



Annual Report

National Human Rights Commission, New Delhi, India

# **ANNUAL REPORT**

## **1993-94**

**(FROM OCTOBER 1993 TO MARCH 1994)**

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# NATIONAL HUMAN RIGHTS COMMISSION

ANNUAL REPORT FOR THE YEAR 1993-94

## I. INTRODUCTION

1.1 This report of the National Human Rights Commission (NHRC) is being submitted to the Central Government, for subsequent placement before each House of Parliament, in terms of Section 20 of the Protection of Human Rights Act, 1993 (No. 10 of 1994). It is the first annual report of the Commission, which was initially constituted on 12 October 1993 under the Protection of Human Rights Ordinance of 28 September 1993. This report covers the period from the establishment of the Commission to 31 March 1994.

1.2 The proposal for a Commission was originally contained in a Human Rights Commissions Bill which was introduced in the Lok Sabha on 14 May 1993. However, the powers, functions and manner of functioning of the proposed Commission, as contained in that Bill, were extensively criticized, most notably when that Bill was considered by the Parliamentary Standing Committee on Home Affairs. The Ordinance of 28 September 1993 was drafted in the light of the comments made on the original Bill, as was the resubmitted Bill, which was presented to Parliament on 25 November 1993 to replace the Ordinance.

1.3 The Statement of Objects and Reasons of the November Bill made clear the purposes of the Act subsequently adopted. While noting that India was a party of the International Convention on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, both of which were adopted by the United Nations General Assembly on 16 December 1966, and that the rights embodied in those Covenants stood substantially protected by the Constitution of India, the Statement observed that there had been “growing concern in the country and abroad about issues relating to human rights”. Having regard to this, and to changing social realities and emerging trends in the nature of crime and violence, it had been considered essential to review the existing laws and procedures and the system of administration with a view to bringing about greater efficiency and transparency. The Bill received Presidential assent on 8 January 1994.

## II CONSTITUTION OF THE COMMISSION

2.1 Section 3 of the Act provides for the constitution of a Commission consisting of;

- a) a Chairperson who has been a Chief Justice of the Supreme Court;
- b) one Member who is, or has been, a Judge of the Supreme Court;
- c) one Member who is, or has been, the Chief Justice of a High Court;
- d) two Members to be appointed from amongst persons having knowledge of, or practical experience in, matters relating to human rights.

The Chairpersons of the National Commission for Minorities, the National Commission for Scheduled Castes and Scheduled Tribes and the National Commission for Women are deemed to be Members of the Commission for the discharge of the various functions assigned to it, except for the function relating to inquiry into complaints of violation of human rights, viz., that mentioned in Section 12 (a) (i) and (ii) of the Act

2.3 In accordance with Section 4 of the Act, the Chairperson and Members of the Commission were appointed by the President on the basis of the recommendations of a Committee comprising the Prime Minister, as the Chairperson, and the Speaker of the Lok Sabha, the Home Minister, the Leaders of the Opposition in the Lok Sabha and Rajya Sabha and the Deputy Chairman of the Rajya Sabha as Members.

2.4 The Chairperson and Members assumed office in the Commission on the dates indicated below:

- i) Shri Justice Ranganath Misra, as Chairperson, on 12 October 1993;
- ii) Kumari Justice M. Fathima Beevi, as Member, on 3 November 1993;
- iii) Shri Justice Sukhdev Singh Kang, as Member, on 12 October 1993;
- iv) Shri Virendra Dayal, as Member, on October 1993.

Dr. Justice T.K. Thommen who was appointed as a Member of the Commission could not assume charge on account of illness. It is with profound sorrow that the Commission records his passing away on 20 December 1993. The vacancy thus caused is to be filled.

2.5 In accordance with Section 3(4) of the Act, Shri R.V. Pillai joined the Commission as its Secretary-General and Chief Executive Officer on 20 October 1993, with the rank of a Secretary to the Government of India.

2.6 In accordance with Section 8 of the Act, the Central Government has notified the salaries and allowances payable to the Chairperson and Members of the Commission as also the terms and conditions of their service

2.7 In exercise of the powers conferred on it by Section 10 (2) of the Act, the Commission has issued regulations governing the procedures to be followed in the conduct of its business(Annexure I).

### **III FUNCTIONS OF THE COMMISSION**

3.1 As this is the first annual report of the Commission, it would be helpful here to recapitulate the considerable scope and range of the functions envisaged for the Commission under Section 12 of the Act, "all or any" of which are to be performed by it. These functions are to:

- (a) inquire, suo motu or on a petition presented to it by a victim or any person on his behalf, into complaint of -

- i) violation of human rights or abatement thereof or
  - ii) negligence in the prevention of such violation, by a public servant;
- b) intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court;
  - c) visit, under intimation to the State Government, any jail or any other institution under the control of the State Government, where persons are detained or lodged for purposes of treatment, reformation or protection to study the living conditions of the inmates and make recommendations thereon;
  - d) review the safeguards provided by or under the Constitution or any law for the time being in force for the protection of human rights and recommend measures for their effective implementation;
  - e) review the factors, including acts of terrorism that inhibit the enjoyment of human rights and recommend appropriate measures;
  - f) study treaties and other international instruments on human rights and make recommendations for their effective implementation;
  - g) undertake and promote research in the field of human rights;
  - h) spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, the media, seminars, and other available means;
  - i) encourage the efforts of non-governmental organisations and institutions working in the field of human rights;
  - j) such other functions as it may consider necessary for the promotion of human rights.

#### **IV CONCEPTUAL APPROACH OF THE COMMISSION**

4.1 In the light of the extraordinary range of the functions assigned to the Commission and the scope of the powers conferred on it, it is evident that the Commission must act, and be seen to act at all times, with autonomy and transparency. Indeed, it is on these two conceptual pillars that its work must rest if the Commission is to sustain and enhance the trust reposed in it by the nation. Both of these attributes will therefore need to be scrupulously respected and nurtured.

4.2 The autonomy of the Commission derives, inter alia, from the method of appointing its Members, their fixity of tenure, and statutory guarantees thereto, the status they have been accorded and the manner in which the staff responsible to the Commission-including its investigative agency-will be appointed and conduct themselves. The financial autonomy of the Commission, envisaged in Section 32 of the Act, will be a key factor in ensuring the independence and integrity of this

Statutory body. In pursuance of this objective, the Commission has formulated an administrative structure for itself which envisages, among other things, a built-in financial advice system to ensure the needed autonomy in the financial management of the grant appropriated for the Commission by Parliament.

4.3 The transparency of the Commission rests both on its Statute and on the regulations which the Commission has subsequently framed to govern its procedures. The capacity to receive petitions, to provide petitioners with copies of its reports and decisions, and to place its reports before Parliament and the public are all central to the openness with which the Commission has functioned and proposes to function. Indeed, the Commission counts on the relationship that it will develop with non-governmental organisations, human rights activists, the media and public, to reinforce its message of transparency in the developing of a culture of human rights in the country.

4.4 The complexity and variety of human rights issues facing our nation has required another kind of discipline of the Commission in its effort to maximize the impact of its activities. While seeking to promote and protect all of the Fundamental Rights enshrined in the Constitution or covered by treaties to which India is a party, the Commission has nevertheless considered it essential to focus atleast initially on certain key human rights issues that are of the very highest concern to the people of this country. This has required the setting of priorities, particularly in respect of its suo motu activity even while recognising that all human rights are important and, indeed, indivisible.

4.5 It was with such considerations in mind that the Commission undertook, as its very first suo motu action, an examination of the Bijbehara incident in Jammu and Kashmir, involving the tragic death of civilians in a firing by the Border Security Force. And it was again with such considerations in mind that the Commission has focussed on other issues which go to the heart of civil liberties and the nature of society that we wish to create in India. Thus, the Commission has been particularly engaged, suo motu or on the basis of complaints, with instances of custodial death and rape, disappearance from custody, cruel, inhuman or degrading punishment and torture, gender related violence, atrocities against vulnerable sections of society - women, children and the disabled - often compounded when these vulnerable sections belong to the Scheduled Castes and Scheduled Tribes. It is for similar reasons that social evils such as dowry deaths and bonded and child labour are receiving the early attention of the Commission and that the Commission is engaged in seeing how best it can promote, through education and training in the broadest sense, a human rights culture worthy of the noble traditions of this country and its complex, pluralistic and multilayered society.

4.6 These matters are more fully commented upon in the sections of the report that follow. But the basis approach of this Commission, namely its determination to come to grips, as early as possible, with the gravest areas of human rights violations, will explain why in Section V below,

dealing with Inquiry into Complaints, certain cases, rather than others, have been selected to highlight and illustrate the preoccupations of the Commission.

## **V INQUIRY INTO COMPLAINTS**

5.1 During the relatively brief period conferred by this report, the Commission had already registered 496 cases. Of these, 174 were admitted for further investigation/inquiry/report while 274 were dismissed. In respect of 48 cases the Commission disposed of complaints with observations to the effect that remedies were more appropriately available in other fora, and that the complainants should seek such remedies from them. In accordance with its Statute and regulations, the grounds for the dismissal of complaints were broadly that.

- i) The complaints did not fall within the purview of the Commission;
- ii) The matter was sub judice or pending before another Commission;
- iii) The event, which was the object of the complaint, had occurred more than one year before the making of the complaint;
- iv) The complaint was vague or frivolous and no specific case had been made out of a human rights violation.

5.2 A table indicating the number of complaints received, admitted, disposed of with observations or simply dismissed, may be seen at Annexure-II. A further statement of cases admitted for disposal is at Annexure-III.

5.3 In dealing with the increasing number of complaints, which are being received in the various languages of the country, the Commission has encountered certain difficulties resulting from the shortage of translators. Efforts are under way to remedy this situation, which should not be allowed to become to become an on-going problem, as the complaints being addressed to the Commission are likely to increase very substantially in the period ahead.

5.4 It is significant to note, in connection with the 496 cases registered, that 26 were the result of suo motu action by the Commission - many of the latter relating to allegations of custodial death or custodial rape. In consequence of the perception of the Commission that such grave violations of human rights must be boldly and swiftly dealt with, wherever they occur in the country, instructions were issued by the Commission to all State Governments and Union Territory Administrations, on 14 December 1993, asking for reports from District Magistrates/Superintendents of Police, within 24 hours of the occurrence of any such incidents. Failure to send reports, it was made clear, would give rise to a presumption by the Commission that an effort was being made to suppress knowledge of the incident. The communication of the Commission to all States/Union Territories may be seen at Annexure-IV.

5.5 A further area of serious concern to the Commission results from the number of reports and complaints that it has received relating to the large number, and arbitrary nature, of detentions under the Terrorist and Disruptive Activities (Prevention) Act.. While following up with inquiries on individual complaints, the Commission has also considered it essential to commence an in-depth study of this Act, its implementation and implications. The Commission has, accordingly, called for detailed information from the State Governments and Union Territory Administrations on the number of cases registered under this Act, the numbers arrested, the numbers on bail, the cases decided, and the convictions obtained. Data have begun to be received by the Commission, both directly from District Magistrates and from the Central and State Governments. The law Commission is being associated with the study underway..

5.6 In the paragraphs that follow, resumes are provided of some of the more significant cases of which the Commission has been, or is, seized. These cases have been highlighted both to illustrate the variety and scope of the human rights issues being dealt with by the Commission and also the geographical spread of the complaints being addressed by it. Furthermore, these cases provide some idea of the diverse ways in which the Commission is handling cases, using to the full the various possibilities open to it under its Statute, in order to achieve the greater goal of promoting and protecting human rights country-wide.

## **ILLUSTRATIVE CASES**

### ***(i) Firing by Security Forces in Bijbehara, Jammu & Kashmir***

On 1 November 1993, the Commission, suo motu, took cognizance of press reports about the death of about 60 persons in and around Bijbehara in Jammu & Kashmir, as a result of firing by security forces operating in the areas and called for reports from the Ministries of Defence and Home Affairs as also the Government of J&K

While the Ministry of Defence clarified that the army was not involved, the Ministry of Home Affairs sent a report to the Commission on the basis of the Magisterial Inquiry ordered by the State Government into the incident and the Staff Court of Inquiry ordered by B.S.F. authorities. On examination of the report, the Commission felt that perusal of copies of evidence given by six witnesses was necessary and accordingly called for additional material viz, the evidence given by the witnesses. That evidence having been made available to the Commission and considered by it, together with the report and material provided earlier, the Commission made the following observations/recommendations:

- (a) The Commission noted that disciplinary proceedings had been initiated under the Border Security Force Act against 14 members of the Force, and further that, on the basis of a Magisterial Inquiry, steps may be initiated to launch prosecutions. The Commission expected

that the dual proceedings would be pursued their respective logical ends and that it would be kept informed of the action taken against those found guilty.

(b) Payment was recommended of interim compensation on a graded scale.

(c) It was recommended that a thorough review should be undertaken by Government of the circumstances and conditions in which Units of the Border Security Force are deployed and expected to operate in situations involving only civilian population.

These were communicated to the Central Government and the Commission has since been informed that the recommendations made by it have been accepted. A note indicating details of response of the Central Government is placed at Annexure-V.

***(ii) Alleged custodial death of Shri Shamskhem Kharsaiot followed by death of two persons in police firing in Meghalaya***

The Commission took notice of an item broadcast over A.I.R. on 5 November 1993 that two persons had died as a result of police firing on a violent crowd gathered outside Sohra Police Station in Cherrapunjee in Meghalaya State.. It was reported that people had gathered outside the Police Station to protest against the alleged custodial death of Shri Shamskhem Kharsaiot. The Commission immediately called for a report from the Chief Secretary, Meghalaya. On 19 November 1993, the State Government sent an interim report stating that in regard to the incident of alleged custodial death, Magisterial Inquiry had been ordered, and that in regard to the incident of police firing, a retired High Court Judge was being requested to investigate the matter. It was further reported that the next of kin of the deceased had been given Rs. 25000/- to meet funeral expenses etc.

Upon perusing the interim report, the Commission called for a further report on the action taken and the State Government sent such a report on 15 January 1994.. With regard to the custodial death, it stated that the Magisterial Inquiry had prima facie indicated the Police Officer concerned. Criminal cases had been registered against him. It was further reported that ex-gratia assistance of Rs. 50000/- had been given to the next kin of the deceased and a near relative of the deceased had been given an appointment in Government on compassionate grounds.

With regard to the deaths resulting from the police firing, it was reported that an inquiry by a retired High Court Judge was continuing.

On perusing the report, the Commission on 17 January 1994, observed that in view of the several steps taken by the State Government, there appeared to be no necessity of the Commission pursuing the matter any further. The Commission placed on record its appreciation on the prompt responses by the State Government.

***(iii) Alleged custodial death of Shri Madan Lal in Delhi***

The Commission suo motu took cognizance of a report published in a newspaper dated 30 November 1993 captioned “two Cops suspended for custody death. It was reported that Shri Madan Lal, 22 years of age, had allegedly died in police custody under mysterious circumstances.

The Commission called for a report from the Government of the National Capital Territory of Delhi. On perusing the report sent by the Government of the National Capital Territory of Delhi, it was decided to go into the incident. It was further decided that for the purposes of an effective inquiry an investigation should be undertaken in terms of Section 14 (1) of the Protection of Human Rights Act, 1993. For that purpose, the Commission appointed Shri R.C. Chopra, a member of that Higher Judicial Service, to investigate the matter. The investigation has since been completed and recommendations of the Commission have been communicated to the Government of the National Capital Territory of Delhi.

***(iv) Alleged custodial death of Shri Om Prakash in Delhi***

A report appeared in a newspaper dated 10 November, 1993, captioned “Youth dies in custody”, It was stated that negligence on the part of the police led to the death of a 26 year old youth in lock-up in Sultanpuri Police Station of the North-West District. The Commission suo motu called for a report from the Chief Secretary of the National Capital Territory of Delhi, On 14 January 1994, the Government of the National Capital Territory of Delhi informed the Commission that the Sub-Divisional Magistrate, who had conducted the inquest, had concluded that the death of Om Prakash was due to head injuries which he might have sustained due to a fall while driving a two-wheeler under the influence of alcohol. However, there appeared to be gross negligence on the part of officials who came in contact with Shri Om Prakash shortly before his death. The Government further indicated that departmental action had been ordered to be initiated against such officials as may be found to be negligent.

On 17 January 1994, the Commission directed the Government to furnish information regarding the result of departmental action. It was informed on 24 February 1994 that a departmental inquiry had been ordered against five police officials for various procedural lapses, including delay in medical treatment of the deceased and a case u/s 304 A IPC has been registered. The Commission has since called for a further report on the conclusion of the department inquiry.

***(v) Alleged custodial death of Shri Chandrasekharan in Pondicherry***

The Tamil Nadu State Legal Aid and Advice Board brought to the notice of the Commission that Chandrasekharen had died on 29 December 1993 allegedly in police custody.. It was also pointed out that there was non-reporting by the Pondicherry Administration, in violation of the Commission’s instructions dated 14 December 1993 requiring prompt reporting of custodial deaths. The

Commission appointed Shri K. R. Gururajan, retired Vice-Chairman of Railway Claims Tribunal, Madras, to investigate the matter under Section 14 of the Protection of Human Rights Act, 1993. While investigation by Shri Gururajan was in progress, the Chief Secretary to the Government of Pondicherry reported that as a result of the Magisterial Inquiry which had been ordered by the Government of Pondicherry, the concerned police officers had been suspended and cases had been registered against them under the relevant provisions of law. On perusing the report, the Commission directed that no further action by it was necessary. The investigation earlier ordered u/s 14 of the Act was accordingly dropped.

***(vii) Alleged custodial death of Raja in Dharmapuri District, Tamil Nadu***

The Tamil Nadu State Legal Aid & Advice Board brought to the notice of the Commission a press report concerning the disappearance of Raja, aged 15 years, who had been taken into custody by Hosur Police in Dharmapuri District of Tamil Nadu. The alleged death of Raja in custody had generated wide-spread consternation. The Hosur Bar Association and Denkanikotti Bar Association had passed resolutions urging impartial inquiry. Newspapers had also given wide coverage to the incident.. The Commission took cognizance of the incident and called for a report from the Government of Tamil Nadu.

The State Government informed the Commission on 22 February 1994 that the three police officers concerned had been suspended and a Magisterial Inquiry into the incident had been ordered by the Collector. The Commission has since called for the report of the inquiry and Government's response thereto.

***(vii) Disappearance of Shri Harjit Singh in Punjab***

Amnesty International in its report dated 11 February 1994 had expressed concern over the lack of progress in the legal proceedings initiated in October 1992 to clarify the whereabouts of Harjit Singh who had disappeared after his arrest in April 1992. This matter was also raised at a discussion which a visiting dignitary had with officials of the Commission.

According to the report, on 29 April, 1992, Harjit Singh, an employee of the Punjab State Electricity Board, was arrested by police officers. The police did not have an arrest warrant and subsequently denied the arrest. The police claimed that Harjit Singh and another man were captured on 11 May 1992 after an armed encounter with them. The police said that they took both of them to recover hidden arms and that while doing so, they were attacked by armed militants, during which the two men were killed. However, Harjit Singh was twice seen alive by his father in police custody after the police claimed that his son had been killed.

The Commission has taken cognizance of the incident and called for a report from the Government of Punjab which is awaited. This will be pursued by the Commission.

***(viii) Disappearance of S/Shri Ram Singh Biling and Avtar Singh Mander, Journalists, in Punjab***

The Writers in Prison Committee of International P.E.N. in its report dated 31 January 1994 had expressed concern over the alleged disappearance of S/Shri Ram Singh Biling and Avtar Singh Mander of Punjab.

Shri Ram Singh Biling, Journalist for “Az di Awaj”, daily newspapers, published in Jallendhar, and District Secretary of Punjab Human Rights Organisation, was reportedly arrested near a police checkpoint in Bhogiwat village on 3 January 1992. While being taken to the checkpoint, he is reported to have told a farmer that he feared his life was in danger. The family members, who saw him at the checkpoint on 4 January, were not allowed to speak to him. A farmers’ delegation went to the police checkpoint on 6 January 1992. They were told that Shri Biling had been detained temporarily, possibly on orders from security agencies. They promised an inquiry. Sources said that Shri Biling had died in police custody.

Shri Avtar Singh Mander, Journalist for daily “Ajit” newspaper, was reported to have been arrested on 23 September 1992 at his house in Jalandhar, Punjab. There are no details of any charges pressed against him.

The Commission has called for reports from the Government of Punjab in respect of the above cases, and these are awaited. The Commission proposes to pursue these cases.

***(ix) Alleged custodial death of Shri Balwinder Singh alias Kala in Gurdaspur District, Punjab***

The Commission received a complaint from Shri Narang Singh alleging the death of his son Balwinder Singh alias Kala on 25 January 1994 in police custody. It was stated in the complaint that Shri Balwinder Singh alias Kala was taken into custody by the police on 17 January 1994 for interrogation and was killed on 25 January 1994. During the period between 17 January 1994 and 25 January 1994 the concerned Station House Officer and police officials were regularly contacted by the complainant and the police officials had, on police occasion, assured his that Balwinder Singh would be released as no incriminating evidence had been found against him. However, on 25 January 1994, when some respectable persons of the area met police officials, they were told that Shri Balwinder Singh alongwith three others had been killed in an encounter with the police and a huge quantity of arms had been recovered from them.

Shri Narang Singh submitted to the Commission that the matter be inquired into by a retired Judge as well as through its own investigating agency.

The Commission has called for a report on the incident from the State Government and this is awaited. The Commission proposes to pursue this matter.

***(x) Alleged Rape by an official of Punjab Police***

The Commission had received a complaint from a woman, resident of Maharishi Balmiki Nagar, Ludhiana, that she was raped on 2 January, 1994 by Shri Jagjit Singh, an employee of the Punjab Police. She stated that Jagajit Singh, who was known to her and her husband, took her to his house with an assurance that he would speak to her husband not to quarrel with her. Jagjit Singh raped her and threatened that if she narrated the incident to anybody, he would kill her and her husband. The next morning Jagjit Singh left the woman at her husband's houses. After 8-10 days, Jagjit Singh came to the house again and asked the complainant to come to his house at night. He threatened her with dire consequences if she disobeyed him. The complainant thereafter narrated the incident to her elder sister who conveyed the same to the victim's husband, and later the victim made a complaint to the police, but no action has been taken..

The Commission has called for a report from the Director General of police, Punjab, and this is awaited. The Commission proposes to pursue the case.

***(xi) Atrocity in Police custody:- alleged amputation of male organ of Shri Jugtaram in police custody in Barmer, Rajasthan***

On the basis of a press report that appeared in a newspaper dated 10 February 1994 and captioned "cops cut off man's penis", the Commission took cognizance of the incident suo motu and called for a report from the Government of Rajasthan. The State Government sent a preliminary report stating that one A.S.I. and one constable had been arrested in connection with the incident. Simultaneously, they along with one sub-Inspector and two other constables had been placed under suspension. It was further indicated that investigation of the matter had been taken over by CBI on 19 February 1994 and that, for better medical care, the victim had been sent to SMS Hospital, Jaipur where he was undergoing medical treatment in a plastic surgery ward.

On perusing the report, the Commission on 15 March 1994 directed CBI to complete the investigation within 3 months and submit its report to the Commission soon thereafter. The Commission also directed CBI to keep it informed of the progress of the matter from time to time.

The investigation has since been completed and a charge sheet has been submitted.

***(xii) Atrocities against women-Harijan woman paraded naked on the streets of Dauna village, Allahabad District in Uttar Pradesh***

The Commission took cognizance of press reports dated 24 January 1994 indicating that a Harijan woman had been paraded naked in Dauna village in Allahabad District. It was reported that the son of a Harijan woman, Shivpati, had stolen peas from the field of people belonging to the Kurmi community and that the son had abused the land owner on being reprimanded. This had occurred on 16 January 1994. On 18 January the SHO of Ghoorpur police station was informed of

tension in the village but he did not take any action. On 21 January 1994 some Kurmi Youths waylaid Shivpati, stripped her, beat her and forced her to walk the streets of the village.

Reports of the incident were widely published. Ms Saroj Dubey, Member of Parliament, also addressed a letter to the Chairperson of the Commission, expressed deep concern over the incident and sought the intervention of the Commission.

The Commission called for a report from the Chief Secretary to the Government of U.P. The report is awaited. The Commission proposes to pursue the case.

***xiii) Complaint regarding non-publication of reports of Justice T.L.N. Reddy Commission of Inquiry relating to “disappearance” of 43 persons allegedly from police custody and killing allegedly by police***

Shri K.G. Kannabiran, Vice President, PUCL, Andhra Pradesh, vide his letter dated 22 February 1994 addressed to the Commission, stated that the State Government had not published two reports of the Justice T.L.N. Reddy Commission of Inquiry One of the reports related to the alleged disappearance of 43 persons from police custody. The report was given to the Government nearly two years ago.. The other report related to the alleged killing of Gulam Rasool and his associate by the police. Justice Reddy had also submitted report on this to the Government, but it had not been published by the Government..

The Commission vide letter dated 8 March, 1994, called for a report from the Chief Secretary, Government of Andhra Pradesh.

The State Government has sent to the Commission a copy of the Inquiry Report along with a Memorandum of Action-taken in regard to the alleged killing of Ghulam Rassol and his associate. The State Government has stated that a copy of the other report, relating to the alleged disappearance, along with action-taken note, will be sent to the Commission after the formalities of the laying of the report on the table of the Hose are completed. Both the matters remain under the consideration of the Commission.

***xiv) Alleged beating of a Harijan girl Nirmala by her employer in Sarita Vihar, Delhi***

The Commission took cognisance of press reports appearing on 8 March 1994 indicating that a 13 year old girl had been branded and beaten with iron rods. It was stated that Nirmala was branded with a hot hair dryer, and beaten with iron rods and a rolling pin, allegedly by a couple in Santa Vihar, who had employed Nirmala as a domestic help.

A report has been called for from the Government of National Capital Territory of Delhi and it is awaited.

***xv) Alleged torture of prisoners of Naini Central Jail, Allahabad by the jail authorities***

Certain inmates of the Naini Central Jail, Allahabad in a written complaint to the Commission had alleged that atrocities had been committed against them by the jail authorities. The allegations mainly were as follow:

- (i) They were not given enough food to eat.
- (ii) They were not provided clean clothing.
- (iii) They were beaten without any justification.
- (iv) They were forced to work, even on weekly holidays and festivals.
- (v) They were put on manual labour into the late hours of night.
- (vi) Young inmates were sexually abused.
- (vii) Intoxicants were sold to the prisoners.
- (viii) Medical facilities were not available.
- (ix) The CJM and inspector General visiting the jail for routine inspection did not meet the prisoners.
- (x) Some of the life convicts have been in jail for nearly 30 years whereas ordinarily the maximum sentence prescribed under the law was 14 years.

The Commission on 28 March 1994 took cognizance of the complaint and called for a report from the Superintendent, Central Jail, Naini with regard to the specific allegations made in the complaint. As on 31 March 1994, the report was awaited. The Commission proposes to pursue this matter.

***xvi) Beating of Shri Luies, Advocate by Sub Inspector of Police-Complaint by Shri M. Udaya Bhanu, Advocate, Madras***

Shri M. Udaya Bhanu, Advocate, Madras had represented to the Commission that on 20 January 1994, an advocate, Shri Luies was mercilessly beaten by Sub-Inspector of Police, Shri Devanesan. According to Shri Udaya Bhanu, Shri Luies had intervened when the Sub-Inspector was physically assaulting some beggars. The Sub-Inspector got violent and started beating Shri Luies. Shri Luies was admitted to hospital. Next morning, Inspector Shri Ranganathan forcibly took away Shri Luies to an unknown place.

On 21 January 1994, members of the Bar passed a resolution condemning the act of the Sub-Inspector and filed a petition before the Court for search of Shri Luies and his production before the Court.

The Commission has called for a report from the Chief Secretary, Government of Tamil Nadu. The Chief Secretary has informed the Commission that a Magisterial Inquiry into the incident has

been ordered and that the Sub Inspector, Shri Devanesan has been placed under suspension. The matter remains under the consideration of the Commission.

***xvii) Complaint by All Assam Students Union (AASU) alleging killing of the Advisor of their Unit of Tinsukia District and four other persons by Army Personnel***

The All Assam Students Union had sent a representation dated 4 March 1994 to the Commission alleging that the adviser of their unit of Tinsukia District and 4 other persons were killed by Army personnel on 23 February 1994. They were picked up from their homes during the period from 17 to 19 February 1994. Their parents had approached the Tinsukia District Magistrate, local police stations and Army camps for their release. The District Magistrate had assured them of safe release. When however the youths were not released, the parents filed a Writ Petition before the Guwahati High Court. According to the representation, the High Court directed that the apprehended persons be produced before the nearest Magistrate on 22 February 1994. However, the Army personnel are alleged to have killed the five of them.

The All Assam Students Union complained that the State Government had failed to protect the innocent people of Assam both from “State terrorism and individual terrorism”. They demanded that a high level inquiry be instituted and those found guilty be punished. They asked for intervention by the Commission.

The Commission, on 22 March 1994, called for a report from the Ministry of Defence. The report is awaited. The Commission proposes to pursue the case.

***xviii) Allegations of police excesses in Dehra Dun District of Uttar Pradesh and death of Shri Asad Ali and Shri Kamal Kumar Aggarwal***

Shri E. Balanandan, Member of Parliament, had forwarded to the Commission a representation dated 13 January 1994 from the Students Federation of India, U.P. State Committee, Lucknow, alleging grave violation of human rights by the police of Dehra Dun District leading to the death of Shri Asad Ali and Shri Kamal Kumar Aggarwal on 5 and 7 January 1994, respectively. These allegations were widely reported in the press, and the Bar Association of Dehra Dun had also brought them to the notice of the Chief Minister of Uttar Pradesh. Copies of the communication from the Bar Association were addressed to the Prime Minister and the Union Home Minister, among others. The Member of Parliament requested the Commission to take necessary action so that the perpetrators of the crimes are punished. The President, Youth Journalist Association, Uttar Pradesh, and Bar Association, Dehra Dun, had also separately sent complaints to the Commission alleging police atrocities in Dehra Dun.

The Commission has consolidated these complaints and has called for a report from the State Government, which is awaited. The Commission proposes to pursue the case.

***xix) Appeal for expeditious arrangements for heart surgery of Harihar Behera lodged in Central Jail, Berhampur, Ganjam (Orissa)***

The Commission received a representation from Shri D.N. Panda, Advocate, Cuttack, stating that prisoner Harihar Behera in Central Jail, Berhampur, in the State of Orissa needed immediate heart surgery as advised by the Cardiology Department, S.C.B. Medical College Hospital, Cuttack, and asked for the intervention of the Commission.

The Commission called for a report from the inspector General of Prisons, Cuttack and directed him to make provision for medical assistance in the manner asked for, if the matter was urgent.

The Inspector General of Prisons responded to the Commission's directions and stated that the Government of Orissa had been moved to approve the journey of Shri Harihar Behera outside the State and that sanction of funds and orders to that effect were awaited.

On 24 March 1994, the I.G. Prisons further informed the Commission that on the petition of the wife of Shri Harihar Behera for release of her husband on special parole for a period of 90 days for open heart surgery at C.M.C. Vellore or at AIIMS, New Delhi at her own cost, the Government of Orissa had sanctioned 90 days special parole. Accordingly, Shri Harihar Behera had been released on special parole for 90 days with effect from 28 February 1994.

***xx) Police action against human rights groups gathered to observe world Human Rights Day in Darrang District of Assam***

The Commission, suo motu, took cognizance of an incident reported in a newspaper dated 12 December 1993 captioned 'Human Rights groups flay Assam Government'. It was reported that certain NGOs were trying to convene a meeting to observe World Human Rights Day at Kalaigaon in Darrang District of Assam. The police resorted to lathi charge and arrested many people. Those arrested were later released at night. The Commission called for a report from the State Government.

The State Government reported that the gathering was without prior permission and in violation of prohibitory orders promulgated under Section 144 of Cr PC. Apprehending breach of peace, the Magistrate ordered dispersal of the gathering. According to the report of the Government, all except the leaders of Manab Adhikar Sangram Samitee obeyed the orders. The police arrested 10 people including a number of human rights activists who had come to Assam from outside the State. They were later released. The State Government reported that no force was used while making arrests and there was no lathi charge on the gathering.

Shri Ravi Nair, Executive Director, South Asia Human Rights Documentation Centre, New Delhi who was among the persons arrested wrote to the Commission and met the Chairman at the latter's request. Pursuant to this meeting and on perusing the report of the State Government, the Commission decided to order an investigation into the incident under Section 14 of the Protection of

Human Rights Act, 1993. The Commission has appointed the Sessions Judge, Guwahati, to institute appropriate judicial proceedings and report within three months.. The Assam High Court was requested to permit the Sessions Judge to undertake the investigation and that was accorded. The report of the Sessions Judge is awaited.

***xxi) Medical Ethics: Rights of the Disabled***

The Full Commission, in its meeting held on 15 February 1994, considered reports appearing in newspapers on the removal of uterus of mentally retarded women in Maharashtra. The reports indicated that the operations for the removal of uterus were carried out with the consent of the parents of these women. The reports also indicated the intervention of the Chief Minister, Maharashtra, to stop further operations being carried out.

Following a discussion on the matter, the Commission felt that the issue raised serious questions of medical ethics and the rights of persons suffering from disabilities and decided that, in the first instance, the views of the Medical Council of India should be obtained. The Medical Council has accordingly been requested to give its considered views to the Commission, which intends to consider the matter further.

***xxii) Interventions in Court proceedings under Section 12 (b) of the Protection of Human Rights Act, 1993: Cruel, inhuman and degrading punishment of women.***

The Commission took cognizance of a press report dated 12 January 1994 concerning the alleged tattooing of the words "Jeb Katri" on the forehead of four women by Amritsar Police personnel. The victims had also filed a Writ Petition before the Punjab and Haryana High Court, Chandigarh, praying for directions to the respondents, viz. Government of Punjab, Superintendent of Police, Amritsar and others to arrange for plastic surgery for removal of the objectionable tattoo, giving adequate compensation for inhuman torture and humiliation and for punishing the guilty police officials. On 17 January 1994, the Commission addressed a letter to the Chief Secretary, Government of Punjab calling for a report in the matter.

As the matter was pending before the High Court, the Commission decided to intervene under Section 12 (b) of the Protection of Human Rights act and, upon intervention being allowed, filed an Affidavit through a Counsel asking for

- (i) investigation to be handed over the CBI as the accused belonged to the State police and investigation by a sister wing may not inspire confidence.
- (ii) allow the victims to have their foreheads operated by competent plastic surgeons of their choice at State cost, and
- (iii) allow interim compensation.

The High Court, after hearing Counsel for the parties including Shri Mohinderjit Singh Sethi, Senior Advocate, for the Commission, made a direction accepting all the suggestions of the Commission.

*xxiii) Murder of Dinesh Pathak, editor of a newspaper in Baroda*

The Writers in Prison Committee of International P.E.N. had in February 1994 taken up with the Commission, inter alia, the case of Shri Dinesh Pathak who was stabbed to death reportedly by Shiv Sena activists on 22 May 1993. The Commission took cognizance of the case and directed the authorities concerned to submit a report.

The Commission has since been informed that 19 Shiv Sena activists were involved in the crime and they have all been arrested. One of the arrested persons was killed when he tried to escape from police custody. Out of the accused who were arrested, 16 are still in judicial custody. The trial is likely to commence shortly.

## **VI IMPROVING JAIL CONDITIONS**

6.1 Section 12 (c) of the Protection of Human Rights Act, 1993 empowers the Commission to visit, under intimation to the State Government, any jail or any other institution under the control of the State Government, where persons are detained or lodged for purpose of treatment, reformation or protection to study the living conditions of the inmates and make recommendations thereon.

6.2 The Commission is deeply concerned about the appalling conditions of overcrowding, lack of sanitation, poor medical facilities, inadequate diet and the like, in most of the jails in the country. These serious deficiencies are compounded by unconscionable delays in the disposal of cases for various reasons and mismanagement in the administration of jails, all of which need to be remedied.

6.3 The approach of the Commission has been two fold first, to study the factors responsible for over-crowding in jails and the steps needed to reduce that over-crowding, second, to encourage such measures as may be necessary to develop or improve the skills of inmates, with a view to enabling their re-orientation and facilitating their reintegration into society upon release from jail.

6.4 As an immediate undertaking, from which the experience gained may have valuable application elsewhere, the Commission decided to commence its study of jail conditions in India by initiating a dialogue with the responsible authorities in the National Capital Territory of Delhi, specifically in regard to Tihar Jail.

6.5 The Commission is in touch with the competent judicial and executive authorities with a view to:

- (i) expediting the trial of cases including those of some 3300 foreign nationals in various jails in the country;

- (ii) convening meetings of the Sentence Revising Board for the release, whenever possible, of those serving life sentences who have already completed the maximum of 13 1/2 years of their term;
- (iii) segregating juvenile prisoners sentenced for minor offences from those serving longer terms for heinous crimes.

6.6 The Commission proposes to support NGOs, and the State Legal Aid and Advice Boards, to intervene on behalf of convicts in suitable cases for securing parole by moving the appropriate courts.

6.7 The Commission intends to follow up vigorously on these matters, working closely with all others interested in bettering prison conditions.

## **VII REVIEW OF EXISTING LAWS, IMPLEMENTATION OF TREATIES AND OTHER INTERNATIONAL INSTRUMENTS ON HUMAN RIGHTS**

7.1 Sub sections (d) and (f) of Section 12 of the Act respectively empower the Commission to review the safeguards provided by or under the constitution or any law for the time being in force, and study treaties and other international instruments on human rights with a view to making recommendations for their effective implementation.

7.2 This is a vast and challenging undertaking which, in the four months since its establishment, the Commission has only begun to tackle but which it will increasingly need to come to grips with, as it develops its capacity for research and analysis.

7.3 In the short period since its inception, the Commission has directed its attention to starting an in-depth study of the Terrorist and Disruptive Activities (Prevention) Act (TADA), a task in which it has enlisted the assistance of the Law Commission. This is a matter of the highest importance to the Commission since it touches on three most sensitive areas the Constitution, India's treaty obligations, and the determination of the nation to preserve and protect human rights despite the lethal impact of terrorism which, often fuelled and supported from beyond the borders of this country, is the mortal enemy of civil society and all the rights that the Indian polity holds sacred. The visits recently commenced by the Commission to various States of the Republic, including those that have suffered the scourge of terrorism, will facilitate this study, by bringing to bear on it a first-hand awareness of the situation prevailing on the ground.

7.4 A second area of study for the Commission relates to the range of issues concerning the Rights of the Child including the vexed and cruel question of child labour. Here again, the Commission is establishing contact with the Law Commission, concerned non-Governmental organisations and the competent governmental and, indeed, international agencies. Visits planned to specific areas where child labour is particularly prevalent will, once again, provide insights to the

Commission as it develops its views on how best to examine existing legislation and the implementation of international treaties and instruments on this matter. The Commission is engaged is engaged in a similar process in regard to bonded labour.

7.5 A third area of study for the Commission relates to legislation affecting the rights of women. The National Commission for Women, which is represented in the National Human Rights Commission through its Chairperson, has done considerable work in this area with the help of a most eminent committee which it established for this purpose. The National Human Rights Commission intends to remain in close touch with its sister Commission on this matter, with a view to examining the issues on which it can best be of support and encouragement. This is a task which gains immediacy as, India is expected to submit her First Periodic Report on implementation of the provisions of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) by August 1994.

## **VIII PROMOTION OF HUMAN RIGHTS LITERACY**

8.1 The promotion of human rights literacy in a society as complex and textured as ours is a task that is, at once, both daunting and crucially important. It is also a task that calls for great perseverance, for it requires deep and lasting commitment. Indeed, there is no easy way to create a culture of human rights : all sections of society have a role to play, and an ideal to sustain, if the cause of human rights is to take root and flourish against the cruel odds of social injustice and inequality, the problems of poverty and the fanatical destructiveness of terrorism.

8.2 Soon after its establishment, the Commission decided - as a first series of steps-to concentrate on three key sector of our society, first, the political parties, for ours is a nation profoundly devoted to multi-party democracy, second, the executive authority at all levels, for ours is a federal structure, and third, educationists and those responsible for curricula monitoring, for human rights literacy needs its teachers - and pupils if it is to take deep root in our soil.

8.3 The Commission accordingly addressed letters to the Presidents of political parties represented in the Lok Sabha, the Rajya Sabha or in the State Legislatures. The Commission observed the political parties, by their behavior and the ideals that they propagate, can create the most powerful force for the promotion and protection of human rights of all of the citizens of our country. Should the example they set, however, be inimical to a decent respect for such rights, the consequences could be tragic for the nation. The Commission accordingly requested political parties to constitute Human Rights Cells at the Central, State and district levels, specifically charged with the responsibility of promoting and protecting human rights and for encouraging or overseeing the conduct of their members. The Cells would serve a dual purpose to propagate and thus promote a climate conducive to human rights, and to provide a self-monitoring and self regulatory mechanism to ensure that appropriate standards of conduct are observed by those engaged in the political process

in our country. Further, it was suggested that the parties may each designate a senior leader who would remain in continuing touch with the Commission on all matters relating to the observance of human right.

8.4 Initial responses have been received from a number of political parties indicating that they were examining the Commission's suggestions and some have even already acted positively on them. The Commission intends to follow-up on this matter.

8.5 As regards the State Governments, it was suggested in letters to the Chief Ministers that Government servants serving in the States, in particular those serving in the police and allied cadres, be imparted appropriate training in human rights matters. It was further suggested that State Governments might consider establishing an inter departmental Task Force with the following purpose (i) monitoring of departmental programmes to ensure that they are in consonance with human rights requirements, and (ii) monitoring the performance of officers to ensure that they are sensitive to human rights considerations. Where there were complaints of official misbehavior resulting from human rights violations, these should be speedily inquired into and exemplary action taken.

8.6 In so far as the educational system is concerned, a number of steps have been taken. Meetings have been initiated with the Department of Education, Ministry of Human Resource Development and the National Council for Educational Research and Training (NCERT), for evolving appropriately graded curricula for various levels of schooling. The Department of Education and the NCERT are in the process of preparing drafts for the imminent consideration of the Commission.

8.7 At the University level, the Commission has addressed communications to all Vice-Chancellors, proposing four measures:

- i) that the subject of human rights, in all of its dimensions, may find a clear place in the curriculum of the University;
- ii) that research, seminars and publications concerning human rights should be furthered;
- iii) that the Commission would encourage linkages between the academic community and non-governmental organisations so that the best academic minds can bring their talents to bear up on the practical work being done by such groups, and
- iv) that the Commission would welcome continuing contact with the Universities in these areas and that it would help, within its means and possibilities.

8.8 There have, by and large, been excellent responses from Vice-Chancellors and many Deans of Law Faculties. The Commission intends to give more concrete form to responses.

8.9 Other training institutions have also engaged the attention of the Commission. The most notable of these is the Sardar Vallabhabhai Patel National Police Academy in Hyderabad which has

included the teaching of human rights in its courses at the instance of the Commission.. At the State level, too, there are increasing instances of police training institutes focussing on this key aspect of professional training. Contacts have also been instituted with the Armed Forces, amongst whom there is a notably heightened appreciation of the necessity and value of imparting training in respect of human rights. Indeed, at the senior-most level of the Armed Forces, the Commission has recently noted an increasing sensitivity towards, and recognition of, the need to develop a culture of human rights. The commission welcomes this development and wishes to see this trend maintained as a matter of high priority.

## **IX. NON-GOVERNMENTAL ORGANISATIONS**

9.1 The exceptional role of non-governmental organisations (NGOs) in furthering human rights is given appropriate and special recognition in the Act. Section 12 (i) expressly charges the Commission to “encourage the efforts of non-governmental organisations and institutions working in the field of human rights”. This is a responsibility which the Commission readily assumes, for the cause has much to gain both from the practical help and from the constructive criticism that NGOs and the Commission can bring to bear in their mutual interaction and growing relationship.

9.2 There are three areas in which NGOs can be of particular assistance to the Commission. Firstly, because of their grass-root contact, they can most effectively identify human rights violations, articulate them and seek redress. The Commission sees a most positive role for NGOs in bringing complaints to its notice. Secondly, given the rapport that they have established with the public at large, the assistance and cooperation of the NGOs can be of great value in the investigation of the more serious cases that come to be looked into by the Commission through its investigative staff—a group that will be put together with great care as to their sensitivity to human rights considerations. There can be instances when the Commission, in accordance with its Regulation No. 18, in addition to using its investigative staff, may choose to associate NGOs actively in investigation work. Thirdly the high level of expertise of individual NGOs in specific areas of human rights work can be a source of great benefit to the Commission as it studies and make recommendations on specific issues and problems. There would thus be a role for NGOs in the research and studies programme of the Commission as this develops.

9.3 The Commission has already had the benefit of interacting with a large number of NGOs, both Indian and foreign. Certain of them have already brought complaints that are under consideration by the Commission. Yet others have already helped the Commission by their reports and publication and by their vigilance in the defence of human rights.

9.4 In a country as large and as diverse as India, there is always the problem of being unaware, in Delhi, of the extent of talent and commitment amongst groups and individuals often far removed from the nation’s capital but heroic in their devotion to principles and often in their

accomplishments. The Commission is seeking to prepare an appropriate National Register of NGOs working in the field of human rights, both in order to develop practical links with them and between them, if they so choose. In undertaking this task, the Commission is seeking advice from prominent human rights activists and NGOs that have already established a reputation for probity and commitment.

## **X STATE COMMISSIONS AND HUMAN RIGHTS COURTS**

10.1 The Act prescient in envisaging the need for State Human Rights Commissions and Human Rights Courts.

10.2 As indicated earlier, nearly 500 complaints were registered by the Commission before 31 March 1994. In all probability, the number of complaints will increase substantially as the work of the Commission becomes better known and as human rights awareness spreads.

10.3 Under a federal system such as ours, it is evident that a concrete responsibility must rest with individual States both to promote and protect human rights and to redress grievances. The decentralisation of the complaint disposal mechanism thus becomes a necessity, not least so as to provide a redressal mechanism that is readily accessible and inexpensive in terms of time and cost.

10.4 The National Commission has therefore been advising States, both through letters to their Chief Ministers and through discussions with them, to set up State Commissions as envisaged in the Act. At the same time, for providing speedy trial of offences arising out of the violation of human rights, State Governments are also being encouraged, with the concurrence of the Chief Justice of the respective High Courts, to specify by notification Courts of Sessions to serve as Human Rights Courts.

10.5 These matters are, at present, under the consideration of State Governments and there are indications that some may act on them in the very near future.

## **XI CONTACTS WITH EXTERNAL GROUPS/ORGANISATIONS**

11.1 In a global climate of heightened awareness of human rights, it has come as no surprise to the Commission that its formation and activities should be the subject of considerable interest both at home and abroad.

11.2 The Commission welcomes this interest for it is convinced that a country like India, with its open and democratic society, its pluralism, its commitment to the Rule of Law, the Universal Declaration of Human Rights and its own Constitution, should be in the vanguard of the world-wide movement for human rights.

11.3 The Commission has therefore received a steady stream of eminent visitors, both from the diplomatic corps stationed in Delhi and from Governmental, Parliamentary, Judicial and Non-governmental bodies located abroad. The discussions thus far have, by and large, centered on the

powers and functions of the Commission, its status, activities and procedures, and on certain issues that are central to the perception of the state of human rights in this country. The Commission has been gratified by the expressions of good wishes conveyed to it as it undertakes the responsibilities entrusted to it by Parliament. It looks forward to inter-acting continuously with external groups in the period ahead.

11.4 As part of its efforts to serve the universal cause of human rights, the Commission has, within the terms of its Statute, been attentive to developments at the United Nations and related forums on matters concerning human rights. The Commission was thus represented at the recently concluded 50th session of the UN Human Rights Commission in Geneva when a statement was made on the 24 February 1994, on behalf of the Commission, expressly on the role of National Institutions. Likewise, the Commission was represented at the Second International Workshop of National Institutions held in Tunis, between 21-23 December, 1993. On that occasion, a decision was taken to include this Commission in the ad-hoc Coordinating Committee of National Institutions, which most recently met in Geneva between 21-24 February of this year. The Commission is of the view that its participation in meetings of human rights groups and activists can be of great value to the country, to those who wish to learn of the situation in India, and indeed to all those engaged in furthering human rights world-wide.

## **XII ADMINISTRATION AND LOGISTICAL SUPPORT**

12.1 Section 11 (1) and (2) of the Act provides that

(1) The Central Government shall available to the Commission:-

- (a) an officer of the rank of Secretary to the Government of India who shall be the Secretary-General of the Commission, and
- (b) such police and investigative staff under an officer not below the rank of a Director General of Police and such other officers and staff as may be necessary for the efficient performance of the functions of the Commission.

(2) Subject to such rules as may be made by the Central Government in this behalf, the Commission may appoint such other administrative, technical and scientific staff as if may consider necessary.

12.2 In addition to the post of Secretary-General referred to earlier, a post of Additional Secretary was sanctioned which is being utilized for a Registrar (Law) on a contract basis for a period of two years. This post was filled on 23 November 1993. Sanction was issued for 44 other posts ranging from Deputy Secretary to Group D. Being a nascent organisation and keeping in view that it will take time to build a cadre of its own, the Commission has necessarily had to resort to different methods in the matter of selection of personnel viz. deputation, direct recruitment and contract appointments. It need hardly be emphasised that the posts available to the Commission during the

year under report could at best be regarded as comprising a nucleus in size and composition. Even though the Commission has endeavored to handle its work-load with the available man-power, it must be recognised that the Commission must rapidly be provided with the requisite man-poer possessing expertise in the various aspects of the functions developing on it. With this in view, a comprehensive proposal for the creation of posts has been formulated and it is expected that the additional posts would be created and filled very shortly. The proposal envisages setting up of substantive division for Law. Investigation, Research and Information, apart from providing for staff functions like Administration.

12.3 The Commission was initially allotted a token provision of Rs. 1 lakh during the year 1993-94, which was subsequently augmented to Rs. 150 lakhs. Since the induction of officers and staff started essentially in the month of December 1993 and was phased during the remaining period of the year, expenditure was incurred only to the extent of Rs. 94.6 lakhs, even though proposals for nearly Rs. 144 lakhs were conceived.

12.4 The Commission was allotted built-up space of approximately 17320 Sq. ft. on the first floor of the Sardar Patel Bhawan, Parliament Street, New Delhi.. The space was to be made available consequent on its vacation by the Ministry of Civil Aviation. The vacation of space and partial renovation to meet the Commission's initial requirements were completed by the beginning of December 1993. Consequently, the Secretariat of the Commission functioned under a temporary arrangement in Nirman Bhawan from October to the end of November 1993. The Secretariat of the Commission was shifted to its present location in Sardar Patel Bhawan on 2 December 1993.

12.5 In view of the large number of complaints that the Commission has already received, and the communications network it has sought to establish with the State Capitals as also the Districts, the Commission has considered it essential to set up a comprehensive programme of computerisation. Discussions were held with senior officers of the National Informatics Centre with a view to :

- (a) identifying a suitable hardware system for processing complaints received in the Commission and for receiving data directly from the districts.
- (b) developing an appropriate software package for compilation of information and retrieval at various stages in the processing of complaints and also at various points of time depending on the requirements of the Commission; and
- (c) networking the system in the Commission with DISNET - a network with the districts already installed by the NIC.

It is expected that the system would be functional by September 1994.

### **XIII CONCLUDING OBSERVATIONS AND RECOMMENDATIONS**

13.1 The few months of activity covered by this report of the Commission, have seen the Commission establish its office, gather together its nucleus staff, define its priorities and begin working in each of the areas of responsibility entrusted to it under its Statute

13.2 The creation of the Commission has been considered a major development both at home and abroad signifying the earnestness of this country to promote and protect the human rights of all of its citizens. The responsibilities entrusted to the Commission are vast, the scope of its powers considerable by any reasonable standard of assessment, and while it can legitimately be argued that they should be enhanced in one or more directions, the Commission is of the view that the Statute provides a firm basis from which to launch its manifold activities, build its capabilities and begin to have a beneficial impact on the human rights situation in the country

13.3 It has been observed elsewhere in this report that autonomy and transparency are the pillars on which the work of the Commission is and must be based. It is to remove ambiguities and impediments concerning its competence and autonomy, that the Commission is recommending, even at this stage and on the basis of its initial experience, certain amendments to its Statute. These proposed amendments may be seen at Annexure-VI. In essence they relate to Sections 2 (1) (d) and 2 (1) (f) on “definitions” which concern the “human rights” falling within the competence of the Commission, Sections 11(1) (b) and 11(2) which, together with Section 32, have a bearing on the administrative and financial autonomy of the Commission; Section 13 (1) (f) concerning powers relating to inquiries; Section 18 concerning steps to be taken by the Commission on the completion of an inquiry; Section 30 concerning Human Rights Courts and Section 36 on the status of the National Commission vis-a-vis other Commissions, including State Commissions.

13.4 The Commission naturally reserves the right to return to the provisions of its Statute in the light of such experience as it may continue to gather in the period that lies ahead.

13.5 The Commission is acutely aware that trust, in an area as sensitive as the protection of human rights, must be earned. This is a continuing process. The Commission is gratified that, already in the first months of its existence, its presence has drawn expression of support and encouragement and that, in a practical expression of the faith reposed in it, increasing numbers of the citizens of he this country are coming forward to inform the Commission of their difficulties and seeking its help in the redress of human rights grievances. The Commission is determined to be worthy of this trust

13.6 The cause of human rights is not alien to this great and ancient country. It is inherent in the beliefs, both religious and secular, that constitute the spirit of India. Indeed, it was for the Fundamental Rights of Indians, civil and political, economic, social and cultural, that the struggle for independence was waged. And it was these rights that found pride of place in the Constitution

adopted by our Republic. In the intervening years, much has occurred that has dimmed the promise of the Constitution, yet the belief of the people of India in their Fundamental Rights has never been diminished. It is in this context that the Protection of Human Rights Act, 1993, should be viewed. It provides the strongest reaffirmation by Parliament, since the framing of the Constitution, that respect for the rights of the people of India is central to the nation's well-being, progress and, indeed integrity.

13.7 The enactment of this Statute places on the Commission and all who strive to promote and protect human rights a most onerous responsibility. But it is a responsibility worthy of the standards that this nation has set for itself, standards which demand respect for the dignity and worth of each person who dwells in this Republic.

*Sd/-*  
*(Ranganath Misra)*

*Chairperson*

*Sd/-*  
*(M. Fathima Beevi)*

*Member*

*Sd/-*  
*(S.S. Kang)*

*Member*

*Sd/-*  
*(Virendra Dayal)*

*Member*

*New Delhi,*  
*the 3rd June 1994*

## Annexures

### Annexure-1

## NATIONAL HUMAN RIGHTS COMMISSION

*New Delhi, the 17th Feb 1994  
29 Magha, 1915 Saka*

### NOTIFICATION

#### **National Human Rights Commission (Procedure) Regulation**

No. A-11031/1/94-NHRC. In exercise of the powers conferred by sub-section (2) of Section 10 of the Protection of Human Rights Act, 1993 (No 10 of 1994), the National Human Rights Commission hereby makes the following regulations, namely:

#### **1. Short title and commencement:**

- (1) These Regulations may be called the National Rights Commission (Procedure) Regulations, 1994
- (2) They shall come into force with effect from the 1st day of March 1994.

#### **2. Definitions:**

In these Regulations unless the context otherwise requires:

- (a) "Act" means the Protection of Human Rights Act, 1993.
- (b) The "Chairperson" means the Chairperson of the Commission.
- (c) The "Commission" means the National Human Rights Commission.
- (d) "Member" means a member of the Commission and includes the Chairperson

#### **3. Headquarters of the Commission**

The Headquarters of the Commission shall be located at Delhi.

#### **4. Venue of the meetings:**

The Commission shall ordinarily hold its meetings and sittings in its office located at Delhi. However, it may, in its discretion, hold its meetings and sitting at any other place in India if it considers it necessary and expedient.

#### **5. Periodicity of Meetings:**

The Commission shall normally have its regular sittings in the first and third weeks of every month, excepting holidays. However, the Chairperson by himself or at the instance of one or more of the Members may direct a special sitting of the Commission to be convened to consider any specific matter of urgency.

## **6. Secretariat Assistance:**

The Secretary-General, along with such other officer of the Commission as may be directed by the Chairperson, or considered necessary shall attend the meetings of the Commission.

## **7. Agenda:**

The Secretary-General shall, in consultation with the Chairperson prepare the agenda for each meeting of the Commission and shall cause notes thereon to be prepared by the Secretariat. Such notes shall, as far as possible, be self-contained. Specific files covering the agenda items shall be made readily available to the Commission for reference. The agenda papers shall ordinarily be circulated to the Members atleast two clear days in advance of every meeting; but when matters are set down only for hearing, cause list of the day of sitting shall be prepared and circulated.

## **8. Procedure for dealing with complaints:**

(1) All complaints in whatever form received by the Commission shall be registered and assigned a number and placed for admission before a Bench of two Members constituted for the purpose not later than two weeks of receipt thereof. Ordinarily complaints of the following nature are not entertainable by the Commission.

- (a) in regard to events which happened more than one year before the making of the complaints;
- (b) with regard to matters which are sub-judice;
- (c) which are vague, anonymous or pseudonymous;
- (d) which are of frivolous nature. or
- (e) those which are outside the purview of the Commission.

(2) No fee is chargeable on complaints.

(3) Every attempt should be made to disclose a complete picture of the matter leading to the complaint and the same may be made in English or Hindi to enable the Commission to take immediate action. To facilitate the filing of the complaints, the Commission shall, however, entertain complaints in any language included in Eighth Schedule of the Constitution. It shall be open to the Commission to ask further information and affidavits to be filed in support of allegations whenever considered necessary.

(4) The Commission may, in its discretion, accept telegraphic complaints and complaints conveyed through FAX.

(5) The Commission shall have power to dismiss a complaint in limini.

(6) Upon admission of a complaint, the Chairperson/Commission shall direct whether the matter would be set down for inquiry by it or should be investigated into.

(7) On every complaint on which a decision is taken by the Chairperson/Commission to either hold an inquiry or investigation, the Secretariat shall call for reports/comments from the concerned Government/authority giving the latter a reasonable time therefore.

(8) On receipt of the comments of the concerned authority, a detailed note on the merits of the case shall be prepared for consideration of the Commission.

- (9) The directions and recommendations of the Commission shall be communicated to the concerned Government/authority and the petitioner as provided for in sections 18 and 19 of the Act.
- (10) The Commission may, in its discretion, afford a personal hearing to the petitioner or any other person on his behalf and such other person or persons as in the opinion of the Commission should be heard for appropriate disposal of the matter before it and, where necessary, call for records and examine witnesses in connection with it. The Commission shall afford a reasonable hearing, including opportunity of cross-examining witnesses, if any, in support of the complaint and leading of evidence in support of his stand, to a person whose conduct is enquired into by it or where in its opinion the reputation of such person is likely to be prejudicially affected.
- (11) Where investigation is undertaken by the team of the Commission or by any other person under its discretion, the report shall be submitted within a week of its completion or such further time as the Commission may allow. The Commission may, in its discretion, direct further investigation in a given cases if it is of opinion that investigation has not been proper or the matter requires further investigation for ascertaining the truth or enabling it to properly dispose of the matter. On receipt of the report, the Commission on its own motion, or if moved in the matter, may direct inquiry to be carried by it and receive evidence in course of such inquiry.
- (12) The Commission or any of its Members when requested by the Chairperson may undertake visits for an on-the-spot study and where such study is undertaken by one or more members, a report thereon shall be furnished to the Commission as early as possible..

#### **9. Minutes of the meetings:**

- (a) The minutes of each meeting of the Commission shall be recorded during the meeting itself or immediately thereafter by the Secretary-General or by any other officer as directed. Such minutes shall be submitted to the Chairperson for his approval and, upon approval, be circulated to all the Members of the Commission at the earliest and in any case, sufficiently before the commencement of the next meeting.
- (b) The conclusions of the Commission in every matter undertaken by it shall be recorded in the form of an opinion. Dissenting opinion, if given, shall also form part of and be kept on record.. Action shall be taken on the basis of the majority opinion where there be any difference.
- (c) Follow-up action:

Unless specifically authorised, no action shall be taken by the Secretariat of the Commission on the minutes of the meetings until the same are confirmed by the Chairperson.

#### **10. Record of minutes:**

A master copy of the minutes of every meeting and opinions of the Commission shall be maintained duly authenticated by the Secretary-General and a copy of the minutes pertaining to each item shall be added to the relevant file for appropriate action. Opinions shall be kept in the respective records and for convenience, copies thereof with appropriate indexing shall be kept in guard files.

### **11. Report of Action taken:**

Report of follow-up action shall be submitted to the Commission at every subsequent sitting indicating therein the present stage of action on each item on which the Commission had taken a decision in any of its earlier meetings, excepting the items on which no further action is called for.

### **12. Transaction of business outside the Headquarters:**

The Commission or some of the Members may transact business at places outside its Headquarters as and when previously approved by the Chairperson, provided that it parties are to be head in connection with any inquiry under the Act at least two members shall constitute the bench of the Commission for such purpose.

### **13. Authentication of orders and decisions:**

- (1) Orders and decisions of the Commission shall be authenticated by the Secretary-General or any officer of the Commission (authorised by the Chairperson) not below the rank of an Under Secretary.
- (2) Copies of enquiry reports or orders passed finally disposing of matter by the Commission shall be furnished free of cost to the petitioner or his representative.
- (3) Unless any document is classified by the Commission as Confidential, copy thereof would be available to the parties in the matter on payment of reasonable fee raised to meet the cost. Every effort should be made provide the copies with utmost expedition and, in any case, not later than one week of the date of request.

### **14. Annual Report:**

The Commission shall furnish its annual report for the period commencing from 1st April of the year to 31st March of the succeeding year to the Central Government and to the State Governments concerned as provided in Section 20 (1) of the Act. The original report shall be signed by the Chairperson and Members of the Commission and appropriately preserved and a duly authenticated copy shall be sent to the appropriate Government by end of May of every year.

### **15. Special Reports:**

The Commission may furnish such Special Reports on specific matter as may be considered necessary in terms of Section 20 (1) of the Act.

### **16. Reports on Complaints and Inquiries:**

Every report to which Section 18 or 19 of the Act applies shall be sent to the concerned Government, authority or person, as the case may be within one week of completion of the proceedings before the Commission and on receipt of the comments of the concerned Government or authority, the Commission shall publish the report in the manner provided in Section 18 (6) or 19 (3) of the Act as the case may be, within one week of the receipt of the appropriate intimation.

### **17. Printing of the Reports:**

The Secretariat of the Commission shall be responsible for the printing of the Annual Report and Special Reports with utmost expedition and in any case, not later than one month of finalisation of the same.

### **18. Investigation Team:**

The Commission shall have its own team of investigation to be headed by a person not below the rank of a Director General of Police appointed by it and such team shall consist of one Deputy Inspector General of Police, 2 Superintendents of Police, 6 Deputy Superintendents of Police and 24 Inspectors of Police and such other categories of officers as the Commission from time to time decides. The Commission may in any given case appoint an appropriate number of outsiders to be associated with the investigation either as Investigators or Observer.

19. As and when any matter which is not covered by these Regulations arises, it shall be competent for the Commission to make appropriate directions and the Commission may add, delete, amplify and amend these Regulations from time to time.

**Sd/-**

**(R. Mahadevan)**

*Deputy Secretary*

*National Human Rights Commission*

**Position of Complaints  
State-wise/Union Territory-wise  
as on 31.3.94**

| <b>Name of State/Union Territory</b> | <b>Admitted</b> | <b>Disposed of with observation</b> | <b>Dismissed by the Commission</b> | <b>Total</b> |
|--------------------------------------|-----------------|-------------------------------------|------------------------------------|--------------|
| Andhra Pradesh                       | 11              | 1                                   | 5                                  | <b>17</b>    |
| Assam                                | 6               | -                                   | 5                                  | <b>11</b>    |
| A&N                                  | -               | -                                   | 2                                  | <b>2</b>     |
| Bihar                                | 17              | 3                                   | 16                                 | <b>36</b>    |
| Delhi                                | 17              | 3                                   | 25                                 | <b>45</b>    |
| Gujarat                              | 1               | -                                   | 2                                  | <b>3</b>     |
| Haryana                              | 1               | -                                   | 6                                  | <b>7</b>     |
| Himachal Pradesh                     | -               | -                                   | 1                                  | <b>1</b>     |
| Jammu & Kashmir                      | 8               | -                                   | 2                                  | <b>10</b>    |
| Kerala                               | 5               | -                                   | 20                                 | <b>25</b>    |
| Karnataka                            | 2               | -                                   | 9                                  | <b>11</b>    |
| Madhya Pradesh                       | 8               | 10                                  | 25                                 | <b>43</b>    |
| Meghalaya                            | 1               | -                                   | 1                                  | <b>2</b>     |
| Orissa                               | 13              | 7                                   | 31                                 | <b>51</b>    |
| Punjab                               | 7               | 1                                   | 9                                  | <b>17</b>    |
| Pondicherry                          | 1               | 1                                   | -                                  | <b>2</b>     |
| Rajasthan                            | 7               | 5                                   | 12                                 | <b>24</b>    |
| Tamil Nadu                           | 18              | 3                                   | 40                                 | <b>61</b>    |
| Uttar Pradesh                        | 40              | 13                                  | 49                                 | <b>102</b>   |
| West Bengal                          | 8               | -                                   | 7                                  | <b>15</b>    |
|                                      | <b>174</b>      | <b>48</b>                           | <b>274</b>                         | <b>496</b>   |

### State-wise Statement of Category of Cases Admitted for Disposal

| Name of State/Union Territory | Custodial Deaths | Custodial Rapes | Other Police Excesses | Rape     | Dowry Deaths | Indignity to Women | Excesses by Armed Forces | Other     | Total      |
|-------------------------------|------------------|-----------------|-----------------------|----------|--------------|--------------------|--------------------------|-----------|------------|
| Andhra Pradesh                | -                | -               | 4                     | 4        | -            | -                  | -                        | 3         | 11         |
| Assam                         | 1                | -               | 1                     | -        | -            | -                  | 1                        | 3         | 6          |
| Bihar                         | 4                | -               | 8                     | -        | -            | -                  | -                        | 5         | 17         |
| Delhi                         | 7                | -               | 2                     | 1        | 1            | -                  | -                        | 6         | 17         |
| Gujarat                       | -                | -               | -                     | -        | -            | -                  | -                        | 1         | 1          |
| Haryana                       | 1                | -               | -                     | -        | -            | -                  | -                        | -         | 1          |
| Jammu & Kashmir               | 1                | -               | -                     | -        | -            | -                  | 6                        | 1         | 8          |
| Kerala                        | 1                | -               | 1                     | -        | -            | -                  | -                        | 3         | 5          |
| Karnataka                     | -                | -               | 2                     | -        | -            | -                  | -                        | -         | 2          |
| Madhya Pradesh                | 1                | -               | 1                     | -        | -            | -                  | -                        | 6         | 8          |
| Manipur                       | 1                | -               | -                     | -        | -            | -                  | 2                        | -         | 3          |
| Orissa                        | -                | -               | 3                     | -        | 1            | 1                  | 1                        | 7         | 13         |
| Punjab                        | -                | -               | 6                     | 1        | -            | -                  | -                        | -         | 7          |
| Pondicherry                   | 1                | -               | -                     | -        | -            | -                  | -                        | -         | 1          |
| Rajasthan                     | 1                | -               | 4                     | -        | -            | -                  | -                        | 2         | 7          |
| Tamil Nadu                    | 6                | 1               | 7                     | -        | -            | -                  | -                        | 4         | 18         |
| Uttar Pradesh                 | 8                | -               | 17                    | 1        | -            | 1                  | -                        | 13        | 40         |
| West Bengal                   | -                | -               | 5                     | -        | -            | 1                  | -                        | 2         | 8          |
|                               | <b>34</b>        | <b>1</b>        | <b>61</b>             | <b>7</b> | <b>2</b>     | <b>3</b>           | <b>10</b>                | <b>56</b> | <b>174</b> |

*Annexure-IV*

**No. 66/SG/NHRC/93**  
National Human Rights Commission  
Sardar Patel Bhavan  
New Delhi

*14 September, 1993*

From : R.V. Pillai

Secretary General

To: Chief Secretaries of all States and Union Territories

**Sir/Madam,**

The National Human Rights Commission at its meeting held on the 6 the instant discussed the problems of custodial deaths rapes. In view of the rising number of incidents and reported attempts to suppress or present a different picture of these incidents with the lapse of time, the Commission has taken a view that a direction should be issued forthwith to the District Magistrates and Superintendents of Police of every district that they should report to the Secretary General of the Commission about such incidents within 24 hours of occurrence or of these officers having come to know about such incidents. Failure to report promptly would give rise to presumption that there was an attempt to suppress the incident.

2. It is accordingly requested that the District Magistrates/Superintendents of Police may be given suitable instructions in this regard so as to ensure prompt communication of incidents of custodial deaths/custodial rapes to the undersigned.

**Yours faithfully**

**Sd/-**

**(R.V. Pillai)**

## **BIJBEHARA INCIDENT**

The National Human Rights Commission at its first meeting on 01-11-1993 had taken suo motu notice of a firing incident by the BSF on a gathering of people at Bijbehara and issued notice to the Government of India seeking a report on the incident. On examination of the report which was received from the Minister of Home Affairs, the Commission felt that perusal of copies of the evidence given by six witnesses was necessary. That evidence having been made available to the Commission and considered by it, together with the report and material provided earlier, the Commission made the following observations/recommendations:

- (i) The Commission noted that disciplinary proceedings had been initiated under the Border Security Force Act against 14 members of the Force, and further that, on the basis of a Magisterial Inquiry, steps may be initiated to launch prosecutions. The Commission expected that the dual proceedings would be pursued to their respective logical ends and that it would be kept informed of the action taken against those found guilty.
- (ii) Payment was recommended of interim compensation on a graded scale.
- (iii) It was recommended that a thorough review should be undertaken by Government of the circumstances and conditions in which Units of the Border Security Force are deployed and expected to operate in situation involving only civilian population.

These were communicated to the Central Government.

2. The Commission has been informed by the Central Government that the recommendation made by its have been accepted. The Central Government has further conveyed to the Commission the following:

- (a) Pursuant to the completion of the BSF Staff Court of Inquiry, Record of Evidence (ROE) proceedings against 14 personnel have been initiated.

These proceedings broadly correspond to committal proceedings in a criminal court. The BSF authorities have been instructed to complete the same expeditiously. Investigation into a case registered in the local police station has been completed and steps have been initiated by the police to file a chargesheet in court against these personnel. The Commission will be kept informed of the outcome.

(b) Compensation/relief

The J&K State Government has disbursed ex-gratia relief of Rs. 1 lakh each to the next of kin of the 31 civilians who were found by the Magistrate to have been killed in the incident. An amount of Rs. 25,000 each has been paid to 44 injured persons, Rs. 5,000 each to 26 persons and Rs. 1,000 each to five persons. The Commission has taken note of the fact that as against the recommended sum of Rs. 10,000 for each of the injured person of the second category, smaller compensation has been disbursed. Since this is by way of an interim measure and an adjustment is to be made in due course, no further action at this stage need be taken.

(c) Review of BSF deployment

The Central Government has specially directed the DG BSF, notwithstanding the extremely complex and difficult environment in which the BSF personnel were required to operate in the State, to take all necessary steps to ensure that no unit/formation of the BSF resorted to indiscriminate use of force. Consequently, the Hqrs BSF has taken a number of steps in this direction. On receipt of the recommendations of the NHR Commission, a further review was undertaken by the Home Ministry, alongwith the DG BSF, and the Advisor (Home) to the Governor, J&K. The DG BSF has since communicated that as the terrorists are mostly operating from the urban/built up areas and are mixed with the civilians, the BSF, while tackling the militants, cannot avoid involvement with the civilian population. In this context, the following steps have been/are being taken by the BSF to ensure proper safety of the civilian population.

- i. The training syllabus emphasizes respect for human rights/humanitarian laws and how to deal with the public, particularly with the elders and ladies/children.
- ii. Wherever cordon and searches are conducted, the services of the Magistrate, Civil Police and lady police are requisitioned to help during such operations.
- iii. The number of the supervisory level officers is being increased and special emphasis is being laid on their interaction with the men.
- iv. Efforts are being made to increase the motivation of the troops to develop respect for human rights, among other things, a series of training films bringing out this aspect have also been developed.

- v. Careful detainment is being made of supervisory officers of proven integrity and efficiency for Internal Security (IS) Duty Battalions.
- vi. Strict instructions have been issued to ensure adherence to the principle of minimum use of force.
- vii. Immediate action is taken for removal of the units from the area of deployment when they are found involved in such incidents, besides strict disciplinary action against the defaulters
- viii. The troops are being changed/rotated after every two years to avoid stress and strain which may lead to overreaction by the troops while dealing with such situations.
- ix. Pre-induction training is given to each unit for a period of 4 weeks, before its actual deployment on Internal Security duties.
- x. To create a rapport with the public and secure support of the civil population, the following actions have also been taken by the BSF.
  - a. establishment of number of dispensary in the areas of their deployment to provide medical aid to civilians;
  - b. assisting the reactivation of schools by providing them stationery items; and
  - c. distribution of essential commodities like kerosene oil, sugar, etc. to the needy population in areas of deployment.

3. The Central Government has indicated that because of the extremely complex and serious ground situation, difficulties would continue to be faced by personnel of the Central Government Para-Military forces deployed in J&K and elsewhere in the country. Government has, however, assured the Commission that it is most seriously conscious of the need to ensure that the scope for harm to civilian life and property and any kind of excess in the operations being carried out by the Security Forces, even in the most difficult of the situations, is effectively curbed, and would continue to make its efforts towards the attainment of this objective.

**Amendments Suggested by the National Human Rights Commission  
to the Protection of Human Rights Act, 1993**

**1. Definition**

Section 2 (1) (d) should be rewritten to reach as follows:

“Human rights” means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants, Conventions and Treaties to which India is a party.”

Section 2 (1) (f) should be deleted.

**2. Autonomy of the Commission**

With a view to enhancing the credibility of the Commission both within the country as well as outside, it is necessary that the Statute conveys a sense of the Commission as being a truly autonomous body. Amendments to the Statute should thus be so framed as to ensure this objective. Thus, Section 11(1) (b) should be so amended as to ensure that the opinion of the Commission is determinant in the sanctioning and selection of officers and staff. It is, therefore, proposed that the words “in the opinion of the Commission” may be inserted after the word “necessary” in line 3 of Section 11 (1) (b). Section 11 (2) contemplates rules to be made by the Central Government in the matter of appointment of administrative, technical and scientific staff by the Commission. It is suggested that the role of the Government may be limited to the sanction of the required strength, and matters such as appointment, postings etc. may be left to the Commission.

Section 32 provides for grants to be made available to the Commission. It should be redrafted as follow:

“(1) The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay to the Commission by way of grants the sums so approved for being utilised for the purpose of the Act.”

“(2) The Commission shall function as an autonomous body and may spend such sums as it thinks fit for performing the functions under the Act and such sums shall be treated as expenditure payable out of the grants referred to subsection (1).”

### **3. Powers relating to Inquiries**

Section 13 (1) (f) should be substituted by the following:

“Exercise the power to compel the attendance of any person to whom summons has been issued, under Section 32 of the Code.”

The existing Section 13 (1) (f) should be renumbered as Section 13 (1) (g).

### **4. Steps after Inquiry by the Commission**

Section 18 of the Act lays down the steps to be taken by the Commission on completion of Inquiry. In order to enable the Commission to have a greater say in the follow-up action with a view to making an impact on the public mind on the effectiveness of the Commission, Section 18 should be recast as follows:

For Sub-section (1), the following may be substituted:

“Where the inquiry discloses the Commission of violation of human rights or negligence in the prevention of violation of human rights by a public servant, it may initiate proceedings for prosecution or take such other action as the Commission may deem fit against the concerned person/persons and award appropriate compensation.”

Sub-section (2) should be deleted.

Sub-section (3) may be substituted as follows:

“Order the grant of such immediate interim relief to the victim or the members of his family as the Commission may consider necessary, and as and when final compensation, if any, is determined in appropriate proceedings, interim compensation as may have been ordered, may be adjusted.”

### **5. Functioning of Human Rights Courts**

Section 30 of the Act provides for setting up of Human Rights Courts. The existing proviso may be deleted and a new proviso made as follows:

“Provided that until there is adequate work, the Human Rights Courts may be entrusted with normal criminal work.”

### **6. National Commission vis-a-vis other Commissions/State Commissions**

Section 36 deals with the functioning of the National Commission vis-a-vis other Commissions/State Commissions. The following amendments are proposed:

At the end of sub-Section (2), the following may be added:

“Provided that the Commission may entertain a matter for inquiry beyond a year if it is satisfied that the delay is explained to its satisfaction.

(3) The State Commission shall be subject to the judicial control of the Commission and the State Commission’s orders and directions would be open to challenge before the Commission by way of revision.”

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