the minor girls in the privacy of the cubicle and recommended his suspension and inquiry under the Juvenile Justice Act, 2000 and relevant sections of Indian Penal Code. The KSCPCR held an inquiry following a complaint by the Association for Promotion of Social Action (APSA), an NGO, alleging that the accused molested a 14 year-old girl during a 30-minute counseling session. The KSCPCR recorded the statements of four girls including the complainant lodged in the government-run girl's home and the statement of the care-takers of the home. All the four girls alleged sexual harassment at the hand of the accused.¹⁷⁹

On 23 August 2010, a juvenile complained to the Juvenile Justice Board about the torture meted out by older children at the Juvenile Home run by an NGO Prayas at Delhi Gate. The JJ Board asked the Superintendent of the Juvenile Home, Bupinder Kumar to inquire and submit a report but the complaint became a reason for further torture for the victim. In his report submitted on 25 August 2010 Bupinder Kumar denied the boy's charge. Instead, he pointed out that the boy's weight had increased from 30 kg to 40 kg as he was fed well. The boy alleged that after reaching the Home, the authorities handed over the JJ Board's order to a senior boy identified as Bhaiya who then started beating him. After Bhaiya left, others in the room kept beating him till he agreed to retract his complaint before the JJ Board. The victim was injured in his hand and head due to beating and beating marks were seen on his back. The JJ Board directed the police to register a case of torture against Bupinder Kumar and asked a Delhi High Court committee to look into the functioning of the Home.¹⁸⁰

On 28 August 2010, the Delhi government suspended a caretaker identified as Sushil Kumar at Asha Kiran, a government home for the mentally challenged, for beating five inmates with a wooden stick. They had to be admitted at Asha Kiran's own hospital in Rohini. On the night of 26 August 2010, caretaker Sushil Kumar

179. Person in charge of child protection turns violator, *The Hindu*, 9 September 2010

180. Juvenile home in dock after inmate complains of thrashing by seniors, *The Hindustan Times*, 1 September 2010

181. Mentally challenged kids brutally beaten, *The Hindustan Times*, 29 August 2010

started beating the children after spotting them in the adult's room. While two kids escaped with minor injuries, the five sustained serious injuries on their back, legs and even face.¹⁸¹

On the intervening night of 21-22 September 2010, 10 juveniles escaped from the government-run Berhampur juvenile home in Orissa after hitting the warden, Mr Bijoy Sahu due to alleged torture. The next morning the police caught seven of the boys while they were boarding the bus for home but three others managed to escape. One more was caught later. They were taken to Baidyanathpur police station and beaten up. A case was registered against them at the police station (case number 155, dated 22/09/2010) following a complaint lodged by juvenile justice home Superintendent Mr. Hemant Kumar Kar. Due to the beating of the police, a juvenile had to be hospitalized with serious injury.¹⁸²

On 29 September 2010, 14-year-old tribal boy Rajen Murmu, son of Late Paher Murmu, died due to alleged torture by the officials including Superintendent Mr. Subham Das of the "Anandashram Home for Juvenile and Child in need of Protection and Shelter" at Berhampore in Murshidabad district, West Bengal. Rajen Murmu was subjected to torture after he along with other co-inmates protested the torture and other maltreatment by the officials. To protect the accused officials, the authorities of the Home falsely implicated three inmates identified as Raj Murmu, Mangal Mardi and Bhanjan Marjit in the death of Rajen Murmu, who were friends of the deceased.¹⁸³

On 25 October 2010, three orphan children including a girl of Children Home Society in Jaipur, Rajasthan were allegedly tortured by the Warden identified as Ram Babu Sharma. The Warden accused the three children of stealing Rs 50 from him. The Warden locked one of the children in one room and subjected the two others to torture. While two others, who were reported to be brother and sister, were beaten up, burnt with cigarette butts and hung upside down. The bodies of both victims bore severe injury marks including burn marks.¹⁸⁴

IV. Impunity

The law enforcement personnel continue to enjoy virtual impunity from prosecution for human rights violations including custodial torture. Prosecution requires prior permission from the government under section 197 of the Criminal

182. Complaint of Asian Centre for Human Rights to National Commission for Protection of Child Rights, 1 October 2010

183. Joint complaint of Asian Centre for Human Rights and Banglar Manabadhikar Suraksha Mancha (MASUM) to National Commission for Protection of Child Rights, 29 October 2010

184. Complaint of Asian Centre for Human Rights to National Commission for Protection of Child Rights, 29 October 2010

Procedure Code, 1973 and various special laws including the Armed Forces Special Powers Act, 1958. Under Section 19 of the Protection of Human Rights Act, the NHRC is barred from investigation into torture and other human rights violations committed by the armed forces. While most of the state Governments does not order mandatory judicial inquiries in case of death, rape and disappearances in police custody as required under Section 176 of the Criminal Procedure Code.

In a landmark judgment, the Gauhati High Court on 31 August 2010 dismissed two writ appeals of the Assam Rifles¹⁸⁵ and directed the state government of Manipur to act on the report of the C. Upendra Commission in the alleged rape and extrajudicial killing of Ms Thangjam Manorama in July 2004. The Assam Rifles had challenged the validity of the Commission arguing that they are governed under the Armed Forces Special Powers Act and only the Centre can set up a commission of inquiry, not the state government.¹⁸⁶

In a rare case, on 16 October 2010, the Madhya Pradesh State Human Rights Commission recommended criminal proceedings against Head Constable Rakesh Tiwari and Constable Jitendra Singh and departmental enquiries against then Chhatarpur CSP Pramod Sinha, the then Town Inspector of Naogaon AR Bhawe, the then Town Inspector of Chhatarpur Kotwali RS Rawat and the Government doctor, Dr Mahendra Kumar Gupta, who was posted at the jail, in connection with the custodial death of Umesh Kumar Sahu due to torture. The Commission further recommended the State Government to provide interim relief of Rs 3 lakh to the next of kin of the deceased and asked the State Government to forward an action taken report within a month.¹⁸⁷

185. HC nod for probe panel, The Telegraph, 6 September 2010

186. Manorama Devi rape and murder: Assam Rifles indicted, NDTV, 11 September 2010

187. Custody death: Action ordered against erring cops, The Pioneer, 16 October 2010

3. Torture in the custody of the Armed Forces

The members of the military and para-military forces deployed in insurgency situations continue to be responsible for torture. It is extremely difficult to prosecute members of the armed forces accused of human rights violations as they enjoy impunity including under Section 6 of the Armed Forces special Powers Act of 1958 applicable in armed conflict situations in North East and Jammu and Kashmir.

The NHRC registered only a total of the 25 cases of death in the custody of the military/para-military forces from 2001-2002 to 2009-2010 up to 28 February 2010. These included 2 cases in 2001-02;¹⁸⁸ nil cases in 2002-2003;¹⁸⁹ 1 case in 2003-2004;¹⁹⁰ 7 in 2004-2005;¹⁹¹ 4 in 2005-2006;¹⁹² 1 case in 2006-2007;¹⁹³ 4 cases in 2007-2008;¹⁹⁴ 4 cases in 2008-2009; and 2 cases in 2009-2010 upto 28 February 2010.¹⁹⁵

On 12 July 2010, Mr. Kauch Sheikh (36 years), son of Mr. Muntaj Sheikh, was allegedly tortured and killed in the custody of Battalion No.52 of the Border Security Force (BSF) near Outpost No. 4 at Singpara in Murshidabad district, West Bengal. The deceased, a cattle smuggler, was allegedly subjected to torture for failing to pay adequate bribes and later shot at on his right chest from a short distance and left to die. The deceased's wife Mrs. Golejan Bibi alleged that her husband was subjected to torture and later killed in the BSF custody.¹⁹⁶

On 6 August 2010, Mr Govinda Mondal (35 years), a scheduled caste, was allegedly tortured by three BSF personnel attached to Char Mourashi Border Outpost at Bathanbari under Raninagar police station in Murshidabad district, West Bengal. The victim was accused of smuggling medicine (Phensidyl). The BSF personnel allegedly took off the cloth he was wearing and forcibly put it into his mouth and started beating him on his feet with the wooden handle of a spade and kicked all over his body. The torture lasted for 30 minutes till he lost his consciousness. Later, the BSF personnel left the place leaving him unconscious. The victim was admitted to the hospital on the same day and was under treatment at the hospital until 10 August 2010.¹⁹⁷

188. 2001-2002 Annual Report of the National Human Rights Commission

189. 2002-2003 Annual Report of the National Human Rights Commission

190. 2003-2004 Annual Report of the National Human Rights Commission

191. 2004-2005 Annual Report of the National Human Rights Commission

192. 2005-2006 Annual Report of the National Human Rights Commission

193. 2006-2007 Annual Report of the National Human Rights Commission

194. 2007-2008 Annual Report of the National Human Rights Commission

195. Unstarred Question no. 2683, Answered by Minister of State in the Ministry of Home Affairs, Mr Ajay Maken in the Lok Sabha on 10.08.2010, see Annexure to the reply at <http://164.100.47.132/Annexure/lsq15/5/au2683.htm>

196. Joint complaint of Asian Centre for Human Rights and Banglar Manabdhikar Suraksha Mancha to National Human Rights Commission, 4 August 2010

197. Communication received from Banglar Manabdhikar Suraksha Mancha

On the night of 11 August 2010, Naorem Modhu Singh (26 years), son of N Mangoljao, died due to alleged torture in the custody of the combined team of 12th Madras Regiment and Manipur Police Cammandos at Khoijumantabi village under Kumbi police station in Bishnupur district of Manipur. Mr Singh was picked up along with his cousin by the combined team from his residence on the suspicion of having links with a banned militant group. On 12 August 2010, the personnel of 12th Madras Regiment handed over the deceased's body to the Kumbi police station. In its report to the police, the 12th Madras Regiment claimed that the deceased collapsed while he was in their custody and he was taken to an army hospital where doctors declared him dead on arrival. However, the deceased's family members alleged that Naorem Modhu Singh was tortured to death in the custody of the combined team.¹⁹⁸

On 8 September 2010 and 10 September 2010, the police claimed to have arrested 17 Maoists who were allegedly involved in an ambush on 29 August 2010 in which three Border Security Force (BSF) personnel and two policemen were killed in Kanker district, Chhattisgarh. The police claimed that the suspects were picked up in two separate raids in the forests of Kanker. The villagers claimed that 15 of the 17 alleged Maoists were picked up from their homes at Pachangi and Aloor villagers on 5 September 2010 and 6 September 2010. The suspects were allegedly tortured in custody. Punnim Kumar Tulavi, a government school teacher, alleged that on 5 September 2010 he along with 15 other villagers (including his daughters Sunita Tulavi, 19 years, and Sarita Tulavi, 16 years) were picked up by the BSF from Pachangi and Aloor villages. They were blindfolded and taken to the BSF camp at Durgkondal where some of them were tortured to extract confessions that they were Maoist cadres. One of the victims, Sunita Tulavi (19 years) alleged that the BSF personnel wrapped wires around her throat, feet and stomach and administered electric shocks for about 15 minutes. On 8 September 2010, seven of the 17, including six girls aged between 16 and 19, were taken to Kanker town, and formally arrested as "Maoists". One of them was Sarita Tulavi (16 years), Sunita's sister. On the same day (September 8) those remaining in the BSF camp were allegedly subjected to electric shocks until they confessed to being Maoists. Then they were taken to the police station next door where the police allegedly made the villagers pose with guns they had seized in a prior raid. On 9 September 2010, Punnim and her daughter Sunita Tulavi were released without being charged. On 10 September 2010, the Kanker police announced the arrest of another alleged 10 Maoists - eight of whom, Punnim alleged, were tortured before his eyes.¹⁹⁹

Further, in the same incident, the BSF personnel allegedly assaulted about 40 men, five of whom had to be admitted in the hospital in Kanker, and molested two women, one of whom is a minor during the two-day cordon and search

198. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 13 August 2010

199. BSF orders inquiry into torture allegations, *The Hindu*, 13 September 2010

operations at Pachangi and Aloor villagers on 5 and 6 September 2010.²⁰⁰ Medical examination of the five hospitalised men found that two of them had swollen feet and contusions on the hips and buttocks. Hairline fractures were found on the feet of a victim named Bidde Ram. Other injuries lent credence to his allegation that a stick was inserted into his anus.²⁰¹ BSF Director-General Raman Srivastava promised a thorough inquiry into the incident.²⁰² The Chhattisgarh Commission for Scheduled Tribes also initiated an inquiry into the incident.²⁰³

On 9 October 2010, 45-year-old Iqbal Hussain Laskar, an assistant teacher of Chiparsangon HS School in Algapur in Hailakandi district, Assam died in the custody of the army after being picked up by a team of the army from his residence at around 3 am. The Hailakandi Deputy Commissioner Tapan Chandra Goswami ordered a magistrate-level inquiry into the death.²⁰⁴

On the night of 3-4 August 2010, 47-year-old Leimakhujam Kokulo Singh, a physically handicap, was allegedly tortured in the custody of Maratha Light Infantry at their camp near Patsoi Lai Umang along the Imphal-Sangaitel Road in Imphal West district, Manipur. The victim was picked up by the personnel while returning home along with his wife and 11 others in a passenger vehicle from Wahengbam Leikai in Imphal. He was dragged into a vehicle, blindfolded with his hands tied together at the front and taken to their camp. At the camp, the victim was asked to identify three names. When the victim failed to identify the names, the security personnel subjected him to torture the entire night and administered electric shocks twice. On 4 August 2010, a team of Maninpur police commandos came to the room who slapped him several times and beat him with a club in the head when he failed to identify the three names. On the same day, the victim was handed over to the Patsoi police station. On 5 August 2010, the victim was produced before a court which sent him to police custody. The victim was released on bail on 9 August 2010.²⁰⁵

On 20 December 2010, Bhanu Ghosh, a disabled person, was tortured by a personnel of Assam Rifles identified as Th Anand Singh at Nongrimmaw in Laitumkrah, Meghalaya. The victim had to be admitted in the intensive care unit of a hospital in Guwahati, Assam. According to the medical report, the victim sustained multiple injuries and brain haemorrhage due to the torture.²⁰⁶

200. Ibid

201. Chhattisgarh Scheduled Tribes panel to probe charges against BSF personnel, *The Hindu*, 14 September 2010

202. BSF orders inquiry into torture allegations, *The Hindu*, 13 September 2010

203. Chhattisgarh Scheduled Tribes panel to probe charges against BSF personnel, *The Hindu*, 14 September 2010

204. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 11 October 2010

205. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 27 August 2010

206. AR 'sorry', to pay for assault victim's treatment, *The Shillong Times*, 24 December 2010

4. Torture by the Armed Opposition Groups

I. Naxalites' use of torture

The Maoists have been responsible for brutal killing of their hostages after abduction. Often the hostages were killed by slitting their throats or beheading. The suspects were tried and handed over death sentences or subjected to torture through the so-called “*Jan Adalats*” (Peoples’ Courts) in full public view to instill fear among the people. According to the Ministry of Home Affairs, Government of India, the number of *Jan Adalats* increased to 48 in 2010 up to 31 August 2010 from 38 in the corresponding period in 2009. While the number of persons killed in *Jan Adalats* rose to 21 from 11 during the same period.²⁰⁷

i. Brutal execution in so-called *Jan Adalats*, Peoples’ Court

The Maoists run their parallel judiciary. They regularly hold courts known as *Jan Adalats* to try the accused. Often, harsh punishments including capital punishment are awarded by the *Jan Adalats* where the accused have no right to appeal.

Asian Centre for Human Rights documented the following cases of extrajudicial executions by the Maoists in *Jan Adalats*.

Case 1: On 2 January 2010, two CPI-M members - Kunaram Singha (45 years) and Ananda Singha (42 years) were abducted by the Maoists from their homes at Balichua village in Belapahari in Midnapore district of West Bengal. They were taken to the forest where they were killed after a *Jan Adalat* found them guilty of providing information to the police.²⁰⁸

Case 2: On the night of 22 January 2010, a tribal leader of CPI (M), Anand Masiharo (35 years) was abducted by the Maoists from Roxy village in Sundergarh district of Orissa. A group of about 50 Maoists dragged him out of his home and took him to the forests at gunpoint.²⁰⁹ *The Hindu* on 25 January 2010 reported that Anand Masiharo was put to trial in *Jan Adalat* and killed on the charge of instigating villagers against the Maoists.²¹⁰

Case 3: On 7 March 2010, Shibshankar Das, a daily labourer, was killed by the Maoists in the Salboni police station area in West Midnapore district, West Bengal. In the posters found near the body, the Maoists claimed that Mr Das was a police informer and was given the death sentence by the “people’s court”.²¹¹

207. Report Card of Ministry of Home Affairs for September 2010, available at: <http://pib.nic.in/newsite/erelease.aspx?reid=66122>

208. Another CPI(M) leader killed in West Midnapore, Zee News, 3 January 2010

209. Abducted leader yet to be traced, *The Telegraph*, Kolkata, 25 January 2010, http://www.telegraphindia.com/1100125/jsp/nation/story_12025007.jsp

210. Police on high alert in State, *The Hindu*, 25 January 2010, <http://www.thehindu.com/2010/01/25/stories/2010012552730300.htm>

211. In terror hotbed, daily wage labourer the latest Naxal prey, *The Indian Express*, 8 March 2010

Case 4: On 23 March 2010, Sheikh Bashir Khan, a CPI(M) member, was abducted by suspected Maoists from his house at Joynagar village in Lalgargh region in West Midnapore district, West Bengal. He was awarded death sentence by the Jan Adalat and killed.²¹²

Case 5: On the night of 25 March 2010, Maoists slit the throat of Chhotu Manjhi (42 years) after kidnapping him from Gamahariatard village under Pirtard police station in Giridih district of Jharkhand. He was taken to a forest where he was killed in the presence of villagers after *Jan Adalat* found him guilty of passing information to the police.²¹³

Case 6: On 11 April 2010, Harbar Singh and Chetu Singh were abducted by the Maoists from their home at Baresand village in Latehar district of Jarkhand. They were taken to a forest where they were found guilty of theft by a Jan Adalat which sentenced them to death. The bodies bore cuts by sharp weapons.²¹⁴

Case 7: On 12 April 2010, Mallaya Gawde (50 years), a former sarpanch, was axed to death at Pusukpalli village in Gadchiroli of Maharashtra. The Maoists first hacked his leg and then his neck in front of the villagers accusing him of being a police informer.²¹⁵

Case 8: On the night of 25 April 2010, the Maoists kidnapped Mihir (32 years) and Biswanath Namota (50 years) from Bamal village in Midnapore district of West Bengal and shot at them with their hands tied behind the back after a kangaroo court found them guilty of being police informers. Biswanath Namota was killed, while Mihir was critically injured and was paralysed.²¹⁶

Case 9: On the night of 1 May 2010, CPI(M) leader Dayal Mahato was abducted by suspected Maoists from his home at Jamberia village in West Midnapore district, West Bengal. He was declared a police informer by the Jan Adalat and killed.²¹⁷

Case 10: On 16 May 2010, the Maoists killed six villagers including a sarpanch (village head) identified as Bhilsai Mandwai after a *Jan Adalat* found them guilty of being police informers in Manpur locality in Uchapur village in Rajnandgaon district of Chhattisgarh. Their bodies were found with their throats slit in a forest.²¹⁸

Case 11: On the night of 14 July 2010, suspected Maoists abducted Mrs Nilmoni Tudu (a singer with Akashvani Radio and member of Kendubari Gram panchayat)

212. Suspected Maoists kill CPI(M) supporter, *The Hindu*, 25 March 2010

213. Maoists term villager informer, slit his throat, *The Pioneer*, 27 March 2010

214. Jharkhand: Maoists kill two persons at kangaroo court, *Zee News*, 12 April 2010

215. Sarpanch killed in Gadchiroli, *The Asian Age*, 14 April 2010

216. Shot at by Maoists, left alone by own, *The Telegraph*, 27 April 2010

217. Another CPI(M) supporter killed, *The Hindu*, 3 May 2010

218. Maoists slit throats of 6, *The Telegraph*, 17 May 2010

from her house at Patharnasha village under Gopiballavpur in west Midnapore district, West Bengal on the charges of being a police informer. Before abducting the deceased, the suspected Maoists stated that she was a police informer and would be tried in a people's court. The deceased dead body was found on the next day and she was hacked several times before being shot behind the neck.²¹⁹

Case 12: On 26 August 2010, Gopal Mantri, Rajiv Mantri and Tapan Mantri, CPI (M) supporters and all belonging to a same family, were killed by suspected Maoists after abduction in Kalaboni area in West Midnapore district, West Bengal. Primary investigations of the police indicated that the deceased were killed at a peoples' court held by the Maoists.²²⁰

Case 13: On 30 August 2010, alleged Maoists reportedly beaten up three youths in Cherla mandal under Khammam district, Andhra Pradesh accusing them of being informer of the security forces. One of the youths, identified as 30-year-old K Pullaiah from Kurnapally village succumbed to his injuries perpetrated by the assailants at a 'praja court' (people's court).²²¹

Case 14: On the night of 31 August 2010, two CPM leaders Abinash Mahato (45 years), and Nirmal Bag (42 years) were abducted by suspected Maoists from their houses at Beliabera and Kharbandhi villages in West Midnapore district, West Bengal and later killed after a kangaroo court found them guilty of torturing villagers, corruption and acting as police informers.²²²

Case 15: On 3 September 2010, the bullet-riddled body of Bihar Military Police havildar Lucas Tete was found in the Kajra police station limits in Lakhisarai district, Bihar. Mr Tete was killed after being abducted along with three other policemen by the Maoists. The Maoists claimed that Mr Tete was killed following a decision by a *Jan adalat* due to failure of the state government of Bihar to release jailed Maoist leaders.²²³

Case 16: On the night of 18 September 2010, Maoists killed Kapur Khora and his son Disho Khora, both traders, at Lacchmani village in Koraput district, Orissa. Around 20 Maoists reached the village around 7.30 pm and called a meeting with the villagers. According to the police, the Maoists held a "praja court" (people's court) where the victims were accused of being police informers and exploiting the villagers. At the end of the meeting the victims were kept hostage and later killed.²²⁴

Case 17: On 19 October 2010, Gulab Singh, a former village head, was abducted by Maoists from Narayanpur district in Baster region of Chhattisgarh. On the next

219. Rebels kill radio singer, The Telegraph, 16 July 2010

220. Jnaneswari case accused killed in encounter, The Hindu, 27 August 2010

221. Youth 'killed' by Maoists, The Hindu, 1 September 2010

222. 2 CPM leaders killed, The Telegraph, 2 September 2010

223. Maoists deliver a body and note for Nitish, MSN News, 3 September 2010

224. Maoists kill father, son in Koraput, The Telegraph, 20 September 2010

day, the Maoists held a *Jan Adalat* which awarded death sentence to Mr Singh after being charged him with financial irregularities. Before being killed, Mr Singh was tortured in front of the villagers.²²⁵

Case 18: On 11 November 2010, the Maoists allegedly severed the head and legs of a man (name unknown) who was given “death sentence” by a “kangaroo court” at Beluaghati in Giridih district, Jharkhand. The Maoists reportedly claimed responsibility for the incident and pasted a poster on the body of the victim stating that the man was killed after being branded as as supporter of “the reactionary forces”²²⁶

ii. Other cases of hostage taking, torture and execution

The armed opposition groups often abducted people and tortured them in custody in total violation of international humanitarian law.

On the night of 6 February 2010, the Maoists abducted Sukru Oram (45 years), a railway official, from his house at Kumakela village in Sundargarh district of Orissa. The hostage was allegedly tortured and then killed on the charges of being a “police informer”.²²⁷

On the night of 1 March 2010, suspected Maoists beheaded Kamleshwari Mandal and Kailash Pandit at Ghughladih village under Haweli Kharagpur police station in Munger district of Bihar. They were accused of being police informers.²²⁸

On the night of 12 April 2010, Arjun Paswan (Panchayat Samiti Member) and his brother Prasadi were abducted from Bishanpur village under Sono police station in Jamui district of Bihar and killed them by slitting their throats on the charge of being police informers.²²⁹

On 4 July 2010, the Maoists killed Village Panchayat Secretary of Bhopalpatnam village, Modem Narpalli and two others Morla Ganaiya and Durgam Banaiya and their bodies were found by the locals in the jungles on the outskirts of their village Bhopalpatnam in Bijapur district, Andhra Pradesh. The throats of the deceased were slit open with sharp weapon. A handwritten note recovered near the bodies accused the victims of being “police informers”.²³⁰

On 20 July 2010, a group of 20 to 25 armed Naxalites allegedly killed a middle aged farmer, Sitaram Mahagoo Dugga (45 years), in Dholdongri village in Purada

225. Maoists kill ex-village head for corruption, MSN News, 22 October 2010

226. Maoists kill man at ‘kangaroo court’, The Hindustan Times, 12 November 2010

227. Maoists abduct, kill railway official, The Telegraph, 8 February 2010, available at http://www.telegraphindia.com/1100208/jsp/nation/story_12079223.jsp

228. Maoists behead 2 in Bihar, The Asian Age, 3 March 2010

229. Naxals kill 2 Bihar villagers, Indian Express, 14 April 2010

230. Maoists kill three villagers in Chhattisgarh, Yahoo News, 6 July 2010; Also available at “Village Panchayat Secy, 2 others killed by Naxals in Chhattisgarh”, The Hindustan Times, 6 July 2010

in Gadchiroli district, Maharashtra accusing him of being a police informer. The Maoists reportedly dragged the victim identified as out of his home and killed with sharp weapons.²³¹

On 9 August 2010, suspected Maoists killed a tribal leader, Kendruka Arjun near Katulpeta village in Koraput district, Orissa. The deceased was the Secretary of Bandhugaon unit of Chasi Muliya Adivasi Sangh. According to the police, a group of armed Maoists way laid the deceased near Katulpeta, shot at him from close range and then slit his throat.²³²

On 12 August 2010, alleged Maoists abducted one Lakhan Lal Verma, an aide of Bihar Assembly Speaker Uday Narain Choudhary and tortured him at a *jan-adalat*, kangaroo court of the rebels. They accused the victim of illegally capturing the land of poor people. The rebels released him after torture and directed him to inform Bihar Assembly Speaker Uday Narain Choudhary not to enter Gaya's Imanganj, his Assembly Constituency, for campaigning ahead of the forthcoming elections. They reportedly warned Choudhary not to organise programmes for distribution of the Indira Awas Yojna funds and also objected to his initiatives for construction of roads and bridges in the area.²³³

On the night of 13 August 2010, Maoists killed one Dusashan Mahto (35 years) on the charges of being a police informer near Chowka in Seraikela-Kharsawan district, Jharkhand. The deceased was first abducted at gun point by the Maoists when he was heading home to Bansa village under Chowka police station, and later shot dead. Police found the mutilated body of Mahto near a culvert at Juru, around eight kilometres from Chowka. A leaflet recovered by the police allegedly left by the Maoists claimed that Mahto was killed in retaliation of the killing of Van Raksha Samity member Sukhlal Majhi eight months ago.²³⁴

On 15 August 2010, the Maoists killed a teacher identified as Ghasi Kendruka (35 years) at Gotiguda village in Koraput district, Orissa. The alleged Maoists took him to a nearby mango orchard and slit his throat, accusing him to be a police informer.²³⁵

On 16 August 2010, the Maoists killed a 65-year-old villager identified as Janglu Mahadev Pada in Malanda village of Gadchiroli district, Maharashtra accusing him of being a police informer. The rebels attacked him with sharp weapons at his residence when he was asleep.²³⁶

231. Naxalites kill middle aged tribal in Gadchiroli, dnaindia.com, 20 July 2010

232. Available at <http://expressbuzz.com/states/orissa/maoists-kill-tribal-leader-in-orissa/196757.html>

233. Maoists threaten Bihar speaker, The Hindustan Times, 14 August 2010

234. Maoists kill 'informer' near Chowka, The Telegraph, Kolkata, 15 August 2010

235. Maoists hack teacher to death, The Hindustan Times, 17 August 2010

236. Naxals kill elderly person in Gadchiroli, Dnaindia.com, 16 August 2010

On the night of 4 September 2010, three villagers were killed by Maoists in three separate incidents in Khunti district, Jharkhand. The deceased persons were identified as Pradeep Kumar (25 years), Jago Lohra (35 years) and Puran Chand (40 years). Pradeep Kumar was allegedly stoned to death at Umangdiri under Tapkara police station and a poster left beside the body claimed that Kumar was killed as he was an “eve-teaser”. Jago Lohra was beheaded at Jenadih under Arki police station and Puran Chand was shot dead at Maranghada, about 30 km from Khunti Sadar police station.²³⁷

On 24 September 2010, the Maoists allegedly killed a 22-year-old woman identified as Karuna alias Bakka Durgam in Pentikaka village in interior Gadchiroli district, Maharashtra. The victim who was herself a Maoist but given up arms was dragged out of her house, beaten up and later gunned down.²³⁸

On 4 October 2010, suspected Maoists allegedly killed Sonu Yadav, former Maoist area commander of Kauleshwari zone, when he went to graze his cattle at Kari forest in Chatra district, Jharkhand. He had left the Maoists four months ago and leading a normal life. The body of the deceased bore several injury marks suggesting that he was tortured before being shot dead.²³⁹

On the night of 6 October 2010, suspected Maoists shot dead a primary school teacher identified as Gurucharan Mahato (53 years) at Chhotoparulia in West Midnapore district, West Bengal. The Maoists allegedly dragged him out of his house, beaten up and shot him dead on the charge of being a police informer.²⁴⁰

On 8 October 2010, suspected Maoists allegedly burnt alive a woman identified as Jayanti Mantri after she tried to organise villagers to revolt against the Maoists at Bagh Jhampa village in Jhargram in West Midnapore district, West Bengal. According to the police, the Maoists raided the house of the woman and beaten up, raped and then burnt her alive.²⁴¹

On the night of 9 October 2010, Kalipada Chakraborty (56 years) and his brother Sukumar Chakraborty (35 years) were killed at Tilaiya village in Puralia district, West Bengal. The Maoists dragged the brothers from their houses and shot them dead after accusing them of being police informers.²⁴² The Maoists also allegedly tortured the wife of Kalipada Chakraborty by stubbing burning bidi on her body when she tried to stop the Maoists from abducting her husband.²⁴³

237. Rebels spill blood thrice - Maoist killings in Khunti, ammo found at 2 sites, *The Telegraph*, 6 September 2010

238. Naxals kill surrendered woman Naxalite in Gadchiroli, *dnaindia.com*, 25 September 2010

239. Maoists kill former area commander in Chatra, *The Telegraph*, 6 October 2010

240. Maoists shoot dead teacher, *The Telegraph*, 8 October 2010

241. Woman burnt alive for taking on Maoists, *The Pioneer*, 19 October 2010

242. Blood in Purulia, bugle in Lalgarh - Maoists gun down former cadre duo, *The Telegraph*, 11 October 2010

243. Maoists stub burning bidis on woman as she pleads for her husband's release, *The Indian Express*, 13 October 2010

On the night of 4 November 2010, alleged Maoists killed two persons identified as Ghanshyam Tanti (55) and Gulabi Tanti (22) at Baratand village in Banka district, Bihar. The Maoists allegedly dragged them out of their houses and slit their throats before gunning them down on the outskirts of the village.²⁴⁴

On 15 November 2010, the Maoists allegedly killed Dama Madkami (26 years), a peon in the Kalimela block office in Malkangiri district, Orissa. The armed Maoists abducted him from his house and his body was later recovered from a road at the nearby MV-105 village with his throat slit. A handwritten poster was reportedly recovered with the body stating that the deceased was a police informer.²⁴⁵

On 6 December 2010, the Maoists abducted three tribal villagers identified as Daudh Munda, Juan Munda and Nuan Munda from Topadihi village under K Balang police station in Sundargarh district, Orissa on the suspicion of being police informers. The Maoists killed them by slitting their throats. Their bodies were found near the Topadihi railway station.²⁴⁶

On 9 December 2010, the Maoists killed two villagers identified as Anup Singh and Bisra Singh by slitting their throats at Langalkata village under K. Bolang Police station in Sundargarh district, Orissa. The Maoists suspected them to be “police informers”.²⁴⁷

iii. Alleged sexual abuse of female Maoist cadres

There have been allegations of rape and sexual abuse of female Maoist cadres by their male colleagues in the Maoist camps. Several surrendered Maoists have raised the issue of sexual exploitation of women in the Maoist ranks.

In January 2010, a 17-year-old tribal girl (name withheld) was abducted and gang raped by two alleged Maoists identified as Sub-Zonal Commander Pappu Lohra and Arun Yadav in Latehar district of Jharkhand. The victim lodged an FIR against the accused. On 4 March 2010, three Maoists shot at the victim near the Latehar Railway Station for daring to lodge the FIR against them.²⁴⁸

Sabita Munda (24 years), a Maoist cadre surrendered before police in Keonjhar, northern Orissa on 11 February 2010 alleging sexual exploitation by seniors. She told the media, “My repeated pleas to stop the harassment fell on deaf ears as seniors in my camp continued to exploit me. I was so frustrated, I decided to surrender.” “Most women cadres face sexual harassment at nights,” she further alleged.²⁴⁹

244. Cops on alert over rebel attacks, The Telegraph, 9 November 2010

245. Maoists kill government employee, The Telegraph, 16 November 2010

246. Maoists kill 3 villagers in Sundargarh, The Pioneer, 7 December 2010

247. Maoists kill three more villagers, The Hindu, 10 December 2010

248. Maoist held for firing at 17-yr-old girl, The Times of India, 26 March 2010

249. Surrendered Maoist tells tale of sex torture, DNA, 13 February 2010, http://www.dnaindia.com/india/report_surrendered-maoist-tells-tale-of-sex-torture_1347098

On 2 March 2010, a Maoist couple surrendered before the police in Keonjhar district of Orissa alleging torture by the Maoists. The couple - Mamina alias Dipa and Mataram – accused the Maoists of torturing and outraging the modesty of women Maoist cadres. The duo reportedly told the police that the drunken male cadres also molested women and girls during their raids in villages in the night.²⁵⁰

II. Torture by other AOGs

AOGs in Manipur were responsible for perpetrating torture often by shooting at the legs for failure to pay ransom or being allegedly involved in corruption or other malpractices.

In early January 2010, two civilians (name not known) were shot dead by suspected AOG members in Imphal West District of Manipur. The bodies of the deceased were found with their hands tied behind their backs. A poster found near the bodies claimed that they were informants of security forces.²⁵¹

On 20 May 2010, A Ibomcha (44 years), a village head, was shot at in the leg by unidentified gunmen suspected to be members of AOG in the leg at Saiton village in Bishenpur district in Manipur. The victim was shot at after he was called out from his house.²⁵²

In August 2010,²⁵³ Ms Khangembam Sharmila, woman head of Mongsangei Makha Leikai Gram Panchayat, was kidnapped along with her relative, Priyoranjan (24 years) by four suspected cadres of Kangleipak Communist Party-Mobile Task Force. The group released Priyoranjan after shooting in the leg and demanded a ransom of Rs 12 lakh for the release of Ms Khangembam Sharmila.²⁵⁴

On 1 July 2010, a group of alleged ULFA cadres reportedly beat up the manager and an employee of Luit Tea Estate at Phillobari Bijuliban under Pengeri police station in Tinsukia district, Assam for not paying Rs.1 million to them by the tea estate owner. The victims identified as Sadhan Kumar Tamuli and Bhaskar Jyoti Changmai Phukon sustained injuries and had to be admitted in the hospital.²⁵⁵

On 17 August 2010, three employees of the Manipur Tribal Development Corporation (MTDC) identified as Md Sallaudin (Executive Engineer), Samuel Hmar (Section Officer) and Md Nasir (driver) were beaten up with wooden sticks by two cadres of an AOG who forcefully intruded into the office for the failure

250. Red rebels torture women, says Maoist couple after surrender, Zee News, 3 March 2010, <http://www.zeenews.com/news608103.html>

251. Militants making life difficult for Manipuris, The Sentinel, 7 January 2010

252. Manipur village head shot in leg, The Assam Tribune, 21 May 2010

253. Youth shot at in Manipur, The Sentinel, 28 August 2010

254. Manipur militants abduct village council head, The Sentinel, 17 September 2010

255. 'Ulfa' attacks planter, torches cars, The Telegraph, 2 July 2010

of the staff to comply with their extortion demand. One of the victims Md Nasir sustained head injuries. Later, the two cadres forcibly took away Md Sallaudin and two other staff identified as W Chandramani (Assistant Engineer) and E Chandrakumar (Accountant). All the three were later released.²⁵⁶

On 25 August 2010, Jangchon (65 years), chief of L. Songtun village and Khaineipau (50 years) of Leilon village were abducted and allegedly tortured by suspected cadres of the Kuki Revolutionary Army at Molding under Senapati district, Manipur. The victims had failed to comply with their extortion demand.²⁵⁷

On 22 October 2010, a handyman of a truck from Assam was abducted by suspected members of AOG from Sematilla, Dimapur in Nagaland. He was subjected to severe torture and threatened to be killed despite payment of ransom.²⁵⁸

256. Militants beat up govt officers in Manipur, Kanglaonline, 18 August 2010

257. Brutal assault on village chief, accomplice, Kanglaonline, 26 August 2010

258. Vendors shut shop to protest extortion, The Telegraph, 25 October 2010

5. Torture in judicial custody

i. Torture in prison custody

a. Deaths in judicial custody due to alleged torture

Prisoners continued to be unsafe in judicial custody. Torture remained a common practice. During 2010, Asian Centre for Human Rights documented a number of deaths in judicial custody due to alleged torture.

On 12 January 2010, undertrial prisoner Mr. Krishna Kumar died due to alleged torture at Bhondsi Jail, Gurgaon in Haryana. The jail officials claimed Mr Kumar died due to medical complications. However, the deceased's family alleged that they saw injury marks on Mr Kumar's back suggesting torture.²⁵⁹

On 9 June 2010, undertrial prisoner Maruti Chaudhary (34 years) died due to alleged torture by jail officials at Ara Jail in Bhojpur district of Bihar. The deceased was arrested on 1 June 2010 from Ara railway station for travelling without ticket and was detained in the Ara jail. Deceased's father and the inmates of the jail alleged that the deceased was tortured to death by the jail officials.²⁶⁰

On 8 July 2010, Anwar Mondal (40 years), an undertrial lodged at the Bongaon Subsidiary Jail in North 24 Parganas district, West Bengal died due alleged torture by the jail officials. The deceased was sent to the jail on 5 July 2010. On 6 July 2010, the deceased's son visited the jail and was told by his father that the jailor had allegedly demanded Rs 3000 from him and subjected to physical assault by inmates at the behest of the jailor.²⁶¹

On 11 July 2010, an undertrial identified as Vikramjit Singh Vicky died due to alleged torture in Central Jail, Bathinda, Punjab. He was lodged in the jail in connection with a drugs smuggling case. The deceased was found dead inside his cell under mysterious circumstances on the night of 11 July 2010. The deceased's family members alleged that he died due to torture.²⁶²

On 22 July 2010, a Dalit prisoner identified as Mangulu Jani (35 years) died due to alleged torture at the Kotpad Jail in Koraput district, Orissa. The doctors at the hospital allegedly declared that the deceased died of hanging without conducting the post-mortem.²⁶³

259. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 15 January 2010

260. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 10 June 2010

261. Communication received from Banglar Manabdhikar Suraksha Mancha

262. ACHR's complaint with the NHRC dated 22 July 2010, ACHR Ref No:PN/22 /2010

263. ACHR's complaint to the NHRC dated 24 July 2010, ACHR Ref No. OR/23/2010

On 24 August 2010, an under-trial prisoner identified as Suresh Nahak (45 years) died under mysterious circumstances in Asika Sub-Jail in Ganjam district, Orissa. He was sent to the Sub-Jail in 2007. The deceased reportedly had several injury marks in his body including in the neck,²⁶⁴ suggesting torture.

On 25 July 2010, undertrial Gursewak Singh (43 years) died due to alleged torture in the Central Jail, Bhatinda, Punjab. The jail authorities claimed the deceased had suffered a massive cardiac arrest and died while being taken to the Civil Hospital. However, the deceased's family and other inmates of the jail alleged that Gursewak Singh was subjected to torture which resulted in his death.²⁶⁵

On 26 September 2010, Mofik Sk (42 years), son of Late Firoj Sk, an undertrial lodged at the Kandi Correctional Home in Murshidabad district, West Bengal died due to alleged torture in the jail. The deceased's family members alleged that he was not suffering from any disease at the time of arrest and he died due to torture.²⁶⁶

On 27 September 2010, undertrial Mr. Pradip Mohapatra (33 years) died due to alleged torture in Dhenkanal Jail in Orissa. The jail officials claimed the deceased died due to excessive intake of alcohol, while the deceased's family members alleged that the death was due to torture by the jail officials as there were several injury marks on his bodies.²⁶⁷

On 8 October 2010, Kumudesh (23 years), an undertrial lodged at District Jail Etawah, Uttar Pradesh, died due to alleged torture at the jail hospital. The jail authority claimed the deceased suddenly fell ill and was admitted to the hospital where he died. However, the local residents alleged that the deceased died due to torture in the jail.²⁶⁸

In another incident on 8 October 2010, Matuku Khagri (50 years), an undertrial prisoner, died due to alleged torture at Rourkela Jail in Sundergarh district of Orissa. The jail authorities claimed the deceased suddenly fell ill and was rushed to hospital where he died due to heart attack. However, the family members alleged that the deceased was subjected to torture in the jail, which led to the death.²⁶⁹

Many prisoners died under mysterious circumstances in judicial custody. Most of these deaths are leveled as suicide by the jail authorities.

264. ACHR's complaint to NHRC dated 25 August 2010, ACHR Ref No. OR/27/2010

265. Undertrial's death triggers protest, The Tribune, 27 July 2010

266. Joint complaint of Asian Centre for Human Rights and Banglar Manabdhikar Suraksha Mancha to National Human Rights Commission, 10 November 2010

267. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 29 September 2010

268. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 11 October 2010

269. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 11 October 2010

On 31 March 2010, the Punjab State Human Rights Commission (PSHRC) asked the state government of Punjab to set up a special investigation team led by an IG-level officer to probe the cause of deaths in judicial custody which the police claimed as due to poisoning. While disposing off a similar case, the PHRC observed “It is a big puzzle for the commission to understand and solve as it is off and on being confronted by several instances of custodial deaths in jails, wherein the cause of death is poisoning from organic phosphorous compound. How prisoners get access to this poisonous substance? The jail authorities do not apply their mind to this problem as a result of which, it being the presumptive evidence, the commission has always awarded interim compensation in all such cases.”²⁷⁰

On 22 February 2010, undertrial prisoner Mr. Jahangir Khan (22 years) died under mysterious circumstances at Chas Jail in Bokaro in Jharkhand. The jail authorities claimed Mr Khan had attempted suicide by setting himself on fire after pouring kerosene from a lamp in his ward on 21 February 2010. Mr Khan was rushed to the Bokaro General Hospital with severe burn injuries but died on the next day. However, Mr Khan before his death alleged in front of media persons that he had been tortured by the jail inmates and staff.²⁷¹

On 31 March 2010, Mr. Anand Kambli (30), a convict, died under mysterious circumstances at the Central Jail Aguada, Panaji in Goa. Mr. Kambli was found hanging in the toilet of the jail. The jail authorities claimed the deceased committed suicide by hanging himself by using a crepe bandage in the ventilator grill of the toilet. However, the jail authorities failed to explain how the deceased got the crepe bandage and how the deceased, who weighs about 70 kg, could hang himself with a crepe bandage.²⁷²

On 21-22 June 2010, three prisoners Brahma Deo (60 years), Ram Bharose Yadav (30 years) and Wasim Ahmed (22 years) died under mysterious circumstances at Ghazipur District Jail in Uttar Pradesh. The prison authorities claimed Brahma Deo committed suicide, while Ram Bharose Yadav and Wasim Ahmed died at a hospital after consuming soft drink in the jail. However, the prison authorities could not explain how the prisoners got the cold drinks in the jail despite a ban on items like cold drinks by order passed in 2008.²⁷³

On 20 July 2010, Shushil Mishra (28 years), a resident of Mota Barda village in Waghodia taluka, an undertrial prisoner, was found dead under mysterious

270. Probe custodial deaths due to poisoning, PSHRC to govt, The Tribune, 10 April 2010

271. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 23 February 2010

272. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 5 April 2010

273. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 23 June 2010

circumstances in the Central Jail in Vadodara district, Gujarat. The jail authorities claimed that the deceased committed suicide by hanging himself with a towel in the common bathroom of the jail as he was depressed for not getting bail. However, the jail authorities failed to keep a watch on the deceased despite knowing his alleged depression.²⁷⁴

On 24 July 2010, Komal Singh (58 years) died under mysterious circumstances in Etawah district jail in Uttar Pradesh. The jail authorities claimed the deceased committed suicide.²⁷⁵

On 28 July 2010, undertrial prisoner Krishna Marakala (45 years) died under mysterious circumstances in Udupi District Prison in Karnataka. The deceased was found hanging on the roof of the toilet of the jail. The jail authorities claimed the deceased committed suicide by hanging.²⁷⁶

On 1 September 2010, a tribal prisoner Nandia Munda (40 years) died under mysterious circumstances in Kendujhar Jail in Orissa. The jail authorities claimed the deceased committed suicide by hanging himself with a towel from the ventilator of the toilet. However, it was alleged that the deceased was killed and later hanged to make it a case of suicide.²⁷⁷

On 3 September 2010, undertrial prisoner identified as Mohammad Raful died under mysterious circumstances at Howrah District Correctional Home. The prison authorities claimed that the deceased sustained injuries after being beaten up by an inmate on 1 September 2010 and succumbed to his injuries after he was admitted to hospital.²⁷⁸

On 8 September 2010, undertrial prisoner Virkram Makwana died under mysterious circumstances at the Godhra sub-jail in Panchmahal district of Gujarat. The deceased was found hanging inside the toilet of the jail. The jail authorities claimed the deceased committed suicide with the shirt he was wearing.²⁷⁹

274. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 22 July 2010

275. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 26 July 2010

276. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 29 July 2010

277. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 2 September 2010

278. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 6 September 2010

279. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 13 September 2010

On 19 September 2010, Ramasida Devipujak (22 years), an undertrial prisoner died under mysterious circumstances at Jamnagar District Jail, Gujarat. The deceased was found hanging inside the jail bathroom by another inmate.²⁸⁰

On 1 October 2010, undertrial Vijay Pal (23 years) died under mysterious circumstances at Amritsar Central Jail, Punjab. The jail authorities claimed the deceased committed suicide by hanging himself from the ceiling of the bathroom of the jail.²⁸¹

On 22 November 2010, Nabi Hussain (21 years), an undertrial prisoner, died under mysterious circumstances at Jail Number 8 of Tihar Central Jail, Delhi. The officials claimed that the deceased committed suicide by hanging himself with his shirt.²⁸²

On 25 November 2010, Ms Nadi Sultana (26 years), a Bangladeshi woman, died under mysterious circumstances at Dum Dum Central Correctional Home in Kolkata, West Bengal. The deceased was arrested on 23 November 2010 by the Border Security Force (BSF) while trying to sneak into Indian Territory across the International border at Ghojadanga near Basirhat, North 24-Parganas district. On 24 November 2010, the deceased was sent to the Dum Dum Central Correctional Home. On 25 November 2010, the deceased was found hanging from the ceiling of a bathroom of the Correctional Home.²⁸³

On 22 December 2010, an undertrial Y Harshvardhan (39 years) died under mysterious circumstances at Cherlapally Central Prison in Nalgonda district, Andhra Pradesh. The jail officials claimed that the deceased committed suicide by jumping from the terrace of the jail.²⁸⁴

b. Torture and ill-treatment

Many of the prisoners were subjected to torture and ill-treatment for complaining against corrupt practices of the jail officials or demanding proper food and other basic facilities.

In August 2010, Mr B.D. Sharma, Additional Director General of Prisons (ADG) of West Bengal in his investigation report stated that “it was becoming a practice in the jail to punish prisoners by physically assaulting them in gross violation of

280. Complaint of the Asian Centre for Human Rights to National Human Rights Commission, 29 September 2010

281. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 4 October 2010

282. Undertrial hangs self to death in Tihar, *The Pioneer*, 24 November 2010

283. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 29 November 2010

284. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 23 December 2010

human rights.” On 23 August 2010, nine prisoners lodged at Dum Dum Central Jail in Kolkata, West Bengal were subjected to torture and paraded naked for about an hour for alleged misconduct. Following criticism, the state government ordered the ADG (prisons) to probe the incident. The jail officials claimed they had to use force in order to control the prisoners from fighting among themselves, while the prisoners alleged that they were tortured for protesting against corrupt practices by the jail staff. The incident had left two prisoners with fractured hands. But, the injured prisoners were allegedly left untreated.²⁸⁵ The state government had suspended five officials of the jail identified as Biplab Dasgupta (Superintendent), Kripamoy Nandi (Chief Controller), Sarbeshwar Tudu (Chief Head Warden), Biswajit Bhowmick (Head Warden) and Debananda Orano (Warden) after an investigation found the allegations genuine.²⁸⁶

On 8 September 2010, an undertrial appeared before Additional Sessions Judge Girish Kathpalia with a bandaged hand and injuries in other parts of the body. The prisoner alleged that he had been assaulted by an Assistant Superintendent in Tihar Jail on 28 August 2010 as he could not pay “illegal demands for money”. The Tihar Jail authorities claimed that the injuries of the undertrial were “self-inflicted”. But Additional Sessions Judge Girish Kathpalia stated that “The version of jail superintendent does not appear to be truthful prima facie. The injuries described in medical examination report cannot be self-inflicted in view of the location of the same. A person inflicting injuries to himself would generally cause the same on front side and generally on the left side. As such, it appears that version of the undertrial prisoner could be correct that he was assaulted in jail”. The medical report noted that the injuries on the body of the undertrial were caused on back portion and right side. The Court therefore directed Deputy Commissioner of Police (West) to conduct an inquiry by an officer not below the rank of Assistant Commissioner of Police into the torture of the undertrial.²⁸⁷

On 15-16 October 2010, Sheikh Farhat Mehmood, an undertrial youth from Jammu and Kashmir, was allegedly tortured and stripped in the Kolkata Presidency Jail, West Bengal after he objected to the bad food being provided. An enquiry was ordered into the incident.²⁸⁸

On 29 November 2010, Additional Chief Metropolitan Magistrate Sunil Chaudhary issued summons against the officials of Rohini District Jail, Delhi including its Superintendent against alleged torture of Satpal Bedi, a convict.²⁸⁹

285. Five jail staffers suspended for prison torture, *The Times of India*, 16 September 2010

286. 5 jail officials suspended for Dum Dum prisoner abuse, *The Telegraph*, 16 September 2010

287. Prison staff can't beat up inmate irrespective of conduct: court, *Deccan Herald*, 9 September 2010

288. 'Kashmiri tortured, stripped in prison' - Abu Gharib In Kolkata?, *The Greater Kashmir*, 2 November 2010

289. Torture charge: Rohini jail officials summoned, *The Times of India*, 30 November 2010

On 8 December 2010, Sunil Kumar, an undertrial lodged at the Ropar Jail, Punjab was stripped and tortured by the Assistant Deputy Superintendent of the Jail for complaining against him for abuse and torture before the Session Judge. The accused was suspended.²⁹⁰

c. Torture of blast accused

There were allegations of blast accused being subjected to inhuman treatment including torture in jails.

On 15 February 2010, the Supreme Court stayed all proceedings initiated in Gujarat against the 63 accused persons lodged in Sabarmati Central Jail in Gujarat in cases relating to a series of bomb blasts that had occurred in 2008. The serial blast accused had sought the transfer of cases out of Gujarat for alleged bias by the police as well as the judicial machinery in the state. The accused arrested from different parts of the country sought that they be shifted to jails outside the state due to alleged torture by the police and jail authorities.²⁹¹

On 1 June 2010, lawyer of Lokesh Sharma, an accused of Ajmer Dargah blast in 2007, accused the Rajasthan Anti-Terrorism Squad (ATS) of subjecting Lokesh Sharma to torture during interrogation. The lawyer further alleged that there were marks of torture on the thighs of the accused and he was being forced to sign documents.²⁹²

The ATS officials were also accused of torturing the accused of the May 2008 serial blasts in Jaipur, Rajasthan. In April 2010, a five-member delegation of Muslim groups met Otta Ram Rohin, Superintendent of Central Jail Jaipur, Rajasthan to register protest against the ill-treatment being meted out to the blast accused even though their alleged role in the blasts could not be established and forced to make fresh confession despite the completion of investigation. One of the accused of the serial blasts complained that the Anti-Terrorism Squad officials, being given access to the inmates in the jail, were forcing them to put signatures on plain papers. Further, the accused were being kept at the Central Jail without basic amenities.²⁹³

290. Jail staff suspended for beating inmate, *The Tribune*, 10 December 2010

291. SC did not hear Gujarat govt before staying serial blast trial: Vyas, *Daily News and Analysis*, 15 February 2010

292. ATS seeks longer custody for Ajmer blast accused, *Zee News*, 1 June 2010

293. Blasts accused facing 'inhuman treatment' in jail, *The Hindu*, 11 April 2010

6. Torture by other non-state actors

Despite legal protection, lower caste people continue to be particularly vulnerable to violation because of the failure to implement these laws. The 2009 Annual Report of the National Crime Records Bureau of the Ministry of Home Affairs, Government of India reported a total of 39,019 against the Scheduled Castes (SC) and Scheduled Tribes (ST) cases during 2009. These included 170 cases under the Protection of Civil Rights Act and 12.87 cases under the SC/ST (Prevention of Atrocities) Act of 1989 – against the SCs and STs. However, the conviction remained low. The average charge-sheeting rate for the crimes against the SCs was 29.6 per cent and 27.2 per cent for STs respectively.

A. Torture by the upper castes

i. Beaten to death

ACHR documented a number of cases where the upper castes were responsible for beating to death of lower caste people, the Dalits, during 2010.

On 10 January 2010, Husnappa Lakkappa Doddamani (70 years), a Dalit farmer, died after allegedly beaten by caste Hindus at Challegeri village in Gulbarga district, Karnataka. The attackers, who had a land dispute with the owner of the land where the deceased work, picked a quarrel with the deceased and his family demanding the harvested red gram from the land.²⁹⁴

On 28 May 2010, Dalit Ramesh Jatav (38 years), a mason by profession, was killed by his upper caste employer Shriram Lodhi for demanding his pending wages at Sirsona village in Shivpuri district of Madhya Pradesh. The deceased along with his wife had gone to his employer's house to the demand the wages. However, the employer Shriram and his relative Gabdu Lodhi took the couple to a nearby field where they smashed the deceased's head with a huge stone in front of his wife.²⁹⁵

On 5 June 2010, a Dalit youth identified as Dhirendra Kumar was beaten to death allegedly by upper caste persons after he attended a wedding function defying a diktat at Panchhua village in Ballia district of Uttar Pradesh. The deceased was reportedly attacked in order to teach a lesson.²⁹⁶

On 1 August 2010, Dalit Surendra Jaatav was beaten to death allegedly by a group of Jat community at Mussoorie village in Ghaziabad, Uttar Pradesh. In her compliant, deceased's wife Dharmwati alleged that her husband was beaten to death after he refused to work for free in their homes and fields.²⁹⁷

294. Death of Dalit farmer sparks off protest, *The Hindu*, 12 January 2010

295. Dalit killed for demanding wages, *The Pioneer*, 31 May 2010

296. Dalit beaten to death for defying diktat in Uttar Pradesh, *Daily News and Analysis*, 6 June 2010

297. Dalit man beaten to death, *The Indian Express*, 3 August 2010

On 10 November 2010, Suresh Manjhi was allegedly beaten to death by an upper caste man identified as Subodh Singh at Moresand village in Samastipur district in Bihar. The deceased was reportedly caught plucking brinjals from his field. The deceased was beaten as he tried to intervene when the accused were beating a Dalit boy who had gone to a place which was out of bounds for Dalits.²⁹⁸

On 12 November 2010, Babu Lal Ram (55 years), a dialy wager, was beaten to death by three upper caste men identified as Deepak Thakur, Sanjay Thakur and Satendra Thakur at Gurmiya village under Kartaha police station in Vaishali district, Bihar.²⁹⁹

On 18 November 2010, three Dalits identified as Kusho Bhagat (55 years), Bachchan Rajak (45 years) and a 55-year-old woman Pramila Devi were killed allegedly by supporters of former Member of Legislative Assembly (MLA) at Pathua village in Lakhisarai district, Bihar. Police stated that they were killed for resisting a bid by over 25 armed supporter of the MLA to destroy their standing mustard crop.³⁰⁰

On 18 October 2010, Munna Jatav (48 years), a Dalit was killed and his body thrown at the railway tracks by some unidentified persons in Singhal locality in Morena district. The deceased was killed when he resisted the attackers who were teasing his daughter and for having tried to lodge a police complaint.³⁰¹

On 16 September 2010, Jitendra Bairwa, a Dalit student at Adarsh Hanuman Vidya Mandir in Nangal Lat, was admitted at Sir Padampat Children's Hospital, Jaipur, Rajasthan in a critical condition and succumbed to his injuries next day. He was allegedly beaten up by the teachers belonging to Brahmin community as he objected to his teacher Mannu Singh abusing him. Keshanti Bairwa, mother of the victim had moved a complaint before the Todabhim Judicial Magistrate and a First Information Report was registered in the case. The upper caste people were allegedly forcing her to withdraw the FIR.³⁰²

On 20 December 2010, the body of Dalit youth identified as Mukesh Balmiki (22 years) was recovered with his hands and legs tied in Gangdhari village in Muzaffarnagar district, Uttar Pradesh. The police suspect that Mukesh Balmiki was killed due to enmity over panchayat elections.³⁰³

298. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 16 November 2010

299. Bihar villagers blame Dalit killing on elections, *The Indian Express*, 16 November 2010

300. Dalits killed over land dispute, former MLA blamed, *The Indian Express*, 19 November 2010

301. Dalit killed for stopping eve-teasers, *The Statesman*, 19 October 2010

302. 'Dalit woman being forced to withdraw FIR', *The Hindu*, 7 October 2010

303. Body of Dalit youth found in Muzaffarnagar, *Daily Bhaskar*, 21 December 2010, available at: <http://daily.bhaskar.com/article/body-of-dalit-youth-found-in-muzaffarnagar-1675865.html>

ii. Setting on fire

ACHR documented a number of cases where the upper castes were responsible for setting on fire of lower caste and tribal people during 2010.

On 21 March 2010, a 15-year-old tribal girl died after being set ablaze by Govind Thakur, son of an upper caste police constable for resisting rape attempt at Sedara village in Damoh district of Madhya Pradesh. The accused had gone to the house of the victim when she was alone and tried to rape her on 20 March 2010.³⁰⁴

In April 2010, a 60-year-old Dalit and his handicapped daughter were burnt alive by upper caste belonging to Jat community following a scuffle between the two communities at Mirchpur village in Hisar district, Haryana.³⁰⁵ On 26 August 2010, the Supreme Court severely criticized the state government of Haryana for the failure to arrest the accused of Mirchpur violence. The Supreme Court observed that *“If those responsible for committing atrocities cannot be arrested, then what right does the director general of police have to continue in office. If you (Haryana police) are not able to arrest them, we will ask some paramilitary force to arrest them.”*³⁰⁶

In September 2010, a Dalit identified as Narsimha and a man belonging to Backward Community identified as Yellaiah were allegedly burnt alive by perpetrators belonging to upper castes at Khaitapuram village in Nalgonda district in Andhra Pradesh.³⁰⁷

On 18 December 2010, two Dalit sisters, Geeta and Neetu alias Monu were found dead with serious burn injuries at their house in Moradabad district, Uttar Pradesh. An investigation into the deaths suggested that the victims were set ablaze by a mob while the police claimed that victims committed suicide.³⁰⁸

iii. Beating and humiliating/degrading treatment

ACHR documented a number of cases where the upper castes were responsible for beating and humiliating lower caste people during 2010.

On 7 January 2010, Dalit, Sadayandi (resident of Indira Nagar) was allegedly tortured and ill-treated by a group of upper caste men for walking with *chappals* (slippers) in Dindigul district of Tamil Nadu. The accused stopped the victim while he was walking on the street and asked him whether he is not aware of the order that “Dalits should not walk with *chappals* in their street.” Thereafter, the

304. Communication received from Asian Indigenous and Tribal Peoples Network

305. House panel slams Haryana police, The Hindustan Times, 31 August 2010

306. Hooda govt pulled up for moving slow on Mirchpur, The Times of India, 27 August 2010

307. Dalit burning: panel demands stringent action, The Hindu, 17 September 2010

308. UP Dalit deaths: SC panel summons DM, DIG, The Indian Express, 31 December 2010

victim was beaten up and forced human excreta into his mouth in order to teach him a lesson.³⁰⁹

On 17 January 2010, a 35-year-old Dalit woman Bhagyamma was allegedly stripped, beaten up and paraded in the streets of Laxmisagar village in Chitradurga district of Karnataka. The victim was accused of helping a girl belonging to influential community to elope with a Dalit boy.³¹⁰

On 15 April 2010, Munna Das, a Dalit, was beaten up and paraded with a garland of shoes by influential people at Dhabra village in Dehradun district of Uttarakhand. The victim was accused of trying to make their luggage disappear by using magic.³¹¹

On 6 June 2010, two Dalit minors Ajai Nat (15 years) and Ravishankar Raidas (14 years), were beaten up, tonsured, tied with ropes and dragged by a group of upper caste people at Lachminia village in Rae Bareilly district, Uttar Pradesh. The victims were accused of stealing.³¹²

On 17 June 2010, a 22-year-old Dalit woman was abused on caste line, beaten with bamboo sticks and paraded naked by upper caste people, mostly women, at a slum in Mumbai, Maharashtra. The woman was allegedly beaten up after her brother was arrested on the charge of rape of a minor girl.³¹³

On 26 July 2010, a boy identified as Rajesh Mahato belonging to Other Backward Class, was reportedly hung upside down and beaten in a village in Bihar by the husband of the panchayat chief Sangita Devi. The victim had to be admitted to a hospital. The victim's family alleged that he was punished for exposing corruption by the Panchayat chief. The victim's family had demanded the panchayat chief to return the Rs.10,000 they had given to her for construction of a house under Indira Awas Yojana scheme.³¹⁴

On 18 September 2010, a non-tribal house owner in Pollovaram under West Godavari district, Andhra Pradesh allegedly subjected a 6th class tribal student, Mede Navin Kumar of Kottamamidigondi under the Kondrukota panchayat limits to confinement and torture on the charge of stealing his mobile phone. The house owner identified as Karri Bhaskara Rao allegedly summoned the boy from a local Scheduled Tribe welfare hostel in which he was a boarder, tied him to a pole in his cattle shed and thrashed him.³¹⁵

309. Complaint of Asian Centre for Human Rights to National Commission for Scheduled Castes, 15 January 2010

310. Dalit woman still waiting for justice a month after public humiliation, *The Hindu*, 19 February 2010

311. Dalit youth paraded with garland of shoes, *The Free Press Journal*, 19 April 2010

312. Dalit teens tied with ropes, dragged for theft, *The Hindustan Times*, 7 June 2010

313. Dalit woman stripped, beaten up in Mumbai slum, *The Hindu*, 27 June 2010

314. Boy hung upside down, beaten in Bihar village; *IBN Live*, 27 July 2010

315. 'Torture' of tribal student triggers row, *The Hindu*, 19 September 2010

On 4 October 2010, S. Ramesh, a Dalit student at a college in Tuticorin, Tamil Nadu, along with three others, were beaten up by a 30-member gang belonging to upper caste with iron rods, cricket bats and hockey sticks near Anna Nagar main road in Tuticorin. Following a complaint, the police registered a case only for minor offences under the Indian Penal Code without booking the accused under grave charges such as Section 307 (attempt to murder) of the IPC and other provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. Later, S. Ramesh approached the Madras High Court which directed the Deputy Inspector General (DIG) of Police, Tirunelveli Range to supervise the investigation in the case. The victim alleged that he was being forced to get discharged from a Government hospital on the instructions of a Minister and his family was also being threatened by ruling party men to withdraw the complaint.³¹⁶

On 15 October 2010, a Dalit woman Ramwati and her son Ramgopal were allegedly beaten up by two upper caste youth identified as Rahul and Vikas for reportedly defecating in their fields at Bharsi village in Muzaffarnagar district, Uttar Pradesh. The woman sustained injuries and had to be admitted to a hospital for treatment.³¹⁷

On 3 November 2010, Dalit Mahendra and his entire family members were beaten up by Vijay Singh and other upper caste persons for refusing to vote for a candidate in the panchayat elections in Shahjahanpur district, Uttar Pradesh. The house of the Dalit family was also set on fire. A case was registered but the police allegedly let the attackers go scot free by claiming that the Dalit had himself set his house on fire.³¹⁸

iv. Sexual attacks

On 4 February 2010, a 19-year-old tribal woman, working as a teacher with a Christian Missionary School, was held captive by an influential man identified as Mr Anil Dubey for two days and raped at Kundanagar locality in Barwani district of Madhya Pradesh. On 6 February 2010, the accused set the victim on fire and fled. The victim suffered 80 per cent burn injuries and was in a critical condition.³¹⁹

On the night of 31 July 2010, a 26-year-old tribal woman was allegedly raped by four upper caste persons including a District Panchayat President at Meni Mata area under Silavd police station in Barwani district in Madhya Pradesh. The victim who worked as an assistant warden of a girls' hostel at Meni Mata village

316. High Court directs DIG to supervise assault case, *The Hindu*, 20 October 2010

317. Two persons of Dalit community beaten up, *IBN Live*, 16 October 2010, available at: <http://ibnlive.in.com/generalnewsfeed/news/two-persons-of-dalit-community-beaten-up/420299.html>

318. Dalit's family beaten up, house torched, *The Pioneer*, 4 November 2010

319. Communication received from Asian Indigenous and Tribal Peoples Network

was kidnapped by the four accused persons identified as Ramesh Patel (District Panchayat President and Congress leader), Gangram Baghel, Rai Singh Barde and C Banjara from her room of the hostel at gunpoint and raped in a moving vehicle. The medical test conducted on the victim reportedly confirmed rape.³²⁰

On 18 August 2010, 25 dalit families belonging to Madiga community of Budihalli village in Chitradurga district, Karnataka were forced to flee due to alleged atrocities against them including rape, torture and socio-economic boycott by upper caste Golla and Nayak communities. The Dalit families who fled to Venkateshwaranagar in Chellakere Taluk in Chitradurga district alleged that the landlords visited their houses regularly in inebriated condition and sexually harassed and assaulted the women while the men were forced to work as bonded labourers to pay off debts accumulated over generations.³²¹

On 10 October 2010, a tribal woman belonging to Reang community (name withheld) was raped by a non-tribal while she was on her way to 43 Miles from Mungiyakami, Tripura. The accused identified as Sudhanshu Sutradhar, a driver, offered a lift to the victim and raped her taking advantage of her loneliness.³²²

On 12 October 2010, a 50-year-old Dalit woman was allegedly raped by two upper caste men Liladhar and Bimlesh in Jait village in Madhya Pradesh. The victim was later forced to leave the village. The victim was raped because she spoke against the upper caste when she was denied entry into a temple three months earlier. The National Commission for Minorities ordered an inquiry into the incident.³²³

On 2 November 2010, a teenaged Dalit girl was molested and her fingers chopped off for in Lucknow, Uttar Pradesh. The victim, a class XII student, was attacked after she had filed a complaint with the police against some youth for teasing her earlier.³²⁴

On 10 and 11 December 2010, a 17-year-old Dalit girl was allegedly raped by Purushottam Naresh Dwivedi (a Member of Legislative Assembly of ruling Bahujan Samaj Party) in his house in Banda district of Uttar Pradesh. The minor escaped on 12 December 2010 when the MLA allegedly attempted to rape her again. On the same day, the victim was arrested and sent to District Jail Banda on trumped up charges of theft in violation of the Juvenile Justice (Care and Protection of Children) Act, 2000.³²⁵

320. Complaint of the ACHR to the NHRC on 6 August 2010

321. Complaint of ACHR to the National Commission for Scheduled Caste on 30 August 2010

322. Tribal woman raped, tension, Tripura India, available at: <http://www.tripuraindia.com/>

323. Dalit woman raped for objecting to discrimination <http://ibnlive.in.com/news/dalit-woman-raped-for-objecting-to-discrimination/132877-3.html?from=tn>

324. Lucknow: Molesters chop off girl's fingers, India Today, 3 November 2010, available at: <http://www.indiatoday.intoday.in/site/Story/118764/India/lucknow-molesters-chop-off-girls-fingers.html>

325. Banda rape: Dalit girl released from jail, Zee News, 16 January 2010, available at: <http://www.zeenews.com/news680788.html>

B. Use of torture by Caste/Village Panchayats

The powerful caste panchayats have been responsible for torture and other forms of cruel, inhuman and degrading treatment to victims they perceive as offenders or violators of tradition. Punishment in the form of “honour killing” or outcasting the ‘offenders’ from the village was particularly prevalent in Haryana where khap (caste) Panchayats dominate village level justice.

A number of crimes committed by Khap Panchayats continued to be reported despite court interventions. On 24 October 2010, the District and Sessions Court, Sirsa sentenced seven persons to life imprisonment in a case of honour killing.³²⁶

On 4 July 2010, the bodies of Ms Reena (16 years) and Sham Mohammad (19 years) were found in a suspected case of honour killing at Somain village in Fatehabad district, Haryana. The police stated that village panchayat was against their relationship as Reena was Jat and Sham a Muslim. The deceased youth’s eyes were missing and his hands were found broken.³²⁷

On 24 September 2010, the bodies of Inder Pal (22 years) and Maya (18 years) were found at Phoolkan village in Sirsa district, Haryana. The police suspected the case to be an honour killing as they were in a relationship to which the families of both the deceased were against.³²⁸

Torture and other forms of cruel, inhuman and degrading treatment at the order of the village panchayats were reported from other parts of the country.

On 5 June 2010, a 30-year-old tribal woman was tortured and paraded naked allegedly on the directions of the Panchayat at Jayanti Bazar village in Dhalai district, Tripura on the allegation of sexual misconduct. The state government ordered an investigation by the Criminal Investigation Department into the matter.³²⁹

On 21 July 2010, seven persons were arrested for the torture of two women at Champaknagar near Agartala, Tripura. Both the victims were paraded naked, beaten with sticks and their heads shaved off after a kangaroo court held them guilty of sexual misconduct a week earlier. The accused had threatened the victims and their families that they would be killed if they inform the police about the incident. Some of the accused were reported to be members of ruling Communist Party of India-Marxist.³³⁰

326. Honour killing: Four brothers get life term, *The Tribune*, 25 October 2010

327. Teens found dead in Haryana, honour killing suspected, *The Indian Express*, 5 July 2010

328. Couple found dead in Haryana, honour killing suspected, *Daily News and Analysis*, 27 September 2010

329. Complaint of Asian Centre for Human Rights to National Human Rights Commission, 8 June 2010

330. 7 held for caning naked women, *Nagaland Post*, 21 July 2010

In August 2010, the West Bengal Commission for Women conducted an investigation on the torture and molestation of a tribal girl at Battala village in Birbhum district. In May 2010, the victim was beaten up and paraded naked for 8 kms through the village for having an affair with a boy of different community. However, the incident came to light only on 8 August 2010 after a private television channel aired MMS footage of the incident. In its report to the Chief Minister, the Commission, among others, recommended an inquiry into the role of the police as the incident took place three months ago and rehabilitation of the victim. The victim had identified 12 persons but the police could arrest only six.³³¹

On 11 August 2010, a woman identified as Rina Biwi was fined, tortured, her hair torn off and her hut burnt down because her son had allegedly stole a goat at Nijpara village under Ratua police station in Malda district, West Bengal. One Firdous Sheikh in a complaint to the Panchayat (Village Council) alleged that the victim's son had stolen his goat. The panchayat held the victim's son guilty and decided to punish the victim by imposing a fine of Rs. 10,000 apart from the torture. The entire incident allegedly happened in the presence of policemen.³³²

On 17 August 2010, a tribal woman Rukmini, 25 years, (name changed) and her brother-in-law Subal (name changed) were tortured after a kangaroo court held them guilty for having an alleged illicit relationship at Madarpara village in Burdwan district, West Bengal. A group of villagers barged into the house when Subal had come to the house to invite the family for a programme. The two were allegedly taken to the house of a CPM leader at Jadabgunj village where they were locked up for two days until the kangaroo court held them guilty of illicit relationship. They were tied to a tree, beaten up and both them were fined Rs.25,000. The victims were released after a police complaint was filed by the father of the woman.³³³

On 12 September 2010, a kangaroo court forced a married woman identified as Selima Bibi (name changed) to do sit-up holding her ears in front of clapping villagers at Rajnagar village in Hariharpara in Murshidabad district, West Bengal. The so-called court declared that her divorce from her husband had not happened according to Islamic laws. The kangaroo court also imposed a fine of Rs. 8,000 on her.³³⁴

331. Women's panel puts cops in the dock for tribal girl's harassment, *The Indian Express*, 26 August 2010

332. Woman thrashed, hut burnt after kangaroo court order, *The Times of India*, 12 August 2010

333. Tribal lady harassed after illicit affair slur, *The Telegraph*, 21 August 2010

334. Village 'court' forces sit-ups on lady, *The Telegraph*, 18 September 2010

7. Judicial interventions against torture

The Indian judiciary continued to play a significant role by ruling against torture and extrajudicial killings by the law enforcement personnel. There is no law in India for compensation of victims and the public servants enjoy impunity under the law for acts done as part of official duty. But the Courts have regularly awarded compensation to victims and prosecuted the accused and ordered re-investigation of cases by the Central Bureau of Investigation.

I. Judgements awarding compensation

Case 1: Award of Rs 500,000 compensation to family of custodial death victim by Madras High Court

On 24 August 2010, the Madras High Court Bench directed the State Government to pay a compensation of Rs.500,000 to the wife of custodial death victim, L. Kuttiappan alias Bhoominathan.

The victim was picked up and tortured at the Palam police station, Tirunelveli after his cousin eloped with a daughter of a policeman on 15 June 2003. In her petition, the victim's wife B. Priya stated that her husband L. Kuttiappan's cousin M. Santhosh fell in love with a police constable's daughter and eloped with her. Later, a team of policemen from Palam police station picked up her husband at late night on 14 June 2003. He was subjected to torture in custody and released the next day only after the police came to know that the couple had surrendered before the police. The victim sustained injuries on his chest, groin and genital parts after being beaten up with batons and boots resulting in his death. As a result, the victim remained weak since his release and died on 16 June 2003.³³⁵

Case 2: Army pays Rs 800,000 compensation to families of two custodial death victims in compliance with the Guahati High Court order

On 25 May 2010, in compliance with the order of the Guahati High Court the Army paid Rs 400,000 each to the next of kin of two persons who died in the custody of the Army on 7 March 2004. The two victims with the same names, Pratul Daimari-I, son of Khalason Daimari, and Pratul Daimari-II, husband of Jusna Daimari, both residents of Naoherua Village in Darrang district, Assam, were separately summoned by the 62 Field Regiment of Harisinga Army Camp to their camp for interrogation on separate days during February-March 2004.

Subsequently their bodies were handed over to the police after killing them in fake encounter on the night of 7 March 2004 while they were in Army custody. Following the deaths, the family members of both the deceased moved the Guahati High Court seeking justice.

335. Pay Rs.5 lakh in custodial torture case, The Hindu, 25 August 2010

On 8 April 2008, the High Court directed the District and Sessions Judge of Darrang district to inquire into the death of both the persons. On 11 May 2009, the High Court Bench comprising of Justice Hrishikesh Roy and Justice Ranjan Gogoi ordered the Army to pay Rs 400,000 each to the next of kin of the two deceased.³³⁶

Case 3: Gujarat High Court orders two police officers to pay Rs 250,000 to kin of custody death victim

In December 2010, the Gujarat High Court ordered the Deputy Superintendent of Police N K Amin and Sub-Inspector J K Jhala to pay compensation of Rs 250,000 to the next of kin of Colonel Pratap Save who died due to torture in police custody.

The deceased had headed the Kinara Bachav Sangharsh Samiti (KBSS) to protest against the proposed port for petroleum and liquefied gas at Maroli village in Umbergaon taluka of Valsad in Gujarat over a decade ago

On 8 April 2002, the police picked up Colonel Pratap Save from his residence at Dehri village and subjected him to torture in custody. Following which the deceased went into coma and died at the Hinduja hospital in Mumbai on 20 April 2002. The deceased's family filed a petition in the Gujarat High Court demanding a judicial inquiry and action against the two police officers, accusing them for the custodial death.³³⁷

Case 4: Delhi High Court orders Delhi Government to enhance compensation to family of victim of death in judicial custody

On 24 May 2010, the Division Bench of the Delhi High Court comprising Justice Deepak Misra and Justice Madan B. Lokur rejecting a compensation of Rs. 100,000 offered by the Delhi government increased the compensation to Rs. 300,000 to the next of kin of Sunder, an inmate of Tihar Central Jail who was allegedly beaten to death by two convicts and two jail officials during a quarrel in February 2010.

The Bench observed that “the failure on the part of the Government to ensure safety of the victim had resulted in violation of his Fundamental Right.”

The inquest report conducted on the deceased stated that the Head Warder and the Warder along with the two inmates were involved in beating the victim.

Earlier, the Court had converted a letter written to the then Union Law Minister Veerappa Moily by a brother of the deceased regarding the incident into a petition.

336. Army pays compensation for custodial deaths, The Shillong Times, 28 May 2010

337. HC orders compensation for Colonel's death in custody, The Indian Express, 9 December 2010

The deceased's brother had written the letter when the jail authorities took no action on his complaint about the death of his brother. The Minister had sent the letter to Justice Lokur, the then acting Chief Justice.³³⁸

Case 5: Award of Rs 6.54 lakh to the widow of custodial death victim by Delhi High Court

In June 2010, the Delhi High Court ordered the Delhi government to provide a compensation of Rs. 6.54 lakh to the widow of Vinod Kumar, who died in the Tihar Central Jail in 2007.

While rejecting the submissions of the Tihar Jail authorities and the Delhi Police against the claim of compensation by Saroj Rani, the widow of victim and mother of two children, for the death of her husband, Justice S. Muralidhar asked the Delhi Government to pay the compensation amount to her as the jail is administered by it.

The inquest proceedings, the post-mortem report and its examination by a review board had separately opined that the death was homicidal and had occurred in the jail premises.

The Delhi Police had arrested the victim on a complaint of theft. The victim was not granted bail by the Patel Nagar police station despite the offence being a bailable one as he could not arrange a surety. He was kept in the lock-up and later sent to judicial custody.

In his order, Justice Muralidhar said: “.... ..it is directed that the Government of National Capital Territory of Delhi which is in-charge of the Tihar jail complex will pay to the petitioner a sum of Rs. 6.54 lakh of which one-third will be payable to petitioner and one-third each to the two children who are minor and whose mother and natural guardian is the petitioner.”³³⁹

Case 6: Guahati High Court order payment of Rs 500,000 to family of custodial death victim

In August 2010, the Imphal Bench of the Gauhati High Court directed the state government of Manipur to pay a compensation of Rs 5 lakhs to the family of a custodial death victim Kshetrimayum Meghamani Singh who died in police custody on 21 January 2006. The Court also directed the Director General of Police, Manipur to conduct an enquiry in view of the clear finding of the custodial death of Kshetrimayum Meghamani Singh.

338. Tihar jail inmate's family gets Rs. 3 lakh compensation, The Hindu, 25 May 2010

339. Judicial custody death: 6.54 lakh relief for victim's family, The Hindu, 6 June 2010

The deceased's father had filed a writ petition before the High Court on 28 March 2006 alleging that Kshetrimayum Meghamani Singh was tortured to death by the police.³⁴⁰

II. Judgements awarding punishments

Case 1: Delhi High Court set aside lower court judgment and sentenced a retired police officer to 10 years' imprisonment

On 15 January 2010, the Delhi High Court set aside a lower court judgment and sentenced a retired officer of the Delhi Police to 10 years' rigorous imprisonment in a custodial death case in 1986. The High Court also imposed a fine of Rs.55,000 on the convict, out of which Rs.50,000 would be paid to the next of kin of the victim.

In the early hours of 19 September 1986, the police had picked up the victim Dayal Singh from his residence at Govindpuri in South Delhi in connection with a theft case. The victim had died in police custody a day after his detention.

While allowing an appeal against the lower court judgment, the Division Bench of the High Court comprising Justice S. K. Kaul and Justice Ajit Bharihoke stated that acquittal of the accused was an instance of "miscarriage of justice". The Bench observed that Sub-Inspector Ranveer Singh had used third degree methods to extract a confessional statement from the accused. The post-mortem report had proved that there were injury marks on the victim's body. While the evidence on record said there was no injury mark on the body when the sub-inspector had picked him up for interrogation in connection with a theft case.

Earlier, the trial court had acquitted Sub-Inspector Ranveer Singh giving him the benefit of doubt, holding that the victim, Dayal Singh, had died of tuberculosis.³⁴¹

Case 2: Court sentenced three constables of Delhi Police to life imprisonment for fake encounter

In a significant judgement on 15 July 2010, Additional Sessions Judge Dharmesh Sharma sentenced then Delhi Police constables Ashok Kumar, Sudesh Kumar Rana and Surajpal to life imprisonment for killing two men in a fake encounter in 2006. The accused were posted at Operation Cell of Delhi Police, abducted and killed Nazakat (26 years) and Zulfikar (28 years) on 31 July 2006.³⁴²

340. HC tells govt to pay Rs. 5 lakh to kin of custodial death victim, Kanglaonline, 25 August 2010

341. Retired cop gets 10 years' RI in custodial death case, The Hindu, 16 January 2010

342. 3 policemen get life term for killing two in fake encounter, The Pioneer, 16 July 2010

Case 3: Supreme Court award five year imprisonment to policeman for severing private parts of a man

The police brutality in the country has come to the fore in a Supreme Court judgement delivered on 25 October 2010.

While disposing off an appeal by the Central Bureau of Investigation against an order of the Rajasthan High Court, the Supreme Court of India awarded five years imprisonment to Constable Kishore Singh, three years imprisonment to Assistant Sub-Inspector (ASI) Sumer Dan and six months imprisonment to Station House Officer (SHO) Sohan Singh for cutting off the penis of a man in a Rajasthan police station in February 1994. The trial court had awarded life imprisonment to the accused Constable, 10-year sentence to ASI and one year imprisonment to the SHO. But the Rajasthan High Court acquitted the SHO and the ASI and reduced the sentence of the constable to the period already undergone. “If the protector becomes predator civilised society will cease to exist. In our opinion, policemen who commit criminal acts deserve harsher punishment than other persons who commit such acts, because it is the duty of the policemen to protect the people and not break the law themselves” – observed the Supreme Court.³⁴³

Case 4: Madras High Court says human rights violators cannot challenge the judgement of the SHRC

In another significant judgement in the case of *Rajesh Das Vs Tamil Nadu State Human Rights Commission* (W.P.Nos.21604 to 21607 of 2000), the Madras High Court stated that a police officer found guilty of being involved in human rights violations cannot file a case challenging either the Human Rights Commission’s recommendation to compensate the victim monetarily or the State government’s decision to accept the recommendation.³⁴⁴

III. Court orders probe by CBI**Case 1: Kerala High Court order CBI probe in a custody death**

On 25 May 2010, the Kerala High Court ordered a Central Bureau of Investigation (CBI) probe into the custodial death of Sampath. On 22 December 2010, the High Court directed the Ernakulam Chief Judicial Magistrate Court in Kochi to monitor the CBI probe into the custodial death of Sampath, who died in March 2010. Sampath was accused in the sensational case of murder of Sheela Jayakrishnan. The High Court expressed suspicion that the investigation had begun to lose direction after the CBI sought permission to enlist two top State police officials as accused. The post-mortem report revealed that Sampath had died of internal hemorrhage

343. Erring policemen deserve harsher punishment: SC, The Tribune, 26 October 2010

344. “Police officers cannot challenge SHRC’s recommendations”, The Hindu, 4 December 2010

due to heavy head injuries suffered due to torture. The report also said there were 63 injuries in his body. Three of his ribs had been broken due to the use of third degree methods. The injuries were due to punching with hard objects, the report confirmed.³⁴⁵

Case 2: Punjab and Haryana High Court order CBI probe in custody death

On 25 March 2010, the Punjab and Haryana Court in the case of *Krishan Singh Versus State of Punjab and others (Criminal Misc. No.M-13925 of 2005)* order a CBI probe into the custodial death of Gurtez Singh in Punjab in 1998.

The High Court noted: *“The stances are contrary and unbending. The hoarse, (but deafening) cry of a father wants accountability fixed for the custodial death of his teenager son. The State resists the plea by reiterating that its agencies (Magisterial and also the law enforcement personnel) had done the job well and found it to be a case of suicide by the deceased.”*

The deceased Gurtez Singh was picked up by four police officers from Amritsar and was taken to the Almoh police station in connection with a criminal case. Later, he was found dead and police claimed that the deceased committed suicide. While the medical report revealed 14 injuries on his body.

345. Kerala custody death: Court to monitor CBI probe, The Pioneer, 23 December 2010

8. Award of compensation by NHRC in cases filed by ACHR

The National Human Rights Commission recommended compensation to the victims or their family members in a number of human rights violation cases including torture and custodial cases filed by Asian Centre for Human Rights. During 2010, the NHRC awarded compensation in the following cases of custodial death, rape and torture filed by ACHR.

Asian Centre for Human Rights would like to highlight a few cases:

Case 1: NHRC set aside Jammu and Kashmir government's immunity under Article 370 and awarded Rs 500,000 in the custodial death of Mohan Lal

In an extraordinary order on 27 December 2010, the NHRC set aside the immunity enjoyed by the State Government of Jammu and Kashmir by invoking its Special Status under Article 370 of the Constitution of India while giving its order on a complaint filed by Asian Centre for Human Rights with regard to the custodial death of one Mohan Lal.

The NHRC in its order dated 19 August 2009 directed the State Government to pay a sum of Rs.500,000 to the next of kin of deceased. The NHRC concluded that the deceased died after being subjected to torture during interrogation. However, the state government refused to comply with the 19 August 2009 order on the contention that the NHRC does not have jurisdiction to give recommendations in a case of death in the State due to police atrocity in view of Section (2) of the Protection of Human Rights Act, 1993 which specifically excludes the operation of the said Act in the State of Jammu and Kashmir in so far as it pertains to matters relating to the entries enumerated in List II of the VII Schedule of the Constitution of India.

The NHRC in its order ruled that its recommendations do not interfere with any of the heads of legislation. The NHRC further ruled that the order passed by it in this case is not regarding any violation of human rights by enactment of any Legislation made by the State in respect of any of the Entries in List II nor was the alleged acts of tortured to death of the deceased discharged while maintaining any public order and there was no case registered against the deceased. It was not a part of any investigation also. It is a clear case where the police has tortured a person and killed him. Therefore, it does not come under any of the powers of Legislation of the State Legislature in respect of any of the Entries mentioned in List II of the State List. The impugned order does not interfere with any of the Heads of Legislation.³⁴⁶

346. Order extraordinaire: J&K's immunity set aside by the NHRC, Special Report India Human Rights Quarterly, Issue-02 October to December 2010, Asian Centre for Human Rights

Case 2: Award of Rs 500,000 in a custody death in Meghalaya

On 1 December 2010, the NHRC directed the state government of Meghalaya to pay Rs. 500,000 to the next of kin of Sngewlem Kharsati who died in police custody on 9 May 2009.

In its order, the NHRC observed *“It is difficult to believe that any person would dare commit robbery when there is a traffic jam and so many persons are around. The victim had already died when he was taken to the hospital. This would mean that the injuries were quite serious. The police paid no regard to the gravity of injuries and instead of taking him directly to the hospital from the place of occurrence, took him to the Police Outpost. This only shows insensitivity of the police.’ Considering all the circumstances, we are satisfied that the police is liable for the death of Sngewlem Kharsati and, therefore, it is recommended to the Government of Meghalaya to pay a sum of Rs. five lakhs to the next of kin of the deceased.”*

Earlier, the Superintendent of Police, East Khasi Hills district tried to mislead the NHRC by stating that the deceased sustained the injuries when he had made an attempt to rob a truck driver and when the driver raised alarm, the other truck drivers who were stranded in a traffic jam beat him with sticks and iron rods. This was despite the fact that the post mortem report revealed several abrasions, contusions and lacerations on the deceased’s body. The doctors stated the cause of death due to shock, peripheral circulatory obstruction and haemorrhage following multiple injuries.

The state government also ordered a magisterial inquiry headed by Additional District Magistrate Tableland Lyngwa. The magisterial inquiry report found a number of police personnel guilty for the death of minor Shri Sngewlem Kharsati.

However, the State Government without awaiting the order of the NHRC in August 2009 announced a compensation of Rs 2 lakhs to the next of kin of the deceased.

On 27 August 2009, ACHR requested the NHRC to set aside state government’s offer of compensation of Rs 200,000 which was a desperate attempt to pre-empt and influence the impending order of the NHRC.

The NHRC while increasing the compensation to Rs. 500,000 stated *“The amount of Rs. two lakhs which has already been paid may be adjusted. The compliance report and proof of payment be submitted within eight weeks.”*

Case 3: Award of Rs 300,000 in a death in police custody in Karnataka

In its sitting at Bangalore, Karnataka, the NHRC on 15 September 2010 held the state government of Karnataka responsible for the death of one Srinivas in police

custody on 25 April 2008 and directed it to pay a compensation of Rs 300,000 to the next of kin of the deceased.

In its order, the NHRC stated *“In our opinion, it is a fit case where monetary relief is required to be granted to the next of kin of the deceased Srinivas.”*

In its complaint dated 4 June 2008, ACHR alleged that Srinivas was tortured by the police after being taken into custody of Kolar police station in Kolar district, resulting in his death. The post-mortem report revealed that the deceased died due to multiple injuries.

While the police initially claimed that the deceased possibly fainted after consuming rat poison and taken to hospital. Later, the police stated that the deceased ran away from the hospital and met with an accident and died. However, no poison was detected in the viscera examination report. Therefore, the NHRC found the version of the police of taking the deceased to hospital as false and “something fishy in the matter.”

The state government decided to reopen the case and handed over the case to the Criminal Investigation Department (CID) for enquiry. The NHRC asked the state government to submit the investigation report of the CID by 14 November 2010 for further consideration.

Case 4: Award of Rs 300,000 in a death of minor due to torture in Children Home in Mizoram

On 10 August 2010, the NHRC directed the state government of Mizoram to pay a compensation of Rs 300,000 to the next of kin of a minor who was tortured to death in Herald For Christ’s Children Home in Aizawl, Mizoram.

While giving its order on the complaint filed by ACHR, the NHRC observed *“Prima-facie there is enough material to prove that the child was subjected to assault and the authorities of the Home failed in their duty to give adequate protection to the child. The State Govt. can not therefore evade its liability to make monetary amends.”*

The Superintendent of Police (SP), Aizawl in his report dated 27.8.2009 submitted to the NHRC revealed several injuries on the body of the child. A case was registered by the police and eight persons were arrested, a chargesheet filed in the Court against them and the trial was under progress. Based on the report of the SP, Aizawl, the NHRC issued notice to the state government as to why monetary relief be not given to the next of the kin. The NHRC further directed the state government to keep the Home under constant supervision so as to ensure its proper functioning.

However, the state government pleaded that the decision with regard to monetary relief be deferred till the conclusion of the criminal trial. In its order the NHRC rejected the plea made by the state government as “devoid of merit” and stated

“The proceeding before this Commission is independent of any other proceeding which may be going on at any other forum.”

Case 5: Award of Rs 100,000 to a reporter for injury suffered due to torture by police in Jharkhand

On 19 July 2010, the NHRC directed the state government of Jharkhand to pay a compensation of Rs 100,000 to Dev Kant Tiwari, a press reporter, who was tortured by the police on 1 February 2009. The NHRC held *“This is a clear case of violation of human rights of the victim. Consequently, the State of Jharkhand cannot escape its liability to compensate the victim.”*

In its complaint dated 12 February 2009, ACHR intimated the NHRC about the injury suffered on the left eye of the victim due to the torture by two policemen and their companions. During enquiry by the NHRC the allegations against the accused persons were found to be true.

On 14 May 2010, the NHRC issued notice to the Chief Secretary, Government of Jharkhand as to why monetary relief be not given to the victim. In response to the notice, Mr Anuranjan Kumar, Joint Secretary to the Government of Jharkhand, Home Department opposed the grant of compensation to the victim on the ground that both parties were under the influence of liquor at the time of the incident which happened due to unnecessary remark made by the victim against one of the accused identified as Constable Shiv Dayal Singh.

However, the NHRC rejected the plea of the state government by stating *“The defense raised by the State Government, through its Joint Secretary, Home, appears to be perfunctory on the face of it. A proper FIR in respect of the incident was registered and during the investigation the allegation of the assault on the Press Reporter by Const. Shiv Dayal Singh and his companions has been found to be true. The medical record on the file shows that the victim Shri Dev Kant Tiwari has been operated upon thrice on his injured left eye at Shankar Netralaya in Chennai. The injury to the eye has been diagnosed as “profound visual impairment”. These facts are sufficient to hold, prima facie, that Shri Dev Kant Tiwari was assaulted by Const. Shiv Dayal Singh @ Bam and his companion severely.....”*

Case 6: Award of Rs 500,000 in a case of rape by police in Andhra Pradesh

In its proceeding dated 3 June 2010, the NHRC intimated ACHR that the state government of Andhra Pradesh complied with its direction to pay compensation of Rs 500,000 to the next of kin of Ms Gangavalli Pushpakumari who committed suicide unable to bear the trauma after she was raped by a police officer at Pullalacheruvu village in Prakasam district on 28 June 2004.

Pursuant to ACHR’s complaint, the NHRC issued notice to the state government calling for report. Consequently, a report was submitted to the NHRC by the

Superintendent of Police, Prakasham district intimating that a case was registered against accused police officer Rameshbabu and a chargesheet was filed in the court after completion of the investigation.

Based on the report, the NHRC on 20 September 2007 issued notice to the state government of Andhra Pradesh asking as to why monetary relief be not given to the next of kin of the victim. In response, the Director General of Police, Andhra Pradesh asked the NHRC to await the outcome of the criminal trial before recommending monetary relief.

However, the NHRC found no merit in the plea. It observed *“The guilt of the police officer has been substantiated in police investigation and that must suffice for the purpose of monetary relief. The Commission proceeds on broad probabilities of the case. The standard of proof required by it is not as rigorous as that is required by the court in a criminal trial. If the police officer abuses his position to sexually exploit a hapless woman, the matter has to be dealt with a sense of urgency and withholding of relief is not at all desirable.”*

Case 7: Award of Rs 500,000 in a case of rape by police in Haryana

On 28 April 2010, the NHRC directed the state government of Haryana to pay a compensation of Rs 500,000 to Ms Pooja (20 years) who was raped by Inspector Jai Singh, Station House Officer of Nishing police station in Karnal district of Haryana on 26 June 2008.

On 26 June 2008, the victim had gone to the police station to meet her parents. But, the police officer took the victim to his official residence at the police station complex and raped her.

Pursuant to ACHR’s complaint, the NHRC issued notice to the state government of Haryana to submit report. Consequently, a report submitted by the Director General of Police (DGP), Haryana revealed that the police officer was dismissed from service, arrested and a challan was filed in the court. However, the DGP contended that as the matter was subjudice, it was not appropriate to make any recommendation for giving compensation to the victim.

The NHRC rejected the plea and stated *“The protector of the law became perpetrator of crime by committing rape on a hapless girl thus, violating her human rights. In these circumstances, the Commission feels that grant of monetary relief to the victim is justified.”*

Case 8: Award of Rs 100,000 in a case of death in the custody of Prohibition & Excise personnel in Andhra Pradesh

On 12 April 2010, the NHRC directed the state government of Andhra Pradesh to pay Rs 100,000 to the next of kin of Nagula Ravinder Goud who died in the custody of the Excise Police in Husnabad town of Andhra Pradesh on 11 August 2008.

In its complaint dated 18 August 2008, ACHR informed the NHRC that the deceased, a shop owner, was arrested by the Excise Police and detained at the excise police station in Husnabad. The deceased was found hanging to the ceiling in the station lock-up. The Excise Police claimed he committed suicide, while deceased's relatives alleged the death due to torture.

Pursuant to ACHR's complaint, the NHRC issued notice calling for report. Subsequently, a show cause notice was issued to the state government asking as to why the deceased's family be not provided financial relief. The state government claimed that as the deceased committed suicide award of compensation did not arise.

The NHRC while rejecting the contention of the state government stated "*Victim Nagula Ravinder aged 27 years was in the care and custody of the State which failed to protect his life as he was successful in committing suicide. The human rights of the victim have thus been violated. In these circumstances, the Commission feels that grant of interim relief is justified.*"

Case 9: Award of Rs 100,000 to two victims of torture in Army custody in Assam

On 2 March 2010, the NHRC directed the Ministry of Defence, Government of India to pay compensation of Rs 50,000 each to two victims of torture in the custody of Army at the Maibela Base Army camp in Sivsagar district of Assam on 31 January 2009.

Pursuant to ACHR's complaint dated 6 March 2009, the Commission called for a report from the Secretary, Ministry of Defence, Government of India and Superintendent of Police (SP), Sivsagar district. The NHRC received a report from the SP, while the Ministry of Defence failed to submit any report. The report of the SP revealed that the victims Bhadrakanta Baruah and Ghana Neog were taken into the army camp on the charges that they were linkmen of the United Liberation Front of Asom. Later, they were handed over to the police. Both the victims were medically examined and the doctor opined that the victims sustained simple injuries caused by blunt object. They were thoroughly interrogated by the police and nothing incriminating was found against them and they were released.

Based on the SP report, the NHRC vide its proceedings dated 16.7.2009 issued a notice to the Secretary, Ministry of Defence to show cause why suitable monetary relief should not be given to the two victims.

In response to the show cause notice, the Ministry of Defence vide its communication dated 15.2.2010 admitted that the two persons were interrogated in which they confessed that the militants had stayed in their house but denied the torture.

The NHRC refused to buy the claim of the Ministry of Defence. It stated "*The Commission has carefully considered the material on record. During the*

investigation by the police, victims were not found having any link with ULFA and were released on the same day. This negates the claim of the Ministry of Defence that they confessed before the Army personnel that they had given shelter to the militants. These two persons remained in the custody of Army for three hours and immediately after they were produced before the police they were got medically examined which disclosed the injuries mentioned above which were caused by blunt object. Even though the injuries have been opined by the doctor as simple, yet they are suggestive of torture during the interrogation by the Army personnel. Hence, prima-facie, a case of violation of human rights is made out and the Govt. of India cannot escape its liability to compensate them monetarily.”

Case 10: Award of Rs 25,000 to a victim of torture in Army custody in Manipur

On 4 April 2010, the NHRC directed the Ministry of Defence, Government of India to provide a compensation of Rs 25,000 to Soraisham Gopeshor Singh, a victim of torture in the custody of Army in Manipur.

Pursuant to ACHR's complaint, a notice was issued to the Ministry of Defence. Subsequently, show cause notice was issued to the Ministry as to why monetary relief be not recommended to the victim. But no response was forthcoming. Hence, the NHRC issued a final reminder no response was received.

Consequently, the Commission observed “It appears that Government has nothing to say in the matter” and ordered the compensation to the victim.

Case 11: Award of Rs 50,000 in a case of judicial death in Assam

On 20 January 2010, the NHRC directed the state government of Assam to pay a compensation of Rs 50,000 to Haliram Saikia (29 years) who died due to torture in judicial custody at Lakhimpur jail in Assam on 9 June 2003.

In its complaint dated 17 June 2003, ACHR intimated that Haliram Saikia was allegedly subjected to torture and died in the jail. The family members of Haliram Saikia alleged the jail superintendent had tortured the victim. They further alleged that after the post mortem of the body, four vital organs of the body eyes, kidney, tongue and the brain were missing.

The state government did not object to the show cause notice issued by the NHRC asking it to explain why a direction shall not be given to pay appropriate compensation to the next of kin of the deceased.

Accordingly, the Commission ordered the state government to pay a sum of Rs 50,000 to the next of kin of the deceased.

Case 12: Award of Rs 25,000 to a victim of torture in judicial custody in Uttar Pradesh

On 14 January 2010, the NHRC directed the state government of Uttar Pradesh to

pay a compensation of Rs 25,000 to Jeetendra Trivedi who was tortured at Kanpur jail in Uttar Pradesh in August 2005.

Pursuant to ACHR's complaint dated 9 September 2005, the NHRC issued a notice dated 21 September 2005 directing the Inspector General of Prisons, Government of Uttar Pradesh to submit report. Subsequently, the NHRC issued a show-cause notice asking why monetary relief be not given to the victim. In its response, the state government opposed grant of compensation on the following grounds:

- (i) Prisoner Jitender Trivedi suffered injuries as a consequence of his own act of sexual assault on the co-prisoner Barkat. He would not have suffered these injuries had he not indulged in the indecent act.
- (ii) No jail official is responsible for the injuries sustained by the prisoner. The jail officials have been punished departmentally only for their inefficiency and administrative negligence.

The NHRC rejected the objections raised considering that "*The State is responsible for the safety and security of a person in its custody.*"

9. Scrutiny of Torture in India by the UN

The UN Special Rapporteur on Torture in his report (A/HRC/16/52/Add.1 dated 1 March 2011) to the UN Human Rights Council raised the following cases of torture transmitted to the Government of India.

53. 23/12/09 AL TOR

Concerning Mr B.M., aged approximately 16, son of Mr U.M., of Ghojadanga Paschim Para, Khalbedi and Mr A.A., aged 22, of Angrail Village, District North 24 Parganas, West Pengal.

On 10 June 2009, B.M. was approached by An officer from the Border Security Force (“BSF”), DIB, along with two other constables of Ghojadanga BSF Camp, Battalion-94, Company-A, Police Station-Basirhat, District: North 24 Parganas, as he was standing outside his home. The constables suspected B.M. of being a smuggler, as there was a group of smugglers crossing the Bidhyadhari Khal canal at that time. Mr M. was beaten by the constables on the spot, and was then forcibly taken to the Ghojadanga BSF Camp, and was beaten en route by a BSF Officer with a wooden stick.

Mr M.’s aunt witnessed the incident and together with Mr M.’s mother and two members of the Etinda Panitor Gram Panchayat village council went to the Ghojadanga BSF Camp to request the reason for Mr M.’s detention. The BSF officer and the Assistant Commander would not disclose any reason, and assured them that Mr M. would be released that evening. In fact, Mr M. was not released until the following day. During this detention, Mr M. was physically beaten and also verbally abused by the constables who had arrested him, leaving him with injuries including a hematoma and severe pain on his left thigh, left ear, left wrist and right shoulder.

In a separate incident, on 14 May 2009, three BSF officers from Out-Post No. 8, Angrail BSF Camp arrived at the home of Mr A.A., requesting to see him. The officers pushed aside Mr A.’s mother and then forcibly took him to Agrail BSF Camp. During his detention at the camp, Mr A. was slapped a number of times, and tied up to a tree with an iron chain, and left there overnight. The next day he was severely beaten by the BSF officers, while being forced to lie upside down. He was beaten on his back, waist, buttocks, and chest with sticks, and was denied food overnight and the next day, until his father arrived with food. Mr A. was then transferred to the Custom Office of Petrapole and forced to sign blank papers. He was not informed of any charges being made against him. Mr A. was released on the same day after his family paid an amount of Rs. 1000. Mr A. required hospitalization as a result of the injuries sustained at the hands of the BSF officers.

Mr A.’s family tried to lodge a complaint about his treatment at the Gaighata

Police Station, but the officers there refused to accept the complaint. His mother has also made a written complaint to the Bongaon Sub-Divisional Police Officer, but no investigation has been commenced.

On 7 July 2009, Mr A. was requested to attend a meeting with the Commanding Officer of Angrail Camp, but fearing for his life, Mr A. did not attend. Mr A. was subsequently issued a notice by the Superintendent of Customs, Petrapole office, falsely indicating that he had been intercepted on 15 May 2009 by BSF officers at the border area with cattle for which he did not have a valid document. This is WGEIDuted by his family.

In light of above allegations of ill-treatment at the hands of BSF officers, concern is expressed in relation to the future well-being of both alleged victims, and their ongoing physical and psychological integrity.

By letter dated 6/04/2010, the Government of India indicated that it had examined the communication and found it to be inaccurate.

The investigation into the matter has shown that the subject was called for questioning to the local BSF post on 8 June 2009 at about 1100hrs on suspicion of his involvement in smuggling activities but was left off the same evening. He was neither beaten nor ill-treated. In fact, the subject has no grievance against the BSF; neither has he lodged a complaint against the BSF nor is he aware of any such complaint on his behalf—something to which the subject has testified in writing. The matter only bears out the Government of India's earlier submissions on similar allegations to various special procedures that the allegations against BSF are only a tactic by criminal syndicates active in the region to thwart BSF's enforcement drivers against illegal cross-border activities of these syndicates.

The Permanent Mission of India requests that the response of the Government of India be presented in full to the Special Rapporteur on the Question of Torture.

54. 27/01/10 JUA WGAD;TOR

Concerning Mr. A. S, a 28-year-old dalit.

Mr. A.S. was arrested on 4 January 2010 at 10:00 p.m. by a police officer. He was held in police custody remand (PCR) until 11 January and was charged with robbery. Throughout the detention period, Mr. S was beaten repeatedly, including on his arms and legs with wooden planks, and on his genitals. It is believed that he may have suffered from vision loss and a fractured arm and leg. During this time, his family was not allowed to see him, and he was neither given food nor allowed to use the bathroom. On 7 January, as part of the investigation, a police officer took Mr. S to the place where the alleged robbery took place. The officer (whose name remains on record with the mandate holders) then proceeded to hit him on numerous occasions on his head and genitals with his boots, and forced him to jump in public for thirty minutes. The same procedure was repeated in front of the

victim's house. In addition, Mr. S was verbally abused regarding his caste and his religion. The officer also threatened Mr. S by stating that he would shoot all the boys born in the same caste.

When Mr. S was presented before a court, the police officer presented a false medical certificate and threatened Mr. S not to speak about his experience in detention. Mr. S refused to request medical treatment for fear of reprisals. His family has also received threatening messages not to take legal action. Mr. S is currently detained under magisterial custody remand (MCR) and has not had access to medical attention. He reportedly cannot walk properly and stammers due to the beatings and requires urgent medical attention.

By a letter dated 6/04/2010, the Government of India examined the communication and found that it would not be possible to investigate the allegation in absence of information about the specific place of occurrence of the alleged incident. It is, therefore, requested that information be provided about the specific place of occurrence of the alleged incident (village/town/area/district/state) to enable suitable investigations.

The Permanent Mission of India requests that the response of the Government of India be presented in full to the Chairperson/Rapporteur of the Working Group on Arbitrary Detention, and the Special Rapporteur on the Question of Torture.

55. 03/02/10 AL TOR

Concerning A., a minor.

During lunch break on 5 November 2009, A., son of S.M., was at his school, Pandit Ram

Chandra Mishra Inter College in Vidhyachal. He was trying to play hockey when the Principal, approached him and severely beat him, causing a fracture in his shoulder and ribs. The next day, Mr. M went to the school, where he received an apology from Mr. D and 100 Rupees for A's medical treatment.

Ajay was treated at a community health centre and on 11 November, he was taken to the Mirzapur District Hospital for further treatment. He died that night at his home. A's body was taken by the police to perform an autopsy. A First Instance Report (FIR) was filed against Mr. D. Further information received also indicates that other children have also been subjected to corporal punishment at school. On 11 September, M and R students at Marwadi Seva Sangh Siksha Niketan, Varanasi, were forced to stand naked in the sun for over three hours. Their teacher was suspended, but no action was taken against the school. On 31 October, A, a student at Sacred Heart Christian School, Urai, was beaten and her hair was pulled out after she failed to complete her homework due to illness.

By letter dated 06/12/2010, the Government indicated that with regard to the

incident of 5 November 2009 at Inter-College, Vindhayanchal, the matter is under investigation.

With regard to the incident of 11 September 2009 at Marwadi Sewa Sangh Siksha Niketan, Varanasi, the concerned teacher was suspended and later dismissed from the service. Stern instructions were issued by the authorities to the institution to sensitize the teachers and to emphasize student counseling so as to prevent recurrence of such incidents.

With regard to the incident of 31 October 2009 at Sacred Heart Christian School, Urai, the concerned teacher was dismissed from the service. A follow-up investigation was conducted on 1 October 2010 in which about 100 school students were asked about corporal punishment practice in the school. No complaint was received during this investigation.

The Permanent Mission of India requests that the response of the Government of India be presented in full to the Special Rapporteur on the Question of Torture.

56. 05/02/10 JUA FRDX;TOR;HRD

Concerning Mr. Devi Singh Rawat, a lawyer and human rights defender based in Rajasthan, India, working particularly on the issue of torture. From 2006-2008 he worked with the National Project on Prevention of Torture (NPPT) in India, including participation in training sessions.

On 5 January 2010, Mr. Singh Rawat filed a complaint against officers from Adarsh Nagar Police Station in the Ajmer District of Rajasthan, alleging that two individuals, Mr. Gopal Swaroop and a Mr. Rajkumar, had been subjected to acts of torture. He filed his complaint before Judicial Magistrate No. 4, naming 3 police officers as the alleged offenders. The court recorded statements by the complainants and witnesses under sections 200 and 202 of the Code of Criminal Procedure, and adjourned the case until 11 February 2010 to allow for further investigation. The complaint was filed by Mr. Singh Rawat on behalf of a request by the State Law Officer of NPPT.

On 30 January 2010, Mr. Singh Rawat was allegedly summoned to the Adarsh Nagar Police Station, where he was asked to withdraw the complaint, or face consequences as a result. However, Mr. Singh Rawat refused to do so.

On 31 January 2010 at approximately 11:00am, a fight broke out between police officers and members of the public during elections for Panchayati Raj Institution (PRI) (a local governance body) in Palra Village, which falls within the jurisdiction of Adarsh Nagar Police Station. It is reported that several voters who had travelled to Palra from Khajpura village were arrested by Adarsh Nagar police and prevented from casting their votes. The police allegedly attempted to seize their vehicle, leading to a scuffle which developed into a fight between the police and voters. A police vehicle was damaged and several individuals received

minor injuries. Approximately 20 people were arrested at the scene and several had charges filed against them.

Mr. Singh Rawat was not present at the scene at the time of the incident, and is resident in another area. He was therefore not reportedly connected in any way to the election under way in Palra village. However, he was arrested later that day, in relation to the violence, at his residence and taken to Adarsh Nagar Police Station. His relatives were not informed of his arrest. It has been reported that the police physically assaulted and abused Mr. Singh Rawat and up to 15 other detainees upon arrival at the police station. Whilst in detention they were forced to remove their clothes and were then photographed. These photographs were later provided to the press.

Mr. Singh Rawat was charged with “Voluntarily causing hurt to deter a public servant from his duty” and “Assault or criminal force to deter a public servant from the discharge of his duty” under Sections 332 and 353 of the Indian Penal Code (IPC) and under Section 3 of the Protection Against Property Damage Act for “mischief causing damage to public property”.

During a hearing to remand the detainees into custody on 1 February 2010, a bail application was filed on behalf of Mr. Singh Rawat. The hearing was held before Judicial Magistrate No. 5 as the presiding officer of the original Jurisdictional Court No 4 was on leave. Mr Mhendra Dabi refused Mr. Singh Rawat’s bail application and remanded the detainees into custody until 11 February 2010.

A second bail application was filed later the same day before a District and Sessions Judge under Section 439 of the Criminal Procedure Code. At a hearing at 2:00p.m on 2 February 2010, the Additional District and Sessions Judge No. 2, granted bail to Mr Singh Rawat and the other detainees. Mr Singh Rawat and the others were released from the Central Prison in Ajmer at 6:30p.m that evening. Charges remain pending against all of the Detainees.

Concern is expressed that the arrest of and charges against Mr Devi Singh Rawat, in addition to his reported ill-treatment while in detention, are related to his work in defence of human rights, particularly his work against torture and for speaking out against violations of human rights by the authorities.

By letter dated 09/12/2010 the Government indicated that the initial investigation shows that the subject was arrested as per procedure laid down by the law. The matter is sub judice.

The Permanent Mission of India requests that the response of the Government of India be presented in full to the Special Rapporteur.

57. 06/07/10 AL TOR

Concerning the Prevention of Torture Bill, 2010, adopted by the Lok Sabha, the

Lower House of Parliament on 6 May 2010.

The Prevention of Torture Bill, 2010 (“the Bill”) was drafted in an effort to complete the ratification process of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (“Convention against Torture”), which India signed in 1997. However, the Bill fails to comply with several provisions found in the Convention against Torture, including on the definition of torture, cruel, inhuman or degrading treatment; investigation and prosecution; and compensation, among others.

The definition of torture found in the Bill only foresees one purpose for torture, obtaining information, as opposed to the definition found in the Convention against Torture, which also includes torture as a form of punishment and intimidation or coercion. The Bill only includes acts that cause “grievous hurt” or “danger to life, limb or health (whether mental or physical)” as torture, a narrower definition than that found in the Convention, which encompasses “severe pain or suffering”. Additionally, an act of torture may only be punishable if it is done to extract a confession or information and if it is based on discrimination. As such, both elements need to be present for it to constitute torture. Furthermore, the Bill does not prohibit complicity in torture or cruel, inhuman or degrading treatment. In terms of punishment, the Bill sets a maximum of ten years imprisonment, which does not seem in accordance with the seriousness of the crime.

With regard to investigating and prosecuting acts of torture, the Bill requires the “previous sanction” of the Central or State Government before a court may take up a case. This provision is contrary to article 12 of the Convention against Torture, which calls upon States to carry out prompt and impartial investigations wherever there is ground to believe that an act of torture may have taken place. To require previous sanction would limit the number of cases investigated and grant de facto immunity to certain perpetrators.

In addition, complaints have to be filed within six months from the date on which the offence took place. This poses serious problems for many victims, as they may remain in detention for longer than six months, without access to any complaints mechanisms or at risk of further torture or ill-treatment if they file a complaint.

Another issue of concern with regard to the Bill is the lack of a provision concerning the rights to redress and compensation, as established in article 14 of the Convention against Torture. The Bill does not provide for any mechanism under which a victim may seek or obtain compensation. The Bill is also silent on the use of statements obtained through torture and other preventive mechanisms such as ensuring access to legal counsel following arrest or detention and monitoring places of detention, including the ratification of the Optional Protocol to the Convention against Torture.

By letter dated 26/10/2010, the Government indicated that of India had examined the communication and would like to inform that the Bill is currently undergoing

careful scrutiny in the Parliament and due attention would be paid to all the concerns that have been expressed, including by the civil society, on various aspects of the Bill.

The Permanent Mission of India requests that the response of the Government of India be presented in full to the Special Rapporteur on the Question of Torture.

58. 21/09/10 JAL HLTH;TOR

Concerning the lack of access to palliative care and pain treatment in India.

More than half of India's Regional Cancer Centres do not offer any palliative care for pain management. Only 10 of the 29 existing Regional Cancer Centres have effective programmes and five others offer limited palliative care. It is estimated that more than one million people suffer from moderate to severe pain due to advanced cancer, and only a few receive proper treatment. The same occurs for people with HIV/AIDS, paraplegics, patients with advanced renal diseases and others who require palliative care. Additionally, many of the Regional Cancer Centres do not have health workers who are trained in palliative care.

With regard to the availability of morphine, hospitals and pharmacies generally stopped stocking it as a result of the adoption in 1985 of the Narcotic Drugs and Psychotropic Substances Act. The Act had been created in order to create a balance between the obligation to ensure the availability of opioids for medical purposes and to take steps to prevent their misuse. However, burdensome licensing procedures in state regulations mean that hundreds of thousands of patients do not have access to the necessary medications. In 2008, only 4% of those requiring morphine had access to it. In 1998, the national Department of Revenue drafted a model rule for states to use in order to simplify the medical use of morphine. The Department at the time indicated that existing regulations denied "easy availability of morphine to even terminally ill cancer patients", and caused "undue sufferings and harassment". However, despite this recommendation by the Department of Revenue, only 14 of the 35 states have implemented the model rule.

In terms of policy, there is no national palliative care policy or program and, despite the fact that considerable resources have reportedly been invested to strengthen the cancer care system in India, very few funds have been allocated to palliative care. At the state level, only Kerala has a palliative care program in place.

The failure to ensure availability of palliative care leaves many patients suffering from severe pain, which may constitute cruel, inhuman or degrading treatment.

59. 28/09/10 JAL RINT; HLTH;TOR

Concerning the situation of 65 Pakistani members of the Mehdi Foundation International (MFI) who are currently detained in Central Jail Tihar, New Delhi,

India. Their case has been subject of an urgent appeal sent jointly by the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on the question of torture on 26 September 2007 (see A/HRC/7/10/Add.1, paras. 100-104) and we would also like to acknowledge receipt of your Excellency's Government's response dated 12 February 2009 (reproduced in A/HRC/13/40/Add.1, para. 101).

Since their arrival in Central Jail Tihar in April 2007, Ms. Safia Shafi, Ms. Bushra Mansoor, Ms. Shabana Gohar, Ms. Samira Wasim and Ms. Anisa Jabbar who were pregnant at the time of their arrest have given birth to five children. Reportedly, medical staff treated the pregnant MFI women inhumanly and slapped their faces during delivery. After delivery, no food or medication was given to the women for the next two days, while in the hospital food is usually served two times a day. Sanitary pads were not provided after delivery. One MFI woman was not administered stitches correctly and subsequently new stitches were readministered without any local anesthetic. During a medical checkup in Deen Dayal Hospital, it was found that Ms. Qamar Parveen and Ms. Sajida Waheed have cysts in their ovaries. While surgery was recommended, the Senior Medical Officer refused this, reportedly stating that "You take care of it at your own expense outside after your jail term."

On 28 January 2010, the Government of India rejected the applications made on behalf of the MFI detainees for political asylum and subsequently all criminal charges against them were reportedly withdrawn. The MFI members continue to be held in custody, pending a decision by the courts on whether their deportation to Pakistan would be lawful.

In Central Jail Tihar, the MFI members are detained in unsanitary and overcrowded facilities which have reportedly resulted in communicable diseases. If MFI detainees are sick they are scarcely referred to an external hospital and the prison authorities make them clean drainage lines with their bare hands.

Mr. Iqbal Shahi suffers from fits and there is neither medical care in the prison nor is he referred to outside physicians. Mr. Iqbal Shahi has been diagnosed with a tumor in his brain; however, reportedly no medical help is forthcoming.

Mr. Muhammad Ashfaq is diabetic and suffers from an illness affecting his backbone. The prison staff only gave him Metformin tablets and his sugar level is getting higher. When Mr. Muhammad Ashfaq raised this issue with the prison staff he was reportedly told that "medication is very expensive outside and we cannot afford it, nor can we refer you to an outside hospital"

Mr. Abdul Waheed underwent heart bypass surgery before his arrest and is still suffering from acute heart-related illnesses and blood pressure. Reportedly, he is not getting proper medical treatment but only receives painkillers. The prison authorities asked Mr. Abdul Waheed to take care of his medical needs at his own expense from outside.

Mr. Abdul Rashid is diabetic, but the prison authorities did not allow him to visit an Outpatient Department. Due to high diabetic condition his eyesight deteriorated and he has blurred vision.

Ms. Kulsoom Khan suffered from fever in May 2007. The prison authorities gave her medication that did not help and the prison staff allegedly beat her. Ms. Kulsoom Khan was then sent to Deen Dayal Hospital where some liquid was withdrawn from her spine which generated pain in her lower spine. In Deen Dayal Hospital, Ms. Kulsoom Khan was reportedly given electric shocks once or twice daily. She was tied to the bed with ropes and would be unconscious for hours. Upon her return to Central Jail Tihar she was weak but she was reportedly refused to special diet including milk, egg, cheese and fruit. Ms. Kulsoom Khan developed anemia, however, she did not receive medication nor proper medical care.

Currently, eleven MFI children remain in detention in Central Jail Tihar (Farah Naz Gohar, Sana Riaz, Shahzaib, Hassan AlGohar, Asad Gohar, Zill-e-Gohar, Mary Gohar, Abhaya Gohar, Aamir Gohar, Tabassum Gohar and Abasah Gohar). However, the prison authorities do not have the required medication for children and the detained children are given adults' medication instead. Thus the two-yearold Ms. Abasah Gohar was given full antibiotics over 15 days and subsequently developed gastric problems.

60. 24/09/10 AL TOR

Concerning Mr. Govinda Mondal, aged 35.

On 6 August 2010, Mr. Govinda Mondal was farming when three Border Security Force constables from the Char Mou Rashi Border Outpost, E Company, Battalion 52, approached him. They reportedly dragged Mr. Mondal to a nearby house, where they took off his clothes and placed one of the items of clothing in his mouth. He was then beaten with a wooden spade for approximately one-and-a-half hours on his feet, chest and face, until he lost consciousness. Mr. Mondal was taken to the Lalbagh S.D. Hospital, where he was treated until 10 August 2010.

On 14 August 2010, Mr. Mondal filed a First Instance Report (case No. 418/10) at the Raninagar Police Station. However, no investigation has been initiated.

61. 05/10/10 AL TOR

Concerning allegations of torture and illtreatment perpetrated by Indian police officers. Summaries of these allegations are contained below.

On 3 March 2008, Ms. Anusiya, aged 22, was beaten by four police officers who appeared to be intoxicated and taken to the Theni Police Station. Ms. Anusiya's husband, Mr. Senthilkumar, was beaten and kicked when he tried to defend his wife. The officers proceeded to tear Ms. Anusiya's sari, rip her blouse and grab her breast. When she refused to have intercourse with the officers, Ms. Anusiya

was verbally and physically assaulted. One of the officers also threatened to kill her family if she told anyone about the ill-treatment. On 4 March 2008, Mr. Senthilkumar filed complaints with several authorities, but no response has been received.

On 21 June 2008, Mr. Marimuthu was taken to the Periyakulam Police Station for questioning, as he was suspected of being involved in a case of theft. He remained handcuffed at the station until the next morning, when he was taken by police jeep to several towns. When Mr. Marimuthu inquired into the destination, he was beaten by the officers. On 23 June, he was taken back to the Periyakulam Police Station, where he was brutally beaten on his back, while his legs were bound with a chain. He was later forced to undress and sit against a wall, while his limbs were stretched in all four directions. Because Mr. Marimuthu continued to deny his involvement in any crime, he was kicked and beaten on his back and ears until he confessed. The following morning, Mr. Marimuthu was released and threatened not to tell anyone about the ill-treatment. On 23 June, Mr. Marimuthu filed complaints with several authorities, but no response has been received. The National Human Rights Commission transferred his complaint to the Superintendent of Police, but no investigation was started.

On 13 July 2008, Mr. Asunmaikkodi was told to go to the police station by Mr. Babul Jesudoss, Sub-Inspector of the Sethur Police Station. When he arrived at the station, Mr. Asunmaikkodi was slapped on the cheek and told his fingerprints would have to be taken, as he was a suspect in several cases of theft. When he refused, Mr. Asunmaikkodi was verbally and physically abused by SubInspector Jesudoss. He was hit on the face, kicked on his back, grabbed by the neck and pushed into a wall, and chained to a window grill. After a few hours, he was given the option of being subjected to additional ill-treatment or to have his fingerprints taken and be released. He agreed to have his fingerprints taken. Upon release, Mr. Asunmaikkodi was once again threatened by Head Constable Mr. Dhanam. On 14 July 2008, Mr. Asunmaikkodi filed complaints with several authorities. No response has been received.

On 17 August 2008, Mr. Muthukumar, aged 34, took his father, brother and wife to the Ilaiyangudi Police Station, after they had been brutally attacked by several men. Constable Arul refused to lodge a complaint against the perpetrators allegedly because they were his relatives, and accused Mr. Muthukumar instead. Mr. Muthukumar was then verbally and physically assaulted by Mr. Arul, who also forced him to undress and beat him with a metal baton. Two other constables then stood on Mr. Muthukumar's hands while Mr. Arul beat him with a metal baton on his back. He was left chained and naked on the floor of the police station. His family members were also forced to take their clothes off and threatened with violence if they filed any complaints against the ill-treatment. Mr. Muthukumar and his family are required to report daily to the police station. On 2 September 2008, complaints were filed with several authorities, but no response has been received.

On 9 September 2008, Ms. Chellappa was arrested by Inspector Kumaravelu, Head Constable Suppaiyan and two police officers from the Sembanar Koil Police Station. All four men took turns beating Ms. Chellappa with a lathi and verbally harassing her. Ms. Chellappa's daughter, Ms. Thilagavathi, was sexually harassed by the four officers. The officers then entered her other daughter, Ms. Vijaya's room and began to hit her on the back with a lathi. Afterwards, the officers identified themselves and took Ms. Chellappa to the police station. She was released after signing a blank statement. Ms. Chellappa was taken to the hospital for treatment, where she was questioned by two police officers. Her husband filed complaints with various authorities, and although the National Human Rights Commission transferred the complaint to the Superintendent of Police, no action has been taken to investigate the ill-treatment.

By letter dated 30/11/2010, The Government requested information regarding places of occurrence of alleged incidents (village/town/area/district/state) to enable the allegations to be examined suitably.

The Permanent Mission of India requests that the response of the Government of India be presented in full to the Special Rapporteur...

62. E/CN.4/2005/62/Add.1 page 166-169

By letter dated 25/06/2010, The Government indicated that:

Re: Haseena Ara

The subject was related to a notorious terrorist Abdul Qayoom Bhat who was suspected to be involved in the killing of a Security official.

The Subject was called for questioning at the police post on 4 July 2004 and was questioned for about two hours in the presence of her parents and two lady constables. When the subject informed during questioning that she was ill and under medical treatment at Zachaldara Hospital, she was let go with her parents and admitted to this hospital. However, owing to her background, she was subsequently taken to some unknown place by terrorists who wanted to project the security forces in a bad light. The subject was ultimately recovered from JVC Hospital, Bemina, Srinagar where she was treated for simple injuries and relieved thereafter. Allegations, such as those contained in the communication, are invariably made at the instance of militant groups in order to put pressure on the security personnel, as also to derive financial benefits from the Government.

Re: In habitants of village Choun and Nadigam

The allegations are baseless. On 6 May 2004, the village of Choum was cordoned off for a search operation when some unscrupulous elements in the village deliberately instigated a confrontation with the security officials in order to provide a chance to the hiding militants to escape. Allegations, such as those contained

in the communication, are invariably made at the instance of militant groups in order to put pressure on the security personnel, as also to derive financial benefits from the Government.

Re: Md Amin Peer:

The subject was lifted by unknown miscreants to provoke the villagers and engineer their confrontation with the security officials. The subject was provided necessary medical treatment at a hospital. The case was later closed as the miscreants could not be traced.

63. Arrest following a police shootout in Imphal Manipur (A/HRC/13/39/Add.1 para 93)

By letter dated 15/07/2010, the Government of India indicated that after an examination of the the communication and it found it to be inaccurate.

The investigation in into the matter has shown that, contrary to what has been alleged in the communication, Mr. Phurilatpam Deben Sharma, Mr Dayananda Chingtham, Mr Thounaojam Surjit and Mrs Leimapokpam Nganbi Devi were arrested on 5 August 2009 after observing due formalities, including the presence of lady police. They were later produced before the magistrate on 6 August 2009 and remanded first into police custody and later into judicial custody. Similarly, Mrs Orinman Phanjoubam Sakhi Leima, Mrs Khangembam Lourebam Nganbi and Mrs Yumlebam Mema were arrested on 4 August 2009 after observing due formalities under Unlawful Activities Prevention Act owing to their links with suspect organizations and apprehension that they were planning to commit offence. They were released on 8 January 2010. It may be noted that on 6 August 2009, two days after the above-mentioned arrests, an unruly mob gathered at about 23.10 hrs on National Highway-39 in violation of prohibitory orders that had been promulgated by the local authorities. As a result, the police, which used minimal force under due supervision, was forced to WGEIDerse the mob with anti-riot equipment. It was during this WGEIDersal that Mr Naorem Prakash sustained injuries, including on his eyes and nose, and was evacuated to a local hospital for treatment. A police case was duly registered and an investigation is under way.

The Permanent Mission of India requests that the response of the Government of India be presented in full to the Special Rapporteur on the Question of Torture.

The Permanent Mission of India to the Office of the United Nations and other International Organisations in Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

64. Neel Kumar Mondal, (A/HRC/10/44/Add.4 para. 85)

By letter dated 8/10/2010, the Government inidciated that the allegations

pertaining to Mr. Aptarul Hossain have been examined and found to be inaccurate. The subject's real name is Akhtar-Ul-Zaman who was a part of a three-member smuggling gang that was trying to intrude from across the border on 15 February 2008. The subject sustained a bullet injury in his left leg when his gang disregarded the Border Security Force (BSF) patrol's warning and, instead, tried to attack the patrol, thereby forcing the patrol to open fire. The subject was immediately evacuated to Sub-Divisional Hospital, Bangaon, District 24 Parganas where doctors on emergency duty provided him necessary medical treatment. He was later referred to a bigger hospital in Kokata for specialized treatment. In June 2009, the subject was convicted by the local Court to two years rigorous imprisonment and a fine. It may be noted that adequate mechanism are in place to monitor any human rights violations by the BSF. During 2005-09, 45 BSF personnel, including eight officers, were awarded punishments for human rights violations.

With regard to allegations pertaining to Mr. Neel Kumar Mondal and Mer. Dwijen Mondal, the Permanent Mission would like to inform that while the investigation is still in progress with regard to the former, relevant disciplinary proceedings under BSF Act and Rules are under process in the case of the latter.

65. Arrests of Mr. Jiten Yumnam, Ms. Longjam Memchoubi, Mr. Likmabam Tompok, Mr. Amom Soken, Mr. Irom Brojen, Mr. Thiyam Dinesh, Mr. Chung-shel Koireng, Mr. Taorem Ramananda and Mr. Samjetshabam Nando. (A/HRC/13/39/Add.1 para.94)

By letter dated 06/12/2010, the Government indicated that the investigation into the matter, including those of relevant medical records, has shown that the subject, Mr Jiten Yumnam, was not tortured by the police. Contrary to what has been alleged in the communication, the medical certificate concerning the subject does not state that subject had been treated for any electric shocks.

The Permanent Mission of India requests that the response of the Government of India be presented in full to the Special Rapporteur on the Question of Torture.

66. Mr. Abhijit Adhikari, (A/HRC/13/39./Add.1 para 95)

By letter dated 18/02/2010, the Government indicated that after examination of the communication, it found it to be inaccurate.

The subject, who does not live with his mother but in another village about 3 km from Angrail, was apprehended along with some cattle that he was trying to smuggle across the border at about 0530 hrs on May 2009. Later, as required, the subject and the seized cattle were then handed over to the local Customs authorities who, since the subject was in a fine condition, did not insist on medical examination of the subject before accepting him in custody. The subject was later released by the Customs authorities as per their rules and procedures. After this incident, the BSF approached the subject's mother thrice asking her to persuade her son to refrain from smuggling. However, the mother requested the BSF to

be lenient towards her son's smuggling activities in view of the condition of the family. The subject is still suspected to be active and goes by the name of "Bacchhu" among the local smugglers'.

It may be noted that the village of Angrail is situated in an area that is notorious for smuggling and other illegal cross-border activities, owing to the local terrain that is conducive to such activities; the border is riverine, unfenced and human habitations often stretch close to the bank of river Ichchamati whose midstream forms the international boundary between India and Bangladesh in this region. There are well organized syndicates of smugglers active in the region that exploit unemployed youth and even young school-going children, especially from poor families, as couriers of contraband goods. Not only do these syndicates attempt to defy the prohibitory orders imposed by the state authorities (namely, Section 144 of the Criminal Procedure Code that prohibits a gathering of more than five people) but also utilizes some NOGs to mount a negative campaign to put pressure on the BSF.

The Permanent Mission of India requests that the response of the Government of India be presented in full to the Special Rapporteur on the Question of Torture.

67. (E/CN.4/2005/62/Add.1 page 168)

By letter dated 25 June 2010, the Government indicated that after examination the complaint was found to be inaccurate. As per available information, the subjects were not beaten by the police.

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