



Annual Report

National Human Rights Commission, New Delhi, India

# **ANNUAL REPORT**

## **1994-95**

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

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**NATIONAL HUMAN RIGHTS COMMISSION**  
**ANNUAL REPORT FOR THE YEAR 1994-95**

**I. INTRODUCTION**

1.1 This report of the National Human Rights Commission (NHRC) covers the period 1 April 1994 to 31 March 1995. It is the second such report of the Commission. The first, dealing with the period from the establishment of the Commission in October 1993 to 31 March 1994, was submitted to the Central Government on 3 June 1994 and placed before each House of Parliament during the Monsoon Session of that year, in accordance with Section 20 of the Protection of Human Right, Act, 1993.

1.2 During the year 1994-95, Shri Justice Ranganath Misra has continued to serve as Chairperson of the Commission, as have Kumari Justice M. Fathima Beevi, Shri Justice Sukhdev Singh Kang and Shri Virendra Dayal as Members of it. Shri Justice V.S. Malimath joined the Commission as a Member on 14 September 1994, filling the vacancy resulting from the passing away of Dr. Justice T.K. Thommen.

1.3 Shri R.V. Pillai continues as Secretary General and Chief Executive Officer of the Commission, with Shri Sankar Sen joining as Director General (Investigation) on 14 June 1994.

**II. EVOLUTION OF COMMISSION'S ROLE**

2.1 The period covered by the first report saw the Commission setting its initial priorities, adopting its rules and regulations, receiving its first complaints and instituting its first investigations, many of which were undertaken *so motu*. It also saw the Commission beginning to explore the varied possibilities and functions of its Statute and setting in train contacts with non-governmental organizations and others of the world-wide human rights constituency. At the same time, it witnessed the taking of certain important organizational step towards setting-up the office of the Commission with a view to making it an instrument capable of fully supporting the Commission in the discharge of its responsibilities.

2.2 The second year of the Commission has been marked by a change of gear, by a reviewing of priorities and by a considerable deepening of efforts in regard to them. At the same time, there has been a widening of activities into related areas, not at random but after due consideration and in consonance with the diverse functions envisaged for the

Commission under Section 12 of its Statute. It is evident to the Commission as to all who read the Statute that these functions are vast in scope. They are most challenging in the demands they make on the Commission and they are sobering in their implications - not least because of the expectations to which they have given rise. In essence, the Statute requires the Commission to function on two tracks simultaneously; one, fast, in order to seek redress and remedy for immediate wrongs; the other, more measured, to strive for seek redress and remedy for immediate wrongs; the other, more measured, to strive for the development of a culture of human rights over the length and breadth of the country.

2.3 These objectives, at the same time both immediate and long-term, are inter-related. Together, their demands have determined the issues on which the Commission has had to concentrate, the choices that it has had to make, and the role that it has sought to define for itself.

2.4 Fundamental to the definition of that role has been the determination of the Commission to strengthen the twin pillars of autonomy and transparency on which its performance and credibility must rest. The past year has seen these pillars being reinforced, through the positions that the Commission has taken both on matters of substance and of procedure. The public's increasing trust in the Commission is eloquently expressed in the increasing number and variety of complaints addressed to the Commission. Those rose from 496 received between the period November 1993-31 March 1994, to 6,987 cases received during the year ending 31 March 1995. Their proper investigation and disposal place a truly onerous responsibility upon the Commission which it is determined to meet to the best of its capacity, using to the full the possibilities open to it under its Statute.

### **III. PRIORITIES**

3.1 Protection of civil liberties remained the central preoccupation of the Commission during the period under review. This demanded of the Commission that it adopt a well informed and unambiguous position on the Terrorist and Disruptive Activities (Prevention) Act (TADA), and follow-through upon its convictions.

3.2 The assessment of the consequences of that Act required the Commission to travel extensively in the country, not least to areas of recent or current insurgency or terrorist activity. Such visits to areas where human rights were most imperiled led the Commission, inevitably, to accord priority to an examination of the role and conduct of the police, army and para-military forces in the difficult and dangerous situations in which they find

themselves: between armed militants and terrorists on the one hand, and civilian populations, on the other. The Commission had to reflect on ways and means of redressing the human rights violations that occurred in such circumstances, regardless of who was responsible for them, and of dealing with transgressions of the law, wherever and whenever they occurred, in an open and credible manner.

3.3. The role of the civilian administration vis-a-vis the security forces became, in consequence, a related subject of duty.. This in turn exposed the systemic weaknesses in the policy and criminal justice system which, it became apparent, are themselves reasons for justice delayed or denied and a further cause for the violation of human rights. The Commission therefore increasingly gave thought to the need for reviving, with vigour, the processes of reform required to revitalize the police and to improve the institutions of the criminal justice system, including the jails and police 'lock-ups' of the country.

3.4 The issue of custodial death and rape, already high in the priorities of the Commission, was set in the wider context of the widespread mistreatment of prisoners resulting from practices that can only be described as cruel, inhuman and degrading. The Commission concluded that there was need to press not only for the retraining and re-orientation of police and armed forces personnel, but to strengthen the moral and legal commitment of the nation to abandon such practices through early accession to the 1984 Convention against Torture.

3.5 In a society such as ours, the indivisibility and inter-related quality of human rights-whether civil and political or economic, social and cultural-, is self evident. Nowhere is this link more keenly felt than in respect of Scheduled Castes and Scheduled Tribes, and the status of Minorities, a link that the Constitution itself recognizes. The same applies to the status of women. The concerns of each of these groups remained in the forefront of the Commission's considerations, assisted by the presence in the Commission of its three deemed Members: the Chairpersons of the National Commission for Minorities, the National Commission for Scheduled Castes & Scheduled Tribes and the National Commission for Women. Commission for Scheduled Castes & Scheduled Tribes and the National Commission for Women.

3.6 The rights of other vulnerable groups increasingly demanded the time and attention of the Commission: these included the rights of children, especially of the girl child,

and of those working in hazardous industries, of bonded labour and refugees, to mention but a few.

3.7 Underlining these areas of priority concern, was a growing conviction in the Commission that laws and treaties, punishment and reward, and even structural and systemic reforms were not in themselves sufficient to promote and protect human rights in the country, or to defend in particular the rights of its weakest and most defence less people. The nation required vast programmes of social regeneration to deal with ancient societal wrongs. And it needed far-reaching programmes to re-orient the citizens of the country and to retrain its public servants, in particular those belonging to the police and armed forces. The development of appropriate educational programmes therefore assumed importance in the work of the Commission and, with it, came a greater determination to reach out to non-governmental organizations and others committed to the promotion and protection of human rights in the country and to make common cause with them in this far-reaching endeavour.

3.8 It will be recalled that, in its report for the period ending 31 March 1994, the Commission had made certain recommendations suggesting amendments to the Protection of Human Rights Act 1993, with a view to removing ambiguities and impediments concerning its competence and autonomy. These recommendations related to Section 2(1) (d) and 2(1) (f), 11(1) (b) and 11(2) (together with Section 32), Section 13(1) (f), Section 18, 30 and 36. The Commission regrets that action has not yet been taken to give effect to these recommendations and urges that measures be taken without further delay.

#### **IV. CIVIL LIBERTIES**

##### ***(A) Review of Terrorist and Disruptive Activities (Prevention) Act, 1987***

4.1 Section 12(d) of the Protection of Human Rights Act 1993 requires the Commission to "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." Further, Section 12(f) requires the Commission to "study treaties and other instruments on human rights and make recommendation for their effective implementation."

4.2 The Commission accordingly considered it its duty to conduct a full-fledged examination of all aspects of the Terrorist & Disruptive Activities (Prevention) Act, (28 of 1987), reports and complaints concerning the arbitrary and abusive uses of which began flooding the Commission within weeks of its establishment.

4.3 Seized with the matter, the Commission inscribed the question of TADA on its regular agenda and invited to its periodic meetings the competent senior officials of the Central and State Governments to ascertain the ways in which the Act was being applied, the consequences to the individuals and groups affected by it and, indeed, to the country as a whole.

4.4 Reinforced by its visits to various States and following wide-ranging discussions regarding the Act, the Chairperson announced publicly, as early as 6 June 1994 in Srinagar, that the Commission had learnt enough to have serious doubts about the worth and terms of the Act and that it was contemplating seeking the view of the judgement of the Supreme Court wherein the latter had upheld the vires of the Act.

4.5 The Commission thereafter pursued a threefold strategy: it continued to monitor closely the manner in which the Act was being implemented, it prepared a dossier or possible recourse to the Supreme Court and, as the data mounted concerning the abuses and excesses of the Act and the date neared for the consideration of the extension of the life of the Statute, it prepared a direct approach to all Members of Parliament seeking an end to this law. The exercise of the third option resulted in a letter from the Chairperson to all Parliamentarians, dated 20 February 1995, recommending that the Act not be renewed when its life expired on 23 May 1995 on the grounds that it was "incompatible with our cultural traditions, legal history and treaty obligations." The letter, the full text of which can be seen at Annexure I, concluded with the observation that Parliament had "entrusted the Commission with the charge of maintaining human rights" and that "the Commission is finding it difficult to do so unless this draconian law is removed from the Statute book."

4.6 The Commission is gratified that its efforts contributed substantively to the nation-wide debate on this issue and that, as a result of its persistence and the remarkable efforts of many distinguished citizens and groups, to whom the Commission wishes to pay tribute, a heightened and firmer sense of what is acceptable, and what is not, in terms of law and practice has begun to emerge and assert itself in our polity. The Commission is aware that the defence of civil liberties is not the work of a day but that it requires, instead, constant vigilance and that imposes a continuing responsibility. The Commission will therefore continue to review such legislation as may, in its view, have the potential of negating such liberties. The Commission's attention has, in this connection, additionally been drawn to certain provisions of the Armed Forces (Special Powers) Act, 1958/1983 (NE States and Punjab) and of the Public Safety Act, 1978 (J&K).

***(B) Human Rights in Areas of Insurgency and Terrorism***

4.7 The Commission is painfully aware, not least through its first-hand knowledge of areas of insurgency, that terrorism—world-wide is the sworn and unrelenting enemy of civil society and that the latter is often defenceless under the assault of those who respect neither law nor democratic institutions nor life itself. It therefore welcomes the growing effort to deal firmly with this scourge on a global basis, just as it notes the growing recognition in international circles, in the United Nations and elsewhere, of the total incompatibility of terrorism with respect for human rights.

4.8 The Statute of the Commission, in Section 12(f) asks the Commission to "review the factors, including acts of terrorism that inhibit the enjoyment of human rights and (to) recommend appropriate remedial measures." This responsibility has remained much in the mind of the Commission as it has proceeded to study the situation in areas of insurgency. It has assumed added dimensions of complexity when terrorist activity has been fuelled with arms and mercenaries from abroad, and directed from across the borders of the nation.

4.9 for all of the provocations, and they are undoubtedly grave and often brutal, the Commission remains of the view, and has so recommended, that the conduct of our Republic, and of all who serve it, must be marked by transparency and accountability, for these are the hallmarks of a nation such as ours governed by law, living under a Constitution comprising Fundamental Rights that are justifiable and non-derivable, and party to Conventions and Treaties into which it has entered of its own volition. In pursuit of these standards, the Commission has engaged in a sustained dialogue with those in authority in the Centre and States, and not least the leadership of the security forces in the country.

4.10 While persistence will be required to hold all public servants to the desired standards, the Commission has noted a growing sensitivity and a readiness to accept the implications of greater accountability amongst those in positions of leadership. The Commission has been gratified, for instance, that in response to its recommendation, both the Border Security Force and the Army have made available to the Commission lists of all personnel, who, between the years 1990 and 1994, have been charged with violating human rights in Jammu & Kashmir. The lists indicate the details of each incident, the charges framed, the stage of proceedings the decisions reached and the punishments awarded. Two hundred and forty five cases have been registered against personnel of the BSF and 39 against those of the Army, including 8 officers of the former and 15 officers of the latter. In

the cases decided so far, punishments awarded range from 10 years in jail to dismissal or reduction in rank. The lists are available with the Commission for verification. The Commission will continue to monitor all such cases and any others that might arise in the future.

4.11 In this connection, the Commission recommends that, in States where the security forces are called upon to assist the civil authorities, the local magistrate or police officers should be associated, in particular, with cordon and search operations, in order to allay misgivings regarding the conduct of personnel of the security forces and to prevent misuse of powers. The Commission is further of the view that, on occasion complaints against the conduct of the security forces can be obviated, or dealt with expeditiously, if authoritative information is available at the district and sub-divisional level regarding arrests or detention. It has, accordingly, consistently recommended that, in areas of insurgency, civilian administration should not be allowed to atrophy. On the contrary, it must be maintained and strengthened, if human rights are to be respected. Thus, at the level of the district, the Commission recommends that district magistrates should chair regular meetings involving the security forces and be kept fully informed of operations undertaken by the latter. To the extent possible, leading non-officials, representatives of non-governmental organizations and others should be associated with such meetings. This would enable prompt and humane responses to grievances or enquiries and make the entire system both more accountable and responsive..

4.12 More fundamentally, however, the Commission has considered it its responsibility to recommend in its reports on areas facing insurgencies or militancy, that while the restoration of peace may indeed be the sine qua non for the full respect of human rights, timely and sagacious political measures that are truly democratic in character are necessary as, in the long run, they have far more lasting and beneficial results than reliance essentially on security forces, however devoted and disciplined they are, or on restrictive laws, however carefully they may be applied. The Commission accordingly recommends that appropriate political measures and initiatives be taken.

### ***(C) Systemic Reforms : Poilce***

4.13 The Commission has recommended on more than one occasion that it is essential to revitalize the role of the civilian administration if the rule of law is to be effectively revived. In States like Jammu & Kashmir and Nagaland this means, in particular, the greater

involvement of the magistracy, judiciary and the police. In Punjab, it means the restoration of the authority of magistrates and the judiciary over the police. Yet in almost all parts of the country there is a clear and increasing need to reform the police itself, to retrain and to reorganize it and to restore to it the skills and the integrity that the country so desperately needs if the function of preserving law and order is to be improved.. It is for this reason that the Commission recommends that serious action be taken on the Second Report of the Police Reforms Commission which, in 1979, made a series of proposals that remain highly pertinent today-including those suggesting the insulation of the investigative function of the police from political pressure. Without determined action being taken on that report, the Commission fears that the daily decisions of the Courts, no less than its own recommendations in respect of police high-handedness, will remain palliatives, the illness itself remaining unchecked. The Commission will therefore press for action in this regard as a matter of priority.

***(D) Systemic Reforms : Prisons & Other Centres of Detention***

4.14 Section 12(c) of the Protection of Human Rights Act 1993, authorizes 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 purposes of treatment, reformation or protection to study the living conditions of the inmates and make recommendations thereon."

4.15 In its report of 1993-94, the Commission had, on the basis of complaints received, expressed deep concern over over-crowding, lack of sanitation, poor medical facilities and inadequate diet in prisons in the country. It had also expressed dismay at reports of the delay in the disposal of cases and mismanagement in the administration of prisons.

4.16 In the course of the year under review, the Commission decided to visit prisons, wherever possible. Accordingly, its Members inspected institutions, in Delhi, Hyderabad, Patna, Indore, Velore and Imphal. In addition, the Commission visited a detention centre and an interrogation centre in Srinagar. In each instance, the Commission gave its views and recommendations in regard to the institutions visited directly to the competent State Governments.

4.17 The situation in the prisons visited was varied and complex. Many, such as Tihar Jail in Delhi were over-crowded; yet others, like the open jail in Hyderabad, were under-utilized. Often, within a single State, conditions varied from one jail to another in this respect,

pointing to the need for a more rational State-wide use of facilities. The Commission saw a few jails which were notably clean and where the diet was reasonable, such as the Central Jail in Vellore. Unfortunately, it saw many others which are squalid, such as the newly constructed Central Jail in Patna. In yet others, the diet was inferior, and the management was denounced by the inmates as brutal and corrupt. In some, care was being taken to separate juveniles from others, petty offenders from hardened criminals. In others, no such care was being taken and the atmosphere appeared to nurture violence and criminality. In a few, major efforts were being made to reform conditions, to generate employment in a worthwhile and remunerative way, to encourage education and restore dignity. In others, callousness prevailed, prisoners were seen in shackles, mentally disturbed inmates-regardless of whether they were criminal or otherwise-were incarcerated with others, with no real effort being made to rise above the very minimum required for the meanest survival. Where prisoners worked, their remuneration was often a pittance, offering scant hope of savings being generated for future rehabilitation in society. By and large, the positive experiences were the exceptions rather than the rule, dependant more upon the energy and commitment of individual officials rather than upon the capacity of the system to function appropriately on its own.

4.18 The inescapable conclusion drawn by the Commission is that the prison system is seriously in need of reform, nation-wide. At present it is mired in attitudes and practices that are antiquated at best, but that often border on the intolerable. Reliance on the century-old Indian Prison Act of 1894 is symptomatic of the lack of vision or progress in this area.

4.19 Once again, it is not the lack of ideas that is at the core of the problem, but the apathy and lack of priority accorded to prison conditions and the rights of prisoners and undertrials that lie at the root of the difficulties. The Commission has accordingly undertaken a study of certain key reports to examine the best ways in which their recommendations can, wherever necessary, be re-activated. These include the Report of All-India Jail Manual Committee of 1957-59, the Report of the All-India Committee on Jail Reforms 1980-83 chaired by Justice A.N. Mulla, the Report of the National Expert Committee on Women Prisoners of 1987 chaired by Justice V.R. Krishna Iyer, and the Report of the Group of Officers on Prison Administration chaired by Shri R.K. Kapur in 1987. In addition, the Commission remains most mindful of the need for the country to abide by the United Nations Standard Minimum Rules for the Treatment of Prisoners of 1957.

4.20 Given this situation, the Commission is proceeding in a number of ways. First, it is up-dating its data on a nation-wide basis. It has called a meeting shortly of all Home

Secretaries and Inspectors-General of Prisons to look into all aspects of prison reform. The meeting will focus, inter-alia, on the nature and reasons for over-crowding in jails and the steps needed to remedy this situation; the question of remission-the present practices varying greatly from State to State; the issue of wages for different categories of work; the question of admission and classification of prisoners; questions relating to pre-release and release planning; separate facilities for women and juveniles; custodial arrangements for delinquent children and their separation from adult offenders; dietary and medical facilities-including special arrangements for the mentally disabled; separate facilities for under-trial prisoners and for convicts; improvements in management, including the computerization of records and, above all, the proper training of prison staff and their re-orientation in a manner that makes them respectful of human rights.

4.21 Next, and in light of the above, the Commission recommends that a new All India Jail Manual should be prepared to serve as a model for the country; it is already engaged in this task. Further, it recommends the revision of the Indian Prison Act of 1894, bearing in mind the considerable work already done by various committees and organizations and the work that is currently under way.

4.22 In addition, and more immediately, the Commission has been acting to remedy inadequacies in the prisons that it has been visiting by giving its recommendations immediately thereafter to the competent State Governments. It has, likewise, been acting on specific complaints that it has received from the inmates of prisons around the country. Thus, for example, in regard to Tihar Jail, the Commission has been engaged in a continuing dialogue with the competent authorities of the National Capital Territory of Delhi. To ease the gross-overcrowding and to accelerate trials, the Commission inter-alia interacted with the Chief Justice of the Delhi High Court, the Lt. Governor and others. It is gratified that, in consequence, ten special courts have been constituted to dispose of NDPS Act cases. Similar action is being taken in regard to NDPS Act cases languishing in Maharashtra and elsewhere. In Madras and Madurai Central Jails, where prisoners from Sri Lanka had serious complaints, interventions on behalf of the Commission eased the situation. The Commission acted upon receiving grave reports regarding rioting and death of inmates. In Srinagar, where detention and interrogation centres were functioning under the control of the security forces, the Commission recommended that the centres be redesigned as jails and be administered under the relevant rules and regulations governing the latter. Further, in view of widespread complaints in Jammu & Kashmir concerning the whereabouts of persons taken into custody

by the Administration, the Commission undertook a detailed review of the situation with the Governor, urging greater transparency as a necessary condition for the respect of human rights in the State. In consequence, the Governor made available to the Commission in early 1995 a list of 3007 persons detained under TADA and the Public Safety Act. At the instance of the Commission, that list, once received, was opened to the public, and the State Government was requested to publish it at district and taluka headquarters. This has since been done. In Ajmer and Jodhpur, where it was found that TADA and other prisoners belonging to Punjab and Jammu & Kashmir were being incarcerated beyond legally authorized periods, the intervention of the Commission led to their release.

4.23 The latter issue has been of special concern to the Commission as it has noticed, during its inspections, that this distressing practice is by no means rare: prisoners languish in jail beyond the dates for their release, often because of the negligence of the authorities and sometimes because of their mala fides. In other instances, prisoners are not released despite bail orders from the courts, or re-arrested on other charges immediately after being released. In light of this situation, the Chairperson of the Commission considered it essential to address a letter on 1 December 1994 to all Chief Ministers/Lt. Governors reminding them of the decision of the Supreme Court in the Rudul Sah case (1983, 4 SCC 141) requiring the payment of compensation to those detained unlawfully. The Chairperson has recommended, in this connection, the setting-up of a high-level committee in each State to review the cases of prisoners who may be suffering-or in danger of suffering-this fate. Responses being received from the States are being analyzed and appropriate follow-up action is being taken as needed.

4.24 The Commission has also been gathering data regarding police 'lock-ups.' Their condition are generally abysmal. To take but one example, from the data received by the Commission, it appears that the daily feeding allowance in police 'lock-ups' ranges from Rs. 2 to 7. In consequence, detainees are either unfed or dependent on the clemency of the police. It is no wonder that the very first encounter of a person with the criminal justice system in the country gives rise to a reaction of lasting abhorrence and distrust. Here again, the Commission is of the view that there is no dearth of sound corrective ideas; rather, it is negligence and apathy that have led to a situation that is simply impermissible. The Commission has raised the matter of 'lock-ups' and sub-jails with State Governments and intends to press for minimum standards of decency and responsibility in what is obviously

going to be a long and arduous undertaking. It recommends that appropriate corrective actions be taken to improve the conditions in 'lock-ups'.

4.25 In this, as in other matters having to do with conditions in centres of detention, the Commission is aware that State Legal Aid & Advice Boards and on-governmental organizations have a critical role to play. Indeed, both the creating of public awareness and the specific acts that are required to rectify wrongs, call for the continued efforts of all who believe that human dignity must not be left behind when a person enters the gates of a prison.

***(E) Custodial Deaths, Rape & Torture***

4.26 Violence, whether in police or judicial custody, is a matter of the gravest concern to all who believe in human rights; it is absolutely unacceptable to the Commission. Indeed, one of the first instructions of the Commission, issued on 14 December 1994, required all State governments and Union Territory Administrations to ask that reports be sent by the District Magistrates/superintendents of Police to the Commission within twenty four hours of any occurrence of custodial death or rape. Failure to send such reports, it was made clear, would lead to a presumption by the Commission that an effort was being made to suppress knowledge of the incident. In response to these instructions and from the reports received, it appears that a keener sense of responsibility is being created, but much remains to be done to consolidate it.

4.27 The Commission believes that a further, major step, is required to proclaim the impressibility, in our country, of custodial deaths and rape, torture, and other forms of cruel, inhuman and degrading treatment or punishment. Accordantly, through a letter dated 9 December 1994, addressed to the Prime Minister, the Chairperson recommended that, in this 125th year of the birth of Mahatma Gandhi, the Republic could best pay tribute to the values he embodied by acceding to the 1984 Convention against Torture and Other forms of Cruel, Inhuman and Degrading Treatment or Punishment. The Prime Minister replied on 16 December 1994 indicating that he shared the feelings of the Commission. On 25 January 1995, the Chairperson wrote to the Prime Minister again, stressing that, in 1994, the Commission had handled several incidents of custodial death, rape and torture involving the police and other governmental agencies. Referring to the prevalence of third-degree methods as a reason for custodial death, he asserted that it was wrong to believe that investigations could not be successfully handled without recourse to such methods. Noting that a permissive approach towards the use of third-degree methods led to the violation of the fundamental

rights of citizens, the Chairperson urged again that the use of third-degree methods and torture in investigation should be banned and eliminated. He proceeded to reiterate the view of the Commission that Government should come forward with a firm and early decision to accede to the Convention against Torture. Given the positive indication of the Prim Minister's views on this matter, the Commission, in the circumstances, looks forward to the early accession by the country to this important instrument, designed to safeguard human life and dignity.

## **V. REVIEW OF LAWS, IMPLEMENTATION OF TREATIES AND OTHER INTERNATIONAL INSTRUMENTS OF HUMAN RIGHTS**

5.1 The views of the Commission in regard to the Terrorist & Disruptive Activities (Prevention) Act (TADA)—urging its demise, and the Convention against Torture—urging accession, have been recounted earlier in this report. The Commission is, in addition, considering the application of the Armed Forces (Special Powers) Act and of the Public Safety Act, concerning which criticisms have been received.

5.2 A number of other laws and treaties have also received the attention of the Commission, in accordance with sub-sections (d) and (f) of Section 12 of the Statute.

5.3 As regards treaties, India is a party to the International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights, both of 1966. Further, it is party to the conventions on the Elimination of All Forms of Racial Discrimination of 1965, on the Suppression and Punishment of the Crime of Apartheid of 1973, on the Elimination of All Forms of Discrimination against Women of 1979 and on the Rights of the Child of 1989. Ratification of these instruments brought with it the obligation that Government of India submit periodic reports to the treaty bodies concerned. In certain instances, these reports are over-due, in others they are imminently required.

5.4 The Commission has not as yet, in respect of individual instruments, exercised its possibilities under Section 12(f) of its Statute, to make specific recommendations "for effective implementation." It was, however, India's obligations under the International Covenant on Civil and Political Rights that, inter alia, weighed heavily on the Commission's mind when it conducted its study and made known its views on the Terrorist & Disruptive Activities (Prevention) Act. Likewise, for instance, the terms of the 1957 United Nations Standard Minimum Rules for the Treatment of Prisoners have relevance to the view of the

Commission that there is need to press urgently for reform of the prison-system in the country.

5.5 At this early stage of its existence, mindful of the need to establish its autonomy and independence of approach, the Commission has not sought to participate in, or comment on, the drafts of the reports required of the country under the individual instruments to which it is a party. However, the Commission is increasingly in contact with the concerned Ministries of the Central government in regard to various aspects of the effective implementation of these instruments as they relate, after all, to the promotion and protection of human rights which is, uniquely, the *raison d'etre* of the Commission under its Statute..

5.6 The responsibilities of the country under the Convention on the Rights of the Child is a case in point, having a bearing on numerous of the priority concerns of the Commission: female infanticide, child labour, protection from torture, treatment in areas of armed conflict, to mention but a few. Under Article 44 of the Convention, States parties are required to undertake appropriate legislative, administrative and other measures for the implementation of the rights recognized in the Convention.

5.7 As far as the Commission is concerned, it has been particularly determined to make progress to end child labour, starting with those employed in hazardous industries. It accordingly welcomed the commitment of the Prime Minister to this end, announced in his statement on Independence Day, 1994. Further, the Commission is encouraged by the establishment of the National Authority for the Elimination of Child Labour, headed by the Union Labour Minister. For its part, the Commission has, as a start, made a special effort to study and to seek remedies to the problems of child labour in the glassworks and carpet-making industries of Uttar Pradesh, the beedi, match-sticks and fireworks industries in Tamil Nadu and the slate-pencil making industry in Madhya Pradesh. It has focussed, in particular, on a project for the glass-works industry of Ferozabad, Uttar Pradesh, for which it has stimulated the preparation and implementation of an integrated programme, involving the coordinated efforts of a number of a number of Central Ministries and the Uttar Pradesh Government, non-governmental organizations and others. The Commission recommends expeditious and effective implementation of this project. It intends to monitor progress through regular visits to Ferozabad and periodic meetings of all concerned. The project is based on three inter-related concepts: income-support for the families from whom children weaned away from employment; and rigorous implementation of the Child Labour (Prohibition & Regulation) Act, 1986.

5.8 In examining the question of Child Labour, the Commission has been struck by the fact that it is not the absence of law or treaties that is responsible for the persistence of this debilitating practice. These have been enacted, at regular intervals since the nineteenth century, when the Indian Factories Act was passed in 1881. Nor is there a lack of guidance from the Constitution which, under Article 24, prohibits any child below the age of 14 from employment but has been absent in any factory or mine or being engaged in any other hazardous employment. What has been absent has been the will to end this practice, and it is has been accompanied by a mis-direction of national priorities including financial resources. After over four decades, the provisions of the Directive Principle contained in Article 45 of the Constitution concerning universal primary education remain largely unfulfilled, to the great detriment of the nation and, in particular, of its children. The Commission, accordingly, recommends the adoption of appropriate legislation on compulsory primary education, matched with the necessary resources required for this purpose. It does not believe that the prevalence of poverty can, or should, be permitted to provide an endless alibi for the persistence of child labour in the often brutal and exploitative forms in which it continues, to this day, in our country. The Commission understands that legislation has been drafted to amend the Child Labour (Prohibition and Regulation) Act with a view to strengthening its provisions. The Commission recommends that early action be taken in this regard.

5.9 Various laws having to do with the status of women continue to be of deep interest to the Commission. It will be recalled that the National Commission for Women-with whom the Commission has been interacting-had set-up an Expert Committee which made recommendations and drafted amendments to a variety of Statutes including, inter alia, the Dowry Prohibition Act, the Sati (Prevention) Act, the Indian Penal Code and the Code of Criminal Procedure. These recommendations are receiving the active consideration of the concerned Ministries of the Government of India. For its part, the commission will itself be making certain recommendations in regard to the amendment of the Child Marriage Restraint Act. The National Human Rights Commission remains supportive of the National Commission for Women in this matter, the positions of the two Commissions being coordinated through the presence of the Chairperson of the latter, as a deemed Member, in the former.

5.10 Though the UN Convention on elimination of all Forms of Discrimination Against Women (CEDAW) was adopted by the General Assembly in 1979, India ratified it in June 1993. The provisions of CEDAW would now have to be implemented by way of

internal laws and administrative regulations.. The Commission recommends vigorous implementation of the country's obligations under this Convention.

5.11 The Commission has noted that legislation is being contemplated in regard to persons suffering disabilities. It strongly recommends the early passage of an appropriate Act on behalf of such persons, whose rights must be respected and supported.

## **VI. PROMOTION OF HUMAN RIGHTS LITERACY AND AWARENESS**

6.1 Section 12(h) of the Protection of Human Rights Act 1993 sets before the Commission the responsibility to "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." This undertaking requires no less than the creation of a culture of human rights across the entire country and amongst all of its people.

6.2 The generation of such awareness is no easy task especially in a country as complex and stratified as India is in economic and social terms, and as pluralistic in cultural terms. Indeed, the question can well be asked as to whether, in such a society, often faced with competing and even conflicting rights, there can be any generally agreed understanding of what constitute basic human rights applicable to all.

6.3 The question is of more than passing relevance when it comes to determining how best to discharge the responsibility entrusted to the Commission to spread human rights literacy and to promote awareness of the safeguards available for the protection of such rights. For its part, rather than entering into a theoretical debate on this question, the Commission has chosen to be pragmatic: it has set as its goal the spreading of knowledge concerning the rights embodied in the Constitution, in the two International Covenants of 1966, in other human rights instruments adopted under the aegis of the United Nations system, and of the mechanisms available for defending these rights.

6.4 Given that the country is a multi-party, federal democracy, the Commission, upon its establishment, immediately under to a threefold strategy in pursuit of its responsibilities under Section 12(h) of its Statute.. First, it solicited the support of the leadership of all political parties represented in Parliament or the State Legislatures, making specific institutional suggestions as to the manner in which they could promote human rights, monitor the conduct of their cadres and remain in liaison with the Commission. Second, it contacted the Chief Ministers of all States, with specific ideas for the sensitizing and training of public

servants in their respective areas. Third, as Education is on the Concurrent List of the Constitution, the Commission established a dialogue at the Central-level with the Human Resource Development Ministry and the NCERT and, at the State-level, with the competent educational authorities, to pursue the question of human rights instruction at various levels of schooling. Simultaneously, it contacted all Vice-Chancellors and Deans of Law Faculties urging them to examine how best the subject of human rights could be introduced at various stages of study at the university level.

6.5 In the course of the current year, the Commission has intensified its efforts in a variety of ways, the details of which follow.

6.6 As far as the schooling system is concerned, a series of meetings have been held with the Department of Education in the Ministry of Human Resource Development and with the National Council of Educational Research & Training (NCERT). Discussions have centered around four principal issues. The first requires a review of textbooks, with a view to deleting from them portions that are prejudicial to human rights and, instead, replacing such portions with material that shows a genuine sensitivity towards such rights and projects an understanding of them.. This measure has been required because of the distortions that had crept into the text books of various States in recent years, reflecting communal or social prejudices that were contrary to the provisions of the Constitution. This work is at present in progress and should e completed in 1995. Second, a source-book is being prepared on human rights material to guide teachers and other academics. The Commission has been assured that this will be ready by mid-1995. Third, modules are being prepared for teacher-training, relevant to teaching at varying levels. The Commission has been informed that these too are well under way. They will provide standards for pre-service and in-service training of teachers. Given the responsibility of the States in regard to education, the State councils of Educational Research & Training are also being fully as associated with this effort. Further, the subject of human rights education being of great interest to non-governmental organizations, a Workshop was convened by the Delhi Chapter of the Peoples Union for Civil Liberties (PUCL) with the support of the Commission on 11 March 1995. It was attended among others by representatives of the competent Ministry, the NCERT, the University Grants Commission, members of various non-governmental organizations, academics and teachers. The Commission trusts that the views expressed at that Workshop will be borne in mind in the framing of measures to further education in human rights.

6.7 As far as the university-level is concerned, a number of Vice-Chancellors and Deans of Law Faculties responded with enthusiasm to letters from the Chairperson suggesting that human rights find a place both in under-graduate and post-graduate studies. The National Law School in Bangalore is already a pioneer in this field, other universities such as in Dumka and Guwahati have also indicated that they have introduced special courses on human rights. In addition, the universities of Calcutta and Varanasi have established special cells for the study of human rights issues, Varanasi having already completed a project study on Child Labour in the Saree Industry of the area. In order to proceed with the highest degree of coherence and thought, the Commission has been in touch with the University Grants Commission on the whole matter. To this end, the Law Panel of the UGC is already examining and updating ideas proposed by the committee chaired by Justice Sikri in 1981 on human rights education. The Commission is informed that the UGC plans to have support extended to five universities by April 1996 and to various others by 1997 for the teaching of human rights at the university level. The Commission recommends that timely action be taken in this regard.

6.8 The Commission is more than aware that, while the people of this country must be made aware of their rights through programmes of literacy, and vigorously supported in the defence of their rights by the Courts, the Commission, the media, non-governmental organizations and others, it is no less--and probably far more-important to retrain and reorient public servants and particularly members of the police and the security forces--both of the army and of para-military wings--so that they learn to respect such rights, and remain constantly mindful of them, despite the difficult and provocative circumstances in which they often have to function, particularly in areas facing insurgency and terrorism.

6.9 The Commission has therefore been giving the highest priority to encouraging the training and re-orientation of members of the police and armed forces. As regards the police, while all States have now made efforts to include human rights in the instruction of their cadres in their various institutes, the Commission recommends that the courses need to have a far higher standard and a greater degree of consistency. A meeting was called by the Commission of some Directors-General of Police, a group of whom were thereafter entrusted by the Commission to prepare model training syllabi for all levels of the police force. At the same time, Members of the Commission have made it a point of visiting, whenever possible, police-training institutes in the various States. In addition, Members of the Commission have

inter-acted closely with the National Police Academy in Hyderabad, whose former Director is now Director-General (Investigation) of the Commission.

6.10 The training and re-orientation of the military and para-military forces has been of no less concern to the Commission. Accordingly, this subject has been central to the discussions that the Commission has had with the Chief of Army Staff and the Director-General of the Border Security Force, among others. The Commission encouraged and welcomed the involvement of the International Committee of the Red Cross (ICRC) in courses conducted for officers of the Border Security force on International Humanitarian Law; Members of the Commission addressed the trainees in visits to the BSF Centre in Tekanpur.

6.11 As regards the Army, the Commission has noted the efforts being made to spread the message of human rights from the level of jawans to Commanding Officers. In many of the visits which the Commission has made to areas of army deployment, its attention has been drawn to the "Ten Commandments" issued by the Chief of Army Staff to all serving personnel (Annexure II). Likewise, the Commission has been informed of the instructions issued by the Corps Commanders to their troops no regard to the conduct of armed forces personnel in situations involving civil populations (Annexure III). The Commission welcomes these instructions as evidence of a growing sensitivity amongst armed forces personnel to human rights matters. At the same time, it recommends that the training of both officers and men needs to be sustained at a high-level so that errors in conduct are avoided to the maximum possible extent. The Commission further recommends that where violations of human rights occur as a result of the conduct of armed forces personnel prompt and effective action be taken under the law to prosecute those accused of wrong-doing. This would be in the interests of all concerned-the victims, the armed forces themselves, and the country at large. The Commission has been gratified to learn that the upper-most echelons of the armed forces concur with the Commission in this approach. In consequence, as indicated earlier in this report, both the Army and the BSF have made available to the Commission data relevant to the prosecution of those accused of violating human rights. The example of the armed forces leadership needs to be followed at all levels, so that the reputation of the security forces of the country-whether police, military or para-military-remains above question in regard to its probity and commitment to justice.

6.12 As part of the overall sensitizing of the security forces to human rights matters, Members of the Commission, its Secretary-General and Director-General (Investigation)

have seized a number of opportunities to participate in discussions and courses relevant to such matters. Thus, in addition to the visits of the Chairperson and Members to the National Police Academy in Hyderabad and to the BSF Centre in Tekanpur referred to above, the Secretary-General has spoken on human rights in insurgency areas at the Internal Security Academy of the Central Reserve Police Force in Mount Abu and the Director-General (Investigation) has represented the Commission in seminars and workshops conducted, inter alia, at the National Institute of Criminology and the Indian Institute of Public Administration in Delhi, in addition to participating in various discussions relating to the training of police and CRPF personnel.

6.13 The Chairperson and Members of the Commission have also readily associated themselves with seminars and discussions on human rights, in particular the rights of women and of children. They have been the key speakers in a number of seminars organized by universities and non-governmental organizations. Thus, for example, they participated in a seminar on Human Rights-Global Problems and Perspectives, organized by the Law Faculty of Jammu University in March 1995 and in a seminar on the Rights of Women in Kurukshetra University in September 1994. The Chairperson inaugurated a National Seminar on Human Rights, Development and Democracy in Varanasi University, also in March 1995, and he participated in a seminar on Legalized in-country Child Adoption and Family rights of Abandoned Children held in Bhubaneshwar. Likewise, he inaugurated a workshop on Criminal Law and Human Rights organized by the PUCL in Madurai. In the same vein, the Director-General (Investigation) participated in a discussion on policing violence against women at the National Academy of Administration in Mussoorie.

6.14 As the work of the Commission has become increasingly known, invitations to speak at functions and to inaugurate them have come in apace. In addition to the events mentioned above, the Chairperson has responded by accepting speaking engagements in a variety of forums in locations as varied as Bangalore, Bhopal, Calcutta, Kochi, Lucknow, Patna, Pilani, Puttaparthi, Puri, Varanasi, and Thiruvananthapuram. It is evident that such invitations will continue to grow as word of the Commission's work and message spreads.

6.15 The Commission is making a special effort to highlight Human Rights Day. On 10 December 1994, it hosted a function involving the Speaking of the Lok Sabha, the Leader of the Opposition in the Lok Sabha, a number of Members of Parliament, members of the diplomatic corps, non-governmental organizations and others.

6.16 Following consultations with the competent educational authorities, the Commission recommends that 10 December each year be observed as Human Rights Day in all schools and colleges in the country.

6.17 Human Rights can flourish only in an open society, in which those in authority are accountable for their actions. The media therefore has a considerable role to play in furthering human rights. The Commission has sought to meet regularly with representatives of the media, including senior editors, correspondents and other personalities. It is grateful for the immense surge in reporting on human rights matters in the country and has relied heavily on such reports in its own work. The Commission also has reason to be grateful to the media for covering its activities fairly and for highlighting issues of particular concern to the Commission-which, in the event, are usually of considerable interest to the country as a whole. The debate relating to TADA is one such example, the issue of child labour, among others, is another such example. The Commission intends to sharpen its information focus so that it may further benefit, in the propagation of its message, through its interaction with the media.

6.18 In the meantime, as a way of keeping a growing number of individuals, organizations and members of the public informed of its activities, the Commission has been publishing a monthly Newsletter since October 1994. The New letter has been well-received and there is a constantly rising demand for it. Criticism have been most constructive and an effort has been made to take them into account; as for the words of praise, they have been received with gratitude.

## **VII. NON-GOVERNMENTAL ORGANIZATIONS**

7.1 The responsibilities entrusted to the Commission under the Protection of Human Rights Act 1993 cannot be adequately discharged without the development of close and cooperative ties between the Commission and non-governmental organizations-the eyes and ears of the people of India. For the Commission, it is not just a statutory obligation, under Section 12(i) of the Act, "to encourage the efforts of non-governmental organizations and institutions working in the field of human rights", but a necessity to do so, if its own efforts are to be well-informed and in tune with the deeper aspirations of the country-aspirations that find expression in the courage and idealism of many non-governmental organizations. As the Commission noted in its first report, the cause of human rights 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. To this end, the Commission has, from time to time, invited leading human rights activists and NGO representatives over for discussions and advice and sought their help in practical ways. In addition, in every visit to a State, the Commission has made it a point to benefit from the experience and knowledge of NGOs, whose contacts at the "grass-roots" level give strength and meaning to the human rights movement where it matters most.

7.2 In the development of this working relationship, the Commission is particularly grateful to NGOs for coming forward with complaints regarding violations of human rights. Analysis of the complaints received by the Commission indicates that over 200 NGOs were involved in the submission of such complaints-and that these complaints were received from all parts of the country. This speaks for itself concerning the range of NGOs in the country and of their interest, simultaneously, in rectifying wrongs and in using the mechanisms of the Commission. The Commission is heartened by this.

7.3 Further, in accordance with the provisions of its Regulation No. 18, the Commission has made a beginning, in the year under review, to associate NGOs with the enquiry of complaints. For example, in a case alleging illegal detention and torture by the Kerala Police in Muringoor, Chalakudy, the Commission has requested an NGO in Kochi to help enquire into the matter and report to the Commission on the allegations. In numerous instances, during visits by the Commission to the State, NGOs have boldly come forward with evidence of wrong-doing in relation to specific complaints addressed to the Commission. Further, the Commission has, on more than one occasion, turned to Legal Aid & Advice Boards to ascertain facts and make enquiries on behalf of the Commission. Examples of the latter include recourse to the Tamil Nadu Legal Aid & Advice Board which has looked into allegations of police mis-conduct in Velanthangal village of VRP district on the basis of a complaint brought by an NGO, and the steps taken by the Chairman, UP State Legal Aid & Advice Board, to enquire into a particularly tragic and complex case having to do with the wrongful detention, in the Agra Mental Asylum, of a sane person for a period of nearly three decades, during which time he was stripped of his property rights by near relatives.

7.4 There are many ways in which the relationship of the Commission with NGOs can be further strengthened. As the Commission increasingly begins to concentrate on specific human rights problems, for example, child labour or bonded labour, it is normal that it should turn to NGOs having specialized knowledge in such fields. In the course of the coming year,

the Commission has plans to initiate a series of action-oriented studies relating to key human rights problems facing the country. The mechanisms that it will set-up for conducting such studies may well require the involvement of NGOs for their ideas, experience and research capability.

7.5 In order to derive a fuller awareness of the range and capacities of NGOs in the country, the Commission, in its very first Newsletter of October 1994, appealed to them for information on their respective organizations, their membership, major activities, addresses, fax numbers etc. A number of NGOs have responded and have provided such information, the details of over 200 specializing inhuman rights having been fed into the computerized list that the Commission is maintaining. Such data can be of increasing help to the Commission as it seeks the association of NGOs, for instance, in the making of inquiries into the complaints that are received from various parts of the country.

7.6 In the period ahead, the Commission would like to further rationalize and expand its arrangements of cooperation with NGOs. It firmly believes that the promotion and protection of human rights require the courage and commitment that NGOs bring to their endeavours and it is for this reason that the Commission has consistently taken the position that the country has much to gain by encouraging their efforts, whether the NGOs be national or foreign.

7.7 It is for the same reason that the Commission has participated with enthusiasm in numerous events, discussions and workshops that NGOs have organized around the country, to which reference has been made in earlier sections of this report.

## **VIII. STATE HUMAN RIGHTS COMMISSIONS, HUMAN RIGHTS COURTS AND DISTRICT COMMITTEES**

8.1 The phenomenal increase in the number of complaints received by the Commission during the year, as also the number of requests from NGOs, academic institutions and other seeking the presence and participation of the Commission in different programmes, have emphasized the need for the setting-up, at the earliest, of State Human Rights Commissions. The State-level Commissions would accord quicker access to a decentralized complaints redressal mechanism and would also help aggrieved parties save expenses which would otherwise be incurred from having to approach a single authority, located in Delhi, in a country as vast as ours. The Commission has noted that almost all the States which it visited during the year expressed a desire to establish State-level Human

Rights Commissions. West Bengal and Himachal Pradesh have already done so. Madhya Pradesh, Nagaland, Manipur and Assam have formally conveyed to the Commission that they would be setting up State level Commissions at the earliest. Maharashtra, Manipur and Orissa have indicated that the question of setting-up of State-level Commissions is under active consideration. Andhra Pradesh, Karnataka and Kerala have stated that the matter is under examination. The Government of Tripura has mentioned that the proposal to have a State Commission would be examined suitably, but it has added that the non-availability of resources was a major handicap. Jammu & Kashmir and Uttar Pradesh have, for the present, set-up Human Rights Cells, as has the National Capital Territory of Delhi.

8.2 The Protection of Human Rights Act 1993 provides for a National Human Rights Commission and State Human Rights Commissions. There is no specific mention in the Statute on the setting-up of Commissions at the level of Union Territories. The presumption could be that the Commission at the national level will serve the Union Territories as well. However, this militates against the concept of a decentralized grievance redressal machinery through State Commissions. The Commission, therefore, feels that the Union Territories as well as the National Capital Territory of Delhi should have their own arrangements for the discharge of certain of the responsibilities specified in the Act. The Commission accordingly recommends that the Government of India take steps for evolving suitable institutional mechanism for the protection and promotion of human rights in Union Territories including the National Capital Territory.

8.3 In its previous Annual Report, the Commission had recommended amendments to Section 36 of the Protection of human Rights Act with a view to establishing a clear functional relationship between the National Human Rights Commission and State Commissions. A view on those recommendations needs to be taken without further loss of time, so as to ensure an appropriate and harmonious relationship in the functioning of the National Commission, on the one hand, and the State Commissions that have already come into existence or that are likely to be established imminently.

8.4 As far as Human Rights Courts are concerned, these have now been notified in the States of Assam and Sikkim. In regard to such courts, too, the Commission would like to see early action on the amendment to Section 30 of the Act, which it had recommended in its Annual Report for the preceding year.

8.5 In addition to the provisions contained in the Statute, the government of Kerala has taken the initiative to set-up a mechanism for the speedy disposal of complaints relating to human rights violations at the district-level. This commendable step, taken by the State Government, will help to further decentralize the grievance redressal machinery. The District Level Review Committee is to be headed by the District & Sessions Judge, and will comprise, in addition, the Chief Judicial Magistrate, the Superintendent of Police and the Revenue Divisional Officer as members. Though the Committee is purely official the Commission is of the view that it can serve a most positive purpose. The Commission has accordingly recommended the setting-up of such committees in other States as well. It is heartening that many States have already accepted, in principle, to create such District Level Review Committees. The Commission expects that such Committees should fit, without difficulty, into what will ultimately constitute a three-tier system for the disposal of complaints relating to human rights violations.

## **IX. INQUIRY INTO COMPLAINTS**

9.1 The year under review has witnessed a considerable increase in public awareness of the work of the Commission. This was reflected most strongly in the vast increase in complaints of human rights violations, real or perceived, that were lodged with the Commission. While, in the period October 1993-31 March 1994, the Commission received a total of 496 complaints, during the next twelve months i.e. 1 April 1994, the Commission's directive to report all incidents of custodial death or rape within twenty-four hours, District Magistrates and Superintendents of Police informed the Commission of 152 such instances as having occurred in police or judicial custody during the period under review. While the number of such cases has been registered as 152, the actual number of persons involved is 174. The Commission therefore had a total of 6,987 new cases before it in 1994-95.

9.2 Out of these new cases, 5,710 were considered by the Commission and 1,277 were pending consideration at the end of March 1995. Of those considered, 2,483 were dismissed in limini, 1,567 were disposed of with directions and 276 were concluded following the consideration of reports received from the concerned authorities upon directions of the Commission. At the end of the year, 1,384 cases of the year 1994-95 were pending final disposal, along with 86 other cases which had been registered in the year 1993-94.

9.3 A State-wise list of cases registered, considered by the Commission, and pending consideration, is at Annexure IV. A State-wise list of cases dismissed in limini, disposed of

with directions, concluded after consideration of reports asked for by the Commission, and of those pending disposal is at Annexure V.

9.4 With the exception of Delhi, where the Commission is located, and Uttar Pradesh, the largest number of cases were not unexpectedly received from the States which the Commission visited.. This points to the importance of decentralizing the redressal machinery and the obvious need for the early establishment of State-level Commissions, as foreseen in the Statute.

9.5 Many of the cases received by the Commission were of great poignancy-but they could not be entertain by the Commission, falling as they did under the categories listed in Regulation No. 8 of the Commission. It will be recalled that, under that Regulation, the Commission had decided not to entertain cases relating to (a) events which happened more than one year before the making of the complaint (see also Section 36(2) of the Statute) (b) matters which were sub judice, (c) those which were vague, anonymous or pseudonymous, (d) those that were frivolous in nature, or (e) matters which were outside the purview of the Commission. The Commission felt it should concentrate on cases that had a definite human rights focus. Thus, where a complaint related, essentially, to service-related matters having to do with wages, promotions and the like-and there were many such complaints-the Commission generally took the view that the petitioner should pursue other avenues available to him or her under the laws of the land.

9.6 The Statement at Annexure VI provides an analysis of the 1660 particularly grave cases admitted by the Commission for investigation/inquiry during the year under report, relating essentially to violence against the human person.. It will be seen that 111 of these cases relate to death in police custody, 51 to death in judicial custody and 9 to death while in the custody of other State agencies (the Armed Forces or the Forest Department). It will also be seen that 497 cases relate to allegations of various forms of police excesses, including the use of torture or third-degree methods in interrogation, while 114 cases allege illegal detention.

9.7 While the cases relating to custodial death and rap invariably originated in reports from State agencies themselves, in response to the directions issued by the Commission that all such instances must be reported to it, the other cases were generally based on complaints by those who were themselves the victims of ill-treatment, or those representing them.

9.8 The Commission felt that every instance of custodial death or rape brought to its attention must be followed by an inquiry and a full report. In respect of 39 cases of death in custody it came to the conclusion, after examining the facts, that public servants could not be held guilty of wrong-doing. In 107 cases, however, decisions are pending as inquiries/investigations are still under-way: the Commission having asked for further data or the originals of reports relating, for instance, to inquests or post-mortem examinations, or forensic tests. In 3 cases, the Commission has been convinced of the guilt of policemen. In 2 of these cases, prosecutions for murder have been launched, in the third, where departmental enquiries had been initiated, the Commission has taken the view that this was not enough; it has proposed prosecution. The Commission is keen that its inquiries into such grave matters be conducted with speed; the Chairperson has therefore written to selected Chief Ministers urging that forensic examinations be taken up on a priority basis. The Commission is even more concerned that its decisions are well-founded, and based on a meticulous examination of all necessary facts. In the coming days, many of the inquiries still underway will be ready for decisions, the Commission having received the additional data that it has sought.

9.9 While, as indicated earlier, the Commission is of the view that instances of custodial death and rape are now generally being reported to it, and no being covered-up, it remains vigilant on this score, frequently cross-checking its files with reports appearing in newspapers etc. It urges NGOs and human rights activists to persist in keeping a close eye on instances of violence to the human person and to let it know of any instances that come to their attention in respect of such deeply offensive and painful practices.

9.10 The work of the Commission in regard to complaints on reports of serious violations has begun to gain depth and a sharper edge because of the efforts of its Investigation Wing. Between June 1994 and 31 March 1995, the Investigation Wing was directed to look into nearly a hundred cases that appeared, on the face of it, to be suspicious in circumstances or lacking in transparency of approach. These included cases of death in custody or in questionable circumstances, illegal arrests or detention, collusive action by the police with law breakers e.g. land grabbers, fake-encounters, kidnappings, implication in false cases, inhuman conditions in jails and the like..

9.11 Though the Investigation Wing has a sanctioned strength of 81, recruitment has been slow and difficult. Accommodation and service conditions are difficult in Delhi for those coming from outside, and the Commission, for its part, has been careful to select only those who have unblemished records in regard to human rights and a true commitment to

their protection, particularly in respect of the rights of the most vulnerable and underprivileged. The Commission nevertheless hopes that, during 1995-96, the sanctioned strength will be filled, with capable personnel at all the required levels.

9.12 Some of the prominent cases taken up for investigation by the Investigation Wing included violation of human rights by the UP Police during the Uttarakhand agitation, custodial deaths in Bihar, alleged human rights violations in Assam, illegal detention of TADA undertrials in the Central Jail of Jodhpur and Ajmer the case of a person falsely declared insane, and an allegation of murder by the police to pressure a complainant in Punjab.

9.13 The further development and strengthening of the investigative capacity is absolutely essential to the future effectiveness of the Commission. For while reliance on existing agencies has, in many States and the majority of instances, led to responses in detail and in good faith to the Commission's instructions, that has not always been so. Not unexpectedly, the problems are worst, when there is most to conceal. In such cases, there is a tendency for the reports requested not to come or to be dilatory or perfunctory-none of which are acceptable to the Commission. Where the Commission has felt that there is a pattern to such behaviour, it has summoned the senior-most officials to its headquarters to call for explanations. Further, where it has felt-for instance, in regard to some reports concerning the conduct of the armed forces that the material provided to it has been incomplete-it has no the situated to point this out to the Defence and Home Ministries and to Army Headquarters. It has also provided detailed guidelines as to what it expects to receive in reports called for under Section 19 of its Statute. The response at the highest levels of the armed forces has been positive. The Commission now expects that this reaction will be translated into transparency and accountability at all levels. For its part, the Commission will certainly continue to keep the most careful eye on such matters, even while it strengthens its own investigative capacity in accordance with the possibilities of its Statute.

9.14 Beyond providing statistical data regarding complaints, it is important, in this report, to give an appropriate sense of the range and nature of the complaints addressed by the Commission, and the manner in which the Commission has attended to them. The complaints cover the entire spectrum of human rights problems facing the country and any selectivity, for purposes of this report, is necessarily in some measure arbitrary, given the fact that the complaints number in the thousands. Nevertheless, in the paragraphs that follow, the

gist is provided of a dozen complaints that are representative of the cases attended to by the Commission.

### **Illustrative Cases**

#### ***(i) Alleged custodial death of Madan Lal in Delhi***

In its last annual report, the Commission indicated that it had, suo motu, taken cognizance of the death of Madan Lal, 22 years of age, in police custody. Upon perusing the reports received from the Government of the National Capital Territory of Delhi, the Commission decided to have an investigation undertaken in terms of Section 14(1) of the Protection of Human Rights Act, 1993. It accordingly appointed Shri R.C. Chopra, a member of the Higher Judicial Service to investigate the matter.

Shri Chopra submitted a report on 11 March 1994 concluding that Shri Madan Lal had died as a result of a physical assault on his person, while he was in custody within a police station. Shri Chopra held an Assistant Sub-Inspector and three constables prima facie responsible for the death. The Commission in its order of 4 May 1994 accepted the conclusions and recommendations of the Investigating Officer and, in turn, made the following recommendations to the Administration of the NCTD:

- (i) the investigation in the instant case should be handed over to the CBI at the earliest;
- (ii) departmental action should be taken against the ASI of a neighbouring police station who was allegedly pressurizing members of the family of the deceased;
- (iii) reasonable protection should be given to the members of the family and also to other witnesses until the regular trial takes place;
- (iv) interim compensation of Rs. 50,000/- should be paid to the dependants of the deceased within one month, without prejudice to the amount of compensation that may be claimed in accordance with law.

On 30 May 1994, the Government of the NCTD conveyed its acceptance of the recommendations of the Commission.

#### ***(ii) Alleged death of Korra Satya Rao, a tribal, in Visakhapatnam District, Andhra Pradesh, as a result of police mistreatment***

The Secretary of the Visakhapatnam district unit of the Andhra Pradesh Civil Liberties Committee sent a complaint to the Commission in May 1994 alleging that police officials raided Vasapanda village in the agency area of Visakhapatnam district on 27 April 1994, rounded up a group of tribals and beat them supposedly because they had provided food and shelter to Naxalites. It was further stated that, as a result, one of the tribals, namely Korra Satya Rao, received severe injuries to his head and shoulders and that he succumbed to these injuries on 5 May 1994. Inquiries conducted by the Sub-Collector and Asst. Superintendent of Police confirmed the complicity of a Sub-Collector and Asst. Superintendent of Police confirmed the complicity of a Sub-Inspector and three police constables in the action leading to the death of Korra Satya Rao.

The Commission, in its proceedings of 17 February 1995, recommended that the police officials concerned be prosecuted Under Section 304 of the IPC and that Rs. 1 lakh be paid in compensation to the next of kin of the deceased.

The Government of Andhra Pradesh subsequently confirmed compliance with the Commission's directions.

***(iii) Alleged killings of civilians in Ukhrul town, Manipur, in crossfiring between 20 Assam Rifles and NSCN***

On a complaint dated 9 June 1994, received from the Committee on Human Rights (COHR), Manipur regarding the death of civilians caught in cross-fire between the 20 Assam Rifles and elements of the NSCN, the Commission called for a report from the Ministry of Defence. The COHR complaint alleged that the firing by the Assam Rifles had been indiscriminate, that civilians had been detained illegally, that there had been acts of physical torture and the looting of cash and valuables and the destruction of properties by the Assam Rifles. It was further alleged that this was in retaliation, consequent to the killing of two Assam Rifles Officers earlier by NSCN guerillas.

In their report of 6 December 1994, Army Headquarters stated that NSCN insurgents had shot two Assam Rifles Officers on duty, in an ambush in Wino Bazar of Ukhrul town, without any provocation. When the wounded officers were being rushed to hospital, the insurgents fired at them again, as a result, the two officers succumbed to their injuries and four others sustained injuries. The Quick Reaction Team of the Assam Rifles cordoned off the area to search for the insurgents. Peace meetings were arranged with prominent church leaders and others of Ukhrul town, along with the District Collector and Superintendent of

Police; these gestures were appreciated by all. The Court of Inquiry set up by the General Officer Commanding also expressed the opinion that maximum restraint was exercised by the armed forces and that, contrary to the allegation that 20 mortars were fired, only 2 fired, and that the Assam Rifles unit had not engaged in torture, illegal detentions or looting.

After considering the report of the Ministry of Defence (Army Headquarters) the Commission was satisfied with the response of the armed forces, including the follow-up action taken by them to restore peace. The Commission, however, recommended in its proceedings of 9 February 1995, that compensation of Rs. 50,000/- be paid to the next of kin of each of the 3 civilians killed in the cross-firing.

The Ministry of Defence issued instructions on 31 March 1995 for the payment of the compensation, as recommended by the Commission.

***(iv) Alleged death of Muhammad Akbar Sheikh in armed forces custody, Baramulla district, Jammu & Kashmir***

Inhabitants of a cluster of villages in Barwah tehsil of Baramulla district, Jammu & Kashmir, submitted a written complaint to the Commission alleging the death, in the custody of the armed forces, of Muhammad Akbar Sheikh on 27 December 1993. It was asserted that he was seized during an army crackdown in the area on that date and that his dead body was handed over to the police in Baramulla on 29 December 1993.

Proceeding under Section 19 of the Protection of Human Rights Act 1993, the Commission called for reports from the Defence and Home Ministries. The reply of the Defence Ministry, dated 6 September 1994, forwarded a report from Army Headquarters. According to that report, the 15 Punjab Regiment was involved in an operation against militants on 27 December 1993 around the village of Fategarh. Tehsil Barwah, District Baramulla. A cordon was established at 0700 hours and a search started at about 0900 hours.

All male adults were collected at the local government high school. Muhammad Akbar Sheikh agreed to assist one of companies of the unit in the matter of the search. Five hideouts were shown to the search party and weapons and ammunition too were recovered. The search continued till 1800 hours. The period being the last week of December 1993, the weather was harsh and the terrain difficult. The report attributed the death of Muhammad Akbar Sheikh to exhaustion.

After carefully analyzing the report, the Commission observed that it was apparent that the deceased had been totally exhausted. The valley was in the grip of severe cold at that

time. The record further indicated that Muhammad Akbar Sheikh was not a man in normal health. In such circumstances, it was the obligation of those who wanted to utilize his services for the purpose of the search, to take proper care of him. It was evident that exhaustion in this case was the result of the strain put upon him by the search party. Though the case was not one of custodial death, the situation was more or less akin to it.

After considering all aspects of the case, factual and legal, the Commission was of the opinion that Muhammad Akbar Sheikh's life could have been saved if appropriate care had been taken of him by the armed forces. Holding the latter responsible for negligence in the death of Muhammad Akbar Sheikh, the Commission directed the Ministry of Defence to pay Rs. 50,000/- as compensation to the legal heirs of the deceased.

Accepting the recommendations of the Commission, the Ministry of Defence issued a sanction order on 2 December 1994 for the payment of the compensation. The Commission took note of this on 22 December 1994.

***(v) Alleged death of Allen Kuki of Khoijang village, Manipur, in custody of the armed forces***

On the basis of a press report appearing in The Statesman of 9 March 1994, alleging that a Kuki rebel had died in the custody of the armed forces, the Commission called for a report from the Ministry of Defence.

The latter replied, providing a report from Army Headquarters. According to that report, during the night of 5-6 March 1994, village Kholjang was cordoned by the 4th Regiment of the Assam Rifles for apprehending certain persons who were reportedly hiding in the village. Around 0330 hours, three persons were seen coming towards a group of the security forces. On being challenged, those persons opened fire and the security forces returned fire. One of those persons, later identified as Allen Kuki, jumped into a nullah full of boulders and bamboo stumps to evade capture. The report mentioned that Allen succumbed to injuries at about 1530 hours on that day.

After a thorough examination of the facts stated in the report, the Commission noted that Allen had been taken into custody at about 0330 hours but that no medical help had been provided to him, nor any attempt seemingly made in this respect, until his death about 12 hours thereafter. The Commission observed that it was the obligation of the security forces, who held Allen in custody, to take steps for his immediate treatment and that the obligation arose the moment Allen came into their custody in an injured condition.

Quoting from the Supreme Court's observations in the case of Pandit Paramanand Katia versus Union of India and others (1989), the Commission's order pointed out that "there can be no second opinion that preservation of human life is of paramount importance. That is so on account of the fact that once life is lost, the status quo ante cannot be restored. Whether he be an innocent person or a criminal liable to punishment under the laws of society, it is the obligation of those who are in charge of the patient to preserve life so that the innocent may be protected and the guilty may be punished. Social laws do not contemplate death by negligence to be tantamount to legal punishment".

The Commission was of the view that what the Apex Court held in the aforesaid decision, applied equally to the situation where a public authority had physical custody of an injured person. The Commission observed "There is no material in the report to indicate the nature of injuries he had received by jumping into the nullah. We have, in the circumstances, to assume that if timely treatment had been provided to Allen, his life could have been saved and the captors have failed to conform to their obligation under the law. In such circumstances, compensation is payable to the next of kin of Allen. Ordinarily, for loss of life, compensation of Rs. 50,000/- to Rs. 1,00,000/- is being given depending upon the different situations in which death occurs. From the report, it appears that Allen had voluntarily jumped into the nullah to avoid capture. We are of the view that compensation of the sum of Rs. 50,000/- would meet the ends of justice".

The Army authorities have indicated that the amount of compensation recommended by the Commission has been paid to the mother of the deceased.

***(vi) Alleged death of 125 children in Phulbani district, Orissa, owing to malnutrition, malaria and chicken-pox.***

The Commission took cognizance of a complaint filed by an advocate, Shri A.C. Pradhan, alleging that some 400 children had died in Phulbani district as a result of acute malnutrition, accompanied by repeated attacks of malaria, chicken-pox and various water-borne diseases. It asked for a full report from the State Government.

That report stated that a medical team headed by the Chief District Medical Officer, Phulbani, had enquired into the matter and found that the number of deaths was an exaggeration. However, the report admitted that, "in Daringbadi block, 125 children below 10 years of age died in August & September 1993".

The Commission, in its directions of 25 October 1994 commented that adequate and satisfactory arrangements had not been made to prevent the calamity. Unimpressed by the State Government's claims concerning the opening of health sub-centres and the deployment of para-medical staff in the area, the Commission observed that the fact that persons belonging to the Scheduled Tribes preferred to treat their children with witchcraft Commission felt that the tragedy reflected on the inability of the State Government to adequately educate tribal citizens, which was an obligation of the State Government under the Constitution. The Commission therefore recommended that the State Government pay, within a month, a sum amounting to Rs. 6,52,000/- to the 125 tribal families whose children had died.

In a letter to the Commission dated 19 January 1995, the State Government advanced five reasons requesting the Commission to re-consider its recommendations regarding the payment of compensation. It stated, in brief, that the Government had already set up a number of ANM sub-centres in addition to two Primary Health Centres in the area; that doctors and para-medical staff were in position; it asserted that the building-up of mass awareness through a health education system was a time-taking process; it added that natural calamities were beyond the control of the administration and could not be attributed to negligence; it stated that the award of compensation would serve as a disincentive to tribals to change their ways and, lastly, it argued that the resource crunch in the State would seriously limit the capacity of the Government to pursue regulatory and welfare activities if "every death earned lucrative compensation".

Reviewing the matter, the Commission held to its view that negligence had occurred. While it understood the stand of the State Government that compensation need not be provided in every case of death, it continued to believe that, on the facts available on record in the instant case, there was no justification for the Commission to take a different view. It therefore decided not to interfere with, or alter, its earlier recommendation in any way and called upon the Government of Orissa to work-out ways of implementing its recommendation within an extended period of one month.

***(vii) Disappearance of Shri Harjit Singh since April 1992.***

Amnesty International had brought to the notice of the Commission a report on the disappearance of Shri Harjit Singh, an employee of Punjab State Electricity Board. It was stated that he was arrested by the Punjab police on 29 April 1992 and, that his whereabouts

were not known. It was further stated that the Punjab police claimed that Shri Harjit Singh was killed in an encounter, whereas the father of Shri Harjit Singh asserted that he had seen him alive twice in police custody after the police claimed that he was dead.

The Commission called for a report from the Government of Punjab. The State Government reported that it had arrested Shri Harjit Singh and another person on 11 May 1992. When policemen were taking them for the recovery of arms and ammunition, they were ambushed and, in the cross-firing, Shri Harjit Singh and the other person died. It was said that Harjit Singh's body could not be handed over to his parents as no one was available in his home. After the post-mortem his body was cremated. The State Government further stated that Kashmir Singh, father of Shri Harjit Singh, had filed a criminal writ petition No. 651/92 in the Punjab and Haryana High Court and that the Court had appointed the Sessions Judge, Chandigarh to inquire into the matter and submit a report.

While the complaint was being followed up with the State government to ascertain the progress of investigation, the Commission received a number of representations from NGOs and individuals (some from abroad) expressing concern over the delay in completing the investigation by the Sessions Judge. Observing that more than 2 years had elapsed since the direction of the High Court to the Sessions Judge, Chandigarh to investigate the matter, the Commission decided to intervene in the proceedings pending before the High Court u/s 12 (b) of the Protection of Human Rights Act 1993 and appointed a senior Advocate of Chandigarh to move the Court for fixing of a pre-emptory date for the submission of the report by the Sessions Judge. The matter will be pursued by the Commission.

***(viii) Illegal chaining of a patient in a hospital in Orissa***

The Commission received a complaint from the Kalahandi Consumers Welfare Organization alleging that, in a misuse of power by public servants, a social worker, Shri Radhanath Pradhan, had been chained to his hospital bed. The complaint was accompanied by photographs of the incident. The Commission accordingly called for a report from the Collector and District Magistrate, Kalahandi.

On perusing that report, the Commission noted that Shri Radhanath Pradhan had been prosecuted for offences committed under Sections 448/294/353 of the IPC in regard to incidents which were mentioned in the complaint. The Chief Judicial Magistrate had found him guilty and had sentenced him to imprisonment of one year and a fine of Rs. 1,000/-. It was also noted that Shri Pradhan had filed an appeal in the Court of the Sessions Judge.

Without taking a position on Shri Pradhan's arrest, as that issue was before the Sessions Judge, the Commission expressed grave displeasure over the changing of Shri Pradhan to his hospital bed. The Commission added that, unless there were special reasons and a judicial order in support of such action, patients under treatment in hospitals must not be chained.

Following these directions, the State Government has issued appropriate instructions to all concerned officials in the State.

***(ix) Conditions of Chakma & Hojong refugees settled in Arunachal Pradesh***

The Commission received representations from the Peoples Union for Civil Liberties (PUCL) and Amnesty International regarding the plight of Chakma and Hajong refugees living in Arunachal Pradesh. It was stated that these groups, comprising respectively Buddhists and Hindus, fled for fear of persecution on grounds of their religion from the Chittagong Hill Tracts, in what was formerly East Pakistan, between the years 1964-1971. Originally welcomed to India and to parts of NEFA, which today form Arunachal Pradesh, they were now increasingly being harassed and threatened in that State. When some of them tried to flee to Assam, it was alleged that the Government of Assam threatened to shoot them if they did so. Allegations regarding threats to the life and property of Chakmas and Hajongs were also conveyed directly to the Chairperson of the Commission through representatives of their communities who had traveled to Delhi from Arunachal Pradesh.

The Commission, in a communication to the State Government on 29 September 1994 stated that it was the obligation of that Government to accord protection to the person and property of the members of the two communities and to ensure that their human rights were not violated. In addition, the Commission called upon the State Government to take prompt action to restore normalcy. It also urged the Ministry of Home Affairs to ensure prompt and necessary action by the State Government.

The "Committee for Citizenship" of the Chakmas in Arunachal Pradesh also sent a representation to the Commission asserting that while the Chakmas and Hajong communities settled in other North-Eastern States of India were enjoying the full-fledged rights of Indian Citizenship, those settled in Arunachal Pradesh were not being granted such citizenship because of the State Government's adamant opposition to the Central Government's policies in this respect. In consequence, the Committee stated, human rights abuses were being constantly perpetrated against the Chakmas in Arunachal Pradesh. In respect of this

complaint, too, the Commission called for reports from the State Government and the Home Ministry.

The State Government stated that there is no threat to the life and property of members of the two communities in question and that an adequate police force has been deployed to protect them. The Home Ministry reported that the State Government had been advised to ensure normalcy in the law and order situation as also to supply needed essential commodities and medical facilities to the Chakma and Hajong refugees. As regards the granting of citizenship to them, the Home Ministry reported that the matter was under consideration, in consultation with the State Government.

The Chairperson addressed a further letter on 7 December 1994 to the Union Home Minister and also to the Chief Minister, Arunachal Pradesh, stressing the need to provide adequate protection to the members of these two communities with a view not only towards instilling a sense of safety and security in their minds but also in order to ensure that their human rights were fully respected.

***(x) Enhanced compensation to persons affected by the activities of extremists in Andhra Pradesh***

During the Commission's visit to certain districts in Andhra Pradesh in August 1994, a number of representations were received by the Commission from the victims of Naxalite and extremist activities. A majority of these representations sought adequate compensation to the next of kin of the deceased, or for those permanently disabled or seriously injured at the hands of extremists. A number of other petitioners sought protection for their life and property, consequent upon violence resulting from the actions of extremists.

By an order of the Government of Andhra Pradesh issued on 2 April 1991, compensation to victims of Naxalite violence was paid at the rate of Rs. 25,000/- in case of death, Rs. 10,000/- in case of permanent incapacitation, and Rs. 5,000/- in case of injury. The Commission discussed this issue with the Chief Minister of Andhra Pradesh, stressing the inadequacy of these levels of compensation. The Commission impressed upon him the need to increase the amounts on the lines of a similar scheme existing in Punjab. As a result of this discussion, the State Government issued an Order on 20 August 1994 enhancing the compensation to Rs. 50,000/-, 20,000/- and 10,000/- in respect of the three situations mentioned above, with the order to come into effect from 1 April 1994.

The Commission, however, in its proceedings held in September 1994, insisted that a uniform rate of compensation be adopted in respect of the three situations, namely, death, permanent disablement and serious injury, irrespective of and without reference to the date of occurrence of the event on the ground. It was of the view that a "widow" of a person killed on 31.1.1994 and another killed on 1.4.1994 should stand on no different footing. The State Government thereafter amended its Order on 21 November 1994 providing for payment of the enhanced compensation of Rs. 50,000/- in all cases of death, effective from 1 January 1991 instead of 1 April 1994.

The Commission then took up 616 petitions which had been received by it during its visit to Andhra Pradesh, and that requested enhanced compensations. It forwarded these complaints to the Collectors of Karimnagar, Nalgonda, Warangal and Medak districts with a direction to pay the compensations, at the enhanced rates, to the affected petitioners of their respective districts, before 31 March 1995. Action-taken reports from the Collectors of these districts are awaited.

Another batch of 140 petitions were forwarded by the Commission to the State Government with the direction that necessary protection be provided to the petitioners against extremist violence. The State Government had sent a report recently, furnishing a statement giving the details of the protection provided to these petitioners.

***(xi) Alleged rape in custody by an Assistant Sub-Inspector of Delhi Police***

In July 1994, pursuant to its circular of 14 December 1993, the Commission received a report from the Dy. Commissioner of Police, South District, New Delhi, in regard to a custodial rape by an ASI of the Delhi Police force. The victim had been brought to the police station by another ASI, as she had got lost on her way to her parent's home. No report was made in the daily diary of the police station of the victim having been taken to the police station, nor was due care taken to ensure the return of the victim to their family. The ASI who took her to the police station was accordingly placed under suspension. The victim was raped by another ASI who took her to his house in the residential quarters of Paharganj police station. The ASI who committed the rape was arrested and the case was sent to Court for trial. The Commission also received a complaint and a report on this incident from the Peoples Union for Democratic Rights (PUDR), Delhi.

The Commission, on perusal of the report from the Government of NCTD, and also the report of the PUDR, directed the Government of NCTD to explain as to why the woman

was detained at the police station for the night, how it was that there was no supporting entry for her detention at the police station, and what steps had been taken or were proposed to be taken to ensure that women were not called to and detained at the police station for investigation, particularly at night. The Commission took serious objection to the persistence of such practices, notwithstanding the decision of the Supreme Court given some 15 years ago in the case of "Nandini Satpathi Vs. State of Orissa".

The Government of NCTD subsequently reported that there had been a lapse on the part of duty officers both at P.S. Hauz Khaz and at P.S. Okhla for not recording the victim's presence in the police station and also for not informing her family members of her whereabouts. Departmental enquiry into the lapses has also been ordered against the concerned police officials. Instructions not to call women for interrogation in the night, and to detail women police officers if a woman is called for interrogation to police station at an odd hour, have reiterated by the Government of NCTD for strict compliance by all concerned officers.

***(xii) Complaint of Dr. Subramanian Swamy, President, Janata Party, alleging systematic denial of permission to him and to his party, by the Government of Tamil Nadu, to hold public meetings in the State***

On receipt of a complaint from Dr. Subramanian Swamy, President, Janata Party alleging the systematic denial of permission to him and to his party, by the Government of Tamil Nadu and its officers, to hold public meetings in the State, the Commission fixed 17 February 1995 as a date of hearing. Notices were accordingly issued to both the parties, namely, the complainant Dr. Subramanian Swamy and the State of the Tamil Nadu. The complainant appeared in person on the said date, but there was no appearance on behalf of the State of Tamil Nadu. On the basis of the papers available, the matter was disposed of by the Commission by its order of 24 February 1995 with the following recommendations:

- a) application made for permission should ordinarily be disposed of within three days of making;
- b) permission granted could be recalled, if there be sufficient and justifiable cause of be stated;
- c) in such cases, where request for permission is not intended to be accorded, the applicant may be given an opportunity of interacting of with the authority either in person or through writing;

d) granting of permission should be the rule, subject to the requirement of maintenance of law and order.

The Commission has been informed by the complainant that the recommendations issued by it are now being followed by the State Government.

## **X INTERACTION WITH EXTERNAL GROUPS AND ORGANIZATIONS**

10.1 The Commission continued to receive a steady stream of visitors, both from the diplomatic corps stationed in Delhi and from governmental, parliamentary, judicial and non-governmental organizations located abroad.

10.2 It welcomes these contacts and has, for its part, encouraged them in various ways. The Commission believes it is important that the country should be open to visitors interested in human rights matters, as such rights are best protected through policies of transparency. A knowledge of realities on the ground is also essential to the correct appreciation of problems in the field of human rights as indeed in any other field.

10.3 In the past months, the Commission has received a number of distinguished visitors from abroad. These included more than one delegation of Parliamentarians from the United Kingdom and from Germany. It has also received representatives from the United States Congress, from the Standing Committee on Foreign Affairs of the Netherlands, from the Liberal Party of Belgium and from the European Parliament. In addition, the Commission interacted with Members of the Commonwealth Human Rights Initiative.

10.4 Visits of a delegation led by the Federal Human Rights Commissioner of Australia and by the Chief Commissioner of the Canadian Human Rights Commission resulted in particularly valuable exchanges of views. The National Human Rights Commission is a member of the Coordinating Committee of National Institutions on Human Rights, and such exchanges are therefore of great mutual benefit to members of National Institutions.

10.5 The Commission was accordingly represented in a meeting of the Coordinating Committee of National Institutions which was held in Geneva at the same time as the Fifty-first Session of the United Nations Commission on Human Rights. Further, the Commission was represented at the Third Workshop of National Institutions held recently in Manila.

10.6 A number of non-governmental organizations located abroad kept in touch with the Commission during the year. These included Amnesty International and Human Rights

Watch (Asia). Discussions were also held in Delhi with the Secretary-General of the International Commission of Jurists. The Delegates of the International Committee of the Red Cross and other senior officials of the ICRC were in touch with the Commission, which welcomed and encouraged their efforts in the humanitarian field.

## **XI. ADMINISTRATION AND LOGISTIC SUPPORT**

11.1 The year under review has seen a consolidation of the office of the Commission. A number of posts were created for the Commission, bringing its total sanctioned strength to 247.

11.2 In addition to the joining of the Director-General (Investigation) on 14 June 1994, referred to earlier, the Commission gained a Joint Secretary, who joined on 20 October 1994.

11.3 The Commission has adopted a phased plan to fill the sanctioned posts, keeping in mind above all the need to recruit staff committed to the cause of human rights. Facts in respect of the staffing and responsibilities of the Investigation Wing have been recounted earlier in this report.

11.4 The Research Division of the Commission has not yet started functioning, primarily because the level of the post sanctioned to head the Division was not commensurate with the caliber of the person required to shoulder the responsibilities of research required by the Commission. Following discussions, it has recently been decided that the Planning Commission will be providing substantial annual grants to the Commission for research purposes. This makes it all the more important to ensure that the Head of the Division will have the qualifications, the capacity and the level to direct the projects that will be undertaken.

11.5 With the number of complaints before the Commission growing rapidly, the computerization of data has become all the more essential, not least to ensure timely action and meticulous follow-up. Assistance has been provided to the Commission by the National Informatics Centre (NIC). A 80486 based system has been installed and it was inaugurated on 20 October 1994. The NIC has developed a user-friendly package for monitoring the status of complaints (COMMONS), from receipt to final disposal. As soon as a complaint is received, a case number is assigned to it by the Law Division. The details of the complaint are entered into the computer and an acknowledgment printed by the computer is mailed to the complainant. Work is under way to up-date the case records, so that, at any point of time, the

status of any complaint may be seen by the concerned Members and Officers of the Commission.

11.6 A News Paper Clippings Information Service (NPCIS) and a directory of non-governmental organizations are also being maintained on the computer. In addition, payroll and other functions are computerised.

11.7 In a second phase of computerization, the Commission proposes to avail of NICNET connectivity, which will facilitate interaction with officers at the State of district levels. This will also help provide a direct link with State Human Rights Commissions as and when they are constituted. Other areas, such as the Management Information System and the Library will also be taken up in the second phase of computerization.

11.8 During the course of the year the Commission took steps to set up its library and a reference division. At the end of the year it had collected 1200 books, mostly relating to various statutes relevant to the protection of human rights and on human rights more generally. The library also subscribes to a few journals. The collections in the library include AIR Manuals and Supreme Court Reports as well. Sustained efforts are being made to make significant additions to the library so that it may prove to be increasingly useful to the Commission as well as students of human rights.

11.9 During the year under review, the Commission established an Information & Public Relation Division which has begun to make a valuable contribution to the dissemination of information on the work of the Commission, using both the print and electronic media. It is also responsible for the organization of press conferences and briefings and the issuance of press releases.

11.10 Reference has already been made to the Newsletter issued by the Commission since October 1994. A Hindi edition of the Newsletter is being published from January 1995.

## **XII. CONCLUDING OBSERVATIONS**

12.1 This report has sought to delineate the ways in which the Commission has evolved since it was established, the priorities that it has set for itself and the positions it has taken both on matters of substance and of procedure. The recommendations it has made, and the actions it has taken or urged, in regard to both civil and political rights and in respect of economic, social and cultural rights, are recounted in detail in the sections that have preceded this. It would be redundant to repeat them here though, for ease of reference, a summary of the principal recommendation may be seen at Annexure VII.

12.2 There is, however, a concluding thought on which the Commission would like to reflect. As its Members have traveled from Nagaland to Punjab, from Jammu & Kashmir to Tamil Nadu, listening to the complaints of the people of India in these and many other States, the Commission has often had occasion to recall Gandhiji's advice, as awesome in its simplicity as in its directions: if you wish to know whether an act is right or wrong, ask the question whether its consequence will benefit or harm the weakest of the weak. For the Commission this has meant asking the question whether an act of State, or of a public figure or servant will enhance or diminish the dignity and worth of the citizens of this country, beginning with the most vulnerable. When the answer has been the former, the Commission has welcomed the act. When the answer has been the latter, the Commission has opposed the act, and said so.

12.3 The Commission cannot begin to assert that its efforts have transformed the human rights ethos of the country or that it has as yet adequately developed a capacity to defend the least powerful of the citizens of India. But it can assert that its efforts have begun to strengthen the hands of the just and the compassionate, of who there are legion in this country, in all States and in all walks of life. And it can add, in honesty, that those who may earlier have acted with impunity to abuse the rights of their compatriots, are now beginning to pause, to think twice and even to hold back. There is a line being drawn which must not be crossed, and this is increasingly being perceived over the length and breadth of the country.

12.4 The nation is going through a phase when there is a profound yearning for a return to decency and fair-play in our society. This yearning is manifesting itself in a variety of ways - from demands for greater probity in public life to demands for greater respect for the rights of its people in all parts of the land. Every where voices are being raised against injustice and callousness and they can no longer be silenced. It is the Commission's duty to listen to these voices attentively, and to act with conviction and integrity on behalf of those who are imperiled, or those who have been wronged.

*Sd/-*  
*(Ranganath Misra)*  
*Chairperson*

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

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

*Sd/-*  
*(Virendra Dayal)*  
*Member*

*Sd/-*  
*(V.S. Malimath)*  
*Member*

**New Delhi, the  
8th June 1995.**

## ANNEXURES

### *Annexure 1*

(para 4-5)

**Justice Ranganath Misra** No. 16/1/CH/NHRCH-95

**Chairperson** National Human Rights Commission

Sardar Patel Bhavan, Sansad Marg,

New Delhi - 110 001

20th February, 1995

Dear

The National Human Rights Commission was set up under the Presidential Ordinance in October 1993 and Parliament legislated the Protection of Human Rights Act, 10 of 1994, which came into force from 8th January, 1994 by replacing the ordinance. The Commission operates within the parameters of this legislation.

"Human Rights" have been defined in Section 2 (d) of the Act and mean the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India. Section 12 of the Act enumerates the functions of the Commission. Sub-section (d) requires the Commission to 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. Sub-section (f) requires the Commission to study treaties and other instruments on human rights and make recommendations for their effective implementation.

In 1984, when terrorist activities increased in Punjab, the Terrorist Affected Area (Special Courts) Act, 1984 was legislated. As terrorist activities increased and functioning of the special courts became difficult, Parliament legislated the Terrorist and Disruptive Activities (Prevention) Act, 28 of 1987. This law was a temporary legislation mainly intended to deal with the prevailing situation in the Punjab. It made considerable deviations from the normal law to meet the emergent situation. The principal ones are:

- (i) raising of the presumption of guilt and shifting the burden on the accused to establish his innocence;

- (ii) drawing the presumption of guilt for possession of certain unauthorized arms in specified areas;
- (iii) making confession before a police officer admissible in evidence;
- (iv) providing protection to witnesses such as keeping their identify and address secret and requiring avoidance of the mention of their names and address in order or judgements or in any records of the case accessible to the public;
- (v) modifying the provisions of the Code of Criminal Procedure particularly in regard to the time set for investigation and grant of bail.

The title of the Act indicates that it was intended to combat terrorist activities and was not, therefore, intended to apply to areas where such activities were not visible. The Act has, however, been extended to the whole country and has been freely applied to situations not contemplated by the Act.

When the Constitution was framed after a long drawn battle for freedom, we had the goal of setting up an egalitarian society. The Constitution itself states that we were to have social, economic and political justice liberty of thought, expression, belief, faith and worship, and equality of status and opportunity. The Constitution assured dignity of the individual. The Fundamental Rights guaranteed life in every facet of it. The Universal Declaration of Human Rights which was adopted in December 1948, with India's participation, highlighted liberty, equality and dignity of the individual to be human rights of the highest order. India is also a signatory to the International Covenant on Economic, Social and Cultural Rights and International Covenant on Civil and Political Rights of 1966. Article 51 of the Constitution as one of the Directive Principles of the State policy states that the State shall endeavour to foster respect for international peace and treaty obligations.

The Indian Evidence Act, 1872, almost 125 years old, has provided that confession before a police officer would not be taken as evidence. Article 20(3) of the Constitution which is one of the Fundamental Rights of our citizens, proclaims that no person accused of any offence, shall be compelled to be a witness against himself. Notwithstanding this, the special provision in TADA makes the confession before a police officer admissible; the withholding of particulars of witnesses, takes away the guarantee of fair trial for accused persons. The shift of the presumption makes it difficult for the TADA accused to establish his innocence to get bail and the amendment of the Code of Criminal Procedure keeps the accused in jail for a long period of 6 months as against the maximum limit of 3 months

provided in Section 167 (2) of the Code of Criminal Procedure. If investigation in a case of murder can be completed, in 90 days and if not completed bail is admissible to a murderer as an automatic process, there can be no justification for a longer period to be provided in respect of TADA matter.

The TATA legislation is, indeed, draconian in effect and character and has been looked down upon as incompatible with our cultural traditions, legal history and treaty obligations. Provisions of the statute as such have yielded to abuse and on account of such a situation, the Act has been misused over the years and thousands of innocent people who could have been otherwise dealt with, have been roped in to languish in jail. Many feel that the police have found it a convenient legal process to silence opposition and that it has been frequently abused for political considerations.

My honourable colleagues and I in the Commission are aware of the fact that the Supreme Court in Kartar Singh's case has made attempt to water down some of the harsh provisions. Besides our international obligations have also to be taken into account. The fact that the law has yielded scope for gross abuse on account of its inherent defects and flexibility has not been given adequate consideration and its draconian procedure has not been weighed. The quarterly review of cases, as directed by the Supreme Court, does not appear to have sufficiently met the grave situation arising on account of the abuse of statute. During these eleven months following the judgement, the expected result has not been achieved. The Commission has involved itself in the process with all seriousness; yet the desired effect remains illusive.

The Act is a temporary legislation and its life is due to expire on 24th May, 1995, unless Parliament in its wisdom decides to extend the same. The Commission has thought it appropriate to appeal to the law makers of the country to take into consideration these features and to bring to an end this very draconian legislation by not granting any fresh lease of life. The plea that without this special law the integrity of our mother land would be in jeopardy is a stand without merit. The law and order machinery should not be permitted to operate any longer under the cover of such a black law. If considered indispensable, some provision to meet terrorism may be incorporated into the ordinary criminal law of the land by amendment ensuring that the objectionable provision are not brought in. The Act itself has been condemned both within the country and internationally as violating our international treaty obligations. We set "liberty" of the individual as our goal in the freedom struggle. How can any of our law makers be party to a system of legalizing undue curtailment thereof? The

Act operates unjustly and has as its very base a foundation of injustice. It is appropriate to take note of the fact that the rate of conviction even with the several special provisions is grossly low. That clearly indicates indiscriminate use of the Act. Daniel Webster in his funeral oration on Mr. Justice Story a century and half ago said:

"Justice, Sir, is the great interest of man on earth. It is the ligament which holds civilized beings and civilized nations together. Wherever her temple stands, there is a foundation for social for social security, general happiness and the improvement and progress of our race. And whoever labours on this edifice with usefulness and distinction, whoever clears its foundation, strengthens its pillars, adores its entablatures or contributes to raise its august dome still higher in the skies, connects himself in name and fame and character with that which is and must be as durable as the frame of human society."

We hope and trust that you would give your anxious consideration to the matter and help in the taking of steps for protecting the human rights of the Indian people keeping in view the noble traditions of this great country and restore confidence in the minds of the people. In the Indian democratic set up, equality is the rule and the rule of law provides the umbrellas under which all are treated at par in real life.

I remind you that have entrusted the Commission with the charge of maintaining human rights and the Commission is finding it difficult to do so unless this draconian law is removed from the statute book.

With kind regard,

*Yours Sincerely,*

*Sd/-*

*(Ranganath Misra)*

**CHIEF OF ARMY STAFF COMMENDMENTS**

1. No Rape.
2. No Molestation.
3. No Torture Resulting in Death or Maiming.
4. No Military Disgrace loss of arms/mil post or surrender or imbibing of un-army like culture.
5. No Medding in Civ. Adm. i.e. land disputes or quarrels.
6. Competence in PL/Coy Tactics with innovations.
7. Willingly Carry out Civic Action with Innovations.
8. Develop Media Interation Modus - Use it as a 'force multiplier' and not as 'force degrader'.
9. Respect Human Rights.
10. Only fear God, uphold Dharma (Ethical mode of life-the path of righteousness) and enjoy serving the country.

**CORPS COMMANDER DIRECTIONS**

1. Display Compassion and Humanity Towards Local Populace.
2. Do not look down upon local customs and traditions.
3. There are no insurgents here-only misguided countrymen.
4. Never molest women - they are our sisters and others.
5. Do not harm children - they are our heritage.
6. No reprisals under any circumstances.
7. Apprehendees to be treated with respect.
8. Honour democratic norms and rightly adhere to human rights.
9. Constantly seek contact with USs.
10. Aggressiveness and spontaneous reaction is key to success and survival.

**Annexure-IV****(Para 6.11)**

Statement giving number of cases registered, number of cases considered by the Commission, and number of cases processed but pending consideration by the Commission, during the year 1994-95 i.e. 1.4.94 to 31.3.95.

Name of the State/UT	No of cases registered Complaints	Custodial deaths/Custodial rapes	Total	No of cases considered	No of cases processed but pending consideration
1	2	3	4	5	6
Andhra Pradesh	1637	6	1643	1558	85
Arunachal Pradesh	5	-	5	1	4
Assam	57	18	75	47	28
Bihar	563	3	566	415	151
Goa	6	2	8	7	1
Gujarat	47	-	47	32	15
Haryana	159	2	161	134	27
Himachal Pradesh	26	2	28	25	3
Jammu & Kashmir	131	1	132	117	15
Karnataka	82	1	83	79	4
Kerala	103	3	106	105	1
Madhya Pradesh	485	6	464	205	259
Maharashtra	224	2	226	200	26
Manipur	16	3	19	13	6
Meghalaya	6	3	9	9	-
Mizoram	1	-	1	1	-
Nagaland	2	2	4	3	1
Orissa	241	6	247	197	50
Punjab	538	11	549	469	80
Rajasthan	285	10	295	207	88
Sikkim	1	-	1	-	1
Tamil Nadu	644	10	654	599	55
Tripura	6	1	7	5	2
Uttar Pradesh	976	6	982	773	209
West Bengal	138	15	153	109	44
Andaman & Nicobar	2	-	2	2	-
Chandigarh	11	-	11	10	1
Dadra & Nagar Haveli	-	-	-	-	-
Daman & Diu	-	-	-	-	-
Delhi	457	39	496	376	120
Lakshadweep	2	-	2	2	-
Pondicherry	11	-	11	10	1
Total	6835	152	6987	5710	1277

**Annexure-v**

(Para 9.3)

Number of cases considered by the Commission during 1994-95; Position as on 31.3.1995

Sl.No.	Name of the State/UT	Dismissed in limini	Disposed of with direction	Taken Cognizance of Concluded	Pending	Total
1	2	3	4	5	6	7
1	Andhra Pradesh	311	1151	17	79	1558
2	Arunachal Pradesh	-	-	-	1	1
3	Assam	8	1	7	31	47
4	Bihar	244	41	3	127	415
5	Goa	3	-	2	2	7
6	Gujarat	23	-	1	8	32
7	Haryana	73	13	9	39	134
8	Himachal Pradesh	15	2	1	7	25
9	Jammu & Kashmir	25	8	11	73	117
10	Karnataka	40	8	6	25	79
11	Kerala	55	15	6	29	105
12	Madhya Pradesh	139	22	4	40	125
13	Maharashtra	120	30	14	36	200
14	Manipur	1	-	3	9	13
15	Meghalaya	3	1	1	4	9
16	Mizoram	-	1	-	-	1
17	Nagaland	-	-	-	3	3
18	Orissa	124	19	7	47	197
19	Punjab	171	22	46	230	469
20	Rajasthan	119	27	6	55	207
21	Sikkim	-	-	-	-	-
22	Tamil Nadu	285	68	52	194	599
23	Tripura	1	2	-	2	5
24	Uttar Pradesh	449	101	26	197	773
25	West Bengal	62	7	5	35	109
26	Andaman & Nicobar	2	-	-	-	2
27	Chandigarh	6	1	2	1	10
28	Dadra & Nagar Haveli	-	-	-	-	-
29	Daman & Diu	-	-	-	-	-
30	Delhi	199	25	45	107	376
31	Lakshadweep	-	-	-	2	2
32	Pondicherry	5	2	2	1	10
Total		2483	1567	276	1384	5710

**STATE-WISE STATEMENT OF CATEGORY OF CASES ADMITTED FOR  
DISPOSAL FROM 1/4/1994 TO 31/3/1995**

Sl.No.	Name of the State/UT	Custodial death			Custodial rape	Disappearance	Illegal detention	False implication	@Other Police Excesses	Indignity to women	Terrorist Naxalities violation	# Others	Total
		PC*	JC*	O*									
1	2	3			4	5	6	7	8	9	10	11	12
1	Andhra Pradesh	6	-	-	-	-	11	-	28	2	9	40	96
2	Arunachal Pradesh	-	-	-	-	-	-	-	1	-	-	-	1
3	Assam	14	4	-	-	-	2	-	9	1	3	5	38
4	Bihar	17	-	-	-	2	3	1	47	7	2	51	130
5	Goa	1	1	-	-	-	-	-	1	-	-	1	4
6	Gujarat	-	-	-	-	-	1	-	6	-	-	2	9
7	Haryana	2	-	-	-	1	-	-	23	-	-	22	48
8	Himachal Pradesh	2	-	-	-	-	-	-	1	-	-	5	8
9	Jammu & Kashmir	-	-	3	-	-	6	6	12	3	8	46	84
10	Karnataka	1	-	-	-	-	-	-	10	2	1	17	31
11	Kerala	3	-	-	-	-	-	-	4	1	-	27	35
12	Madhya Pradesh	2	8	1	-	1	-	-	8	2	-	22	44
13	Maharashtra	2	-	-	-	-	4	2	21	1	-	20	50
14	Manipur	2	1	-	-	-	-	-	2	1	-	6	12
15	Meghalaya	3	-	-	-	-	-	-	1	-	-	1	5
16	Mizoram	-	-	-	-	-	-	-	-	-	-	-	-
17	Nagaland	1	-	1	-	-	-	-	1	-	-	-	3
18	Orissa	3	1	1	1	2	1	1	15	6	-	23	54
19	Punjab	10	2	-	-	44	39	-	85	2	41	53	276
20	Rajasthan	10	-	-	-	-	1	-	14	6	-	30	61
21	Sikkim	-	-	-	-	-	-	-	-	-	-	-	-
22	Tamil Nadu	7	-	2	1	2	37	7	62	12	-	116	246
23	Tripura	1	-	-	-	-	-	-	-	-	-	1	2
24	Uttar Pradesh	5	-	1	-	2	5	2	104	19	-	85	223
25	West Bengal	14	1	-	-	-	3	-	8	2	-	12	40
26	Andaman & Nicobar	-	-	-	-	-	-	-	-	-	-	-	-
27	Chandigarh	-	-	-	-	-	-	-	-	-	-	3	3
28	Dadra & Nagar Haveli	-	-	-	-	-	-	-	-	-	-	-	-
29	Daman & Diu	-	-	-	-	-	-	-	-	-	-	-	-
30	Delhi	5	33	-	1	1	1	2	31	2	1	75	152
31	Lakshadweep	-	-	-	-	-	-	-	1	-	-	1	2
32	Pondicherry	-	-	-	-	-	-	-	2	-	-	1	3
Total		111	51	9	3	55	114	21	497	69	65	665	1660

PC\* Police Custody JC\* Judicial Custody O\* Others

*\* In the custody of security forces/Assam Rifles/Forest Deptt.*

@ Includes Third degree method/abuses/torture.

# Includes Atrocities on SC/ST by others/Attack by Rowdy elements/Exploitation of Child Labour/Jail conditions/Kidnappings/Murder cases/Service matters. etc.

*Annexure-VII*

**(Para 12.1)**

### **Summary of Recommendations**

1. With a view to removing ambiguities and impediments concerning its competence and autonomy, the Commission had in its report for the period ending 31 March, 1994, made certain recommendations for amendments to the Protection of Human Rights Act, 1993. The Commission urges that measures be taken to bring about these amendments (Para: 3.8).
2. The Commission recommends that in States where the security forces are called upon to assist the civil authorities, local magistrates and/or police officers, should be associated, in particular, with cordon and search operations, in order to allay misgivings regarding the conduct of personnel of the security forces and to prevent misuse of powers (Para: 4.11).
3. In insurgency affected areas, at the level of the district, the Commission recommends that district magistrates should chair regular meetings involving the security forces and be kept fully informed of operations by the latter. To the extent possible, leading non-officials, representatives of non-governmental organisations and others should be associated with such meetings (Para: 4.11).
4. More fundamentally, however, the Commission has considered it its responsibility to recommend in its report on areas facing insurgencies or militancy, that while the restoration of peace may indeed be the sine qua non for the full respect of human rights, timely and sagacious political measures that are truly democratic in character are necessary, as in the long run, they have far more lasting and beneficial results than reliance essentially on security forces, however devoted and disciplined they are, or on restrictive laws, however carefully they may be applied. The Commission accordingly recommends that appropriate political measures and initiatives be taken (Para: 4.12).
5. In almost all parts of the country there is a clear and increasing need to reform the police itself, to retrain and to reorganize it and to restore to it the skills and the integrity that the country so desperately needs if the function of preserving law and order is to be improved. It

is for this reason that the Commission recommends that serious action be taken on the Second Report of the Police Reforms Commission which, in 1979, made a series of proposals that remain highly pertinent today-including those suggesting the insulation of the investigative function of the police from political pressure (Para : 4.13).

6. The Commission recommends the revision of the Indian Prison Act, 1894, bearing in mind the considerable work already done by various committees and organisations and the work that is currently under way (Para: 4.21).

7. A high level committee be set up in each State to review the cases of prisoners in order to ensure that they are not detained unlawfully (Para: 4.23).

8. The Commission has raised the matter of 'lock-ups' and sub-jails with the State Governments and recommends that appropriate corrective actions be taken to improve conditions in 'lock-ups' and sub-jails (Para: 4.24).

9. The Commission recommends that the Central Governments accede to the 1984 Convention Against Torture and Other Forms of Cruel, Inhuman and Degrading Treatment or Punishment (Para: 4.27).

10. The Commission recommends expeditious and effective implementation of the project prepared by the Government of Uttar Pradesh for the elimination of child labour in the glass industry in Ferozabad (Para: 5.7).

11. The Commission recommends the adoption of appropriate legislation on compulsory primary education, matched with the necessary resources required for it's purpose. The Commission supports the Government move to amend the Child Labour (Prohibition & Regulation) Act to make it more efficacious and recommends that early action to taken in this regard (Para: 5.8).

12. The Commission recommends vigorous implementation of the country's obligations under the Convention on Elimination of All Forms of Discrimination Against Women (Para: 5.10).

13. The Commission has noted that legislation is being contemplated in regard to persons suffering disabilities. Supporting this, it strongly recommends early passage of an appropriate Act on behalf of such persons whose rights must be respected and supported (Para: 5.11).

14. The Commission recommends that timely action be taken on the plants of the University Grants Commission to have support extended to five Universities by April, 1996 and various others by 1997 for the teaching of human rights at the university level (Para : 6.7).

15. The Commission recommends an improvement in the quality of training of police, military and para-military personnel and taking of special measures in order to ensure respect for the human rights of people particularly in areas of insurgency (Para: 6.11).

16. The Commission further recommends that where violations of human rights occur as a result of the conduct of armed forces personnel, prompt and effective action be taken under the law to prosecute those accused of wrong doing. This would be in the interests of all concerned - the victims, the armed forces themselves and the country at large (Para: 6.11).

17. The Commission recommends that 10 December each year be observed as Human Rights Day in all Schools, Colleges, Universities and other educational institutions (Para: 6.16).

18. the Commission recommends that the Government of India takes steps for evolving suitable institutional mechanism in the Union Territories including the National Capital Territory of Delhi so that they can have their own arrangements, functionally analogous to State Commissions, for the protection of human rights (Para : 8.2).

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