



Annual Report

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I. INTRODUCTION

1.1 This is the seventh such Report of the Commission covering the period 1 April 1999 to 31 March 2000. The preceding report dealing with the period 1 April 1998 to 31 March 1999 was submitted to the Central Government on 9 November 1999. It was placed before the Parliament on 20 December 2000 along with the Action Taken Report. The Fifth Annual Report of the Commission dealing with the period 1 April 1997 to 31 March 1998 was submitted to the Central Government on 8 March 1999. It was placed on the table of the Rajya Sabha on 1 March 2000 and of the Lok Sabha on 8 March 2000 by the Central Government together with the Action Taken Report.

1.2 Section 20 (2) of the Protection of Human Rights Act, 1993 specifies that the Central Government “shall cause the annual report of the Commission to be laid before each House of Parliament along with the Memorandum of Action Taken or proposed to be taken on the recommendations of the Commission and for the non-acceptance of the recommendations, if any”. The delay in tabling consecutive Annual Reports sets back the schedule for the preparation and presentation of the reports of the Commission. The Commission therefore has per force to reiterate its recommendation that its annual reports be placed promptly before Parliament, together with the required Action Taken Memoranda. This should normally be done not later than the Session immediately following submission of its Report.

1.3 The year under review witnessed change at the helm of the Commission. Its second chairperson Shri Justice Manepalli Narayanarao Venkatachaliah retired on 24 October 1999 upon attaining the age 70 years, as envisaged in Section 6(2) of the Statute of the Commission. Shri Justice Jagdish Sharan Verma, who assumed the office of Chairperson on 4 November 1999, succeeded him. The Statute of the Commission, under Section 3(2)(a), requires that the Chairperson should have been a Chief Justice of the Supreme Court of India. Shri Justice Verma served in that illustrious capacity from 25 March 1997 to 18 January 1998. The year also witnessed the departure of Shri Justice V.S. Malimath, Member of the Commission on 11 June 1999. While the Commission was privileged to continue to have Justice Dr. K. Ramaswamy, Shri Sudarshan Agarwal and Shri Virendra Dayal as Members of the Commission, it welcomed as a new Member, Smt. Justice Sujata Vasant Manohar, who assumed charge of office on 21 February 2000. With her joining, the Commission now has once again attained its full strength. As regards those deemed to be Members of the Commission under Section 3(3) of its statute, Shri Dilip Singh Bhuria and Smt. Vibha Parthasarathy continued to serve in such capacity, being Chairpersons of the National Commission for Scheduled Castes and Scheduled Tribes and the National Commission for Women respectively. Further, on being appointed Chairperson of the National Commission

for Minorities, after the retirement of Prof. (Dr.) Tahir Mahmood, Shri Justice Mohammed Shamim was deemed to be Member of the National Human Rights Commission. Shri N. Gopalaswami continued as Secretary General and the Chief Executive Officer of the Commission, Shri D.R. Karthikeyan and Shri R.C. Jain continued as Director General (Investigation) and Registrar General respectively.

II. FREEDOM FROM DISCRIMINATION

2.1. The demand for Fundamental Rights that would be justiciable and non-derogable and inscribed in a Constitution written by representatives of an Independent India was central to the fight for freedom. Such a Constitution was adopted on 26 November 1949 and the 50th anniversary of its commencement was celebrated during the period covered by this report, on 26 January 2000, at the threshold of a new millennium.

2.2 Parts III and IV of that Constitution, which have been described as its heart and soul, and which comprise the Fundamental Rights and Directive Principles of State Policy, incorporate the major provisions of the Universal Declaration of Human Rights, which was itself adopted on 10 December 1948. The similar vision of both is not surprising. Eminent Indians were closely associated with the writing of the latter, just as the provisions of the future Constitution were being debated and the process of drafting it was beginning.

2.3 The dedication of the nation to human rights is thus deep and the promotion and protection of such rights is, and must remain, central to the national purpose. Indeed, in the years since Independence, and acting in a manner that is true to this purpose, India has participated in the drafting and adoption of some 70 international instruments relating to human rights under the aegis of the United Nations and it is a State party to 17 human rights treaties that have been elaborated by the World Organization.

2.4 In earlier Annual Reports, this Commission has commented on the special nature of the challenges and difficulties facing the country in protecting civil and political rights particularly at a time when it is having to face insurgency and terrorism. Those reports have also dwelt on the factors inhibiting the proper observance of economic and social rights in a situation in which widespread disparities persist, disparities which often themselves stem from unacceptable and ancient societal attitudes which discriminate between one Indian and another and render some of the people of this country less equal than others.

2.5 It was sobering to recall this, even as the nation observed the Golden Jubilee of the Republic, for the Constitution by which India is to be governed expressly proclaims equality before law in its Article 14, and Article 15 unequivocally prohibits discrimination on

grounds of religion, race, caste, sex or place of birth, both provisions being crucial to the furtherance of human rights and to human development itself.

2.6 Indeed, in recent years, the clear and emphatic relationship between the promotion and protection of human rights and human development have increasingly come to be recognized. The United Nations Human Development Report for the year 2000, for instance, expressly observes that human rights and human development “share a common vision and a common purpose – to secure freedom, well-being and dignity of all people everywhere”. And it goes on to assert that the first and foremost freedom must be “freedom from discrimination,” for without this the other freedoms essential to human development – freedom from want, freedom to develop and realize one’s potential, freedom from fear of threats to personal safety, freedom from injustice and violations of the rule of law, freedom of thought and speech, freedom to secure decent work without exploitation - will all remain elusive.

2.7 It is because of the centrality of the concept of freedom from discrimination to the vision of the Constitution and to human development that this section of this report will examine this matter further. While each of the grounds of discrimination mentioned in Article 14 of the Constitution must be combated relentlessly, and the Commission has been engaged in such a task since its establishment, the comments that follow will concentrate on freedom from discrimination on grounds of gender and caste, as both of these matters have also been the subject of observations, during the period under review, by treaty bodies established under international conventions to which India is a party. In making the observations that follow, the Commission would like to note that no country or civilization has been free of discrimination. As the above-cited United Nations report observes “Every society has known racism, sexism, authoritarianism, xenophobia – depriving men and women of their dignity and freedom. And in all religions and cultures the struggle against oppression, injustice and discrimination has been common. The struggle continues today in all countries, rich and poor.” It is in that context that the challenges confronting India must also be faced and overcome.

III. DISCRIMINATION BASED ON GENDER

2.8 Gender discrimination, or the violation of human rights based on sex, has now been meticulously researched and documented. The evidence points to a pattern of discrimination against women and girl children both within the family and outside, limitations being imposed on access by them to health care, nutrition, education and other

essential rights. The female to male ratio in a country is an important indicator of gender sensitivity. Higher mortality rates for females in India are indicative of discrimination and neglect of women practically at every stage of their lives. In 1999, according to the United Nations Population Fund, the mortality rate for female children under five years of age was 97 per 1000, as against 85 per 1000 for male children. Studies have established that higher female mortality in childhood actually occurs after the age of one and this has been shown to be the result of a well-documented practice of preferential treatment of boys and neglect of female children in intra-household allocations. Considerable direct evidence available also shows that the neglect of female children and women in terms of health care, nutrition and related needs is particularly prevalent in certain States of northern India, though the social practices that lead to the excess in female mortality are far more widespread. The broad picture is one of gender disparity with females facing severe handicaps because of social attitudes.

2.9 The discrimination suffered by women is reflected in the steadily deteriorating female to male sex ratio over the last century, it having declined from 972:1000 in 1901 to 927:1000 in 1991. The reduced access of women to nutrition and health care affects their survival and the higher age - specific mortality rates for females in India is proof of the neglect of girls and women as compared to women in the Western world. Third World Female-Male Ratios (FMR) are substantially below unity. The FMR in India, which is about 0.93 is one of the lowest in the world. Given the fact that women tend to have lower age – specific mortality rates if given similar care, the poor female to male ratio is unerringly an indicator of the poor fulfillment of health and nutritional needs of women affecting their very survival. Within the country itself, the female to male ratio shows considerable variation with Kerala having a FMR of 1.04 which is similar to Europe and North America. As against this, the rates of Haryana, Punjab, Uttar Pradesh and Rajasthan were 0.87, 0.88, 0.88 and 0.91 respectively, which were all below the national average of 0.93 providing further proof that female deprivation in these northern states has been far more pronounced. Studies have shown that, contrary to the popularly held view, “the force of excess female mortality, therefore, lies in mortality rates in age groups beyond that of female infanticide. The female disadvantage in these age groups is itself due to a well-documented practice of preferential treatment of boys and neglect of female children in intra-household allocation. There is, indeed, considerable direct evidence of neglect of female children in terms of health care, nutrition and related needs particularly in North India.”

2.10 An important contributory factor to higher maternal mortality is the high level of maternal anaemia and the lack of effectiveness of the health care system to combat this syndrome. According to the National Family Health Survey (1998-99), maternal anaemia affected adversely 82.4% of pregnant women. Maternal anaemia is also a contributory factor for infants with low birth weight and the consequent problems of survival and development of children.

2.11 Life expectancy at birth is an indicator of the access to and effectiveness of health care facilities and therefore is an indirect measure of discrimination in access to health care. It is also an indicator of poverty, lack of access to education and productive assets. While the all-India life expectancy stood at 59.4 years for females (1990-92), the States of Bihar, Madhya Pradesh, Orissa, Rajasthan and Uttar Pradesh showed female life expectancy below the national average. The States of Orissa, Madhya Pradesh and Uttar Pradesh showed high rates of infant mortality too. The study of the three basic indicators, gender ratio, total fertility and female infant mortality at age two, showed 14 districts located in the States of Madhya Pradesh, Rajasthan and Uttar Pradesh, which are more or less contiguous, as the worst affected areas on all the three counts. These are, not unexpectedly, also pockets of extreme deprivation.

2.12 In matters of education and literacy too, the facts indicate that girls and women have suffered discrimination. While the literacy rate in India increased from 18.33% in 1951 to 52.2% in 1991, the female literacy also rose during this period from 8.86% to 39.29%. The difference between female and male literacy, however, which was 18.3% in 1951, increased to nearly 25% by 1991 underlining the poorer access of girls and women to education as compared to boys and men. The literacy rate in 1997 was estimated at 62%, 73% for boys and 50% for girls, with the total number of illiterates in the population aged 7+ being around 294 million. Given the difference between the male and female literacy rates, it is clear that the majority of these would be female. At the school level, while the enrolment in primary classes was 92.14% (1998-99 provisional), the enrolment for boys stood at 100.86% and for girls at 82.85% indicating the continuance of gender discrimination and the disadvantage suffered by girls. In the upper primary classes also the enrolment figures indicate a considerable gap with the enrolment of boys at 65.27% and for girls at 49.08%. The dropout rates are also higher for girls both in primary classes and in Elementary School Education. It was 44.66% for girls, as against 40.63% for boys in primary classes, and for Classes I to VIII it was 60.09% and 54.4% for girls and boys respectively.

2.13 The overall figures, whether in regard to the female to male ratio, life expectancy, maternal anaemia, women's literacy or girls enrolment, when disaggregated further reveal the existence of yet another level of discrimination within the broad category of women and girls only. This relates to women and girls belonging to Scheduled Castes and Scheduled Tribes living in rural areas. The literacy rate for Scheduled Caste women was a mere 23.76% in 1991 and in respect of women belonging to the Scheduled Tribe women it was 18.1%, far lower than the literacy figures for women as a whole. If rural and urban literacy rates for 1997 (literacy percentage of population of age 7 years and above) showed larger variation, with the urban literacy rate at 80% and the rural literacy rate at 56%, the male-female differential in literacy was pronounced in the rural areas with women's literacy level lower by 25% than that of men.

2.14 Women and girls are also victims of trafficking for prostitution and cheap labour, with most of the victims of trafficking being adolescent girls. According to a study of the Central Social Welfare Board (1996), 40% of the population of sex workers in six major cities of India were girl children forced into prostitution. Further, the practice of ritual dedication of girl children to prostitution has been reported from some parts of the country, mainly Karnataka and Maharashtra.

2.15 Crimes against women are another indicator of the status of women in a society. The crime statistics made available by the National Crime Records Bureau, reveal that cases of sexual harassment and trafficking in girls have been showing an increasing trend over the years.

2.16 According to the latest available report (1998) of the National Crime Records Bureau there was an increase of 40% in cases of sexual harassment, 15.2% in cases of dowry deaths, and 29.9% in respect of incidents reported under dowry prohibition in 1998 over the corresponding figures of 1997. Incidents under offences of trafficking in girls registered a substantial (87.2%) increase in 1998 over 1997. The National Crime Records Bureau report pointed out that crimes against women in 1998 in all of India worked out to 28.1 incidents per lakh of the female population. The report stated that though this rate of crime did not appear to be alarming at first sight, it should be "viewed with caution, as a sizeable number of crimes against women go unreported due to social stigma attached to them."

2.17 The existence of sexual harassment at the work place has received increasing attention in recent years. In a path breaking case, the Supreme Court laid down guidelines and norms to curb this social evil. In accordance with the directions of the Supreme Court in

this case, a code of conduct has been formulated which requires the setting up of a complaint committee in all organizations, both private and government, for investigating complaints of sexual harassment.

2.18 As may be concluded from the foregoing, discrimination against women and girls is still a pervasive phenomenon, even though the Constitution set itself against discrimination based on sex and enjoined the State to act against such discrimination. Despite major initiatives by the State to end discrimination through legal and policy instruments, to improve the access of women and girls to education, nutrition and health care services, the ground level situation still shows that much remains to be done. The greater empowerment of women and enhanced political participation at all levels of such activity can help to change the scene. While the Constitution of India guarantees equality of opportunity for men and women to participate in the political process and all aspects of governance, the de-facto position is that the fulfilment of this promise has thus far remained illusory. The 73rd and 74th Amendments to the Constitution provided for increased participation of women in the political institutions at the village, taluka, district level local government institutions and in the municipal councils. However, the proposal to provide a 33% reservation for women in State Legislatures and Parliament has not yet been successful in obtaining the approval of Parliament.

2.19 India is a signatory to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and its first country report became due to be submitted to the Committee established under the treaty in 1994. However, the report was not submitted till January 2000, when the Department of Women and Child Development (Ministry of Human Resources Development) presented it to the CEDAW Committee. After critically examining the compliance report, the Committee made the following observations in regard to discrimination against women in India. (See Annexure I for details)

- Widespread poverty, social practices such as the caste system and son preference, higher incidents of violence, significant gender disparities and adverse sex ratio are major obstacles to the implementation of the Convention.
- The Convention and the Beijing Platform for Action have not been integrated into policy, planning and programmes.
- The proposed gender empowerment policy should integrate the Convention and the Beijing Platform of Action with the rights based approach.
- There is urgent need to introduce comprehensive legislative reform to promote equality and the human rights of women.

- Government should take affirmative action within a time frame and with provision of adequate resources, to give girls equal access to education and eradicate adult illiteracy and for this purpose primary and secondary education should be made compulsory.
- There is high incidence of gender based violence against women and discrimination against women belonging to particular castes or ethnic or religious groups; this is also manifest in extreme forms of physical and sexual harassment.
- Women and girls are exploited in prostitution, and inter-State and trans-border trafficking.

2.20 The Indian Government was required to place its first report before the Committee to monitor the Convention on the Rights of the Child in 1995. However, that report was filed two years later, on 7 July 1997. A four-member team of the CRC Committee visited India in October 1995 to assess at first hand specific problems of children in India. The CRC Committee considered India's report in January 2000 and its concluding observations were made in the meeting held on 28 January 2000. In the CRC concluding observations also, (Copy at Annexure II) there are recommendations relating to the removal of discrimination faced by women and children with special reference to girls:

- “The Committee is concerned at high maternal mortality and very high levels of low birth weight and malnutrition among children, including micronutrient deficiencies, linked to the lack of access to pre-natal care and, more generally, limited access to quality public health care facilities, insufficient numbers of qualified health workers, poor health education, inadequate access to safe drinking water, and poor environmental sanitation.”
- “The Committee recommends the State Party to take all necessary steps to adapt, expand and implement the Integrated Management of Child Illness strategy, and to pay particular attention to the most vulnerable groups of the population.”
- “The Committee is concerned that the health of adolescents, particularly girls, is neglected given for instance a very high percentage of early marriages, which can have a negative impact on their health.”
- “The Committee recommends the State Party to strengthen the existing National Reproductive and Child Health programme, targeting the most vulnerable groups of the population.”

2.21 For its part, in the light of the foregoing, the Commission has the following recommendations to make at this stage, in regard to the issues of Gender discrimination:

The Commission would like to reiterate its recommendation, repeatedly made in earlier reports, that there is urgent need to ensure that free and compulsory education is provided as a Fundamental Right to all children until they complete the age of 14 years as required by the Supreme Court and that the 83rd Amendment to the Constitution be passed without further delay. The Commission would also like to emphasize that greater efforts are required to combat discrimination against the girl child in all of its manifestations and that, in particular, the doors must be opened to better health care and education.

The Commission is convinced of the efficacy of effective and timely consultation with all concerned groups in civil society before the submission of India's reports before the competent treaty bodies. It therefore recommends to the Central Government that it undertake thorough and extensive consultations with all the appropriate NGOs and other activist groups, in as large a number of centres across the length and breadth of the country as possible, before preparing country reports.

The Commission recommends, in particular, the gender sensitization of health workers, and a specifically targeted health care campaign to combat discrimination against girls and women in regard to access to nutrition so as to effectively combat maternal anaemia. It further recommends that a vigorous and comprehensive national campaign be undertaken against female foeticide and female infanticide as these are matters which need urgent and utmost concern of the Government of India and the State Governments.

The Commission notes with deep concern the prevalence of the devadasi system in certain parts of the country and also the persistence of trafficking in women, especially those belonging to the weaker sections of society, for the purpose of prostitution. It recommends that Government take effective and vigorous steps to prevent these atrocities on women and prepare a meticulous nation-wide programme, with special emphasis on vulnerable regions/areas, to deal with these deeply troubling practices that constitute gross violations of human rights.

The Commission also urges that the training of other key players in the governance of the country including, inter alia, members of the judiciary, administration and police personnel, be reoriented to make them more sensitive to gender related issues and the requirements of the Constitution, and the laws and treaty commitments of the country.

The Commission strongly recommends that early action be taken at the political level to provide for better representation for women in the State Legislatures and in Parliament, either through early enactment of the 85th Amendment to the Constitution or other appropriate means.

The Commission recommends the strengthening of the National Reproductive and Child Health Programme.

The Commission recommends that concerted efforts should be made to bring down the rate of maternal mortality with special reference to the larger Northern States of India, where it is much higher than the national average, and through more focussed National Nutritional Anaemia Control Programme to effectively bring down maternal mortality and low birth weight amongst children.

DISCRIMINATION BASED ON CASTE

2.22 The Constitution provides a powerful array of provisions to end discrimination based on caste. Article 15 lists the grounds on which the State shall not discriminate against any of its citizens; caste is one of these grounds. The Framers of the Constitution were deeply aware of the malignant effects of caste-based discrimination in Indian society. They were therefore keen not only to end discrimination based on caste, but to enable the taking of affirmative action under Article 15(4), so that special provision could be made for the advancement of any socially and educationally backward classes of citizens and for the Scheduled Castes and Scheduled Tribes. Article 23 prohibiting forced labour and Article 24 prohibiting child labour in any hazardous employment are also of importance in this connection as SCs and STs are the major victims of bonded labour and child labour. Article 25(2)(b) providing for social welfare and reform and the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus is also most relevant as the practice of untouchability often denied access to temples. Article 16(4) provided for reservation of appointments to improve the representation of SCs and STs in the services and Article 16(4)(a) provided for reservation in promotion for them in the services under the State. Article 46 enjoined the State to promote the educational and economic interests of SCs, STs and other weaker sections of society and to protect them from social injustice and all forms of exploitation.

2.23 Despite the affirmative action and 'compensatory discrimination' permitted under the Constitution and the range and scope of measures envisaged under those provisions, the regrettable fact remains that social injustice and the exploitation of SCs, STs and other weaker sections have not as yet been eliminated from our society.

2.24 The SCs and STs numbered 138 million and 69 million respectively in 1991, accounting for 16.3% and 8.08% of the population in 1991. In 1951, the SCs and STs comprised 14.61% and 5.3% respectively of the population.

2.25 The literacy levels of SCs and STs in 1961 and 1991 were as follows:

	1961	1991
SC (Total)	10.27	37.41
Male	16.96	49.91
Female	3.29	23.76
ST (Total)	8.54	29.6
Male	13.83	40.65
Female	3.16	18.1
All Population (Total)	24.02	52.21
Male	34.44	64.13
Female	12.95	39.29

2.26 While the special programmes and attempts made to improve literacy amongst SCs and STs resulted in dramatic increase in the literacy levels by over three times in the three decades between 1961 and 1991 in the case of SCs and almost four times in the case of STs, they were still quite low compared to the level of literacy of the population as a whole. The main reason for this can be found in the very high drop out rates at 67.77% for SC children and 78.57% for ST children for Classes I to VIII (1991).

2.27 The SCs and STs in the rural areas are primarily agriculturists and agricultural labourers, and in the urban areas, construction workers and daily wage earners. In 1991 only 25.44% of SCs were cultivators owning land, as against 39.74% for the entire population. 49.06% of SCs were agricultural labourers as against 19.66% for the total population. Between 1961 and 1991 the percentage of SCs as cultivators declined from 37.76% to 25.44% while there was an increase of SCs in the category of agricultural labourers from 34.48 to 49.06%.

2.28 Amongst the STs the percentage of those who were cultivators was higher than that of SCs, but it has been showing a steady decline from 68.18% in 1961 to 54.40% in 1991. During the same period, the number of agricultural labourers amongst STs increased from 19.71% to 32.69%.

Disaggregated analysis of the land owning patterns has, however, revealed that the SCs are very vulnerable as a high proportion own land less than 0.20 hectares. This

population is classified as near landless, as the holding is so small as to be economically insignificant. 51% of the SCs are near landless while 8% are landless (1991-92) and this figure is 18 percentage points higher as compared to the total population. With little access to land and other productive resources, the SCs constitute the major part of the population below the poverty line.

2.29 Estimates of poverty amongst the SC and ST based on the 50th round of NSS (1993-94), show that the poverty proportion among SCs is 17 percentage points above the general category and among the STs, it is 19% higher. Thus both SCs and STs are significantly poorer than the general category, even if the gaps have narrowed somewhat in recent years. Poor access to better means of production and productive assets, usable capital and education have led to persistent poverty amongst a large segment of the SC and ST population.

2.30 Article 17 of the Constitution abolishes 'untouchability' and makes the enforcement of any disability arising out of 'untouchability' an offence punishable in accordance with law. With a view to ending discrimination based on caste, especially of dalits, over the years certain special legislations have been adopted, notably the Untouchability Offences Act, 1955, subsequently replaced by the Protection of Civil Rights Act, 1976 and the Prevention of Atrocities against SCs and STs Act 1989. Further, in order to put an end to the degrading and offensive practice of manual clearing of night soil, a special enactment, the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 was also brought into force in 1997. Since members of the SC and ST community were the principal victims of the pernicious practice of bonded labour and child labour, the enactment of the Bonded Labour Abolition Act 1976 and the Child Labour Abolition Act 1986 were also significant steps in the campaign to ameliorate the condition of SCs and STs.

2.31 Apart from these regulatory steps, on the developmental side many steps were initiated for the amelioration of the economic conditions of the SCs and STs with special outlays being made, as also the earmarking of funds for special component plans, etc. If, however, the progress has not been upto expectations, the reasons are to be found, inter alia, in the failure to improve access to education and the failure of the land reform movement in certain parts of the country. Progress on these fronts would have provided the SCs and STs access to usable capital and, most of all, helped alter the social environment in which discrimination has otherwise been able to persist.

2.32 Not surprisingly, in the prevailing circumstances, crimes committed against SCs and STs remain a cause of great concern. While there was an increase in such crimes between

1981 and 1991, there was, according to the National Crime Records Bureau Report (1998), a small reduction in the number of crimes against SCs between 1996 and 1998. The number of complaints of atrocities against SCs and STs, received and admitted by this Commission was 552 in 1997-98, 436 in 1998-99 and 736 in 1999-2000. In particular, complaints have been received of violent caste clashes in certain parts of the country namely Bihar, some areas of Uttar Pradesh, Tamil Nadu and Maharashtra. The clashes have, in particular, taken the shape of violence against dalit women and social boycotts.

2.33 The Commission has been actively engaged since its inception in the protection and promotion of the human rights of SCs and STs. In 1996, a National Workshop was organized in Chennai by the Dalit Liberation Education Trust with the help of the Peoples Union for Civil Liberties (PUCL) and the NHRC. The two-day workshop focussed on issues of social, policy and societal changes with reference to dalits, appraisal of legislative measures for the uplift of dalits, religious and social practices affecting the human rights of dalits and the need for a national movement that would radically alter the circumstances facing dalits of the country. It was the first major dialogue that the NHRC had initiated in respect of societal violations of human rights of an important and particularly vulnerable section of the population of this country. One of the important issues taken up by the NHRC since then has been the campaign to end manual scavenging. The Commission has pursued this issue with the State Governments and with the Centre seeking to bring this deeply demeaning practice to an early end.

2.34 From the complaints received by the Commission over the years, however, it is clear that in many parts of the country discrimination against dalits continues. The Commission has been informed of the violation of their rights through social boycott, as was the case in Devalia village in Amreli district of Gujarat; physical violence against members of the dalit community by the upper castes has been reported from the southern districts of Tamil Nadu in 1997 and later from other parts of Tamil Nadu; retaliatory killings of caste-based illegal outfits owing allegiance to landlords as has happened in Bhojpur district of Bihar in 1996, Jehanabad district in 1999, Rohtas district and Nalanda district in the year 2000; exploitation of dalits and Scheduled Tribes through forcible occupation of their lands and the carrying out of illegal mining, as reported from Mirzapur, Chitrakoot and Allahabad districts of Uttar Pradesh. In addition to the above, numerous individual cases of human rights violations have been reported from many parts of the country.

2.35 In this respect it would be appropriate to recall here the Commission's observations dated 17 March 1999 in its proceedings in Case No.1794/30/98-99 where the complainant was Mr. V.T. Hirekar, Director, Ambedkar Centre for Justice and Peace, London:

"The Commission has given Mr. Hirekar's letter the most careful consideration as it raises issues of utmost gravity in respect of the role and responsibility of the State in redressing what the Commission has itself described as ancient societal wrongs perpetrated against the vulnerable sections of society, and most particularly against Dalits."

"The Commission would like to observe that the letter and spirit of the Constitution are clear and unambiguous. Under Article 17, the concept of "Untouchability" is itself abolished and its practice forbidden in any form; further, the enforcement of any disability arising out of "Untouchability" has been made punishable in accordance with law. It was precisely in order to implement this salutary provision of the Constitution that Parliament first adopted the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and then the Protection of Civil Rights Act, 1955. In addition, Articles 14, 15 and 16 of the Constitution provide, respectively, for equality before the law and equal protection of the laws; the prohibition of discrimination on grounds of religion, race, caste, sex or place of birth; and equality of opportunity in matters of public employment. Taken together, these Fundamental Rights provide a Constitutional bulwark against any discrimination arising, inter-alia, from the 'varna' or 'caste' system. Further, the Fundamental Rights are themselves enforceable and justiciable, through the instrumentality of the Apex Court and the High Courts of the country."

"The Constitution goes further. Article 46 makes it a Directive Principle of State Policy that the State shall promote with special care the educational and economic interests of the weaker sections of the people, and in particular of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation. In addition, Article 338 of the Constitution makes provision for a National Commission for Scheduled Castes and Scheduled Tribes with extensive duties and powers in respect of investigating and monitoring all matters relating to the safeguards provided for Scheduled Castes and Scheduled Tribes under the Constitution or under any other law for the time being in force or under any order of Government."

"It is also worth recalling, in this connection, that a number of State Governments have enacted specific legislation to prevent, or deal with, atrocities that might be committed against Dalits or members of the Scheduled Tribes."

"In the years intervening since Independence and the adoption of the Constitution, much has been endeavoured, often with positive results, to promote and protect the rights of Dalits and to ensure their empowerment and advancement in all spheres of the life of the nation, whether political, educational, economic, social or occupational, including employment in the higher administrative services of the country. Numerous reports of

Government and studies by academics and others, including Dalit scholars, provide the facts, testifying to the significant changes that have resulted."

"Yet despite these efforts, which have included perhaps the most far-reaching programmes of affirmative action ever undertaken in a democratic society anywhere in the world, the Commission remains deeply and painfully aware that atrocities against Dalits recur, (as sadly against other vulnerable sections of society as well), while serious gaps between policy directives and reality persist. There are many reasons for this: historical and cultural, economic and social, political and administrative, to name but a few."

"While this is not the place to analyse each of these, and other reasons, suffice it here to say that atrocities against Dalits, or the violation of their rights in any manner or form, are of the most serious concern to the Commission and have been so since its inception. The Commission believes it has a special and inescapable duty to protect those who are most vulnerable: Dalits and Scheduled Tribes; women and children – especially the girl child; the disabled; those victimized for reasons of religion or language; and those weighed down by economic or social tradition, including those who, ironically, have been marginalized by "growth" and change."

"In all such cases, and more, whether it acts on the basis of individual complaints or under its broad mandate to promote and protect human rights, the Commission has viewed its role as that of an "equalizer", adding its weight on behalf of the vulnerable, so that the scales of justice and equity may be more evenly balanced for them, and to ensure that those who violate the rights of the vulnerable are brought to justice, as the Constitution of the country, its laws and treaty obligations all require."

"The Commission has, accordingly, acted promptly and resolutely, either on the basis of complaints that have been brought to it, or suo motu, to deal with the violation of human rights of Dalits."

2.36 In this context it is also necessary to recall that the Committee on the Elimination of All Forms of Racial Discrimination (CERD), established under the Convention on that subject, drew attention to this matter in its concluding observations in 1996, made after considering the 10th to 14th periodic reports of India. While acknowledging the positive aspects of the efforts made by India and the far reaching measures adopted by the Government to combat discrimination against members of the SCs and STs, that Committee disagreed with the stance of the Government that the situation of the SCs and STs did not fall within the scope of the Convention 'because caste was not equatable to race.'

2.37 The Committee further noted that although constitutional provisions and legal texts existed to abolish ‘untouchability’ and to protect the members of the Scheduled Castes and Tribes, and although social and educational policies have been adopted to improve the situation of members of the SCs and STs and to protect them from abuses, widespread discrimination against them and the relative impunity of those who abuse them point to the limited effect of these measures. The Committee was particularly concerned at reports that people belonging to the SCs and ST are often prevented from using public wells or from entering cafes or restaurants and that their children are sometimes separated from other children in schools, in violation of Article 5(f) of the Convention.

2.38 The important recommendations of the Committee therefore included the following:

The State should improve the effectiveness of measures and guarantee to all groups of population especially to members of the SC and ST full enjoyment of their civil, political and economic, social and cultural rights.

Special measures should be undertaken by the authorities to prevent acts of discrimination towards persons belonging to SC and ST and to punish those guilty of discrimination.

2.39 For its part, and in the light of the foregoing, the Commission recommends that the Government of India undertake comprehensive steps to root out ‘Untouchability’ and, for this purpose, implement the provisions of the Protection of Civil Rights Act, 1976 and the Prevention of Atrocities against SCs and STs Act, 1989 more vigorously than hitherto. Further, the Government should sensitize the police force to act impartially and fearlessly to give protection to the SCs and STs and to educate the general public against the pernicious practice of ‘untouchability’ and discrimination directed against the SCs and STs.

III. CIVIL LIBERTIES

(A) Human Rights in Areas of Terrorism & Insurgency

3.1 Human rights flourish in a climate of peace. They are imperilled in situations of conflict. The year under review opened with the high promise of peace, the Prime Minister having travelled by bus to Lahore in February 1999. But that prospect was shattered by the full-scale intrusion across the Line of Control in Kargil, and the necessity to reverse and end that unacceptable stratagem designed to create new realities on the ground.

3.2 The situation of human rights in Jammu & Kashmir thus continued to be gravely affected by the persistence of conflict and terrorism, challenging the efforts and ability of those – including those of this Commission – who sought to promote and protect such rights despite the prevailing difficulties.

3.3 The relationship of "Human rights and terrorism" is a vexed one. In its persistent effort to deal with this question, the General Assembly of the United Nations has, on behalf of the international community, defined with increasing clarity its position on this matter. The report of this Commission for the year 1998-99 traced the evolution of thinking at the international level on this issue. This report will not, therefore, repeat what is contained therein. However, during the period under review, on 17 December 1999, the General Assembly adopted yet another resolution on this question (A/56/164) in which, inter alia, it

Expressed its alarm "that acts of terrorism in all its forms and manifestations aimed at the destruction of human rights have continued despite national and international efforts;"

Bore in mind "that the essential and most basic human right is the right of life;"

Also bore in mind "that terrorism creates an environment that destroys the right of people to live in freedom from fear;"

Expressed serious concern about "the gross violations of human rights perpetuated by terrorist groups," adding that such acts "cannot be justified under any circumstances;"

Emphasized the importance of Member States taking "appropriate steps to deny safe havens to those who plan, finance or commit terrorist acts by ensuring their apprehension and prosecution or extradition;"

Expressed its solidarity with victims of terrorism;

Reiterated its "unequivocal condemnation of the acts, methods and practices of terrorism, in all its forms and manifestations, as activities aimed at the destruction of human rights, fundamental freedoms and democracy, threatening the territorial integrity and security of States, destabilizing legitimately constituted Governments, undermining pluralistic civil society and having adverse consequences for the economic and social development of States";

Condemned "the incitement of ethnic hatred, violence and terrorism";

Called upon States to "take all necessary and effective measures in accordance with relevant provisions of international law, including international human rights standards, to prevent, combat and eliminate terrorism in all its forms and manifestations, wherever and by whomever committed;" and

Urged the international community to enhance cooperation "at the regional and international levels in the fight against international terrorism, in accordance with relevant international instruments, including those relating to human rights, with the aim of its eradication."

3.4 Further, the General Assembly also continued to deal with the need to undertake "Measures to eliminate international terrorism" and, in the course of its fifty-fourth session, adopted resolution A/54/110 of 9 December 1999 on this subject.

That resolution, *inter alia*, reiterated

Its view that "criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes are in any circumstances unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or any other nature that may be invoked to justify them;"

Its call upon all States "to adopt further measures in accordance with the relevant provisions of international law, including international standards of human rights, to prevent terrorism and to strengthen international cooperation in combating terrorism;" and

Its view that "international cooperation as well as the actions of States to combat terrorism should be conducted in conformity with the principles of the Charter of the United Nations, international law and relevant international conventions."

The resolution also decided that an Ad hoc Committee of the General Assembly would meet, *inter alia*, "with a view to the elaboration of a comprehensive convention on international terrorism within a comprehensive legal framework of conventions dealing with international terrorism."

3.5 In the view of this Commission, these resolutions of the General Assembly have obvious relevance to the situation being faced in this country, most notably in Jammu & Kashmir and, in some measure, in States of the North-East and, on occasion, in other parts of the country as well. The Commission therefore welcomes these developments at the international level and the efforts of the Central Government to pursue early action on a comprehensive convention to deal with the problem of terrorism. At the same time, the Commission has, during the period under review, persisted firmly in its endeavour to ensure that, despite the many dangers and ambiguities confronting the armed forces and police of the country, all concerned with the security of the State abide by the dictates of the Constitution, the laws of our country, and the international instruments to which India is a party.

3.6 This is also why, when the Commission has examined complaints, or acted *suo motu* on reports of violations of human rights in areas affected by terrorism and insurgency, it has continued to insist on full accountability in accordance with the demanding standards that the nation has, as a democratic State governed by law, set for itself.

3.7 The Commission deeply regrets, in this connexion, that a lack of transparency persists in respect of certain important cases that it has pursued. Thus, in regard to the tragic incident in Bijbehara, that occurred on 22 October 1993 and that led to a serious loss of life, the Commission has been compelled to move a Writ Petition before the Supreme Court, having thus far been denied the records that it sought from the Home Ministry of the trial that was held by the General Security Force Court (SCOI). The Commission is of the view that the withholding of these records brings little credit to Government and to the security forces and that it thwarts the purposes of justice and the prime objective leading to the establishment of this Commission, namely the need to ensure the "better protection" of human rights in the country.

3.8 Likewise, the Commission notes with deep concern that those responsible for the abduction and subsequent killing of the prominent advocate of Srinagar, Jalil Andrabi, are yet to be brought to trial. It is a matter of despair to the afflicted family, and to those who are interested in the promotion and protection of human rights in the country, that the Commission's insistent call that the killers be tracked down and brought to book has met with little practical response and a single line comment in the Memorandum of Action Taken that was submitted to Parliament in respect of the Annual Report for 1998-99. The Memorandum stated: "The matter is sub judice." A similar situation of opacity persists in regard to the "disappearance" and probable killing of Jaswant Singh Khalra in the Punjab, the perpetrators of the crime remaining at large, to the continuing discredit of the apparatus of State and the deepening concern of human rights activists.

3.9 Given such occurrences of enforced disappearances and extra-judicial killings, the Commission has urged the Central Government to direct the armed forces, including the paramilitary forces, to report to the Commission - as does the police - any cases that might occur of the death of persons while in their custody. Such a system of accountability, as observed earlier by the Commission, would add to the credibility and transparency of the actions of the armed forces and also prevent propagandist and unsubstantiated charges being made against them. The Memorandum of Action Taken, however, reiterates the view that the Government of India is transparent in dealing with all complaints of allegations of custodial death or rape by the armed forces, that all such complaints are enquired into and action taken against persons found guilty and that "it is, therefore, felt that a procedure for dealing with the armed forces different from that provided in the Protection of Human Rights Act 1993 is not necessary."

3.10 There is clearly, at present, a difference of opinion between the Commission and the Central Government on this matter, with the Commission believing that there is need for greater transparency and accountability. The Commission has, therefore, proposed an amendment to the Protection of Human Rights Act 1993 in respect of the armed forces and urges that the recommendations made by it in respect of this matter, and its Statute more generally, be acted on without delay. This is an issue of great importance to the credibility of the Government and of its commitment to a proper respect for human rights. It is therefore a matter that should speedily come before Parliament, in the form of amendments to the Statute as recommended by the Commission.

3.11 In the meanwhile, it is important to place on record that, during the period under review, the Commission – after considering with care the complaints that it received against the armed forces, including the para-military forces – made specific recommendations in respect of four cases. Two of the cases concerned allegations of rape and two related to deaths resulting from cross-fire between the security forces and militants. Following court martial proceedings, punishments included dismissal from service and sentences ranging from 5 to 8 years. Further, compensation was paid to those who had suffered or to their next of kin.

3.12 The army also informed the Commission of the investigations that it had, itself, undertaken into complaints of human rights violations by its personnel. In respect of each case, as in past years, it indicated the date and place of the incident, the name of the accused, the gist of the charges framed, the outcome of the inquiry/trial and the details of punishment awarded. In contrast, the Border Security Force sent a ‘nil’ report, while no information was received from other para-military forces, an omission which the Commission cannot ignore. These responses, or the lack of them, lead the Commission to conclude that the army functions with manifestly greater accountability and sensitivity to human rights concerns than do the para-military forces and that the procedures of the former are, in comparison with those of the latter, swifter, more effective and more transparent. They further confirm the view of the Commission that the definition of ‘armed forces’ in the Protection of Human Rights Act, 1993 needs to be amended to bring the para-military forces within the ambit of the general investigation procedure applicable to complaints received by the Commission, rather than the special procedure laid down in Section 19 of the Act.

3.13 As in earlier years, the Commission remained in touch with the competent authorities at the State-level, both in Jammu & Kashmir and in the North-Eastern States, in

respect of the broad range of human rights issues facing them. Procedures continued to be recommended for a variety of situations, including cordon-and-search and similar operations, with a view to protecting human rights to the greatest extent possible in the complex circumstances prevailing in these States. All concerned were also reminded to function in accordance with the ruling of the Supreme Court in Writ Petition No.910 in respect of the Armed Forces (Special Powers) Act, 1958. It will be recalled that the Commission had, itself, made a submission before the Apex Court in that case.

3.14 The Commission also continued to deal with representations received from members of the Kashmiri Pandit community who have been forced to leave the Valley and live in most trying conditions, and in large numbers, in camps in Jammu, Delhi and elsewhere. An important decision was, in this connection, announced by the Commission on 11 June 1999 in respect of the degree and nature of its jurisdiction in respect of the State of Jammu & Kashmir. It is hoped that this decision, and the many practical recommendations and procedures that the Commission has made, or set in place since then, will be of continuing assistance to this group in alleviating their poignant circumstances.

3.15 On the same day, namely 11 June 1999, the Commission also announced its opinion on the grave claim brought before it by groups representing Kashmiri Pandits that members of their community were the victims of genocide. The extensive data presented to the Commission was profoundly disturbing and tragic. The Central Government indicated that the number of those killed because of the insurgency and terrorism in the State between 1988-97 was 16,850, including 710 Hindu civilians and 6,219 Muslim civilians. A list was also provided of 157 "leaders" who had been killed in the Valley over this period: 37 of them were Hindus and 120 were Muslims. Though there were minor differences in the figures provided by the parties, there was a general view that some 300,000 Kashmiri Pandits had been forced to leave the Valley because of the terror unleashed in their home State. Representatives of the Pandits asserted that some 1000 members of their community had been killed in the Valley, and the names were mentioned of those who had succumbed to torture at the hands of terrorists. The State and Central Governments did not dispute the numbers of those who had had to leave the Valley. They asserted, however, that in addition to the Kashmiri Pandits, a number of Sikh families and some 1500 Muslim families had also registered for relief assistance, while many other Muslim families had left but been afraid to register for fear of reprisals against their relatives.

3.16 The Commission carefully considered all of the submissions made before it and examined these in terms of the provisions of the Genocide Convention. It reached the conclusion that the primary "intent" of the killers of both Hindus and Muslims in the Valley had been to try to achieve the secession of the State and its possible annexation by Pakistan, and that it had been to achieve this purpose that they had been motivated to murder those whom they viewed as loyal to the Republic of India. In view of this, the Commission expressed the opinion that the killings and 'ethnic cleansing' of the Kashmiri Pandits must be seen in the light of this deeper intent. In that context, while the crimes committed against the Kashmiri Pandits were, by any yardstick, deserving of the strongest condemnation and there could be no gain-saying the acute suffering and deprivation caused to them, against the stern definition of the Genocide Convention, the Commission was constrained to observe that while acts "akin to genocide" had occurred in respect of the Kashmiri Pandits and that, indeed, in the minds and utterances of some of the militants a "genocide-type design" may exist, "the crimes against the Kashmiri Pandits, grave as they undoubtedly were, fell short of the "ultimate" crime: Genocide." The Commission also considered it important to note that it had not, in the Proceedings in regard to this matter, entered into the killings and deep sufferings that had been borne by the Muslim community in the Valley in the course of the past years, as those were not the subject of the present Proceedings. However, the Commission expressed the belief that the time would come when peace would be restored to the Valley, and that the essence of that peace would be reconciliation and the restoration of that trust and tolerance that characterized the Valley for centuries and that gave to the term 'Kashmiriyat' a meaning that was unique in the life of this nation.

(B) Custodial Death, Rape and Torture

3.17 The Commission had issued instructions in 1993 that in the event of any death occurring in jail or police custody, information has to be sent to the Commission within 24 hours. If this information is not received within the specified period, the Commission would presume that the authorities concerned were trying to suppress the facts on such deaths.

3.18 There has been a perceptible reduction in the number of deaths in judicial custody in the year 1999-2000. The number of such deaths during the period under review was 916 as compared to 1114 during the previous year i.e. 1998-99. The number of deaths in police custody too has declined but only marginally from 180 in 1998-99 to 177 in 1999-2000.

3.19 The Commission notes that the number of deaths in police custody as reported to it has shown a decline in a number of States, the exceptions being Arunachal Pradesh, Goa, Gujarat, Kerala, Maharashtra, Orissa, West Bengal, Andaman & Nicobar Islands and Delhi. In the Commission's view, it is of fundamental importance that instances of custodial death be promptly and honestly reported to it. The Commission therefore seizes every occasion to discuss and follow-up on reports on custodial deaths whether this be through its visits to individual States or in discussions at the Commission's headquarters in New Delhi when the representatives of the States meet the Commission. While the State Governments have undoubtedly shown more sensitivity to the Commission's instructions that custodial deaths must not only be reported but thoroughly investigated, the Commission recommends that more consistent and determined action be taken in all such instances to bring those responsible to book, as acts of custodial violence leading to such deaths constitute serious violations of human rights and bring disgrace to the law and order apparatus of our country.

(C) Encounter Deaths

3.20 In response to the Commission's directives to get all cases of 'encounter deaths' investigated by the State CID, the government of Andhra Pradesh had suggested an alternative arrangement to the Commission. The DG & IGP Andhra Pradesh, wrote to the Commission on 22 July 1999, suggesting that the encounter death cases of Andhra Pradesh may be got investigated by the officers of the rank of Inspectors of other districts, on the ground that nearly 250 encounters take place each year in Andhra Pradesh and that the State CID would not be able to cope with this additional burden with the available staff. The Commission considered this request and directed through its order dated 28 July 1999 that encounter death cases of Andhra Pradesh be got investigated by the officers of the rank of Deputy Superintendent of Police (DSP)/Assistant Superintendent of Police (ASP) of other districts.

3.21 DGP, AP has in compliance with the new directions of the Commission, handed over a total of 325 cases (275 cases of 1998 and 50 cases of 1999) for investigation by DSP/ASP level officers of other districts. The Law Division of the Commission is closely monitoring these cases.

(D) Video filming of post-mortem Examination and Revision of Autopsy Forms

3.22 In addition to its efforts to ensure prompt and accurate reporting of custodial deaths, the Commission has been deeply concerned that a tendency has existed to doctor post-mortem reports under the influence or pressure of police or jail officials. The

Commission has also noted that post-mortem examinations were not always carried out scrupulously and that, in a number of cases, inordinate delays occurred in the writing and collection of post-mortem reports. Keeping in view that there was hardly any independent evidence in cases of custodial violence, the Commission had recommended to all the States that post-mortem examination of custodial deaths be video-filmed and placed before the Commission to enable it to assess independently the cause of such deaths. While a number of States have complied with this recommendation of the Commission, it is essential for the Commission to reiterate that this recommendation also be complied with by the States and UTs of Arunachal Pradesh, Maharashtra, Mizoram, Manipur, Uttar Pradesh, Andaman & Nicobar Islands, Chandigarh, Delhi, who have not yet responded positively. Their acceptance of this recommendation is essential to the proper protection of human rights in those States and to the curbing of custodial violence.

3.23 The Commission also noted that the Autopsy Report forms, which were in use in various States, were not comprehensive and therefore did not serve the desired purpose. They left scope for doubt and manipulation. After detailed discussions with experts in this field, and after ascertaining the views of the States and also taking into consideration the UN Model Autopsy Protocol, the Commission prepared a Model Autopsy Form. This was circulated among the States and Union Territories on 27 March 1997 for adoption. So far, twenty-five States and Union Territories have accepted it. The Commission strongly urges the remaining States of Arunachal Pradesh, Bihar, Gujarat, Jammu & Kashmir, Kerala, Maharashtra, Nagaland to adopt the Model Autopsy Form.

Minimum kit for autopsies

3.24 Pursuant to the letter dated 8 June 1999 received from the Commonwealth Human Rights Initiative (CHRI), New Delhi, regarding the use of a model minimum-kit for autopsies, the Commission, on 11 June 1999, constituted a Committee, headed by Justice Dr. K.Ramaswamy, Member of the Commission, along with Shri D. R. Karthikeyan, Director General (Investigation), Shri R. D. Kapoor, Special Secretary (NE), Ministry of Home Affairs, Dr. R. K. Tiwari, Chief Forensic Scientist, Bureau of Police Research & Development, Dr. Bishnu Kumar, Forensic Science Expert and Dr. Joep Toebosch, Criminologist, to discuss issues relating to autopsy procedures and autopsy forms with the assistance of Forensic Science experts. The Committee was also requested to assess the utility of a kit presented by Dr. Joep Toebosch of CHRI.

Consequent to discussions of this Committee, the following decisions were taken:

Since the issue of post-mortem falls in the list of State subjects, the Ministry of Home Affairs would need to coordinate this matter with the States and with the Ministry of Health. The Ministry of Health may be made the Nodal Agency for the Development of the Forensic Centres

Material relevant to the subject should be collected and an effort made to finalise proper directions as early as possible, which could then be issued in the form of a booklet

Emphasis should be given to the need for proper training to the doctors in the conduct of autopsies

Zonal meeting of experts may be considered after study of the matter at the local level

The Commission is considering the decisions taken by the Committee.

(E) Visits to Police Lock-Ups

3.25 Section 12(c) of the Protection of the Human Rights Act, 1993, confers upon the Commission the power to visit any jail or institution of detention. In this regard all States and Union Territories have been requested to cooperate with the Commission in surprise visits that it may make to such locations. During the period under review, officers of the Commission visited three lock-ups in Uttar Pradesh and made a number of recommendations based on their observations, to improve conditions in these lock-ups.

(F) Systemic Reforms: Police

1. Submission before the Supreme Court on Police Reforms

3.26 Participating in a proceeding before the Supreme Court in the matter of Prakash Singh Vs Union of India, the Commission had made a number of recommendations, which it considered to be of crucial importance for improving the quality of policing in the country. The details of these recommendations may be seen in an annexure to the annual report of the Commission for 1997-98.

3.27 Subsequently, the Ribeiro Committee which had been set-up by the Ministry of Home Affairs following the directives of the Supreme Court to review and suggest ways and means to implement the recommendations of the National Police Commission, the Law Commission, the NHRC and the Vohra Committee, endorsed almost all the recommendations of the Commission. The Commission is following the hearings of this case closely and is making submissions before the Apex Court, as and when necessary, with the help of a reputed counsel who is assisting the Commission in this task. The Commission would like to

reiterate its firmly held view that reform of the police along the lines that have been suggested by it and by others whose views are before the Apex Court is of utmost importance to proper policing in this country and to the promotion and protection of human rights.

3.28 For its part, during the period under review, the Ministry of Home Affairs constituted a Committee on Police Reforms headed by former Union Home Secretary Shri K. Padmanabhaiah. Its terms of reference, inter alia, required it to examine and specify the challenges that the Indian Police would face in the new millennium, evaluate the strengths and weaknesses of the organisation and structure of the police force, see how the gap between public expectations and police performance can be filled, and envision a new look, people-friendly and fighting-fit police force which can win the confidence and trust of the people and at the same time effectively tackle the problems of organised crime, militancy and terrorism.

2. Establishment of Human Rights Cells in State Police Headquarters.

3.29 With the increase in the number of complaints against members of the police force, the Commission considered it necessary to promote appropriate in-house machinery in the State Police Headquarters to help deal with this problem.

3.30 On 9 March 1999, the Commission convened a Conference of the Directors General of Police of various States, which considered the issues involved and arrived at a consensus to create 'Human Rights Cells' in the Police Headquarters in all of the States. These Cells are to be headed by an officer of the rank of Additional Director General of Police or Inspector General of Police. A panel of names of three selected officers, known for their reputation, integrity, efficiency and impartiality is to be called for from the State DGPs and, on due verification, one of the three officers is to be approved by the Commission and its views communicated to the concerned State DGP to appoint him as Addl. DGP/IGP (Human Rights), to be in charge of the Human Rights Cell at the State Police Hqrs.

3.31 All the State Governments have now confirmed the constitution of such a Cell in the Office of the Director General of Police.

3.32 On 2 August 1999, elaborate guidelines were formulated and communicated to the Chief Secretaries and Directors General of Police of all the States to ensure effective functioning of these Human Rights Cells. This was followed by a letter to the Chief Ministers of all States from the Chairperson of the Commission on 1 January 2000. (Annexure III). The purpose of this exercise was to ensure that every State/Police Department had a credible and effective mechanism with which to sensitise the State Police personnel, at various levels, to the need to recognise, respect and protect the human rights of the citizenry. These Human

Rights Cells are also expected to help deal with complaints made against the police, develop training curricula, organise workshops and spread human rights awareness through publications and the media. The Commission hopes that the establishment of such Cells will help to reduce human rights violations by the police personnel, enhance the image of the police and increase the trust of the public in the police.

3. Guidelines to minimise the scope of misuse/ abuse of power of arrest by the police

3.33 Arrest involves restriction of liberty of the person arrested and, therefore, infringes the basic human right of liberty. Nevertheless, the Constitution of India as well as international human rights laws have recognised the power of the State to arrest as a part of its primary responsibility to maintain law and order. The Constitution requires a just, fair and a reasonable procedure established by the law under which, alone, such deprivation of liberty is permissible.

3.34 Article 22(1) of the Constitution provides that every person placed under arrest shall be informed of the ground of arrest and shall not be denied the right to be defended by a lawyer of his choice and Section 50 of Criminal Procedure Code (Cr. PC) 1973 requires the police officer arresting any person to forthwith communicate to him full particulars of the offence for which he or she is arrested or any other ground of such arrest. In actual practice, these requirements have been observed more in breach. Likewise, the requirement to produce the arrested person before a Court within 24 hours is primarily a statutory requirement under the Constitution (Article 22(2)) and Cr. PC (Section 57), but this too is not strictly observed.

3.35 The Commission has continued to receive a large number of complaints pertaining to human rights violations resulting from the abuse of police powers, particularly in respect of "arrest and detention". It, therefore, felt that the gap between the law and practice has to be narrowed down by prescribing elaborate and specific guidelines regarding "arrest". The objective was to minimise the scope of misuse or abuse of the power of "arrest" without curtailing the powers of the police in effective prevention and detection of crime and the maintenance of law and order. Accordingly, the Commission on 22 November 1999 issued detailed guidelines to the Chief Secretaries and Directors General of Police of the States covering the powers of the police in the areas of 'pre-arrest', 'during arrest' and 'post arrest'. The Chief Secretaries and DGPs of the States were advised by the Commission to get these guidelines translated into the respective local languages and distributed to all police personnel in police stations. They were also advised to incorporate these guidelines in the handbook to be given to all police personnel. The DGPs of the States were requested, in particular, to sensitise the police officials during the course of training and take prompt action

against errant police officials. The Commission felt that this would increase credibility and respect for the police, and enable it to gain greater co-operation from the public. [Letter No. 7/11/99-PRP&P dated 22 November 1999 is at Annexure IV].

3.36 The Chairperson, in his letter dated 1 January 2000 addressed to the Chief Ministers of all the States emphasised that the guidelines on "police arrest" (Annexure III), as circulated by the Commission, would help prevent human rights violations in areas in which the police functions daily. The Commission, he added, hopes that all the instruments of governance would rededicate themselves towards promoting a better human rights culture realising that the dignity of the individual is a part of Constitutional promise and contributes to the augmentation of human resource development in the nation.

3.37 As of 31 March 2000, all States except Arunachal Pradesh, Assam, Gujarat, Jammu & Kashmir, Kerala, Manipur, Nagaland, Orissa, Punjab, West Bengal and Union Territories of Andaman & Nicobar Islands, Chandigarh and Pondicherry had confirmed that these guidelines were being incorporated in their training curriculum and that suitable instructions had been passed to the Police Stations for their implementation. The Commission strongly urges the remaining States and UTs also to follow suit and take further action on the guidelines.

4. Constitution of District Complaint Authority

3.38 In a further measure to deal with the perception that public authorities abuse and misuse their powers and violate the human rights of innocent citizens, the Commission requested the Chief Justices of the High Courts and Chief Ministers/Administrators of States/UTs to consider issuing directions to District Judges to constitute a 'District Complaint Authority' in their respective jurisdictions with the Principal District Judge as the Chairman and the District Collector/ Deputy Commissioner and Sr. Supdt. of Police as members of the Committee, to examine the grievances of the public. (see letter No. 4/10/99-PRP&P of 24 December 1999, Annexures V 'A' and 'B')

3.39 The High Courts which are yet to respond to the Commission's request in this regard are those of Madhya Pradesh, Jammu & Kashmir, Andhra Pradesh, Punjab & Haryana, Himachal Pradesh, Madras, Rajasthan, Bombay, Gauhati, Allahabad, Karnataka, Delhi, Orissa, Calcutta, Gujarat, Patna. The State and UT Governments which have not yet responded are Arunachal Pradesh, Assam, Goa, Jammu & Kashmir, Karnataka, Kerala, Manipur, Meghalaya, Nagaland, Punjab, Sikkim, Tamil Nadu, West Bengal, Andaman & Nicobar Islands, Chandigarh, Dadra & Nagar Haveli, Daman & Diu, Lakshadweep and Pondicherry. The matter is being pursued with them.

5. Measures to improve police-community relationship

3.40 The bulk of the complaints received by the Commission concern the conduct of the police. Most of them relate to alleged acts of commission or omission on the part of the police in the course of investigation. The complaints thus relate to the non-registration of complaints, delayed investigations, investigations not being done objectively and impartially and of the inaccessibility of police officers. The Commission is of the view that, to be effective and successful, the police must earn the trust, confidence and respect of those living in individual jurisdictions.

3.41 The Commission has, accordingly, through its Circular No. 4/10/99-PRP&P dated 22 December 1999 (Annexure VI) advised all the States to follow certain specific suggestions designed to improve public confidence in the police and police-public relationships in order to effectively prevent the violation of law and to improve crime detection and respect for Human Rights.

Providing a Toll Free telephone number

3.42 Rights to life, liberty and property are amongst the most basic human rights. In recent years, however, the detection of offences has shown a downward trend and, in general, both the percentages of detection and conviction are on the decline. As a result, the commission of crime has increasingly become a high-profit and low-risk business. In the view of the Commission, the situation has taken an alarming turn for the worse.

3.43 As indicated above, a large number of complaints received from the public concern improper investigation and the non-detection of crime. This is often because of the non-availability of intelligence relating to the crime to the police. Even when members of the public have such information, they are hesitant to share this with the police in order to avoid being called repeatedly to the police station for questioning. Further, there is a deep reluctance to be called to the courts later, as witnesses again and again. There is also an apprehension of becoming the target of precisely those criminals about whom information may have been given. In order to lessen such fears on the part of the public who may otherwise be willing to share information/ intelligence with the police, the Commission considered the mechanism adopted by the Kerala Police viz. the establishment of "toll free telephone" numbers, at Police Control Rooms/Police Stations and recommended this practice to other State Governments. The Commission is of the view that this system should be toll free within the State, even when STD calls are made. While recording the information, the callers should not be compelled to give their names and addresses. To have uniformity in this respect all over the country, the telephone No. 1090 has been suggested for use nation-wide.

Keeping complainants informed

3.44 In the sphere of police-community relations, the most concerned and least satisfied members of the public, often complain of the lack of transparency in police work, and delays, indifference and corruption, in dealing with complaints and cases.

3.45 While several steps have been taken to avoid burking of offences and to ensure the free registration of cases whenever cognizable offences are revealed in the complaints, the complainant, very often, is not informed of the steps taken by the police. This results in the complainant/ victim becoming suspicious that the police has either not taken any action at all or that it is under the influence of the rival party or acting under political pressure or extraneous considerations. This suspicion has led to numerous complaints, addressed inter alia, to this Commission, against the Investigating Officer/ Agency.

3.46 The Commission is of the view that it is the duty of the police to inform complainants of the registration of an FIR or the reasons for non-registration. It has also recommended that if investigations are not completed within three months, the Investigating Officer should inform the complainant in writing of the reasons for such delay.

3.47 The Commission has written to the Chief Secretaries and DGPs of the States in this regard and has asked them to confirm the actions taken on these recommendations.

Meetings of Station House Officers and the Public

3.48 The Commission has observed that a fear psychosis often governs the feelings of the general public in their dealings with the police.

3.49 The Commission has appreciated, in this connection, the effort made by the Kerala Police to reduce such anxieties, a system having been established whereby the Station House Officers hold public meetings in various towns/villages in their jurisdictions twice a month. This has enabled the police to inform the public of their efforts and seek their co-operation in the prevention of crime and maintenance of law and order and the protection of human rights. The programme makes it obligatory on the part of the SHO to visit a town/ village in his jurisdiction along with his staff, after giving advance publicity through the press and the concerned Panchayats. The Commission recommends that this practice be followed in other States as well.

Promoting a Culture of Understanding

3.50 In a further recommendation aimed to promote better police-community relations and to enable the police to get information, intelligence and public co-operation, the

Commission has proposed that the DGPs/Chief Secretaries of the States advise the SPs of Districts to undertake regular meetings with the heads of the District Bar Association, the Presidents of local Rotary and Lions Clubs, Chief Medical Officers, District Labour Officers, representatives of leading NGOs and such other agencies as the Superintendent of Police may consider appropriate, for formal discussions on ways of improving the relationship of the police with the public. The Commission is convinced that such exchanges can contribute to the better protection of human rights in the country and a greater sensitivity in society towards such rights.

6. Improving the reporting system and procedures to be adopted by the State authorities

3.51 Complaints received by the Commission from victims seeking the intervention of the Commission on the alleged violation of their human rights by the law enforcing agencies especially the local police are, in the first instance, often sent to the District Collectors/Magistrates/District Superintendents of Police concerned, for enquiry and report. The Commission has observed, however, that there have been instances in which these cases have, in turn, been marked to the very officers against whom the allegations have been made. This results in a well-founded fear in the minds of the victims/ complainants about the impartiality and objectivity in the enquiry and reporting system. With a view to strengthening the credibility of the reporting system, the Commission has therefore made specific recommendations regarding the procedures to be adopted by the State Authorities in responding to notices issued to the concerned District Police/Heads of Administration. (see letter of 6 July 1999, Annexure VII).

3.52 In a number of instances the Commission has also considered it essential to call upon officers of comparatively senior levels in the States/Centre to examine sensitive complaints against governmental authorities. The Protection of Human Rights Act, 1993 entitles the Commission to draw upon the time and resources of such Central and State Government agencies. As it would negate the very purpose of the Commission's request to senior officers for the benefit of their views if they were to delegate this responsibility to their juniors and then merely forward the reports received from the latter, the Commission has observed that when a senior officer, in his wisdom, delegates his function to a junior, and asks an officer of lower rank to examine a matter, the Commission would nevertheless, be entitled to expect that such senior officers would examine the report closely and endorse its veracity before recommending it for the acceptance by the Commission.

(G) Systemic Reforms: Prisons

1. Deaths in Judicial Custody

3.53 The Commission has consistently held that the death of a prisoner in jail custody calls for a thorough probe and that both a post-mortem and a magisterial enquiry should be conducted in all such cases. It has also recommend that if there are rules inconsistent with this procedure, the rules should be modified suitably. Consistent with this view, the Commission had directed the Maharashtra Government to modify its procedures. It had pointed out that the absence of enabling rules by itself was not a ground to exclude the procedures recommended by the Commission.

2. Facilities to Prisoners

3.54 On a complaint from the General Secretary of the People's Union for Civil Liberties, Delhi, the Commission examined the question of the supply of reading material to prisoners. After considering a detailed report on the subject prepared by the National Law School of India University, Bangalore, and an aide-memoire prepared by Dr. Rajeev Dhavan, Senior Advocate, the Commission drafted guidelines which it recommended for adoption by all State Governemnts/UT's. The latter were also asked to advise the State prison authorities to modify their existing rules and practices whenever they were at variance with the guidelines. The guidelines were as follows:

As prisoners have a right to a life with dignity even while in custody, they should be assisted to improve and nurture their skills with a view to promoting their rehabilitation in society and becoming productive citizens. Any restrictions imposed on a prisoner in respect of reading material must be reasonable.

All prisoners should have access to such reading materials as are essential for their recreation or the nurturing of their skills and personality, including their capacity to pursue their education while in prison.

Every prison should, accordingly, have a library for the use of all categories of prisoners, adequately stocked with both recreational and instructional books, and prisoners should be encouraged to make full use of it. The materials in the library should be commensurate with the size and nature of the prison population.

Further, diversified progammes should be organised by the prison authorities for different groups of inmates, special attention being paid to the development of suitable recreational and educational materials for women prisoners or for those who may be young or illiterate. The educational and cultural background of the inmates should also be kept in mind while developing such progammes.

Prisoners should, in addition, generally be permitted to receive reading materials from outside, provided such material is reasonable in quantity and is not prohibited for reasons of being obscene or tending to create a security risk. Quotas should not be set arbitrarily for reading materials. The quantity and nature of reading material provided to a prisoner should, to the maximum extent possible, take into account the individual needs of the prisoner.

In assessing the content of reading materials, the Superintendent of the Jail should be guided by law; he should not exercise his discretion arbitrarily.

3. Payment of wages to prisoners

3.55 The Supreme Court in the case of State of Gujarat vs. Hon'ble High Court of Gujarat examined the question of minimum wages of prisoners and in its order dated 24 September 1998 held that it was "lawful to employ prisoners sentenced to rigorous imprisonment whether he consents to do it or not". The Apex Court also held:

"It is open to the jail officials to permit other prisoners also to do the work which they chose to do, provided such prisoners make a request for the purpose."

"It is imperative that the prisoners should be paid equitable wages for the work done by them. In order to determine the quantum of equitable wages payable to prisoners the State concerned shall constitute a wage fixation body for making recommendations. Each State is directed to do so as early as possible."

"Until the State Government takes any decision on such recommendations every prisoner must be paid wages for the work done by him at such rates or revised rates as the Government concerned fixes in the light of the observations made above. For this purpose all the State Governments are directed to fix the rate of such interim wages within six weeks (from 24 September 1998) and report to the Court compliance with the direction".

3.56 Following the directions of the Supreme Court, most of the State Governments have made upward revision of the otherwise paltry wages being paid to prisoners.

4. Premature Release Of Life Term Prisoners

3.57 The Commission has been receiving complaints from and on behalf of convicts undergoing life imprisonment about the non consideration of their cases for premature release even after they had undergone long periods of sentence ranging from 10 to 20 years with or without remissions. On a closer study of the issues involved, the Commission noted that this issue impinged upon the human rights of a large number of convicts undergoing life imprisonment in the prisons throughout the length and breadth of the country.

3.58 Scrutiny of the matter by the Commission revealed that although the said power of premature release is to be exercised by the State Governments under the Provisions of Section 432 of the Code of Criminal Procedure, 1973, the procedure and practice being followed by various State Governments was not uniform. It was found that the eligibility criteria for consideration for premature release, the composition of the Sentence Review Boards and the guidelines governing the question of premature release differed from State to State and even those were not meticulously implemented. There were long gaps between the meetings of the Review Boards.

3.59 This had resulted in a pitiful situation in which prisoners were not being released even though some of them had undergone a sentence for over 20 years. The Commission felt it was high time to evolve a uniform system which could be strictly followed in all States.

3.60 A Committee comprising of Shri R.C. Jain, Registrar General, Shri D.R.Karthikeyan, Director General (Investigation) and Shri Sankar Sen, Special Rapporteur, was accordingly constituted to evolve a set of recommendations to bring uniformity to the procedure.

3.61 The Committee considered all aspects of the issue and drew up a set of guidelines to be followed by the States. The Commission examined these guidelines and directed that they may be referred to the States and Union Territories for eliciting their views and comments. Some of the States and Union Territories responded with suggestions and comments. After taking these comments and suggestions into account, the guidelines were finalized and circulated to all States for compliance. States were asked to implement the guidelines and to modify their existing rules/provisions wherever these were inconsistent with the fresh guidelines.

3.62 The guidelines cover matters related to the composition of the State Sentence Review Board, the periodicity of its meetings, the eligibility/ineligibility criteria for considering premature release, procedure for processing the cases for consideration by the Review Board and the procedure and guidelines for the Review Board. The salient points of the guidelines are as follows:

(A) Eligibility criteria for premature release:

- (i) Every convicted prisoner whether male or female undergoing sentence of life imprisonment and covered by the provisions of Section 433A Cr.PC shall be eligible to be considered for premature release from the prison immediately after serving out the sentence of 14 years of actual imprisonment i.e. without the remissions.

- (ii) All other convicted male prisoners undergoing the sentence of life imprisonment shall be considered for premature release after they have served at least 14 years of imprisonment inclusive of remissions and after completion of 10 years actual imprisonment i.e. without remissions.
- (iii) All other convicted female prisoners undergoing the sentence of life imprisonment shall be considered for premature release after they have served atleast 10 years of imprisonment inclusive of remissions and after completion of 7 years actual imprisonment i.e. without remissions.
- (iv) Convicted prisoners undergoing the sentence of life imprisonment on attaining the age of 65 years provided he or she has served atleast 7 years of imprisonment including the remissions.
- (v) The convicted prisoners undergoing the sentence of imprisonment for life and who are suffering from terminal diseases like cancer, T.B., AIDS, irreversible kidney failure, cardio respiratory disease, leprosy and any other infectious disease etc. as certified by a Board of Doctors on completion of 5 years of actual sentence or 7 years of sentence including remissions.

Ineligibility criteria for premature release:

- (i) Prisoners convicted of the offences such as rape, dacoity, terrorist crimes etc.
- (ii) Prisoners who have been convicted for organised murders in a premeditated matter and in an organised manner.
- (iii) Professional murderers who have been found guilty of murder after having been hired to do so.
- (iv) Convicts who commit murder while involved in smuggling operations or having committed the murder of public servants on duty.

The full text of the Guidelines is at Annexure VIII.

3.63 The Commission hopes that with greater uniformity in proceedings, cases of premature release will be considered in time by all States. It also considers that, with improved infrastructure and support, it should be possible to maintain computerised records of all life term prisoners in the country so that the Commission can monitor the manner in which matters relating to their release are considered.

3.64 By its proceedings dated 20 October, 1999, the Commission directed that these Guidelines shall be implemented by the States and, wherever existing provisions of the rules

are inconsistent with any of the Guidelines, the State Government shall make appropriate modifications in the rules and implement the Guidelines so that there is uniformity in this regard throughout the country. In pursuance, responses were received from 25 States and Union Territories. A majority of States/UTs have accepted the Commission's guidelines. A reminder was issued to the States of Andhra Pradesh, Bihar, Himachal Pradesh, Maharashtra, Nagaland, Manipur and the Union Territory of Andaman & Nicobar Islands, which have not yet responded.

5. Workshops for Prison officials

3.65 During the year under review, the Special Rapporteur of the Commission in charge of Custodial Justice, held zonal workshops involving Inspectors General of Prisons and senior prison officers in Delhi, Guwahati, Calcutta, Pune and Lucknow. In these workshops, systemic issues relating to prison administration viz., overcrowding in jails, problems relating to the escorting of prisoners to courts, comprehensive medical screening of prisoners after initial admission, problems of women prisoners etc. were discussed. The Special Rapporteur advocated the need to increase the involvement of competent NGOs in the medical examination of prisoners. At the initiative of a Member of the Commission, Shri Sudarshan Agarwal, Rotary International came forward in a big way to extend medical treatment to prisoners and a large number of prisoners were examined by the specialist doctors belonging to Rotary Clubs in various parts of the country. Further, in regard to the large number of undertrials in prison, Jail Superintendents were instructed to keep in touch with District Sessions Judges and to bring to the latter's notice such cases as needed to be acted upon in accordance with the directions given by the Supreme Court in the "Common Cause vs. Union of India" case. On the issue of providing escorts for prisoners being sent for treatment to hospital, the Inspectors General of Prisons were advised to use the jail staff as escorts if police escorts were not provided. The need to upgrade the standards of vocational training given to the prisoners was also emphasised. The Special Rapporteur urged the Inspector General to keep women prisoners in those jails which were located nearer to their homes. Discussions in the workshops revealed that there was no uniform procedures regarding leave granted to the prisoners. The Commission recommends that this problem be resolved through the updating and revision of Jail Manuals.

3.66 The Special Rapporteur (Custodial Justice) of the Commission also organised a training programme on Human Rights in prisons for the middle level jail officials of the rank of Jail Superintendents, Deputy Jail Superintendents of the States of Uttar Pradesh, Punjab, Haryana, Delhi, West Bengal and Tamil Nadu. The training syllabus included international standards on the rights of the prisoners, judgements of the Supreme Court on human rights of prisoners, an analysis of complaints received in NHRC regarding violation of human rights in

prisons, problems of the prison staff etc. The Commission intends to organise more such programmes and recommends that all State Governments/UT's cooperate fully with such efforts.

6. Improving prison administration

3.67 The Commission is of the opinion that, to bring about a qualitative improvement in prison administration, it is imperative that the selection of officers for the post of Inspector General of Prison, the executive head of prison administration, be done more carefully than has generally been the case till now. Only officers of proven integrity and competence should be selected for the post and they should then be allowed to continue in the post for a minimum period of 3 years. Such continuity could impart the dynamism and efficiency that is required in the leadership of prison administration. The Chairperson of the Commission in his letter dated 21 December 1999 (Annexure IX) to the Chief Ministers has therefore recommended the need for a fixed tenure for Inspectors General of Prisons as this would go a long way towards improving the quality of prisons and promoting respect for human rights in the conduct of prison staff. Most of the Chief Ministers, in acknowledging the letter of the Chairman, have indicated their willingness to follow the recommendation contained in it.

3.68 The Commission remains deeply concerned about the predominance of undertrials in the population of prisons. In a letter to the Chief Justices of the High Courts, the Chairperson observed that during the last five years, the Members of the Commission and its senior officers had visited prisons in various parts of the country and had been appalled by the spectacle of overcrowding, insanitary conditions and mismanagement in prison administration. The Chairperson requested the Chief Justices of all High Courts to issue clear instructions that Sessions Judges should visit prisons regularly and review the conditions of the prisoners. The District Judges, during their visits, could also look into the problems of the prisoners who had committed petty offences and are languishing in jails, because their cases were not being decided quickly for various reasons. The Commission has been heartened at the positive responses to this letter. Pursuant to the instructions of the Chief Justices, the Judicial Magistrates in certain States like Uttar Pradesh have been holding Lok Adalats in prisons. This has resulted in speedy disposal of petty cases. The High Court of Andhra Pradesh, in a circular, has given specific instructions to all District and Sessions Judges to follow the recommendations made by the NHRC in respect of the speedy release of undertrials. (Annexure X)

7. Imprisonment of the mentally challenged

3.69 The Commission has also taken a very serious note of the condition of mentally challenged persons wrongly languishing in prisons without proper medical care and attention. The Chairperson of the Commission in a letter to the Chief Ministers (Annexure XI) expressed deep concern at the sad plight of such persons. He pointed out that the Mental Health Act 1987, which came into force with effect from 1 April 1993, did not permit the lodging of mentally challenged persons in prisons as this was a very insensitive and unbecoming manner of dealing with them. As they should be kept only in institutions for the mentally ill and provided proper treatment, the detention of such persons in jails amounted to an egregious violation of human rights. The letter made it unambiguously clear that if officers of the Commission, during jail inspections, found mentally challenged persons in jails, the Commission would award compensation to them or to the members of their families and would further direct the State Government to recover the compensation from the jail officers responsible for this lapse. He recommended that the Chief Ministers issue directions to the senior prison officers to inspect prisons regularly in order to ensure that mentally challenged persons were not kept in jails under any circumstances.

(H) Human Rights and Administration of Criminal Justice

3.70 The Commission has, in its preceding Reports, made specific proposals concerning the need to improve certain aspects of the administration of Criminal Justice in India. In the report for 1998-99, the Commission drew attention to the lack of efficiency in police investigation, certain problems bedeviling the administration of Criminal Justice in the Courts, and recommended a programme of action for speedy clearance of criminal cases. In particular, it proposed that:

- Strategies should be designed, on a district to district basis, for the control of arrears, having regard to the particular requirements and pattern of criminal litigation in the district.
- The programme should be in charge of High Courts which will nominate a sitting Judge or a Committee of Judges to be incharge of the programme in the district. The Judge or the Committee, as the case may be, shall be advised and assisted by a computer-expert in Court management matters. The programme must be funded by the State, by an adequate one-time monetary grant, sufficient to see through the programme. A generous measure of financial autonomy was absolutely necessary for the Courts. The National Judicial Academy should be requested to develop these packages of programmes.

- The target must be that within a time-frame, say a period of three years, no Court in that district should have any criminal case pending for over eight months. For purposes of tackling the arrears in Courts, long-pending cases should be bifurcated into a separate class and dealt with separately under an adhoc dispensation by re-employing, if necessary, retired judicial officers and judicial staff.
- The pendency of cases in each Criminal Court should be fed into and analysed on computers. The progress in the disposal of cases should be monitored on the computer. Initially, a spread-sheet should be prepared to indicate the different types of criminal cases pending in the particular Court and the length of the pendency so as to evolve appropriate bench-marks for fast track procedures.

3.71 The Commission had also recommended changes in the substantive law as follows:

- There be a process of progressive and massive decriminalisation of offences now recognised and made culpable as penal offences. They should be treated as merely actionable wrongs for which compensation and not punitive action is the appropriate remedy.
- The class of compoundable offences under the IPC and other laws should be widened.
- In the disposal of arrears of criminal cases, experienced criminal lawyers be requested to work as part-time Judges on a particular stipulated number of days on the pattern of 'Recorders' and 'Assistant-Recorders' in the United Kingdom. There is existing provision in the Criminal Procedure Code for honorary Judicial Magistrates, which has not been imaginatively utilised or its potential realised even in part.
- The system of "plea bargaining" be introduced on the pattern of recommendations already made by the Law Commission of India.
- Magistrates and Sessions Judges while remanding persons under trial to judicial custody should clearly indicate in the very order of remand itself the terminus a quay. In other words, the judicial remands should be self-limiting and should indicate the date on which the under-trial prisoner would automatically be entitled to go to bail in terms of the conditions prescribed by the Supreme Court.
- There should be a comprehensive training package for programmes of training of all judicial personnel and all Court administrators.
- In the proportion of population-judge ratio, India is today amongst lowest in the world; this needs to be rectified.

3.72 The Action Taken Report (ATR) for the year 1998-99 lists the steps taken by the Central Government on these recommendations. These included the dispatch of letters to the State Governments stressing the need for financial autonomy to the Courts, and to the National Judicial Academy to develop programmes for speedy clearance of criminal cases in courts and interaction with the NIC for the extensive use of computerisation in the subordinate judiciary. With regard to changes suggested in the substantive law, the ATR referred to the comprehensive review of the Cr.PC 1973 undertaken by the Law Commission and to the recommendations made by the latter for amending the Cr.PC. The ATR indicates that the recommendations of the Law Commission are being processed.

3.73 The Commission urges the Government to complete the processing of the recommendations of the Law Commission speedily and to take steps to amend the Cr. PC accordingly. As the improvement of the administration of Criminal Justice is of some importance to the Commission, it intends to pursue this matter further.

(I) Visits to Jails

3.74 One of the important functions of NHRC under Section 12(c) of the Protection of Human Rights Act 1993 is:

"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";

3.75 During the year 1999-2000, the Members of the Commission and its officers continued to visit prisons and suggest measures to improve conditions in them and to protect the human rights of prisoners. An elaborate format for recording prison inspections was prepared by the Commission and circulated to Special Representatives of the Commission in Bihar, UP, Assam, Orissa, Gujarat and Maharashtra to elicit their views.

3.76 Shri Sudarshan Agarwal, Member NHRC along with Shri R.C. Jain, Registrar General, NHRC in his visit to the District Jail, Guwahati on 10 November 1999 found that the overall conditions of the jail were pathetic and that the inmates were living in conditions that gravely affected their dignity and their physical and mental well-being. As against the authorised capacity of 507 prisoners, 780 inmates were lodged in the jail, 90 per cent of whom were undertrials. Toilet facilities were grossly inadequate and in a deplorable condition. There were garbage piles in the jail premises and stagnant water as well. The kitchens and food containers were unclean and the food served was unhygienic. The prisoners

complained that the jail doctors were most unsympathetic and would not prescribe medicines even from the few that were available in the jail dispensary. The X-ray machines were out of order. Prisoners had scabies and other skin diseases owing to unhygienic living conditions and lack of medical care.

3.77 The Member along with the Registrar General also visited the Central Jail, Shillong on 12 November 1999. Housed in a small premises, there were 374 inmates against an authorised capacity of 150 inmates. The jail had only three lavatories and faced an acute shortage of water for drinking, bathing and washing purposes. The food served to the inmates was poor in quality and inadequate in quantity. The supply of medicines was poor and the two blankets provided to each inmate, in the cold climate of Shillong, were in a poor shape.

3.78 What was most shocking was the presence of a girl child of about 10 – 11 years of age, who was an "undertrial prisoner". Under the provisions of the Juvenile Justice Act, no child can be kept in a regular jail. The jail houses many undertrial prisoners who had been languishing there for periods ranging from 1 - 9 years. Some of the prisoners had not been produced in court even once over periods ranging from 1 to 3 years. According to the jail authorities, the undertrials were not being produced in court due to lack of escort facilities.

3.79 In view of the deficiencies and the appalling conditions of these two jails, the Member made a number of suggestions for the Commission to consider and to forward them to the State Government.

3.80 Members of the Investigation Division of the Commission visited and carried out investigations in District/Central Jails at Agra, Lucknow, Jaipur, Tihar (Delhi) and Meerut on the basis of specific complaints received by the Commission. The Director General (Investigation) of the Commission also visited Sabarmati Central Jail, Ahmedabad Central Jail, Chennai Central Prison, Thiruvananthapuram Central Prison, Vasco (Goa) Central Prison, Ranchi Central Prison and the jail in Pondicherry. During the course of his visits, he noted in particular the overcrowding and inadequate staff and also received individual complaints alleging harassment, torture, poor quality of rations, the non-supply of books/periodicals and the non-existence of grievance redressal systems. The observations of the Director-General (Investigation) were duly communicated to the State Governments which have stated that corrective measures were being taken to improve conditions in the prisons that were inspected.

(J) Conditions of Remand Homes

3.81 The Commission has continued to keep a vigilant eye on conditions in Remand Homes. As a part of the effort to get first-hand information on the situation in some of these facilities, members of the Investigation Division of the Commission visited the Remand Homes in Varanasi and Bijnore on specific directions of the Commission. These visits were followed by a further inspection made by Shri Chaman Lal, Special Rapporteur of the Commission. Based on their reports, the Commission directed the State Government of Uttar Pradesh to take a series of measure to rectify and improve conditions of these Remand Homes. The Government of Uttar Pradesh has since reported compliance with these recommendations.

(K) Visit to Detention Centres and Refugee Camps

a) Visit to detention centre at Lampur Sewa Sadan, Delhi

3.82 The Commission received a number of complaints on the pitiable conditions existing in Lampur Sewa Sadan, Delhi, where the foreigners are temporarily detained when arrested for travelling in India on forged passports etc. The Director General (Investigation) of the Commission was requested by the Commission to look into the running of Lampur Sewa Sadan and suggest improvements. Accordingly, he visited the Lampur Sewa Sadan in July 1999 and submitted his report to the Commission indicating that while FRRO and Home Department of Delhi Governments were responsible for the detention, safety and well-being of the detained foreigners, the Social Welfare Department was in-charge of the Institution. The co-ordination and supervision at the ground level were found to be far from satisfactory. The detained foreigners made requests for regular visits by the medical officer, they also sought telephone facilities, separate arrangements for food and better accommodation. The Commission considered the report of the Director General (Investigation) and has been pursuing the matter with the Government of the National Capital Territory of Delhi.

b) Visit to Special Refugee Camp at Melur (Tamil Nadu)

3.83 The Commission has frequently been receiving complaints from refugees in India, which it takes up with the competent Ministries of the Central Government and with the concerned State Government. It also remains in touch with the local office of the United Nations High Commissioner for Refugees. On occasion, Members of the Commission or its senior officers have had to visit refugee camps themselves. During the period under review, for instance, the Commission received a complaint from a Sri Lankan Tamil refugee lodged in Melur Refugee Camp about conditions prevailing in that camp. The main grievances of the

petitioner were that 25 Sri Lankan refugees including 5 women and 2 children had been detained in the Melur Camp without any indication being given about their future fate or their release. They also complained of an insufficient allowance, excessive restrictions over their movements even within the compound during the day, and the lack of arrangements for visitors to meet them. They requested that there should be regular visits of a medical officer and medical check-ups, when needed outside the camp.

3.84 Following directions of the Commission, the Director General (Investigation) paid a visit to Melur Refugee Camp in June 1999 and submitted a report. The Commission considered his report and directed the State Government to make immediate arrangements to ensure that inmates at the refugee camp, including women and children, are allowed greater freedom of movement within the premises of the camp so that they can exercise properly and keep in better health. The Commission also directed the State Government to increase their daily allowances from Rs. 20/- to Rs. 35/- per adult and Rs. 14/- to Rs. 20/- per child. It recommended that steps be taken for expeditious disposal of various court cases pending against certain of the inmates and also directed that regular visits be undertaken by medical and revenue officers so that prompt action can be taken to look into their condition and resolve their difficulties. The Government of Tamil Nadu has complied with the Commission's directions and submitted a detailed action taken report.

(L) Improvement of Forensic Science Laboratories

3.85 Article 21 of the Constitution guarantees the right to personal liberty, which can be curtailed only in accordance with the procedure established by law that is reasonable, fair and just. Speedy trial has been recognised by the Supreme Court as a part of the right to personal liberty. The failure on the part of the prosecution to produce the chemical analyser's report or the serologist's report for lack of adequate capacity in the forensic sciences laboratories is an important reason for delay in the conduct of criminal cases. The number of such laboratories in the country being grossly inadequate, it sometimes takes years for them to send their reports. This contributes a grave denial of the human right to speedy trial.

3.86 A related and equally alarming feature in the present situation is the large number of acquittals in criminal cases. The burden of proof is on the prosecution to prove the case beyond reasonable doubt. Proof in criminal cases rests, however, mainly on oral testimony, which is often rejected as unreliable. This too leads to a failure to adequately protect human rights. The lacuna can be filled by greater recourse to expert scientific evidence.

3.87 Forensic science has made revolutionary advances possible in securing evidence that can lead to just and speedy results in criminal cases. Unfortunately, forensic science services in the country are still grossly inadequate and have failed to muster all the latest techniques. In addition, the administrative set-up does not provide independence to forensic scientists and autonomy to the laboratories. This has affected the morale of the scientists and the efficacy of the laboratories, which is hampering the protection and promotion of human rights. To correct these aberrations, the Commission gave deep consideration to the problems of forensic science laboratories and constituted a Core Group of Experts to examine the state of forensic science laboratories and services available in the country and to make appropriate recommendations.

3.88 The Core Group, after visiting the important laboratories in the country, made an in-depth study of this subject from all possible angles and submitted its report "State of the Art Forensic Sciences; For Better Criminal Justice", to the Commission on 23 April 1999. The comprehensive report carries recommendations for improvement and strengthening of the existing laboratories and has proposed the establishment of new well-equipped forensic laboratories to meet the growing demand. The seminal recommendations aim at ensuring independence of the forensic scientists and making them free from police control. Implementation of the recommendations contained in the report will fulfill a long-felt need and help the criminal justice system by providing reliable scientific evidence expeditiously.

3.89 The report of the Core Group was released to the public on 11 June 1999 by Shri L. K. Advani, Union Home Minister in the presence of Shri Dalit Ezhilmalai, then Minister of State for Health. Copies of the report were sent to the Ministry of Home Affairs and the Chief Secretaries of States having forensic science laboratories for taking follow-up action. Copies of the report were also sent to the different States/Central Forensic Science Laboratories.

3.90 The Commission, on 23 December 1999, wrote to the Ministry of Home Affairs desiring to know the action taken by the Ministry in regard to the recommendations made in the report. The Ministry is yet to respond on this matter. The Commission would like to reiterate its view that the Ministry of Home Affairs should initiate early action to implement the recommendations made in the report.

(M) Large Volume Parenterals: Towards Zero Defect

3.91 The Commission became seized of an important matter regarding the contamination of life-saving I.V. fluids, which related to the health care of the citizenry of the

country, on receipt of a reference from the Himachal Pradesh State Human Rights Commission, Shimla. The Commission noted that this issue has wide implications as it concerned the public health of the people of India and, indeed to their right to life.

3.92 The State Commission had forwarded a copy of the complaint to this Commission, which had also taken suo motu cognizance of a press report to the effect that contaminated life-saving fluids were being administered to patients at the Ram Manohar Lohia Hospital (RML), New Delhi. The Commission had issued notice to the manufacturer and the Secretary, Union Ministry of Health. Notices were also issued to the Chief Secretary and Drug Controller of National Capital Territory of Delhi and Medical Superintendent of RML.

3.93 The Commission is of the view that the State has the duty to take all possible measures to ensure the maintenance of the highest standard of quality and purity of drugs at all stages from manufacture to the point of administration to the patients.

3.94 To examine the causes of the contamination of the dextrose bottle, ascertain the stages at which the contamination occurred, fix responsibilities for the lapses and find measures to prevent the recurrence of such lapses, the Commission chose two eminent experts to assist it in its work. They were Dr. Nityanand, Chairman, India Pharmacopoeia Committee and former Director, Central Drug Research Institute, Lucknow and Mr. Prafful D. Sheth, President, India Pharmaceutical Congress Association and Chairman, Industrial Pharmaceutical Division, Indian Pharmaceutical Association.

3.95 After making an indepth study, the Expert Committee submitted its final report titled 'Large Volume Parenterals: Towards Zero Defect' to the Commission on 12 January 1999. Shri L.K. Advani, Union Minister for Home Affairs, formally released the report on 11 June 1999 in the presence of the then Union Minister of State for Health, Shri Dalit Ezhilmalai.

3.96 The Commission, in accepting the comprehensive findings of the Expert Committee, has recommended a series of steps to be taken by the Central Drugs Standard Control Organisation to improve the infrastructure and manpower required to administer the entire system of licensing, new product approvals, certification and market complaint handling of Large Volume Parenterals (LVPS) and other medicines in hospitals.

3.97 It has also recommended that a post of Joint Drugs Controller of India (Pharmaceutical Services) be created at the Centre under the Drugs Controller General of India. The Government Analyst Laboratories and testing laboratories also need upgradation in terms of infrastructure and trained staff. Modern hospital pharmacy should be set up in Government hospitals under an officer having a minimum qualification of post-graduation in Pharmacy.

3.98 In its recommendations, the Commission called upon RML Hospital to develop policies and procedures for the procurement of medicines and inventory control, receipt handling, storage, quality control distribution and dispensing. It directed the hospital to develop policies and procedures for handling of complaints relating to quality, medication errors and adverse drug reactions. It also asked the premier Central Government hospital to develop good hospital warehousing practices including rodent control and also frame good warehouse practice guidelines. "It shall impart training to hospital staff in good warehousing practices and ensure maintenance of records of defective stocks at one place", the Commission recommended.

3.99 In further directions to the hospital, the Commission recommended that a flow chart complaint handling procedure be developed and there should be partnership for networking within manufacturers and regulatory agencies for speedy disposal of defective and recalled goods. It called upon the hospital to prepare guidelines on sampling of stocks including complaint samples, by approved testing laboratories detailing exact quantity to be drawn, fixing responsibility for drawing samples.

3.100 With regard to the Medical Stores Depot, the Commission called for reviewing the present procedures of procurement of LVPs and other medicines and the system of routing the supply to hospitals through the depots and eliminating wasteful activities of re-routing the goods to hospitals.

3.101 The Commission also called upon the parties concerned viz. M/s Core Health Care Ltd.; Central Drug Controller General of India, Government of India; Commissioner, Food and Drug Control Administration, Government of Gujarat; Ram Manohar Lohia Hospital, New Delhi; Medical Stores Depot to implement the respective recommendations within one year and report back to it.

3.102 With a view to monitoring timely compliance, the Commission has asked for quarterly progress reports. It has also directed the authorities concerned to provide the necessary staff and finance for this purpose to facilitate expeditious compliance.

IV. REVIEW OF LAWS, IMPLEMENTATION OF TREATIES AND OTHER INTERNATIONAL INSTRUMENTS OF HUMAN RIGHTS

(A) Child Marriage Restraint Act, 1929

4.1 The problem of the widespread prevalence of child marriage in certain parts of the country has been a major concern of the Commission over a number of years. The Commission has been interacting with the National Commission for Women and the Department of Women & Child Development to evolve suitable measures to combat this

problem. As the Draft Marriage Bill jointly prepared by the National Commission for Women and Department of Women & Child Development did not find favour with the government, the Commission decided to work on an amendment to the Child Marriage (Restraint) Act, 1929. It held discussions on 16 December 1999 with the Secretary, Department of Women & Child Development, the Secretary, Legislative Department and the Member Secretary, National Commission for Women.

4.2 The Commission is pursuing the matter further, along the following lines that emerged during the discussion:

- 1) It would be more appropriate to provide for a compulsory registration of marriages in the Hindu Marriage Act through appropriate amendments, instead of making such a provision in the Child Marriage (Restraint) Act, 1929.
- 2) There is a need to amend the Child Marriage (Restraint) Act to provide for higher penalty for the violations of the provisions of this Act and there is also a need to make the offence cognizable and non-bailable.
- 3) Provision has to be made in the Child Marriage (Restraint) Act to take action against organizers/associations who organize mass child marriages.
- 4) Apart from amending the legal provisions appropriately, there is a need to initiate social action by networking with the NGOs in the areas where child marriages are prevalent to sensitize the community leaders against such marriages.

(B) Protection of Human Rights Act, 1993

4.3 A high-level Advisory Committee, which was set up by the National Human Rights Commission under the Chairmanship of Mr. Justice A.M. Ahmadi, former Chief Justice of India, to assess the need for structural changes and amendments to the Protection of Human Rights Act, 1993, submitted its report to the Commission on 18 October 1999.

4.4 The Committee had invited comments and suggestions on that Act and, in response, had received letters, notes and memoranda from the Chief Justices of various High Courts, Chairpersons of State Human Rights Commissions, Chiefs of the Army, Navy and Air Force, Heads of Parliamentary Committees, non-governmental organisations and members of public, giving their views and suggestions on various provisions of the Act. After careful consideration, the Committee finalised its recommendations and presented these to the Commission in the form of a Draft Amendment Bill.

4.5 The recommendations of the Committee were considered by the Commission in its meetings held in February 2000. The Commission, after a clause by clause discussion, formulated its views on the amendments that are required to be made to the Act keeping in view major impediments and structural inadequacies experienced by the Commission during the course of the last 6 years of the operation of the Act. The report of the Commission was sent to the Government in March 2000.

The following are some of the salient recommendations:

1. Commission to be empowered to transfer complaints pending before it to respective State Commissions.
2. To amend definition of 'armed forces' to exclude para-military forces in Section 2 sub-section 1(A).
3. To amend Section 30 in order to empower human rights courts at the district level to award compensation or relief to affected persons.
4. To amend Sec.36(2) to provide for inquiry into a complaint of human rights violation by National and State Commissions even after the expiry of one year from the date of its occurrence, subject to there being good and sufficient reasons for the same.
5. To amend Section 18 to enable payment of interim compensation at any stage during the pendency of inquiry.
6. To amend Section 21 to make it mandatory for every State to have a State Human Rights Commission, to reduce the number of Members of State Commissions to 3 and to enable State Commissions to have common Members.
7. To prescribe a three month time limit from the date of submission for the Reports of the NHRC and State Commissions to be placed before the Parliament and State Legislature and for reports to be made public after three months even if not placed before the legislative bodies.
8. To amend Sec.36(1) to provide for the NHRC to take cognizance of and inquire into violations of human rights, notwithstanding the cognizance taken thereof by a State Human Rights Commission or any other Commission (excluding a Commission appointed under Commission of Inquiries Act), with a view to providing the Commission an overarching ability to oversee the issues of human rights violations and their remedies.
9. To add proviso to Section 36 (1) to provide for NHRC to entertain, either suo motu or at the instance of an aggrieved person, any matter already considered and decided by any other Commission except on the question of quantum of compensation, with a

view to giving the Commission a certain power of judicial superintendence and powers similar to those exercised by the Supreme Court vis-à-vis the High Courts under Article 136 of the Constitution in order to prevent any miscarriage of justice in any case of human rights violation.

10. The full text of the recommendations made by NHRC for Amendments to the Protection of Human Rights Act 1993 with the reasons thereof may be seen in Annexure XII.

(C) Implementation of Treaties & Other International Instruments

4.7 Under Section 12(f) of the Protection of Human Rights Act 1993, the Commission has a statutory responsibility to "study treaties and other international instruments on human rights and make recommendations for their effective implementation".

4.8 During the period under review, the Commission continued to urge the Central Government to proceed with the ratification of the Convention against Torture and Other Forms of Cruel, Inhuman and Degrading Punishment of Treatment, which was signed by India on 14 October 1997. The Commission was earlier informed by the Government of India that the question of introducing a definition of torture in Indian legislation was being examined in consultation with the concerned Ministries and Departments. The Commission is of the view that the protracted delay in ratification does no credit to the country and sends an ambiguous message regarding the commitment of the Government to respect the provisions of this Convention, when Article 21 of the Constitution already covers this area effectively. The Right against Torture has been judicially recognized by the Apex Court as a Fundamental Right, making that right and the corresponding obligation on the state and its agencies a fundamental entrenched right. The Commission, therefore, would like to reiterate, in the clearest terms, that the delay in ratification should end and that the Government should complete the process without further damage to the good faith of the country.

4.9 The Commission's views in regard to the need for India to develop a national policy and possibly a National Law, fully in consonance with the 1951 United Nations Convention relating to the Status of Refugees and the 1967 Protocol on the subject have been recounted in its earlier reports. It remains the opinion of the Commission that the drafting and adoption of such a law is essential. During the period under review, the Commission continued to take suo motu cognizance of news items highlighting the plight of Sri Lankan refugees in Tamil Nadu, Karnataka and elsewhere. In one such case, based on a report of the People's Union for Civil Liberties, a non-governmental organisation, the Commission

examined allegations of human rights violations of 56 refugees held in a Special Camp in Vellore. While concluding its proceedings in this case, the Commission resolved to pursue the general issue relating to the enactment of a national legislation relating to the status of refugees. In response to questions by the Commission, the Government of India indicated that the possibility of enacting relevant legislation was being examined, as also the possibility of signing the 1951 Convention on the Status of Refugees and the 1967 Protocol on this subject. The Commission would like to recommend and reiterate its view that a small expert group, including experts from outside the structure of Government, should be constituted by the Ministry of External Affairs to go into the matter at an early date. The Commission would invite this expert group, as and when it is constituted, to discuss all aspects relating to a national law needed to protect the rights of refugees. The Commission intends to monitor the treatment of refugees in the country and to pursue its recommendation in regard to this matter.

4.10 During the period under review, India presented its initial report to the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW) on 24 January 2000. Earlier, on 19 March 1997, India had submitted its first country report to the Committee on the Rights of the Child; the report being taken up for consideration by the Committee on 11-12 January 2000. The discussion of these reports assumed particular significance in the context of the Tenth Anniversary of the Convention on the Rights of the Child and the Beijing+5 Review. The Commission has carefully considered the country reports submitted by India as well as the comments of the concerned treaty bodies. Its own comments in regard to the fulfilment of our country's obligations in respect of these two treaties are covered elsewhere in this Report.

4.11 The Commission has established a Chair on Human Rights at the National Institute of Human Rights (NIHR) in the premises of the National Law School of India University, Bangalore. In the course of the year, the Commission sought the views of the Institute on the pros-and-cons of ratification by India of the following international human rights instruments:

The First Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR);

The Second Optional Protocol to the ICCPR;

The International Convention on the Protection of the Rights of All Migrant Workers and Their Families; and

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

V. RIGHTS OF THE CHILD: PREVENTION OF CONGENITAL MENTAL DISABILITIES

5.1 In its preceding report, the Commission had expressed its grave concern over the serious developmental disabilities caused to children born in this country as a result of the malnutrition and maternal anaemia affecting their mothers, particularly those belonging to economically disadvantaged sections of society. It viewed the circumstances of these children and matters as constituting a serious violation of their right to a life with dignity, abridging as it did their capacity to develop their full potential intellectually and physically. Indeed, scientific data indicate that maternal anaemia is a major contributor to infant and maternal mortality in India. 87.6% of pregnant women in the country continue to suffer from anemia, despite nearly three decades having elapsed since the start of the National Nutritional Anaemia Control Programme (NNACP) launched by the Government of India in 1972. The Commission, for its part, has been particularly concerned about the wide prevalence of iron deficiency related health problems, which has continued to result in children in our country being born with mental disabilities.

5.2 Keeping in view the gravity of this problem, the Commission has constituted a Core Advisory Group on Health comprising Prof. V. Ramalingaswamy, Dr. Shanti Ghosh, Dr. Prema Ramachandran, Prof. Pravin Visaria, Prof. N. Kochupillai, Prof. K.Srinath Reddy and Prof. L.M. Nath to prepare a blue print/ plan of action for systemic improvements in health delivery system after discussions with other experts in the field. The Core Group headed by the Chairperson of the Commission held a series of consultations with leading Medical Research Institutions. As a result of these consultations, the Commission scheduled a two-day Workshop on this matter, to be held on 26-27 April 2000, in association with UNICEF and the Department of Women & Child Development, Govt. of India. The broad purpose of the workshop is to evolve legal and programmatic instruments to zero-in on this serious health problem, which has far-reaching human rights implications.

VI. RIGHTS OF THE VULNERABLE

A. Rehabilitation of People Displaced by Mega Projects

6.1 A number of complaints were received by the Commission alleging inadequacies or indifference in the rehabilitation of communities, more particularly members of disadvantaged groups, when they have been displaced or otherwise affected adversely by

mega development projects. The Commission is of the view that it is essential to balance development with greater justice and equity, the national interest with the interests and dignity of those who are required to yield their lands and, sometimes, the very basis of their individual and communal personality for the interests of the nation. The Commission accordingly called for a comprehensive examination of prevailing rehabilitation policies. It urged, in particular, that the Central and State Governments examine and appropriately amend their laws, regulations and practices in order to ensure that when it comes to the acquisition of land for purposes of national economic development, the provisions of the Constitution as expanded over the years by the Supreme Court and as contained in international instruments to which India is a party, notably ILO Convention 107 are respected.

6.2 In pursuance of the Commission's recommendation to formulate a comprehensive national policy on rehabilitation and resettlement, the Central Government has formulated a draft policy, upon which the Commission has itself commented. This is, at present, being considered by a group of Ministers with a view to finalization by the Government.

KABINI RESERVOIR PROJECT, KARNATAKA

6.3.1 The Commission had initiated action in respect of 108 affected tribal families awaiting rehabilitation in this project. The Commission's Special Rapporteur undertook a visit to the settlements of the affected tribals and held discussions with the State Government officials. Based on that the Commission directed the verification of the particulars of the persons who had been displaced but had not been compensated for the loss of the land. The Commission also directed the State Government to check details whether the land released for rehabilitation was actually used for that purpose. The Commission commented on the slow progress of the implementation of the recommendations and urged the State Government to expedite the compliance.

BANDIPUR NATIONAL PARK – PROJECT TIGER

6.3.2 The Commission had, after examining the matter, pointed out that the procedure laid down in the Wild Life Preservation Act, 1972 in regard to the rights of the affected people and their rehabilitation was not followed. It directed the State Government to undertake the statutory exercise for determining the rights of the people considering both the fact of ownership of land and the continued denial of means of livelihood of those affected. It recommended to the State Government that it consider using some 300 acres of land at Ainpura, which had been inspected by Special Rapporteur, for the purpose of rehabilitation and resettlement. The Commission also observed that undue delay had occurred in implementation of the Commission's recommendations.

REHABILITATION OF PEOPLE DISPLACED BY SEA-BIRD PROJECT, KARWAR, KARNATAKA

6.3.3 On perusing a complaint received by the Commission concerning the unsatisfactory arrangements made for the rehabilitation and resettlement of persons displaced by the Sea-Bird Project in Karwar, the DG(I) was requested by the Commission to pay a visit to the site and submit a report. Accordingly, he visited the areas, as well as the three Rehabilitation Centres established for them, heard grievances, received delegations and held discussions with the concerned officers on the implementation of the rehabilitation programme. Most of the displaced families complained that they had been evacuated from the area without proper rehabilitation and resettlement measures having been taken, that they were denied appropriate alternative means of livelihood and that the compensation awarded for their lands and homes had also been inadequate. The rehabilitation/ resettlement plans had not taken into consideration the natural growth of the affected families over the past 12 years. The Commission considered the detailed report along with the recommendations on the subject presented by the DG(I) and gave comprehensive directions to the Government of Karnataka and Ministry of Defence, Government of India in regard to the steps that had to be taken to redress the grievances of the complainants and to correct the deficiencies in the rehabilitation measures being undertaken. The Commission monitored this matter closely in order to ensure that the rights of the affected people were protected. The Commission subsequently received a report from the authorities concerned stating that they had complied with its recommendations.

B. DISPENSATION OF RELIEF TO THE ORISSA CYCLONE AFFECTED

6.4 In order to ensure that the rights of the affected population – particularly the most vulnerable groups – were protected in the aftermath of the widespread destruction caused by the Super Cyclone that struck the coastal districts of Orissa on 29-30 October 1999, the Commission considered it imperative to take suo motu cognizance of the situation that had developed. It accordingly established immediate contact with its Special Representative, Shri A.B. Tripathi, who is stationed in Bhubaneswar, and asked its Secretary General, Shri N.Gopalaswami and Special Rapporteur, Shri Chaman Lal, to visit the area, interact with the officials at various levels and report back to the Commission so as to enable it to decide how best to be of assistance to the State Government in the relief and rehabilitation effort that would be required.

6.5 Based on their observations and a detailed report submitted by Shri Chaman Lal, who visited all the affected districts to make an on-the-spot assessment of the devastation caused by the cyclone and the relief, reconstruction and rehabilitation work in progress, the

Commission made specific recommendations to the State Government in respect of (a) a complete enumeration of the casualties in order to ensure that a proper assessment is made of the right to compensation and other assistance to the survivors; (b) an assessment of the food for work programme for those below the poverty line; in order to provide them, through a special dispensation, wages in terms of grains, along with special feeding centres for the old and incapable; (c) a district-wise census to secure correct information on all widows and senior citizens who had become destitute as a result of the death of earning members, and to cover them under the National Old Age Pension Scheme and Relief by State Government under the State Pension Scheme for the widows; (d) the construction of 40 more shelters in the cyclone prone areas before 30.6.2000, after an assessment of the total number of shelters required; (e) an assessment of the needs of children who had become orphans in the aftermath of the cyclone and the opening of orphanages to provide relief to them; (f) the starting of 12 sanctioned ICDS schemes; (g) proper publicity by the State Government so as to enable the affected people to become aware of their entitlements in the form of relief and compensation; (h) an action plan to be drawn for each district for the rehabilitation work to be undertaken; (i) the establishment of appropriate machinery for monitoring long-term rehabilitation measures, including the monitoring of expenditure relating to relief and rehabilitation both at district and state levels, and the relief provided for orphaned children, destitute women and children, senior citizens, SC/ST women and children and other marginalised sections of society.

6.6 The Commission also directed the State Government to take steps for the restoration of essential services like power, water, telephone communications, road links etc. Taking note of the allegations that certain District Collectors had professionally failed in discharging their duties and, for that reason, that they had been transferred, the Commission recommended departmental action against these officers as may be necessary. The State Government was also requested to order an appropriate inquiry to look into the complaints of negligence on the part of public servants who failed to regulate the sluice gates at the Ramel Dam and at the Hatgarh Dam that led to aggravation of the impact of floods in Keonjhar Town and Bhadrak Municipal Area. The Commission called for a report on the action taken from the State Government. The Prime Minister was apprised of the action taken by the Commission in order to ensure effective compliance. In taking these steps, the Commission was motivated by its desire to ensure that there was no negligence in the prevention of a human rights violation by any public servant. The Commission was acting in accordance with the provisions of Section 12(a)(ii) of the Protection of Human Rights Act, 1993, which empowers it to enquire into such negligence.

6.7 Shri Chaman Lal, Special Rapporteur has been monitoring the compliance of the recommendations of the Commission. He undertook a visit to all the affected districts from 13-19 March, 2000 and reported to the Commission on the progress in the implementation of its recommendations. His report revealed that progress had been slow in respect of (a) disbursement of ex-gratia payments to the families of the deceased; (b) disbursement of house building assistance; (c) relief and rehabilitation measures for widows and senior destitutes; (d) construction of cyclone shelters; (e) payment of compensation to fishermen for the loss of boats and nets; and (f) the strengthening of ICDS cover.

6.8 The report of the Special Rapporteur, giving a district-wise account of the action completed and pending, was sent by the Commission to the Government of Orissa with directions to expedite the implementation of the Commission's directions. The Special Rapporteur, in his next visit to these districts, found that compliance had been very satisfactory in respect of most its recommendations, though it lagged in respect of the construction of cyclone shelters, the strengthening of ICDS cover and compensation for fishermen. The monitoring is continuing.

6.9 In the light of the district-wise reports of the Special Rapporteur, the Commission placed on record its appreciation of the sincerity, dedication and commitment displayed by the following District Collectors in organizing and executing relief and rehabilitation work in their respective districts:

1. Shri P.K. Mohapatra, IAS Collector, Puri
2. Shri P.K. Jena, IAS Collector, Cuttack
3. Shri Sarbeswar Mohanty, IAS Collector, Jagatsinghpur
4. Shri B.C. Swain, IAS Collector, Kendrapara
5. Shri Ashwini Kumar, IAS Collector, Balasore

6.10 The super cyclone that struck Orissa was of great and unprecedented severity. It was the concern of the Commission that the most vulnerable should not become the least protected in the wake of the tragedy. The Commission also wanted to hold the State and society to a standard of behaviour and action appropriate to the immensity of the challenge that was faced. It is the impression of the Commission that its intervention and persistent monitoring helped to mobilize the response of the State machinery, encourage a coordinated response from all the other principal groups involved, and ensure that aid reached the victims of the disaster, particularly those who were most defenceless.

C. Basic Facilities to Plantation Workers in Tamil Nadu

6.11 The Founder President, Pudhuya Tamilagam, met the Commission with a delegation of tea plantation labourers and submitted a memorandum focussing on the plight of the workers of the Plantation of Bombay-Burmah Trading Corporation at Ambassamudram Taluk, District Tirunelveli which is popularly known as "Manjolai Tea Estate". The Commission directed the Director General (I) to visit the spot. The five-month old strike was called off upon the mediation of the D.G. (I) and the management, labour leaders and the Government officers signed an agreement. The workers complained that the management had not fully complied with the assurances given with regard to improving their living and working conditions. The Commission also took suo-motu cognizance (Case No. 465/22/99-2000) of a news item that appeared in 'Frontline' on 3 August 99 captioned "Tirunelveli Massacre". It reported that 17 persons had lost their lives following attacks on a procession that had been taken out in support of the labour struggle in the Manjolai Tea Estates. In response to a notice of the NHRC, the State Government indicated that it had set up a Commission of Inquiry to look into the incident and that it had made a payment of Rs.2 lakhs to each of the families of those who had lost their lives.

D. Exploitation of Tribals by Landlords/Mafia in the District of Mirzapur, Allahabad, Chitrakot in UP

6.12 Pursuant to directions of the Commission on a complaint received from Sh.Anand Shekhar Giri, President of Vindhya Kisan Parishad, Mirzapur alleging the exploitation of tribals and scheduled castes in the district of Mirzapur, UP, the Director General (I) paid a visit to the area and presented a detailed report to the Commission. It was stated in the complaint that though lands had been allotted under the law to landless persons, and title had been transferred on paper, actual possession had been denied to the beneficiaries. They had also been denied the benefits and grants meant for them. Further, owing to illegal stone quarrying in the forest areas, irreparable damage had been caused to the ecology of the area, threatening the lives and future of the tribals living in the region.

6.13 During the course of the visit of the DG(I) to the affected area, a large number of people belonging to the scheduled castes and scheduled tribes asserted that though they had indeed been issued with title deeds as beneficiary landless labourers, actual possession of the lands allotted to them had been denied. While some claimed that they had never been shown the lands allotted to them, others complained that powerful persons had dispossessed them. It was further stated that while the closure of stone quarries by the State Govt. had resulted in large-scale unemployment and economic hardship to bona fide workers and traders in Mirzapur district, illegal quarrying was persisting under the protection of a mining mafia.

6.14 The Commission, after considering the report and approving of detailed recommendations proposed by the DG(I), directed the State Government to look into those recommendations with a view to framing appropriate schemes that would empower the tribals and other landless persons of the district without disturbing the ecology of the area.

6.15 A similar issue was brought to the notice of the Commission in a complaint received from Swami Agnivesh, who stated that tribals residing in the districts of Chitrakoot, Allahabad, Mirzapur and adjoining areas had not been given the status of scheduled tribes by the State Government and that this had deprived them of benefits to which they should have been entitled. The tribals had been living in poor economic conditions, held in bondage and forced to work in slave-like conditions, wages being paid to them being far below the minimum fixed by the Government. On considering the complaint the Commission was of the view that there was need for a radical change in the way in which the State Government dealt with the problems facing the tribals. There was need to recognize their special relationship with the forests and to fulfil the mandatory role of the State to enhance their well-being rather than to drive them out of the forest. The Commission also took the view that the existing system of auction of mining rights was totally unjust and led to the exploitation of the tribals. Looking to the gravity of the situation, the Commission has constituted an expert committee to study this matter carefully and to propose specific courses of action. The matter is being monitored closely by the Commission.

VII. ABOLITION OF CHILD LABOUR AND BONDED LABOUR

(A) Child Labour in Various Industries

7.1 Following the directions of the Supreme Court, the Commission has been overseeing the enforcement of the Bonded Labour Act in different parts of the country. During the period under review it concentrated its efforts principally on the carpet belt in Uttar Pradesh, the silk reeling and twisting industry in Karnataka and the road-building and construction industry in Gujarat.

7.2 As regards the carpet belt in Uttar Pradesh, Shri Chaman Lal, Special Rapporteur, has been visiting all the districts concerned, along with the Labour Commissioner, Uttar Pradesh and has held a series of meetings with the District Magistrates and senior Labour Officers posted in the area. The Apex Court, in its judgement in respect of writ petition No. 4561/1986 M.C Mehta vs. State of Tamil Nadu and others, had ordered a state-wise survey to identify child labourers; it had also given the following directions for the rehabilitation of children withdrawn from work in hazardous occupations:

Recovery of Rs. 20,000 per child from the offending employers and creation of Child Labour Rehabilitation-cum-Welfare Fund in each District;

Provision of employment to one adult member of each affected family;

Deposit of Rs. 5,000 in the said fund by the State Government in case of its failure to provide employment to the affected family; and

Provision of education – formal or non-formal - to the children withdrawn from hazardous works.

7.3 A special programme called the Child Labour Abolition Programme designed by the Labour Commissioner, UP under the guidance of the NHRC was inaugurated at Varanasi by Justice V.S. Malimath, then Member, NHRC on March 30,1999. The highlight of the programme was the release of an Enforcement Manual, which provided details of an Integrated Action Plan to eradicate child labour in the carpet belt, with the full involvement of the concerned Departments/Agencies of the Government and the active participation of non-governmental organizations and panchayats in the area. The plan provided for mandatory registration of all the looms and the issuance of a Child-Labour Free Certificates to the units/establishments which did not employ children.

7.4 Fifty-one out of a total of 83 districts of UP have been declared child labour prone districts. The UP Government has provided a corpus of Rs. 1 crore for creating the Child Rehabilitation-cum-Welfare Fund in pursuance of the orders of the Supreme Court. District Societies for the abolition of child labour, with the Collector/DM as chairperson, Chief Development Officer as member-secretary and representatives from all departments involved with the enforcement of the Child Labour Act under the directions of the Supreme Court, have been constituted in all the Districts. 21 of these societies have already been registered under the Society Registration Act 1860. They have received an initial grant of Rs. 5 lakh each for the Child Labour Rehabilitation-cum-Welfare Fund.

7.5 The UP Labour Department, on the advice of the NHRC, carried out two surveys to assess the incidence of child labour in the State. The first survey was done from 1 January 1999 to 15 March 1999 and the second from 1 November 1999 to 31 January 2000. The results are shown below:

Child Labour identified:

Hazardous - 10778

Non-hazardous 9676

(i) No. of employers 3539

(ii) ii) No. of families of identified Children 6318

- (iii) iii) Notices issued 2485
- (iv) iv) Prosecution launched 1244
- (v) v) RCs. Issued 1086
- (vi) vi) Children admitted to Schools 3875
- (vii) vii) Employment provided to affected families 154

7.6 The experience gained during the period under report is that the prosecution of cases instituted against the employers have been slow. The recovery of amounts at the rate of Rs.20,000/- per child from the offending employers has been affected because of the stays on a number of cases of Recovery Certificates (RC) issued by the UP High Court. Though the follow-up action is found to be slow, the Commission has found that the District Authorities were fully alive to their responsibility. It has therefore noted that the directions of the Supreme Court would be complied with fully. During the Special Rapporteur's visits to the Districts of the carpet belt in Uttar Pradesh, 3591 children were detected to be in hazardous occupations. Over 1000 of them have already been admitted to non-formal schools. 84 of the 2649 affected families have received the benefit of employment of one member each. 350 RCs have been issued to recover a total amount of Rs. 12720 lakh. 67 of these have been stayed by the High Court. Recovery effected so far amounts to only Rs.60,000/-. The DMs have been given specific targets and time schedules for ensuring compliance of the directions of the Supreme Court.

7.7 Non-formal education of children withdrawn from work has received a boost in UP in 1999-2000 not least because of the involvement of the NHRC in the efforts of the UP Labour Department. The State earlier had only 120 National Child Labour Projects (NCLP) schools. The number grew to 370 with the addition of 250 schools sanctioned in 1999-2000. 90 of these were for the districts of the carpet belt – 40 in Allahabad, 20 each in Bhadoi and Mirzapur and 10 in Varanasi. All of them had been sited in child labour prone areas and were running to the full capacity of 50 children each. The Special Rapporteur inspected some of these schools in Bhadoi, Mirzapur and Varanasi to see that all the components of the project - accelerated primary education, vocational training, supplementary nutrition and health-care - are receiving full attention. Irregularities and deficiencies pointed out by him received a positive response from the UP administration.

7.8 The Commission has involved the NGO sector in the non-formal education of child labourers and a number of such schools/training centres are functioning in the districts of the carpet belt. There has also been a distinct improvement in the level of awareness among the general public about child labour issues.

7.9 Further, the Commission has continued to inter-act with the carpet manufacturers and exporters urging them to participate fully in the effort to eradicate child labour. The Special Rapporteur has also been in touch with the All India Carpet Manufacturing Association (AICMA) and Carpet Export Promotion Counsel (CEPC) in order to involve them with the education of the children withdrawn from work.

7.10 The Commission has, in addition, been pointing to the need to substitute adult labour for child labour. A number of women have thus been provided vocational training in carpet weaving in Mirzapur, Bhadoi and Jaunpur districts with the help of NGOs. They are being helped, through various schemes of the Government, to acquire looms and work as individual or collective production units.

7.11 The intensified efforts in the carpet belt, with the growing involvement of the Commission, has increasingly helped to dispel the widespread myth that the economically disadvantaged do not want their children to be educated. The fact that the NCLP schools in the carpet belt are running to full capacity proves the contrary. More and more families whose children were engaged in child labour are approaching the authorities to admit their children in such schools.

7.12 To oversee the implementation of the provisions of the Bonded Labour (Abolition) Act, 1976, in the Southern States of Andhra Pradesh, Karnataka, Tamil Nadu and Kerala, the Commission had appointed Shri K.R. Venugopal as its Special Rapporteur. Through his interactions and inquiries, the existence of bonded labour in the silk reeling and twisting units in Magadi and Ramanagaram came to be highlighted and the Commission brought it to the notice of the State Government. This led to detailed discussions with the State Government on the methodology required for the identification, release and rehabilitation of bonded labour in Karnataka. It was pointed out to the State Governments that other than assistance being provided under the centrally sponsored schemes for rehabilitation of released bonded labourers, assistance could also be considered under Poverty Alleviation Programmes like Indira Awas Yojana, Prime Minister's Rozgar Yojana and SGSY. In addition, Collectors and District Magistrates of sensitive districts were asked to personally oversee the investigation of cases relating to bonded labour.

7.13 As regards Gujarat, the Commission noted with scepticism the claim of the State Government that there was neither bonded labour nor child labour in that State. The interaction of Justice K.Ramaswamy, Member of the Commission, with NGOs working in Gujarat revealed instead the widespread use of child labour, particularly in the construction of roads and buildings in various municipal areas and also in the ship-breaking and diamond-

cutting industries. The Commission accordingly directed its Special Representative in Gujarat, Shri P.G.J. Nampoothiri, to organise meetings of District Collectors in the affected areas, in consultation with the Chief Secretary and Additional Chief Secretary, Labour, Government of Gujarat to discuss all aspects of this matter and to initiate appropriate remedial action. The Commission intends to pursue this matter.

(B) Preventing Employment of Children by Government

SERVANTS: AMENDMENT OF SERVICE RULES

7.14 The All India Services (Conduct) Rules, 1968 have been amended by the Central Government to prohibit the employment of children below the age of 14 years as domestic servants by Government servants employed in the All India Services, namely the Indian Administrative Service, Indian Police Service and the Indian Forest Service. This has been done upon the recommendation and insistence of the National Human Rights Commission.

7.15 The Commission had observed that employing children below and up to the age of 14 years for work by anyone was reprehensible, more so by any Government servant. It had thus urged that an appropriate change made in the Conduct Rules of the Government servants by both the Centre and States, which, while prohibiting such employment, would also make it a misconduct, inviting a major penalty. The Commission had been pursuing this matter with the Centre and the States since February 1997. The then Chairperson of the Commission had written to the Minister of State for Personnel, Public Grievances & Pension, on this subject for the first time on 10 February 1997. He had subsequently written to the Chief Ministers of all States on 3 March 1997. On 13 December 1999, the present Chairperson, Justice J.S. Verma wrote a further letter to the Chief Ministers of all the States that had not amended their service conduct rules (Annexure XIII). He has appealed to the State Governments to carry out the necessary amendments at the earliest.

7.16 The Ministry of Personnel, Public Grievances & Pension amended the Central Services (Conduct) Rules, 1964, on 4 October 1999 and the All India Services (Conduct) Rules, 1968 on 1 February 2000. According to the amended rule "No Government servant/member of the Service shall employ to work any child below the age of 14 years." The States of Andhra Pradesh, Assam, Goa, Himachal Pradesh, Jammu & Kashmir, Karnataka, Maharashtra, Madhya Pradesh, Mizoram, Sikkim, Tripura, Tamil Nadu and West Bengal have also amended the Civil Services (Conduct) Rules concerning their employees. The States of Arunachal Pradesh, Bihar, Gujarat, Haryana, Kerala, Meghalaya, Orissa, Punjab and Uttar Pradesh have informed the Commission that they are still in the process of

considering the recommendations of the Commission to amend the Rules. The States of Manipur, Nagaland and Rajasthan are yet to respond to the Commission's letters written to them in this regard.

7.17 The Commission is committed to pursuing this matter to a satisfactory conclusion.

VIII. QUALITY ASSURANCE IN MENTAL HOSPITALS

8.1 The Commission remained seized with the problems of overcrowding, lack of basic amenities and poor medical facilities plaguing the mental hospitals in the country. It had earlier entrusted a research project on 'Quality Assurance in Mental Hospitals' to NIMHANS, Bangalore. Following submission of a report on this subject by the project Director Dr. S. M. Channabasavanna, the report was released to the public by the Union Home Minister Shri L. K. Advani on 11 June 1999. A copy of the report was handed to the Union Minister of State for Health Shri Dalit Ezhilmalai. Copies of the report were also sent to all the mental hospitals and to the State Health Secretaries for necessary follow up action. They were requested to apprise the Commission periodically on the progress of implementation of the report, a matter which the Commission is pursuing.

8.2 The Commission believes that implementation of the measures recommended in the project report would result in the protection of the rights of a group too often neglected. It urges this be done expeditiously.

8.3 The management of the mental hospitals in Ranchi, Agra and Gwalior came under the scrutiny of the Hon'ble Supreme Court of India through Writ Petition No.339/86, and Writ Petition Nos.901/93, 80/94 and 448/94. By its order dated 11 November 1997, the Hon'ble Supreme Court requested the National Human Rights Commission to be involved in the supervision of the functioning of these three mental hospitals, in the same manner as in respect of the Agra Protective Home.

8.4 Upon being entrusted with this work, the Commission examined the scope and objectives of the remit of the Supreme Court, as also the manner in which the Commission should set about fulfilling the responsibilities assigned to it. The Commission thereafter constituted a Central Advisory Group headed by the Chairperson of the Commission for the purpose of advising the Commission on the nature of the duties and responsibilities envisaged by the order of the Supreme Court; the various steps to be taken to achieve these objectives and to review the progress of work. Shri Sudarshan Agarwal, Member, Shri N.Gopalaswami, Secretary General, and Shri R.V.Pillai, former Secretary General, NHRC, Secretaries in the

Ministries of Health and Social Justice and Empowerment, Chief Secretary, Government of Bihar and senior advocates of the Supreme Court are the other members of the Advisory Group. During the period under review the three mental hospitals were visited by Shri Sudarshan Agarwal and Shri Pillai and comprehensive suggestions were made by them in respect of the better management of these institutions.

IX. MANUAL SCAVENGING

9.1 The Commission has been deeply concerned about the continuance of the practice of manual handling of night soil in many parts of the country. It had therefore been in touch on this matter with the State Governments and the concerned departments of the Central Government. Further, in co-ordination with the National Commission for Safai Karamcharis, the Commission organised a joint meeting on 6 April 1999 with the competent authorities of the Central Government to chalk out a combined strategy to find ways and means to end this degrading and inhuman practice.

9.2 The meeting was presided over by then Chairperson of the Commission, Justice M.N.Venkatachaliah. Among those who attended were Shri Ram Jethmalani, the then Minister of Urban Affairs and Employment, Smt. Maneka Gandhi, Minister of State for Social Justice and Empowerment, Shri K.M. Muniyappa, Chairperson, National Commission for Safai Karamcharis and Dr. K. Ramalingam, Member, National Commission for Safai Karamcharis. It was the unanimous view of the meeting that the practice of manual handling of night soil was a major social evil that had to be eradicated. Questions relating to the rehabilitation of persons engaged in manual scavenging, following the conversion of dry latrines into wet latrines, was also discussed. It was decided to set up a Group consisting of the Secretaries in the Ministry of Urban Affairs and Employment, Social Justice and Empowerment, Law and Justice and also a representative of the Planning Commission, at an appropriate level, to consider and make recommendations on the following issues:

- Whether legislation in this matter was outside the competence of the Union Parliament and therefore necessitating recourse to the procedure envisaged under Article 252, or whether, in pith and substance, it was encompassed in the legislative field in entry 24 of List III.
- If the legislation was one under entry 24 of List III, could it, with appropriate amendments, be extended to the whole of India without reference to the legislatures of the States?

- Whether rehabilitation schemes could be funded in States which have not adopted the legislation.’
- The mechanism for expediting the conversion of dry latrines into wet latrines both in urban and rural areas.
- Programmes for rehabilitation of Safai-Karamcharis relieved from the manual scavenging jobs.

9.3 At the end of the period under reporting, the position in respect of the Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 was as follows:

Central Act Applicable: Andhra Pradesh, Goa, Karnataka, Maharashtra, Tripura, West Bengal and all UTs.

Central Act Adopted: Assam, Haryana, Orissa, Punjab, Gujarat, Bihar and Madhya Pradesh.

Central Act adoption under consideration: Rajasthan and Uttar Pradesh

State Act Enacted: Tamil Nadu

No decision taken as yet: Arunachal Pradesh, Kerala, Jammu & Kashmir, Himachal Pradesh, Meghalaya, Manipur, Mizoram, Nagaland and Sikkim.

X. PROBLEMS OF DENOTIFIED AND NOMADIC TRIBES:

ADVISORY GROUP ON DENOTIFIED & NOMADIC TRIBES

10.1 The Commission had received a petition from the Denotified and Nomadic Tribals Rights Action Group highlighting the problems faced by the Denotified Tribes who are present in varying concentrations in a number of States. The petition alleged that persons belonging to the Denotified Tribes were still being treated as habitual offenders and faced mob-lynching, arson and police brutality. On consideration of the petition, an Advisory Group on Denotified & Nomadic Tribes was set up to advise the Commission as to the nature of enquiry that it may undertake as well as the recommendations that it could make to deal with the issues raised in the petition.

10.2 On 15 February 2000, the Commission held a high-level meeting to discuss the specific problems of Denotified Tribes and Nomadic Tribes (DNTs & NTs). The meeting was attended by the Chairperson and all the Members of the Commission, Smt. Mahasveta Devi, President and Dr. G.N. Devy, Secretary of the Denotified and Nomadic Tribals Rights Action Group, Chief Secretaries of Karnataka, Rajasthan and West Bengal, Additional Chief Secretaries of Madhya Pradesh and Maharashtra, Principal Secretaries of Andhra Pradesh, Gujarat and Punjab, Secretary Home, Gujarat, Joint Secretary, Ministry of Home Affairs and senior officers of NHRC.

10.3 There was a general consensus that the Habitual Offenders Act was rarely invoked and there were hardly any cases being registered under the Act. It was therefore agreed that the Act could be repealed, with the recommendation of the National Human Rights Commission. The other decisions taken at the meeting are indicated below.

10.4 Depending upon the spread of population of the Denotified Tribes and Nomadic Tribes (DNTs and NTs) in the State, each State shall decide on the kind of specific apparatus required for dealing with the special requirements and problems of DNTs & NTs and cases of atrocities against them and report the same to the Commission.

10.5 A retired senior police officer of high reputation shall be appointed in every State by the Commission to liaise with the tribals and report about their problems and cases of atrocities against them to the Commission as well as to the State Government. The Commission's Special Rapporteurs and the State Human Rights Commission's will also associate themselves with this work.

10.6 The entire State machinery, specially the police officers, is to be sensitised, the effort and initiation whereof have to be taken at the State level. The Commission will also take up the matter of appropriate training with the National Police Academy.

10.7 Proper enumeration of the DNTs & NTs throughout the country will be made other than in cases where all such tribes had been merged into SC/ST/OBC categories. While it is likely that there may be variations in the requirements of earlier Denotified and Nomadic Tribes now merged into the SC/ST/OBCs category, this matter might require separate treatment with respect to distinct territories. The Ministry of Home Affairs has been asked to provide statistics in this regard to facilitate the enumeration, on the basis of available records.

10.8 It was decided to provide better access to education, employment and other infra-structural facilities to DNTs & NTs. Where they have been merged into SC/ST/OBCs category, they will be entitled to such facilities as are made available to the respective category.

10.9 The States have been asked to work out an Action Plan, with specific provisions in their Annual Plans, for the requirements and the special problems of these groups. The Planning Commission will be apprised in the matter of their specific problems. It was also decided that the survey of the socio-economic conditions of such tribes should be undertaken. The Commission is monitoring the follow-up action by the States.

XI. TORTURE CONVENTION AND DELHI SYMPOSIUM

11.1 The National Human Rights Commission of India (NHRC) and the International Rehabilitation Council for Torture Victims (IRCT), Copenhagen, in collaboration with the Indian Medical Association and the Indian Law Institute organised the VIII International Symposium on "Torture as a Challenge to the Health, Legal and other Professions", from 22-25 September 1999, in New Delhi.

11.2 This symposium, the eighth in a series, the preceding one having been held in South Africa in 1995, was a major international event focussing on human rights issues relating to torture and the rehabilitation of torture victims. While earlier symposia had been organized mainly by the medical profession and focussed essentially on their work and responsibility, the sponsors of the VIII symposium believed that legal and other professions, the media and, more widely, civil society should also be fully associated with efforts to tackle this serious problem. Participants at the Symposium thus included, in addition to health and legal professionals, representatives of the media, NGOs, Human Rights activists and National Human Rights Institutions.

11.3 Ms. Mary Robinson, UN High Commissioner for Human Rights and Justice M.N. Venkatachaliah, the then Chairperson of the National Human Rights Commission of India, were the patrons of the Symposium and Vigyan Bhavan, New Delhi was the venue. The Chief Justice of India, Justice A.S. Anand, inaugurated the proceedings on 22 September 1999. A large number of delegates from India and abroad participated, including the President IRCT, Secretary General IRCT, Dy. Secretary General IRCT, the Special Advisor to the UN High Commissioner for Human Rights and representatives of many National Human Rights Commissions and State level Human Rights Commissions. The Symposium concluded on 25 September 1999 with the adoption of the 'Delhi Declaration – A Plan of Action' to counter the menace of torture (see Annexure XIV for full text). The former President of India, Mr. R. Venkataraman, was the Chief Guest at the valedictory function of the Symposium.

11.4 Arising from the deliberations, action is required on the following matters in the Indian context:

- Early ratification of the UN Convention against Torture by the Government of India.

- An examination of national laws and their revisions as needed, to deal comprehensively with the prosecution of those who engage in torture and to provide reparation to victims of torture.
- An intensified effort by Government, National Institutions, NGOs and other concerned elements of civil society to promote a culture of non-violence and respect for human rights.
- Greater involvement of all components of civil society, including health, legal and other professions as well as non-governmental organisations and the media in the fight against torture.
- Special consideration to practical ways of protecting women and children against torture.
- Sensitisation of the political leadership to issues concerning torture.

XII. PROMOTION OF HUMAN RIGHTS LITERACY AND AWARENESS

MOBILISING THE EDUCATIONAL SYSTEM

12.1 Respect for the human rights of all, and the realization of such rights, requires a continuous effort to evolve a culture that is sensitive to the basic needs of every human being, in a society that ensures equity and justice to every individual and every group. Human rights education is essential to the creation of such a culture and society. The Commission has, since its inception, been deeply involved with the effort to introduce human rights education in the curriculum both of school going children and at the University level in order to promote a deeper understanding of human rights. It has also encouraged continuously the endeavours of a large number of non-governmental organisations that have been doing significant work in the area of human rights education. A full account of the steps taken by the Ministry of Human Resource Development, the NCERT and the NCTE to introduce human rights education at the school level are contained in earlier reports of the Commission.

12.2 In respect of human rights education at the University level, by the end of March 2000, degree courses had been introduced in Aligarh Muslim University, Aligarh, Cochin University of Science and Technology, Cochin, Andhra University, Visakhapatnam, MS University of Baroda, Vadodara, Banaras Hindu University, Varanasi and Shri Venkateshwara University, Tirupati. Diploma courses on Human Rights had been introduced in the University of Mumbai, Nagpur University, Jamia Millia Islamia University, New Delhi, Saurashtra University, Rajkot, University of Madras, Chennai, University of Jammu,

Pondicherry University, and University of Mysore. Certificate courses had been introduced in Saurashtra University, Rajkot, University of Madras, Chennai, University of Jammu, Pondicherry University, University of Mysore, Devi Ahilya Vishwavidyalaya, Indore, National Law School of India University, Bangalore and Berhampur University, Berhampur.

12.3 In the course of the year, Maharaja Agrasen College, Delhi sought the Commission's observations on its proposed syllabus for B.A. (Hons) Human Rights. As other such representations were also received by the Commission concerning the content of courses to be taken at the Certificate/Diploma/Degree and Post-Graduate levels on Human Rights, the Commission asked the University Grants Commission to constitute a Curriculum Development Committee in order to ensure a certain degree of uniformity in the course content and standard of teaching on human rights at these levels. On 17 February 2000, the University Grants Commission constituted a Curriculum Development Committee on Human Rights and Duties Education, under the convenorship of Justice Shri V.S. Malimath, former Member of the National Human Rights Commission to frame the curricula for the two-year post-graduate degree course, a one year post-graduate degree course, a 3-4 month certificate course and an undergraduate-level Foundation Course in Human Rights and Duties Education.

(B) Human Rights Education for Police Personnel

12.4 The Commission has persisted in its efforts to strengthen the training of police personnel in respect of human rights. In particular, the Investigation Division has monitored the endeavour of the State Governments in this respect. It is gratifying to note that the police authorities of all the States of the country have implemented this training syllabus and are making sustained efforts to sensitise their men. A number of States have also organised workshops on human rights, and issues relating to human rights are being given increased weight in their regular training curricula, there continue to be numerous demands for teaching material on human rights addressed to the Commission by the Directors General of Police of various States, the Commission requested Shri K. Krishnamurthy, Addl. DGP, Karnataka to prepare draft teaching material that could be provided to all States. It is expected that this material will shortly be ready for circulation to all concerned.

(C) Human Rights Education for Para-Military and Armed Forces Personnel

12.5 The Commission continued to accord high priority to the training in human rights of personnel of the armed and para-military forces of the country. Final shape was given to the training syllabus on human rights for the para-military forces after detailed

discussions with the Directors-General of the CPOs/para-military forces. The approved syllabus was circulated to all the Directors General of the CPOs to implement in the basic and in-service courses for their officers and men. All the CPOs have confirmed that the training syllabus circulated by the Commission has been appreciated by them and should serve to motivate and sensitise all ranks. The Director General and the officers of the Investigation Division have continued to participate in various workshops organised by CPOs and armed forces from time to time.

12.6 As part of continued efforts of the Commission to spread awareness on human rights amongst the para-military forces, the tradition was maintained in the year 1999-2000 of holding a national level debate competition on human rights. The subject of the debate during the current year was 'The concept of Human Rights in combating terrorism and militancy'. It was organised by the BSF on March 31, 2000 in New Delhi and adjudicated by a distinguished panel of judges under the chairmanship of a Member of the Commission, Justice Dr.K.Ramaswamy. The debate was organised both in English and Hindi and there were 24 participants in the competition. It was attended by a large number of officers and men of the para-military/armed forces, NGOs, eminent educationists and representatives of the media. The Chairperson, NHRC, presented the winning CRPF team with the running trophy.

(D) National Institute of Human Rights

12.7 In a major effort to establish a centre of excellence for human rights education, the Commission has set up the National Institute of Human Rights (NIHR) at the National Law School of India University, Bangalore. A Chair on Human Rights was also created with the assistance of this Commission. The Institute was inaugurated on 7 August 1999, at a function in which the Chairperson and the Members of the Commission were present. This occasion also coincided with the sanctioning of a project by the Australian High Commission to NIHR, upon the recommendations of this Commission. This project was aimed at developing the capacity of the NIHR and strengthening domestic infrastructure to promote and protect human rights. A sum of A\$ 25,000 was sanctioned under the Australian Human Rights Fund Small Grants Scheme. The project consisted of conducting a foundation course on human rights for newly appointed judges, a refresher course for Sessions Judges already in position and the preparation and printing of a human rights manual with guidelines. The NIHR has already organised a Human Rights Sensitisation Workshop for Judges at the Karnataka Judicial Academy, Bangalore and a Continuing Education Programme for Judicial

Officers' at the Andhra Pradesh Judicial Academy, Secunderabad. The Commission was closely associated with both the programmes. Action for preparation of the manual is also underway. On being finalized, the manual will be made available to Judicial Officers and also the National and State Police Academies.

INTERNSHIP SCHEME

12.8 With a view to spreading an awareness of human rights issues among University students, the Commission devised a "Summer Internship Programme" in the year 1998 aimed at associating students with the Commission for six weeks every year, during their summer vacations. The Summer Internship Programme – 1999 was held for a period of 45 days from 17 May 1999 to 30 June 1999. 11 students of Law, Political Science, Sociology and Criminology from the Universities of Andhra Pradesh, Karnataka, Rajasthan and Bihar participated in the programme. Apart from the Summer Internship 1999, three students from the National Law School of India University, Bangalore, were given short-term placements in the Commission during the period November – December 1999 and five others during the period January – February 2000.

12.9 A Human Rights Officer from the Danish Centre for Human Rights worked in the Commission on a Research Project on 'The Conditions of Juvenile Homes and other Institutions/Homes set-up under different statutes', from 6 January 1999 to 13 August 1999. A report on the topic 'From Neglected and Delinquent Juveniles to the Neglect and Delinquency of Indians – a Study of the Juvenile Justice System in India, in particular the Juvenile Justice Act, 1986' was submitted to the Commission thereafter.

12.10 Two other university students, one from Bochum University, Germany and the other from the Fletcher School of Law & Diplomacy, Tufts University, USA, were also given placement in the Commission during the year.

(F) Training Material for NHRC Staff

12.11 The Commission constituted a Core Group in November 1998 with the task of preparing training material for the staff of the National and State Human Rights Commissions. The Group consisted of representatives from NHRC, the National Commission for Women, Punjab and Himachal Pradesh State Human Rights Commissions, Indian Institute of Public Administration, National Institute of Criminology and Forensic Science, Prof. Hargopal of Central University, Hyderabad and Shri Joseph Gathia, Executive Director, Centre of Concern for Child Labour. During the course of the year, a Sub-Group drew up the curriculum. The report of the Core Group as a whole, covering the curriculum, training

manual, resource persons, training schedule and list of institutions for the training programme is expected to be made available during the course of the next year.

(G) Conferences, Seminars and Workshops

12.12 A number of major seminars and workshops were held under the aegis of the Commission during the year. They were organised in collaboration with non-governmental organisations, international organisations working for human rights, State Human Rights Commissions and academic institutions.

12.13 The Commission took part in the 55th Session of the United Nations Commission on Human Rights, during consideration of the item on National Institutions, between 19 – 22 April 1999 in Geneva. Some 20 National Institutions took part in the debate. In an important development, the UN Commission on Human Rights made special arrangements for the participation of National Institutions in their own right, and with a status distinct from others, in the proceedings of the Commission.

12.14 Parallel to the proceedings in the UN Commission on Human Rights, the International Coordinating Committee (ICC) of National Institutions for the Promotion and Protection of Human Rights, which is the apex body of National Institutions, held its annual meeting. The National Human Rights Commission of India was unanimously elected to continue for the fourth consecutive year as chair of the ICC. The meeting was addressed, among others, by Ms. Mary Robinson, UN High Commissioner for Human Rights.

12.15 The NHRC was represented at this meeting by its Members Shri Virendra Dayal and Justice Shri V.S.Malimath. Addressing the Session on behalf of the Commission, Shri Virendra Dayal expressed his happiness at the arrangements made for National Institutions to participate in their own right in the work of the UN Human Rights Commission and expressed the hope that National Institutions which are independent and based on the "Paris Principles", would be accorded a similar right of participation in other meetings of the United Nations where human rights were the focus. He felt this to be necessary as National Institutions had a voice and a competence that was distinct from that of both Governments and NGOs.

12.16 A seminar was held in New Delhi on 1 July 1999 as part of the Indo-British Project on Prison Reforms which was undertaken jointly by the Commission, the British Council, the Bureau of Police Research and Development and PRAJA, an NGO. The seminar discussed jail management and training in India and the role of the judiciary in the protection of human rights. It also looked into the changing practices in prisons all over the world with a

view to improving respect for human rights within prisons. The seminar was attended by Mr. Justice M.N. Venkatachaliah, Chairperson of the Commission, Sir Rob Young, the British High Commissioner in India and other dignitaries.

12.17 A National Workshop on Human Rights Education was organised at the Indian Social Institute on 27 August 1999. The workshop, which was attended by more than a hundred academics, researchers, human rights activists and representatives of the Central and State Governments, emphasised that the content of human rights education must be broad based and in devising the content efforts should be made to draw upon the talents not only of all governmental bodies concerned, but also of scholars, intellectuals and leading non-governmental organisations and human rights activists. Human rights education in the country must be stimulated from the primary school level to the university level, and involve all elements of society including political parties. The workshop stressed the full and speedy implementation of free and compulsory education for all children of India up to the age of 14.

12.18 Shri Virendra Dayal, Member, represented the Commission in the Fourth Annual Meeting of the Asia Pacific Forum of National Human Rights Institutions and in a Seminar on the role of National Institutions in implementing the Conventions on the Rights of the Child, held in Manila from 6 – 8 September 1999 and on 9 – 10 September 1999 respectively. The meetings discussed, in particular, issues relating to the role of National Human Rights Institutions in promoting Economic and Social Rights and the rights of Women and Children. Other matters considered included cooperation between National Institutions and NGOs, the death penalty and human rights, national action plans, the issue of child pornography and Internet.

12.19 The National Human Rights Commission of India (NHRC) and the International Rehabilitation Council for Torture Victims (IRCT), Copenhagen, in collaboration with the Indian Medical Association and the Indian Law Institute organised the VIII International Symposium on "Torture as a Challenge to the Health, Legal and other Professions", from 22-25 September 1999, in New Delhi. The symposium made far reaching recommendations to end the evil practice of torture.

12.20 The Commission was represented at a Judicial Symposium on Refugee Protection, held in New Delhi on 13-14 November 1999 by Member Shri Virendra Dayal. The symposium was co-hosted by the United Nations High Commissioner for Refugees and the Supreme Court Bar Association. Shri Ram Jethmalani, the then Minister of Law, Justice and Company Affairs, Government of India gave the introductory address. Amongst the other

dignitaries who graced the symposium were former Chief Justices of India Justice Shri P. M. Bhagawati and Justice Shri Ranganath Misra, Judges and former Judges and senior advocates of the Supreme Court, Officers of UNHCR, Senior Judges of the Supreme Court of Nepal and Bangladesh.

12.21 The symposium dealt with the status of refugees the world over and the available means to protect them. Special emphasis was placed on the problems of refugees in India and the constitutional provisions and role of the Courts in helping them.

12.22 The National Human Rights Commission, along with the Department of Women and Child Development (DWCD) and UNICEF organised a symposium on 20 November 1999 to commemorate the 10th Anniversary of the Convention of the Rights of the Child.

It was on this date, in 1989, that the Convention was adopted by the United Nations General Assembly. Sixty-one countries, in an unprecedented first-day response for any United Nations treaty, signed the Convention on that date itself. Today, the Convention is the most universally accepted human rights treaty in history, having been ratified by all but two countries. India acceded to the Convention on 11 December 1992.

12.23 The symposium reiterated that care and protection should be considered enforceable rights of the child's and not merely welfare measures. Constitutional requirements prohibiting the employment of children in hazardous industries should be strictly enforced and an industry should be declared to be hazardous if it is dangerous to children, even if not necessarily to adults.

12.24 Human Rights Day, which is observed on 10 December each year to commemorate the adoption of the Universal Declaration of Human Rights by the UN General Assembly, was celebrated by the National Human Rights Commission at a function organised on that day during the year under review.

12.25 Mr. Justice M.N. Venkatchaliah was the Chief Guest at the function and spoke on the Criminal Justice System and Human Rights. The UN Secretary General's message for the day was read out on the occasion. Justice Venkatchaliah also released two booklets published by the Commission. They were Do's and Don'ts in respect of arrest, titled "Guidelines regarding Arrest" and the "Convention on the Right of the Child" published in both English and Hindi. Awards on 'Creative Writings on Human Rights in Hindi', a scheme which was introduced by the Commission in September 1998 in order to encourage original writings in Hindi on subjects dealing with human rights, were also given away on the

occasion. In addition, Justice Venkatachaliah released a Special Day Cover on Human Rights Day brought out by the Department of Posts. The Cover provided a visual presentation of the wording of Section 2 (d) of the Protection of Human Rights Acts, superimposed on the logo of the Commission. The cancellation stamp contained the Commission's logo and the purpose of the Special Day Cover.

12.26 A two-day National Seminar entitled "Towards an Enabling Legal Environment:: Rights of Persons with Disabilities" was organised by the Indian Law Institute, New Delhi in collaboration with the National Human Rights Commission, the Institute for the Physically Handicapped and the Rehabilitation Council of India from 30 – 31 March 2000 at the Indian Law Institute, New Delhi. The symposium drew attention to the many problems facing persons with disabilities in the country and the apathy of government and society towards them. It also made a number of recommendations that could be of notable help in assisting persons with disabilities to lead normal lives.

(H) Publications and the Media

12.27 As indicated earlier in this report, during the year the Commission published three important studies, State of the Art – Forensic Science - For Better Criminal Justice, Large Volume Parenterals – Towards Zero Defect and Quality Assurance in Mental Health. Each of these was well received and in considerable demand amongst human rights activists, scholars, health professionals and the legal fraternity.

12.28 The monthly newsletter of the Commission continued to provide a steady flow of information relating to the work, programmes, major decisions and concerns of the Commission. These are now available on the Commission's web page along with back issues. The demand for newsletters continued to rise, a number of requests being received from individuals and organisations to be included in the mailing list. The Commission mails more than 4000 newsletters to places inside and outside India every month.

12.29 Twenty newspapers are scanned daily in the Commission and all news items relating to human rights are clipped and filed in a computerised data base, facilitating retrieval of important clippings topic-wise, date-wise and newspaper-wise. The clippings serve as an important source of information to the Commission for taking suo-motu action. The clipping service is also of immense use to researchers, students and media persons working on human rights related issues. They are provided easy access to these clippings.

12.30 The print and visual media continued to be of great value to the Commission in its work of protecting human rights and creating awareness amongst the general public. In

addition to providing the basis for much of the suo motu action taken by the Commission, the media readily carried the views of the Commission through coverage of its daily activities and through interviews of the Chairperson and Members. The press releases and the press briefings of the Commission were also widely used, not least in respect of the decisions of the Commission in respect of individual complaints. Indeed, the Commission is indebted to the media for helping it come closer to the people of India in all parts of the country. This has been an inestimable contribution to the cause of human rights.

12.31 The Commission also worked with a number of film and television serial makers by providing them with case studies, on the basis of which they have made their films.

(I) Research Programmes & Projects

12.32 The Commission continued to pursue a variety of programmes and projects in pursuance of its statutory responsibility to undertake and promote research in the field of human rights. Issues relating, inter alia, to the elimination of bonded and child labour, the prevalence of iron deficiency and its deleterious consequences on women and children, especially girls, child prostitution and quality assurance in mental hospitals were regularly discussed in the Commission's weekly programme agenda and in meetings of the Full Commission, held every quarter, at which were also present the Chairpersons of the National Commission for Minorities, the National Commission for SCs & STs and the National Commission for Women.

12.33 As indicated earlier in this report, the studies on the three major projects undertaken on behalf of the Commission, viz., State of the Art-Forensic Science – for Better Criminal Justice, Large Volume Parenterals towards Zero Defect, and Quality Assurance in Mental Health, were released by Shri L.K. Advani, Home Minister of India, in a brief ceremony on 10 June 1999. The Commission adopted the recommendations contained in these studies and copies of them were sent to the concerned authorities in the Centre and the States requesting them to take action to implement the recommendations contained therein. The Commission is pursuing this matter.

12.34 During the year under report, the Commission in collaboration with UNICEF, organised a series of Regional Workshops on the role of electronic media in promoting the right of the child to be protected from sexual exploitation and abuse. The workshops were held in Goa in October 1999, in Ranchi in November 1999 and in Jaipur in February 2000. In this series, a concluding workshop was scheduled to be organised in Puri in May 2000.

12.35 It will be recalled that the Commission had set up a Chair on Human Rights at the National Institute on Human Rights in the premises of National Law School of India University, Bangalore. During the year, the Commission received reports on the following Research Projects that had been referred by it to the NIHR:

- Imminent problems connected with the spread of HIV infection and human rights concerns of privacy and dignity of HIV positive persons.
- The First Optional Protocol to the ICCPR and the question of its ratification by the Government of India.
- The Second Optional Protocol to the ICCPR and options before India.
- International Convention on the Protection of the Rights of all Migrant Workers and their Families: a plea for India's ratification.
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: the case for early ratification.
- The question of jurisdiction of human rights courts under section 30 of the Protection of Human Rights Act, 1993.
- Right to speedy trial, a compendium of guidelines for speedy trial derived from the decisions of the apex court of India.
- Eye donation and transplantation of cornea: national and international dimensions.
- Narcotic Drugs and Psychotropic Substances Act: agenda for reform from human rights perspective.
- Group Accident Insurance Scheme for Fishworkers - an analysis and a proposal.
- 12.36 The Commission has initiated action, as appropriate, on these reports.

XIII. NON-GOVERNMENTAL ORGANISATIONS

13.1 The work of non-governmental organisations is essential to the empowerment of civil society. It is for this reason that the National Human Rights Commission is called upon by the Protection of Human Rights Act, 1993 [Section 12 (I)] to "encourage the efforts of non-governmental organisations and institutions working in the field of human rights".

13.2 In order to promote this objective more comprehensively, the Commission is planning to set-up an "NGO – Liaison and Service" unit under its Projects and Programmes Division. The idea is to create a data base of active and credible NGOs in the human rights field and to promote networking amongst them and the Commission.

13.3 NGOs continued to be the eyes and ears of the Commission, both greatly facilitating its work and serving as its sharpest critics. Ties with the NGOs continued to

expand all over the country, in fields as varied as matters relating to human rights complaints, to human rights education, research, counseling and practical programmes for groups whose human rights were in jeopardy or needing promotion or protection.

13.4 It was heartening to observe that the number of NGOs in regular contact with the Commission has continued to increase, as indicated in the growing list of NGOs maintained by the Commission. This list has helped the Commission in its work in diverse parts of the country, when it has, time and again, needed to seek the help of local NGOs.

13.5 For its part, the Commission has also continued to assist NGOs and others in organising programmes of relevance to human rights, providing modest financial support when appropriate. Amongst those assisted in the course of the year were the Indian Society of International Law, New Delhi, which received a grant of Rupees 25,000/- for starting a Post-graduate Diploma Course in Human Rights and International Humanitarian and Refugee Law, the Centre of Concern for Child Labour, Delhi was given Rs.25,000/- for organising a workshop on 'Elimination of the Worst Forms of Child Labour: New Global Cause', held on 28-29 October 1999. The University of Pune was given Rs.50,000/- for organising a 3-day National Seminar in March 2000 on Human Rights and the Criminal Justice System in India. The Indian Law Institute, New Delhi received the grant of Rs.1.00 lakh from the Commission for holding a 2-day national seminar entitled "Towards an Enabling Legal Environment: Rights of Persons with Disabilities", on 30 – March 2000. A grant of Rs. 30,000/- was given to Mohan Lal Sukhodia University, Udaipur for organising a 2-day national seminar on 'Status of Human Rights in South Rajasthan: Issues and Problems', held on 30-31 March 2000.

XIV. LEGAL PROFESSION AND THE COMMISSION

14.1 The Commission is immensely grateful for the ready help that it has been receiving from luminaries of the legal fraternity. A former Chief Justice of the Supreme Court of India, Justice Shri A.M. Ahmadi, most kindly agreed to head an Advisory Committee established by the Commission to examine the Protection of Human Rights Act, 1993 and to make recommendations to make it more effective. The Commission is also deeply indebted to Justice Shri Rajinder Sachar, Justice Shri P.C. Balakrishna Menon, Dr. Rajeev Dhavan, Prof. N.R. Madhava Menon for agreeing to serve as members of that Advisory Committee.

14.2 A number of cases have been filed by individuals/NGOs either before the Supreme Court or before the different High Courts of the country wherein the Commission is

either a respondent or an intervenor. In a few cases, the Commission is itself a petitioner. In all such instances, the Commission has most readily been assisted by distinguished members of the bar. The Commission would like to express its gratitude to Shri A.S. Bobde, Senior Advocate, Bombay High Court, Dr. Rajeev Dhavan, Senior Advocate, Supreme Court, Shri A.D. Giri, Senior Advocate, Allahabad High Court, Shri R. Krishnamurthy, Senior Advocate, Madras High Court, Shri A.N. Jaya Ram, Senior Advocate, Karnataka High Court, Shri S. Muralidhar, Advocate, Supreme Court, Shri F.S. Nariman, Senior Advocate, Supreme Court, Shri S. Ramachandra Rao, Senior Advocate, Andhra Pradesh High Court, Justice R.S. Sodhi (prior to assuming his present office), Shri Soli J. Sorabjee, Attorney General (prior to assuming his present position) Shri M.S.Sethi, Senior Advocate, Punjab & Haryana High Court, Shri R. Venkataramani, Senior Advocate, Supreme Court and others for representing the Commission before different courts and for the views and expert opinions which they have given to the Commission upon its request.

14.3 On 14 October 1999, the Commission organized a function to convey its gratitude and felicitations to those from the bar who had assisted it. The Commission was deeply gratified that many of those listed above were able to attend the function, when they were presented with mementos by the Chairperson of the Commission.

XV. STATE HUMAN RIGHTS COMMISSIONS AND HUMAN RIGHTS COURTS

15.1 The Protection of Human Rights Act, 1993 envisages the setting up of State Human Rights Commissions not least because, being nearer to the people of the respective states, they should be able to provide speedier and less expensive redressal of grievances. The National Human Rights Commission, for its part, has therefore been urging the early establishment of State Human Rights Commissions in all States.

15.2 Successive Chairpersons have, accordingly, both written to and spoken with the Chief Ministers of States impressing on them the need to set up Human Rights Commissions. On 31 March 2000, the position was as follows:

State Human Rights Commissions had been established in Assam, Himachal Pradesh, Jammu & Kashmir, Kerala, Manipur, Madhya Pradesh, Punjab, Rajasthan, Tamil Nadu and West Bengal.

The States of Bihar, Maharashtra and Orissa had issued notifications constituting State Human Rights Commissions. However, these had not yet been established.

15.3 The National Human Rights Commission has observed with some concern that though, by 31 March 2000, 2-3 months had passed since notifications were issued by Bihar,

Maharashtra and Orissa, the respective State Governments had not taken the concrete steps required to make the Commissions functional. Further, while Rajasthan had issued its notification on 18 January 1999, the appointment of the Chairperson and Members was made only in March 2000.

15.4 As regards Uttar Pradesh, it will be recalled that the State Government issued a notification on 4 April 1996 to establish a State Human Rights Commission. However, given the delay in actually constituting the State Commission, a PIL was filed in the High Court of Allahabad in September 1998. NHRC became a party to the PIL and was represented by Shri A.D. Giri. During the pendency of the writ petition, the Government of Uttar Pradesh proceeded to cancel the notification issued u/s 21(1) of the Protection of Human Rights Act, 1993 with a view to rendering the writ petition infructuous. The High Court, however, took serious objection to this and directed the State Government, in March 2000, to constitute the State Human Rights Commission within four months.

15.5 The National Human Rights Commission, meanwhile, has continued to hold meetings with the Chairpersons and Members of the existing State Human Rights Commissions with a view to developing healthy conventions in the functioning of the various Commissions and to ensure that, in their effort to promote and protect human rights in the country, they work together smoothly and to the maximum benefit of all of the people of this country. The National Human Rights Commission cannot but observe once again, however, that it is disappointed with the slow pace with which State Governments are acting to constitute State Human Rights Commissions. It has also noted that not all the State Human Rights Commissions that have been established are being appropriately supported through the provision of adequate financial and manpower resources. It strongly recommends that those State Governments which have not yet constituted Human Rights Commission do so at the earliest and that, wherever such Commissions have been constituted, they be provided the backing that is essential to their proper functioning.

XVI. COMPLAINTS BEFORE THE COMMISSION

NUMBER AND NATURE

16.1 The total number of complaints registered in the Commission in 1999-2000 was 50,634, a 24.3 per cent increase over the cases registered in 1998-99. The increase provides evidence of the growing determination of the people of India to defend their rights and their faith in the instrumentality of the Commission to do so. Once again, the State of Uttar Pradesh accounted for the largest number of complaints. The 28,598 cases registered from

this State accounted for 56.5 per cent of the total complaints received by the Commission during 1999-2000. Bihar followed Uttar Pradesh, with 4,409 complaints and Delhi was third, with 3,077 complaints.

16.2 During the year under review, the Commission had a total of 51,159 cases to consider, of which 525 were carry over cases of 1998-99. During the year, the Commission considered 47,819 cases. At the end of this period, 3,340 cases were pending consideration of the Commission. Of the cases that were considered, 20,934 were dismissed in limini and 5,941 were disposed of with directions to the appropriate authorities. 20,944 cases were taken cognizance of by the Commission for further action. 1,406 of these were concluded and 19,538 were pending, most awaiting reports asked for by the Commission from different authorities. Thus, the Commission during this period disposed of a total of 28,281 cases.

16.3 As far as custodial deaths reported to the Commission are concerned, they showed a decline from 1,286 in 1998-99 to 1,093 in 1999-2000. Of the latter, 177 deaths occurred in police custody and 916 in judicial custody. Maharashtra reported the highest number of deaths in police custody, 30 such cases being reported this year; this was followed by 19 from West Bengal and 18 from Madhya Pradesh. In 1998-99 and 1997-98 custodial death cases in police custody were 180 and 191 respectively. Over the past years, the highest numbers of deaths in police custody have been reported from the States of Andhra Pradesh, Uttar Pradesh, Maharashtra, Madhya Pradesh and Assam.

16.4 In the year 1999-2000, the maximum number of deaths in judicial custody occurred in Bihar. 155 such cases were reported from the different jails in that State, followed by 141 in Uttar Pradesh and 126 in Maharashtra. In total, however, the number of deaths in judicial custody came down from 1106 in 1998-99 to 916 in 1999-2000. The guidelines issued by the Commission requiring regular medical checks and health care for prisoners, and periodic reporting to the Commission, thus appear to be having some effect. In addition, the involvement of many NGOs, and in particular Rotary International, has had a beneficial consequence on the health of prisoners. Further, the vigilance of the Commission has increased, not least through the efforts of its Special Rapporteur, who is the Chief Coordinator of the Custodial Justice Programme. Constant monitoring by him, and members of the Investigation Division, has made evident the concerns of the Commission to all State Governments and prison administrators.

16.5 It must be made clear, however, that many of the custodial deaths reported to the Commission are not the result of custodial violence. According to the guidelines issued by

the Commission, every death in custody including deaths reportedly occurring from natural causes, are to be reported to the Commission within 24 hours of occurrence. It is also important to observe that the word 'custody', as used in Section 27 of the India Evidence Act, 1872 does not only mean formal custody. An accused is in police custody when he is under surveillance of the police and cannot break away from the company of a police officer. The word 'custody' as interpreted in various decisions of the courts, might well include conditions such as surveillance, interrogation before arrest etc., irrespective of whether such measures have been formally authorised or not.

16.6 Of the total number of cases admitted for disposal during 1999-2000, 54 cases pertained to disappearances, 1,157 cases were about illegal detention/illegal arrest, 1,647 cases were of false implications and 5,783 complaints against the police pertained to other issues. During this period, the Commission received 59 cases pertaining to indignity to women, 511 complaints about jail conditions and 341 cases of atrocities against SC/STs. 5,443 complaints pertained to failure in taking action.

16.7 A state-wise list of the number of cases registered/considered by the Commission and pending consideration is at Annexure XV. A state-wise list of cases dismissed in limini, cases disposed off with directions, cases concluded and cases pending before the Commission is at Annexure XVI. The cases admitted for disposal during the period 1 April 99 to 31 March 2000 have been categorised. The categories in which the cases have been divided include custodial deaths, custodial rapes, disappearances, illegal detentions/arrests, false implications, other police excesses, failure in taking action, indignity to women, terrorist/naxalites violence, jail conditions and atrocities on SCs/STs. A state-wise list is at Annexure XVII.

16.8 The record keeping has improved in the Commission and in the process certain discrepancies came to light, one such being the duplicate entries in the reported cases of custodial deaths for the years 1997-98 and 1998-99 which have since been corrected. The corrected figures of custodial are 998 and 1286 respectively against the earlier recorded figures of 1012 and 1297 respectively. (Annexure XVIII)

16.9 From its inception up to 31 March 2000, the Commission has ordered compensation in 598 cases. The total amount of compensation that has been ordered is Rs.7,67,83,634/-. The Commission urges the States to respond promptly and also ensure strict adherence to the different guidelines issued by the Commission from time to time, which will help the Commission to dispose off cases more promptly.

INVESTIGATION OF CASES

16.10 The Investigation Division was directed to look into 1,747 cases by the Commission during the period 1999-2000. Of these cases, 1586 cases were related to collection of facts and monitoring. Field investigations were conducted in 161 cases.

16.11 On the basis of reports given by the Investigation Division, criminal prosecution had been launched against 55 officials, both police and civilian and departmental action against 70 police officials. Based on the reports of the Investigation Division, the Commission has awarded monetary compensation in 14 cases where compensation amounts have ranged between Rs. 10,000/- to Rs. 10 lakhs.

ILLUSTRATIVE CASES

XVII. INTERACTION WITH EXTERNAL GROUPS AND ORGANISATIONS

17.1 The Commission has welcomed visitors both from within and outside the country. The doors of the Commission have likewise always remained open to those who want to express their views and suggestions on various human rights related issues and to seek redressal of their grievances.

17.2 The Commission had extensive interactions with the members of the diplomatic corps stationed in Delhi as well as with numerous delegations from abroad. The Commission welcomed such interactions as they helped to place in proper perspective the situation regarding various human rights issues and the effort being made by the Commission in finding remedies for various human rights related problems.

17.3 Mr. David Spring, Director General of the Canadian International Development Agency (CIDA) visited the Commission on 5 July 1999. India's Deputy Permanent Representative Designate to the UN, Mr. Sharat Sabharwal, called on the Secretary General on 15 July 1999. A delegation from South African Human Rights Commission (SAHRC) led by Deputy Chairperson, Ms. Shirley Mabusela, visited the Commission on 26 July 1999. The SAHRC was in process of establishing a focal point for children's right within their Commission and this study tour was to help them gain an understanding of related issues in India.

17.4 Dr. David Vayley, Dean, School of Criminal Justice of the State University of New York, Albany, visited the Commission on 13 September 1999 and gave a presentation about police reforms. He appreciated the steps being taken in India to give more power to civil society and to hold both politicians and public servants accountable for their actions. He welcomed the efforts of the Commission in bringing about systemic changes.

17.5 The Chairperson of the International Advisory Commission of Commonwealth Human Rights Initiative, Ms. Margaret Renolds, had a meeting with the Chairperson, Members and the senior officials of the Commission on 28 September 1999. She briefed the Commission about the human rights situation in Australia and the current issues in the human rights discourse there.

17.6 Dr. Gemuh E. Akuchu, Executive Secretary of the National Commission on Human Rights and Freedom, Cameroon visited the Commission from 28 September 1999 to 5 October 1999. The Commission arranged for his interaction with the National Commissions for SCs/STs, Minorities and Women. He also visited the Punjab State Human Rights Commission.

17.7 The European Union Troika visited the Commission on 11 October 1999. The team included H.E. Benjamin Bassin, Ambassador of Finland, H.E. Mr. Claude Blanchemaison, Ambassador of France, H.E. Manuel Marcelo Curto, Ambassador of Portugal, Mr. Michael Barrie Mc Geever, Ambassador - Head of delegation of the European Commission to India, Nepal and Bhutan and Ms. Ute Banerjea-Komers, Minister, German Embassy.

17.8 The former Chief Justice of Bangladesh and Chairman, Law Commission, Bangladesh, Mr. Justice Kemaluddin Hossain called on the Commission on 1 November 1999. He was on a visit to India under the Distinguished Visitors Programme of the Indian Council for Cultural Relations. The Minister Counsellor of the Royal Danish Embassy in India, Mr. Jes C. Boye-Moller held discussions in the Commission on 3 November 1999. The Commission also interacted with Mr. Michael Lewis Abbott, QC, Chairman, Australia – India Council. The British Minister of State for Commonwealth, Mr. Peter Hain visited the Commission on 18 November 1999, holding wide-ranging discussions with it. A team of Labour Party Parliamentarians from UK called on the Chairperson on 26 February 2000.

XVIII. ADMINISTRATION AND LOGISTIC SUPPORT

STAFF

18.1 As on 31 March 2000, 229 persons including 12 Consultants were in position against the total sanctioned strength of 297.

18.2 During the year 1998-99, five posts were created of Presenting Officers with supporting staff. One post of Presenting Officer had already been filled and action had been initiated for filling the remaining posts.

18.3 Keeping in view the continuing increase in the work of the Commission, proposals were made to augment the staff strength in the various divisions of the Commission. The Staff Inspection Unit of the Ministry of Finance conducted a special study of staff requirements during the year 1998-99. The assessment of staff strength made by SIU was in the final stages of consideration of the Ministry of Finance. The SIU assessed the additional requirement of posts at 55.

18.4 The growing workload of the Commission necessitated the engagement of Consultants. A special dispensation was obtained from Government to engage 20 Consultants in the Commission.

18.5 The process of absorption of employees in the Commission has already been initiated. Options have been obtained from the employees presently on deputation with the Commission for permanent absorption. 58 deputationists have given their option for permanent absorption and action has been initiated for collecting their service records to assess their suitability for absorption in the Commission. Till such time as the Commission builds up its own cadre through the absorption of deputationists, as well as through direct recruitment, the requirement of personnel for the Commission will have to be met through deputation, re-employment, consultancies etc.

ii) SPECIAL RAPPORTEURS

18.6 The Scheme of appointing Special Rapporteurs to assist the Commission in its more demanding and sensitive responsibilities, to undertake field visits on its behalf, to interact with Governmental and non- governmental authorities and to follow-up on decisions of the Commission, continued during the year 1998-99. There were four Special Rapporteurs working for the Commission during the period under review. They were involved with a variety of issues of importance to the Commission, including bonded labour, child labour, the situation in the KBK districts of Orissa and the monitoring of the Supreme Court's remits to the Commission relating to the Agra Protective Home and the three mental hospitals of Agra, Gwalior and Ranchi.

iii) USE OF OFFICIAL LANGUAGES

18.7 From its inception, the Commission has been receiving complaints and reports in Hindi as well as in various regional languages. During the year 1998-99 the Commission received nearly 9454 complaints in Hindi and various regional languages. The translation of reports in regional languages and complaints is the responsibility of Hindi Section. The Hindi Section also translates the monthly newsletter and the Annual Report into Hindi. The scheme for giving cash awards to the writers of original works in Hindi, as well as the undertaking of translations of books on human rights into Hindi continued during the year 1998-99.

iv) LIBRARY

18.8 During the year 1998-99, 234 new titles relating to human rights issues were added to the stock of the NHRC Library. As of 31 March 1999, there were 3,382 titles in the Library. The Commission subscribes to 32 periodicals having relevance to human rights issues.

v) FUNDS

18.9 During 1998-99, the Commission received Rs.6.50 crores (Rs.65 million) as grants-in-aid from the Government of India.

18.10 In terms of Section 34 of the Protection of Human Rights Act, 1993 the annual accounts of the Commission for the years 1994-95 and 1995-96, duly certified by the Comptroller and Auditor General of India, were laid on the table of the Lok Sabha on 28 July 1998 and of the Rajya Sabha on 29 July 1998.

18.11 The annual account for the year 1996-97 has also been certified by the Comptroller and Auditor General of India. The account has been forwarded to the Central Government to be laid before each House of Parliament.

XIX. CONCLUDING OBSERVATIONS

19.1 Those who strive for the promotion and protection of human rights can never be satisfied with their endeavours. The struggle to ensure respect for the dignity and worth of the human person knows no end, whether in this country or anywhere else in the world.

19.2 Despite this elusive quality, however, the tireless pursuit of this objective is essential to the creating of society of equity and justice, a society in which peace can prevail, in which all of its people, in all of their diversity, can feel included in the great adventure of nation-building.

19.3 The distinguished thinker, Mahbub-ul-Haq, once observed:

"It is true that we may never be able to eliminate all social and economic injustices or to provide equality of opportunity to all people. But we certainly can take a few practical steps to make our society a little more compassionate, a little more humane."

19.4 In each of the succeeding years since it was established this, in essence, has been the effort of the Commission. And, not unexpectedly, with each successive year, the Commission has widened the areas of its concern, in order to ensure that the most vulnerable do not remain the least protected, the least respected. In the course of the year under review, as this Report indicates, entirely new challenges demanded the innovative attention of the Commission: for instance, for the first time since its establishment, the Commission made the decision to intervene in the wake of a vast natural calamity – the Super-Cyclone in Orissa – in order to make sure that the human rights of often marginalized groups, widows and

orphans, the destitute, Dalits and Tribals were not ignored in the aftermath of the catastrophe, but kept in the centre of the focus of all involved. To the continuing challenges of dealing with the protection of civil liberties, of proposing systemic reforms in the police, prisons and criminal justice system, of reviewing laws and treaty obligations, and working for the promotion of human rights literacy and awareness, the Commission thus added an increasing and deeper range of measures to protect and promote the rights of the most vulnerable: women and children, bonded labour, persons displaced by mega-projects, denotified and nomadic tribes, members of minority groups, and those challenged by disabilities, or denied access to proper education, health and nutrition, to mention but a few areas of intensified concern.

19.5 The Commission's recommendations, opinions, directions and guidelines must thus be seen in the deeper context of the objective for which it was established, which was to ensure the "better protection" of human rights in the country. It was to serve this objective that Section 12 of the Protection of Human Rights Act 1993 set out a wide range of Functions and Powers for the Commission. The positions that the Commission has taken, the views that it has expressed, and the guidelines it has issued have all had the central purpose of ensuring that the authorities of the State, and all public servants, act more effectively to "better protect" constitutional guarantees and international human rights norms, as interpreted under the judgments of the Supreme Court of the country.

19.6 It is in this spirit that this Report, the seventh in a series, should be read. As in earlier years, its principal Recommendations and Observations, may be seen in summary form at Annexure XIX.

(J.S. Verma)

Chairperson

(K. Ramaswamy)

Member

(Sujata V. Manohar)

Member

(Sudarshan Agarwal)

Member

(Virendra Dayal)

Member

New Delhi

29 March 2001