

# Australia rigid as UN offers to talk it over

REUTERS

CHRISTMAS ISLAND (AUSTRALIA), AUGUST 30

11  
Human Rights

31/8 9/2-6

**A**USTRALIA stood its ground on Thursday saying it would force a Norwegian cargo ship packed with asylum seekers out of its territorial waters as concern grew over the health of the unwanted boat people.

The country's newspapers, however, turned on Prime Minister John Howard over his tough stance against the freighter *Tampa*, with 434 asylum seekers on board. One paper accused him of bungling a humanitarian issue and turning it into a diplomatic crisis.

"PM's Refugee Bungling Defies Reason and Decency" read the headline of a scathing editorial in *The Australian* newspaper. "The government's reaction to the appearance of asylum seekers on our doorstep has degenerated from an offensive, inhumane embarrassment into a full-blown domestic and foreign policy crisis," the national newspaper said.

Australia and strategic partner Indonesia have refused to take in the Norwegian freighter, which has been stranded in the Indian Ocean after people were rescued from a sinking Indonesian boat in international waters five days ago.

Norway said on Thursday it had talked with Australia overnight and noted a more realistic approach to the row. Norway Foreign Minister Thorbjørn Jagland had spoken to Australian counterpart Alexander Downer several times and would continue the talks.

"At least, we agree we have to find a solution and that is a realistic approach to the problem," Norwegian Foreign Ministry spokesman Karsten Klepshvik said. "We won't give up. We will continue to do what we can to resolve the situation," he said.

The UNHCR on Thursday called on Australia to take the lead in resolving the fate of the asylum seekers. In a statement issued in Geneva overnight, the UNHCR offered to help find a solution for the diplomatic im-

## Singapore stresses hard line

**SINGAPORE:** Singapore on Thursday shut the door to the possibility of the *Tampa* being allowed to land in the tiny city state. Without referring directly to the freighter or its human cargo, the immigration department stressed its tough line on refugees and illegal immigrants.

Singapore Immigration and Registration (SIR), responding to a written Reuters query, said the small island nation was in no position "to accept anyone who claims to be a refugee, whether economic or political." "To do so otherwise would open Singapore to the danger of being overwhelmed by the sheer number of people who would want to come here claiming to be refugees," SIR said in a statement. SIR said 9,100 immigrants were arrested in the first seven months of this year after 16,500 were caught last year. — Reuters

asse, including some way for Australia, Indonesia and Norway to share responsibility. "The UNHCR is ready to assist the Australian government in identifying solutions which may include some form of responsibility-sharing between states," the agency said.

Australian Prime Minister John Howard said he expected to talk to Indonesian President Megawati Sukarnoputri later today to end the diplomatic impasse. "We believe they should go back to Indonesia because that was the port of embarkation," Howard told Parliament. But Jakarta has refused to accept the boat people and, in a sign of renewed tension between the two countries, cancelled a visit by Australia foreign office chief Ashton Calvert.

As the crisis entered its fifth day, humanitarian agencies sought access to *Tampa*, concerned about the sweltering, unhygienic conditions on board the crowded ship. The migrants, mostly Afghans and many women and children, have been at sea for more than a week.

INDIAN EXPRESS

31 AUG 2001

# NHRC puts a spoke in Advani's amnesty plan

■ Commission threatens to go to court; Govt says no blanket offer

AJAY SURI  
NEW DELHI, AUGUST 21

**T**HE Union Home Ministry's ideas about granting amnesty to security personnel facing charges of human rights violation in Jammu and Kashmir, the North East and Punjab have run into rough weather. National Human Rights Commission (NHRC) has said that it might go to court against the Government's decision.

Alarmed at the adverse reaction to the move which was announced by Home Minister L K Advani, the Minister of State for Home I D Swamy has now clarified that the Government will not provide officials with blanket amnesty.

The NHRC, however, is waiting and watching. "So far, the Government has merely announced its decision to provide relief to personnel involved in human rights violation cases. If, as Advani says, the plan pro-



vides succor to them within the ambit of Constitution and the law of the land, it's fine by us. Otherwise, we have the option of challenging the decision in court which we may exercise," an official said.

The Home Ministry is concerned that more and more of security personnel are falling foul of the law. During 1999-2000, only five para-military officials were booked by the

NHRC in J&K. The figure rose to 40 during 2000-2001. Army officials in the NHRC net too showed a corresponding rise in the state — from 11 to 69 during the last two year period. Excesses allegedly committed by the local police in J&K this year stood at 69 as against 61 in the last year.

Militancy in Punjab may have died down, but charges of police high-handedness refuse to go. Out of 468 cases being perused by the NHRC during 1999-2000 in Punjab as many 100 fall in the category of police excesses, 11 relate to death in police custody and 42 to judicial custody. This year has been no better: fresh cases of police excesses stand tall at 62 while death in custody has gone up to 13.

But what is alarming for the ministry is that para-military and Army officials are increasingly being hauled up in Punjab. If no official from these outfits was booked during 1999-2000,

CONTINUED ON PAGE 2

# Amnesty to probe torture on Bangla minorities

Imran Rahman  
Dhaka, December 27

AMNESTY INTERNATIONAL, following a request by Prime Minister Khaleda Zia, will send a mission to Bangladesh to monitor the human rights situation in the country after allegations of violence against women and religious minorities.

Amnesty International (AI) Secretary-General Irene Z Khan, a Bangladeshi national, said this in Dhaka after her talks with Begum Zia. "I informed Prime Minister Khaleda Zia about the

mission and she welcomed it." Khan, the first woman and Asian Secretary-General of the world human rights watchdog, said the Amnesty International had already published a report on repression of Hindu minorities in Bangladesh and the mission would further investigate their condition.

"The Prime Minister assured me that she would take action according to Amnesty Interna-

tional's report and would punish the guilty, even if they were Begum Zia's partymen," Khan said. She added that Begum Zia is keen on ensuring human rights in Bangladesh. "But she told me that it would take some time to ensure justice everywhere," Khan said.

The Secretary-General said that she also spoke to the Prime Minister about the detention of journalist Shahriar Kabir. "I

told her we consider Kabir as imprisoned conscience and demanded his release. The Prime Minister told me that it is a complicated case and his release right now is impossible."

She, however, added that she would continue to campaign for his release.

Irene Khan, who is in Bangladesh for the first time after she was elected Amnesty

International Secretary-General in August 2000, said she wanted to know Bangladesh's plan for enforcing human rights.

"The Prime Minister informed that her Government has an elaborate plan. But she wants some more time for proper implementation," she said.

Khan said that they would continue monitoring the human rights situation in Bangladesh. "Last year, when the Awami

League was in power, the Amnesty International had brought out a report on torture in Bangladesh," she said.

Asked what she thought of the human rights situation in Bangladesh, Khan said, there are many problems.

"But the problem is not only political, social and economic aspects are also related."

For ensuring human rights, the main task should be to estab-

lish accountability everywhere. There must be punishment for non-accountability," said Khan.

The Amnesty International Secretary-General said the first right of human beings is security. "People must live in peace. Lawlessness cannot give security and peace," she said.

A recent report of the Institute of Democratic Rights, Dhaka said that some 3,412 people, including 707 women, were murdered and 559 women and children raped in Bangladesh till December 25, 2001.

## NHRC differs with Govt. on Durban agenda

HD-1  
20/8  
By J. Venkatesan *Human Rights* persistence that must cause concern."

NEW DELHI, AUG. 27. Even as the Central Government decided against the inclusion of caste on the agenda of the World Racism conference to be held at Durban in South Africa from August 31 to September 6, the National Human Rights Commission has differed with the Centre and favoured a discussion on all aspects of human discrimination.

Various Dalit organisations, human rights groups and eminent lawyers have criticised the Centre and wanted the Government to reconsider its stand and the NHRC's support has come as a shot in the arm for their cause.

In the NHRC's perception "the debate whether race and caste are co-terminus or similar forms of discrimination is not the essence of the matter". The Commission, in a statement, said, "it is not the nomenclature of the form of discrimination that must engage our attention, but the fact of its per-

The NHRC said that "it is of the opinion that exchange of views on human rights matters, whether at the national, regional or international level can all contribute constructively to the promotion and protection of such rights".

"And the racism conference at Durban provides a singular opportunity to the international community to deal openly and courageously with the vexed issues of discrimination and inequality as they exist all over the world, in all their varieties, including the forms of discrimination that persist in India and all other countries."

"The Commission is convinced that discrimination on any of the grounds, viz., race, caste and descent, constitute an unacceptable assault on the dignity and worth of the human person and egregious violation of human rights."

More reports on Pages 12, 15

## NHRC rejects T.N. Govt. plea

By J. Venkatesan

*human rights*

NEW DELHI, AUG. 23. The National Human Rights Commission today rejected the Tamil Nadu Government's objection that the NHRC could not proceed with the inquiry relating to the alleged human rights violations in the arrest of the former Chief Minister, Mr. M. Karunanidhi, and two Union Ministers, Mr. Murasoli Maran and Mr. T.R. Baalu.

The Commission, headed by Mr. Justice J. S. Verma, also turned down the plea of the State Government for deferring the proceedings for three to four months till the State inquiry commission submitted its report. The NHRC asked the parties to file their replies for going ahead with the inquiry.

On the contrary, the NHRC said it would be appropriate for the Justice Raman Commission of inquiry appointed by the State Government to defer its probe till the NHRC completed its proceedings.

The Commission agreed with the submissions advanced on behalf of Mr. Karunanidhi and the two Union Ministers that NHRC's jurisdiction was excluded only when the subject matter of the inquiry was pending before the Justice Raman commission before the NHRC took cognisance of the same.

In this case, the NHRC said it had ordered notice to the Tamil Nadu Government on July 2, whereas the State appointed an inquiry commission only on July 7.

Hence, by no stretch of the imagination could it be construed that the matter pending before the State Commission had been taken cognisance of by the NHRC. The Commission, which included Mr. Justice K. Ramaswamy, Mrs. Justice Sujata Manohar and Mr. Virendra Dayal, held that Section 36 (1) of the Protection of Human Rights Act could not be applied in this case.

There was no impediment to the inquiry by the NHRC into the matter, the order said adding "the inquiry initiated by NHRC on July 2 shall continue".

On a complaint from People's Watch-Tamil Nadu alleging human rights violations in the arrest of Mr. Karunanidhi and the two Union Ministers, the NHRC, observing that the allegations suggested violations of statutory requirements during the arrest, issued notice to the Tamil Nadu Chief Secretary.

In its reply, the Tamil Nadu Government maintained that at the time of the arrest, all legal formalities were followed and Mr. Karunanidhi was informed about the grounds and a written memo of arrest was issued to his wife, Ms. Rajathi Ammal, who, however, refused to acknowledge the same.

Also, there was no violation or contempt of the Supreme Court order in D.K. Basu's case.

The State Government also submitted that Mr. Maran and Mr. Baalu were arrested as they prevented police from discharging their lawful duties.

THE HINDU

14 AUG 2011

# New battles in an old war

26/8  
HD/16

**T**HE WORLD Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (WCAR), taking place in Durban, South Africa, between August 31 and September 7, is the third of its kind.

It is being held under the terms of a U.N. General Assembly resolution, 52/111 of 1997. Two earlier conferences on the same themes, both called 'World Conference to Combat Racism and Racial Discrimination', were held in Geneva, in August 1978 and August 1983.

The Durban conference is expected to be attended by about 15,000 delegates representing all U.N. member-states, with about 30 heads of State and Government leading their country delegations. Among the participants will be several non-governmental organisations, those with a consultative status with the U.N. Economic and Social Council, and those simply accredited to the conference.

In the latter category are about 1,500 organisations, spread all over the world. About 7,000 delegates representing this worldwide NGO network will be taking part in an NGO Forum scheduled to take place at a venue adjacent to but outside the International Conference Centre (ICC), the main conference venue, between August 28 and September 1. This is to be preceded by a two-day Youth Conference on August 26 and 27.

These deliberations where issues sought to be glossed over at the main conference are bound to be debated with some passion and even acrimony are likely to attract much media attention, especially if, as seems likely given the nature of the 'action' outside such international gatherings since Seattle 1999, they turn out to be rather more newsworthy than the sonorous cliques inside.

Between the last conference and now, the most momentous changes marking further victories in this combat against racism and racial discrimination, whose worst form has been institutionalised apartheid, have taken place in Southern Africa, the last bastion of colonial rule: the independence of Namibia on March 21, 1990 and, finally, of South Africa on April 27, 1994 — though official South Africa does not acknowledge that historic day in such political terms, preferring to celebrate April 27 as 'Freedom Day'. These victories were presaged and indeed facilitated by the defeat of the settler regime in

what was then Rhodesia and the birth of independent Zimbabwe on April 18, 1980.

It is, therefore, appropriate that the Third World Conference, with a much wider agenda underlining the fact that though institutionalised apartheid has been defeated, racial discrimination manifests itself in many subtle forms, including but also transcending race and colour prejudices, is taking place in South Africa. The scope of the conference is broader and more inclusive than before — moving from 'combating racism and racial discrimination' to incorporating 'xenophobia and related intolerance', among the evils that need to be combated.

The conference has been long in preparation, with several preparatory meetings and regional seminars. Starting with the 'Sessional Open-ended Working Group to review and formulate proposals for the WCAR' March (24-26, 1999, Geneva), there have been at least 17 such preparatory meetings and regional conferences and seminars.

Apart from Geneva, which has hosted nine of these meetings, other venues where these issues have been discussed are Warsaw, Bangkok, Addis Ababa and Santiago de Chile which hosted regional expert seminars. Four regional inter-government meetings were held in Strasbourg, Santiago de Chile, Dakar and Teheran.

However, despite these exhaustive discussions, a consensus on the two crucial documents, the 'Declaration' and the 'Programme of Action', remains elusive. After nearly two weeks of deliberations in Geneva earlier this month, the preparatory committee meeting could agree only on 60 of the 131 paragraphs of the Declaration, and 85 of the 106 paragraphs of the Programme of Action.

This is not perhaps surprising, given the very nature of the draft of these documents, whose formulations, verbose beyond imagination, bristle with all kinds of brackets and sub-brackets and brackets within brackets, all apparently the very stuff of the endless wrangles of such preparatory meetings, indicating areas where there has been no agreement. Indeed, the Draft Declaration is preceded by 42 'preliminary paragraphs' (PP), each beginning with highly solemn declarations of intent — 'Considering...', 'Reflecting...', 'Viewing with concern...', 'Taking into account...'

For a flavour of such solemnities, here is PP 40: "related intolerance



South African children signalling opposition to racism.

on grounds of [race, lineage, colour, religion, culture, language, national or ethnic origin [aggravated by forms of multiple discrimination based on reasons of age, gender [sexual orientation], physical and mental disability, *disability*, socio-economic status.\*]" \*Lists are being discussed.

The word disability is italicised in this article, for only thus could one indicate that the word is visibly scored out in the draft, with a line drawn across. The square brackets around 'sexual orientation' occurring in a longer passage also within square brackets, is exactly as it is in the Draft.

Similar is the situation with the provisional agenda, whose very worthy objectives are grouped 'e' which is grouped under five broad themes. These, to quote from an official document, are: 1) Sources, cause, forms and contemporary manifestations of racism, racial discrimination and related intolerance. 2) Victims of racism, racial discrimination and related intolerance. 3) Measures of prevention, education and protection aimed at the eradication of racism, racial discrimination and related intolerance at the national, regional and international levels. 4) Provision of effective remedies, recourses, redress, [compensatory]

and other measures at the national, regional and international levels. 5) Strategies to achieve full and effective equality, including international cooperation and enhancement of UN and other international mechanisms in combating racism, racial discrimination and xenophobia. Once again, consensus not having been reached in the use of the word 'compensatory', the word is placed within square brackets.

These inanities have attracted much less notice than the controversies over the residual newer forms of racism: reparations for slavery and colonialism; and equating Zionism and racism. For reasons which are both historic and contemporary, such formulations stir as much passion, both genuine and hypocritical, in South Africa as in West Asia or in the United States and other western countries. Slave trade, for instance, was a truly

*The scope of the Third World Conference against racism is more inclusive than before. M. S. Prabhakara reports.*

collaborative endeavour involving European powers, the American colonists and African potentates, the common thread uniting all these being power and greed for profits.

Though the U.S. has succeeded in getting references to these matters deleted from the two documents, there is still some uncertainty about whether it attend the conference, and if it does, at what level. The very preoccupation with this question, almost to the exclusion of any discussion of the substantive issues of racism in practice, in forms old and new, is yet another indication of how such international conferences in this era of so-called globalisation — of which they are products even as the participants engage in noisy protests against globalisation — have become a hostage to the national and domestic interests of the U.S. and Western powers.

The U.S. stayed away from the two earlier conferences in 1978 and 1983. Nevertheless, those conferences did mark an advance, the most dramatic of which is the fact that such a Conference is being hosted by a democratically-elected government in South Africa.

Even the most optimistic of the participants in 1983 could have foreseen that the next conference would be held in Durban. In the final analysis, the attendance or

absence of the U.S. from the conference will not affect the situation in the ground — the reality of racism and its contemporary manifestation in the endless cruelties in West Asia.

Interestingly, formulations arguing for or disputing the linkages between Zionism and racism have received much notice, even though these are not directly referred to in the descriptive title of the conference. However, issues of 'Xenophobia and Related Intolerance' specifically included in the descriptive title, evils as destructive of human dignity as racism, have hardly received any attention in the debates that have preceded the WCAR. This is especially so of the seemingly vague formulation about 'related intolerance', though there is nothing vague about 'related intolerance' for those living in this country for whom intolerance of every kind, in every field, is an all-too-living reality.

As in everything else, South African opinion and attitudes towards the WCAR reflect the all-too-obvious racial divide. Thus, the resentment running deep among most Whites about the holding of such a conference, though it is masked under a seeming concern for the costs involved — estimated to be in the region of Rands 100

millions. South Africa is committed to foot about two-thirds of these costs. Another argument routinely made in the radio talk shows and similar talk shops is that the conference will amount to little more than another talk shop; that the priority in South Africa is prevention of crime, and not harping on racism which is dead and buried.

It is true that crime, which touches all sections of the people though its worst victims are the black majority, is an extremely serious problem. But to speak of 'prioritising' in respect of such problems is to miss the very essence of racism — or indeed of the crime situation in this country. South African criminality, as every other social and individual distortion manifesting in the most horribly perverse and cruel and obscene kinds of violence, is organically, causally related to racism.

Surely, only in the context of the centuries of denial of the very humanity, not to speak of the citizenship of the country of their birth, of the majority of the people, which is what institutionalised apartheid was, can the criminal pathology of the state and society of South Africa, even post-apartheid South Africa, be understood. It is not that one should take precedence over the other in any discussion of South African reality; one is indivisibly a part of the other.

It is to credit of the host Government that though some of its own actions often bespeak all the evils enumerated in the descriptive title of the conference, there has been no attempt to underplay these evils, or take recourse to hollow arguments about how the undeniably-admirable Constitution of South Africa outlaws such evils. The leadership of democratic South Africa knows that institutionalised racism has been so seamlessly internalised that the victim in one context can as well be the perpetrator in another context.

This willingness to openly address uncomfortable realities does present a contrast to the quite unwarranted official Indian sensitivities about discussions in international forums of the ugly realities of caste and untouchability, and the individual and institutional violence let loose in their name against the poor — all well documented by official India itself. These too will be highlighted, even if they are kept out of the formal Declaration and Programme of Action.

Over 80 NGOs active in social and political issues of South Asia are included among the list of NGOs who are accredited to the WCAR. Indeed, there is even a South African NGO (Tamil Co-ordinating Committee of South Africa) with an explicit South Asian orientation. Many of them will be in Durban. They will not be silent.

# Amnesty to armed forces must be within law: NHRC

By J. Venkatesan

*Minister Press* *2/18*

**NEW DELHI, AUG. 20.** The National Human Rights Commission today made it clear that it would not interfere with the proposed relief being contemplated by the government for security forces blamed for human rights violations as long as such a relief was within the framework of the Constitution.

Referring to the statement of the Union Home Minister, Mr. L.K. Advani, that the Government would consider some relief to security personnel, commission's sources said it would keep a watch on the steps to be taken in this regard. It was premature to react without any concrete decision by the Government. Meanwhile, the former DGP of Punjab, Mr. K.P.S. Gill, who is also the president of the Institute for Conflict Management, welcomed Mr. Advani's announcement that the Centre was seriously considering relief for security forces within the ambit of the Constitution.

In a statement, he said it had been his consistent position in the context of Punjab that a vast number of human rights cases against police officers and personnel were politically motivated and false and that they were based on concocted evidence by investigative agencies acting under undue and extra-Constitutional pressures. Mr. Gill said that "an objective assessment of human rights practices in India today would demonstrate that this has been transformed into a populist platform for dishonest self-projection, the manipulation of the law and a licence for criminal and subversive action".

"Front organisations of terrorist groupings and compromised political parties and leaders have systematically exploited legal processes in the name of human rights to harass and paralyse the security forces and to promote the objectives of terrorists and

covert foreign agencies especially the ISI," he added.

Mr. Gill suggested the setting up a Constitutional commission to examine the functioning of judicial institutions in situations of widespread terror in Punjab, Jammu and Kashmir and the various affected States of the North-East.

In a separate statement, the vice-president of the Jammu and Kashmir People's Democratic Party, Mehbooba Mufti, said, "if the Government goes ahead with the decision, it will be a black dot on Indian democracy."

## SIMI says it only preaches Islam

**NEW DELHI, AUG. 20.** The Students Islamic Movement of India (SIMI), against which the Government is contemplating imposing a ban for anti-national activities, today sought to defend itself saying it was not preaching enmity against other communities but only calling them towards Islam.

"We do not preach enmity against other communities but call them towards Islam," said a SIMI statement issued at a press conference here.

"We even call Mr. L.K. Advani to embrace Islam — the only true way to eternal success," the statement signed by the SIMI press secretary, Mr. Shahbaz Hussain, said.

Reacting to the Government's charges that SIMI activists were involved in anti-national and terrorist activities in the country, he charged that Mr. Advani "himself led the rath yatra in 1991 leaving behind a trail of death and destruction." — PTI

THE HINDU

2 AUG 2001

# Caste is not Race

## But, Let's Go to the UN Forum Anyway

11-10 1998 By DIPANKAR GUPTA *human rights*

THE mindset created by our liberalisation drive has now become self-generating. Beginning with our dependence on foreign expertise to fight industrial downturn and depleting foreign exchange, we are now looking for foreign help to fight everything, including the caste system. Surely, when liberalisation began nobody could have forecast the ground that it would eventually cover. It is now to Washington or Geneva that one must turn for help in every matter.

At a recent seminar organised in New Delhi by the National Human Rights Commission (NHRC) on whether caste should be included in the forthcoming UN conference on race in Durban, it was interesting to observe many notables were of the strong opinion that caste cannot be fought with national resources alone. It was repeatedly asserted that the might of international agencies needs urgently to be recruited to fight the caste system. So to Durban we shall go was the rallying call, and there the UN committee against racism would be pressured to include caste within its purview and only then would consciousness be raised in this country and the government be forced to deliver.

That the temperament of liberalisation should have gone this far should not come as a surprise. We have ceded knowledge advantage to the West on one front after another — beginning with the economic, then flowing on to the political, and now we need tips on how to handle cultural discrimination as well. It is not as if one must not learn from western experience, that would indeed be stupid. The issue really is that we are increasingly giving up intellectual and political leadership on everything to the West, including in areas where foreigners have no special expertise. How do the enthusiasts who want to go to the Durban conference imagine that international agencies will help fight caste in India? Have they thought this matter through? Will the UN sanction a bombing raid on Delhi? An economic embargo? Or, as the preliminary documents of the Durban conference suggest, the best that the UN can do in this matter is to provide intellectual and strategic direction, as if we haven't had enough of that already.

Of course, our government officials have got off on the wrong foot

as usual. They argue that as caste is an internal matter there is no point in talking about it in front of strangers in Durban. But this does not sound convincing especially as this government, and past ones, have sent off missions all over the world to attend conferences on poverty, which is also an internal matter. Many of our problems are so well known, and have been internationalised for so long, that it is indeed ridiculous suddenly to get possessive about caste. We have a whole lot of dirty linen that has piled up on issues such as poverty and leprosy to AIDS and Kashmir. All of these have been taken to the public realm, but on each occasion we have come back without giving them a wash. Whether or not these causes have profited from such foreign exposure is debatable, but there is no doubt that those who

with what face can the government use the efficacy criterion in this case and not in others?

Liberalisation has also meant that all so-called grassroots activists must now have updated passports if they want to add mileage to their portfolios. An activist at the NHRC seminar complained that he had faced state persecution in the past as his passport had once been impounded and he could not go abroad for six months. Liberalisation has clearly ushered in a new perspective on popular activism in India. Obviously we have internalised the mantras of liberalisation quite comprehensively.

In liberalised times again it is almost bad manners to argue that at the base of social discrimination is grinding poverty. To say this is like going back to the 1960s. The flavour of the new millennium is cultural rights. As if people live and die for culture alone. But such a position is a convenient one to take as politicians of all stripes are now let off the hook and do not have to take tough decisions that would inevitably hurt their sectional interests.

The truth is that Dalit women who are brutalised by policemen and political heavyweights are, without exception, most vulnerable because they are poor. In India today, over 12 per cent of Grade A services in the government bureaucracy are occupied by members of the scheduled castes. Nobody dare do anything to them, or to their dependents, and hope to get away with it. This is because these families are now economically secure and this makes them politically confident. To fight casteism it is important to economically uplift members of the scheduled castes and empower them to fight their own battles.

Nowhere have prejudices been eradicated by government fiat or by goodwill. Consciousness raising is a project that only flabby minds and failed philosophers will find attractive. Caste prejudices can be fought effectively only by the scheduled castes themselves, which is why the policy of reservations for SCs is such a good idea. There should be more of that and greater vigilance needs to be exercised to make sure that more avenues are opened for the economic betterment of the most underprivileged communities in India. This Durban cannot do, but Delhi can.

### IN BRIEF

- Many feel that foreign help is necessary to fight caste
- The Durban meet can do little to eradicate casteism
- The buzzword today is cultural rights
- Economic empowerment is a powerful tool against caste

have championed them have benefited enormously in their individual capacities.

Nor can the government say with a straight face that haring off to the Durban conference will not help fight the caste situation one bit. This is a correct assessment, but it loses its meaning as it is coming from a non-credible source. Our governments have never used the efficacy criterion in sanctioning foreign trips. Huge delegations have attended various Olympiads at enormous public expense, and there has been no improvement as far as India's athletic abilities are concerned. Only recently there was another major jaunt for officials to the Cannes film festival even though there was not a single entry from India at this event. Therefore, when the government says that going to Durban will not help fight caste in India and that is why such a trip should not be allowed, it is being clearly unfair. It has never applied the same standards to other junkets involving other people. Of course, nothing tangible will come out of the Durban conference, but



# ICMR notice to Kerala Govt. ordered

HD-9 Human Rights  
12/8

By M. Raghuram

**MANGALORE, AUG. 11.** The National Human Rights Commission (NHRC) has received a complaint from the villagers of Kasargod district, north Kerala, and has asked the Director of the Indian Council for Medical Research (ICMR) to serve notices on the Chief Secretary of Kerala, the Ministries of Agriculture and Health and the Central Government following media reports about the miseries caused to them due to the aerial spray of the pesticide, Endosulfan, on cashew plantations by the Plantation Corporation of Kerala (PCK).

The notice — copies of which are available with *The Hindu* — has not only asked the ICMR Director to issue notices to Government Departments but also made it a party. It has asked all departments to explain within four weeks, beginning July 27, about the tragedy in the Padre village of Kasargod district.

The NHRC's medical team visited the affected areas last week. The team included Dr. S.H. Saiyed from the National Institute of Occupational Health, Ahmedabad, Dr. Aruna Devang, Deputy Director of the Institute, and Dr. Rajmohan, Director of the Regional Institute of Occupational Health, Bangalore.

The team also held discussions with ESPAC members, the Deputy Commissioner of Kasargod district, Mr. C.K. Vishwanathan, the District Medical Officer, Mr. Abdul Salam, and is expected to submit a report in September.

The NHRC notice comes at a time when the State Government owned-Cashew Research Centre, Madakkathara, is preparing for the visit of a fact-finding mission, headed by Dr. A. Achutan, to the district. The team, which includes Dr. Abdul Salaam, Director of the Cashew Research Centre, is scheduled to arrive at the Padre village on August 20.

The visit of the Achutan committee is viewed with some suspicion by the Endosulfan Spray Protest Action Committee (ESPAC), which is against the recommendations made by Dr. Salaam and another member, Dr. Sundareshan, who is the Deputy director of the State Agriculture department.

The ESPAC leader, Mr. Shripadre, said that the preliminary report of the committee in February had attributed the health problems of the villagers to biological factors. The report also had "major aberrations" on the spread of the pesticide and its water solubility.

An ESPAC delegation will meet the Chief Minister, Mr. A.K. Antony, and the Agriculture Minister, Ms. K.R. Gowri, on Monday and apprise them of the situation in Padre. Their emphasis will be on suspension of aerial sprays and will also urge the PCK to use organic pesticides. The ESPAC will also press for a white paper on the reports of the three committees which have visited the village.

The ESPAC, the Thiruvananthapuram-based environmental NGO, Thanal, and Punchiri, a group of local youth, are holding a meeting at Perla village on August 19, which will be attended by presidents and members of all panchayats which have been affected by the aerial spray.

Many Government organisations have come out with statements denying that they carried out aerial sprays of Endosulfan or other hazardous chemicals.

The Central Insecticide Board (CIB), which regulates aerial sprays, has also said that no Government or private agency had been given permission to undertake aerial spray since 1993; this indicts the PCK, owned by the Kerala Government, of undertaking aerial spray of Endosulfan without the CIB's permission.

An e-mail conference between national and international experts has established that tea mosquitoes, against which the aerial spray of Endosulfan is being undertaken by the PCK thrice a year, affect only 40 per cent of the cashew crop.

The aerial spraying can be phased out slowly if the PCK stops the aerial spray and allows local predators of the tea mosquitoes to multiply.

Mr. Steve Theedan, an international entomologist and expert on non-chemical pesticides, has offered to help the ESPAC find an organic method to counter tea mosquitoes.

THE HINDU

12 AUG 1993

## CURING MADNESS

*Human Rights*  
Determined by social and cultural factors

**T**HIS was something waiting to happen, given the numbers involved in every domain and the resources made available to meet the challenges. The Chairman of the National Human Rights Commission pointed out not so long ago that several mental institutions are known to have infringed the human rights of their inmates and human rights campaigners have pointed out the appalling conditions in which inmates are kept even in institutions run by the government, as the one in Ranchi. Twenty-five people were burnt to death in a mental institution in Ramanathapuram because they were chained to their beds, a practice not normally followed except for the criminally deranged. The excuse that we are a poor country is trotted out to justify everything that should not happen. Nobody has either time or money for the mentally ill. Mental sickness is regarded as a stigma, like Aids, or is interpreted in religious terms, both positively as reward for virtue and as retribution for sin. To which one can add the fundamental loss of dignity which is paired with mental dysfunction. The result is that the treatment reserved for such people is appalling. They are abandoned by their families and even when recuperated in institutions are treated no better than animals. Chaining is common — for prolonged spells — because of the misconception that all mentally ill people are violent and dangerous. This is not so. Modern psychiatry and psychoanalysis are highly developed disciplines and in other more sophisticated cultures a person with a nervous or psychological problem does not end up being ostracised by society. There are short-term and long-term therapies, depending on the nature and the etiology of the illness, and the rate of cure is fairly high. All these are, unfortunately, beyond the reach of the common mental patient, for both financial and cultural reasons. Government medical institutions fail in their social responsibility towards the poor, and this failure is aggravated by cultural factors in the case of mental illness. Attitudes will change only with time when the fact that cure through therapy is possible is socially acknowledged. Meanwhile the government should do something about quackery and the way some of its own institutions are run.

# Asylum fire: NHRC pulls up T.N. Govt.

By J. Venkatesan

NEW DELHI, AUG. 8. The National Human Rights Commission today pulled up the Tamil Nadu Government for not implementing its recommendations in respect of mentally-ill persons kept in dargahs.

The Commission regretted that though a set of directions were given to the State Government on January 15, it was yet to comply with the same though reminders were sent on May 10 and July 31.

On a petition received in August 1988, alleging that mentally-retarded persons were being kept in chains and had little space to move about at the Sultan Alayudeen Dargah at Goripalayam near Madurai, the Commission had sought a report from the District Collector.

The Collector confirmed that 92 mentally-ill patients were staying in the dargah, brought by their relatives with faith in the curative powers of the dargah. He however, denied any incident of beating up of the patients.

The Commission after investigation found that about 100 patients had been tied-up in chains and kept in thatched sheds and verandahs. The report highlighted that similar places/dargahs also existed in other areas of Tamil Nadu wherein mentally-ill patients were chained and kept in the hope of a faith cure.

The Commission got the matter examined by a committee headed by Mr. K.S. Mani of Bangalore and the committee recommended that patients could not and should not be treated as cattle; there should be strict supervision of drug intake by the patients; the

family members should not be allowed to abandon the patients in the dargah, instead there should be health education for the family and explanation of the nature of illness; the living conditions of dargahs need vast improvement without which they should not be allowed to continue and there should be facilities for early diagnosis and regular treatments of mental illnesses in these areas of the State.

These recommendations were sent to the Tamil Nadu Government with a direction to send the compliance report but till now the Government had not complied with these directions despite reminders, the Commission has lamented.

## MPs demand national policy

PTI reports:

Several members of the Lok Sabha today demanded formulation of a national policy for mentally-challenged people and said a central team should visit the State for an inquiry.

The issue was raised during zero hour by the MDMK leader, Mr. Vaiko, who said the tragedy showed that mentally-affected people were subjected to horrible conditions in asylums.

He said despite the Mental Health Act, State Governments had failed to implement it.

The AIADMK MP, Mr. K. Malaisamy, said that the Tamil Nadu Chief Minister, Ms. Jayalithaa, had ordered the immediate closure of the asylum and a probe into the tragedy. An *ex-gratia* payment of Rs. 50,000 had been announced for the next of the kin of the dead, he added.

THE HINDU

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WEDNESDAY, AUGUST 8, 2001

## A LAPSE OF SANITY

ERWADI'S TRAGIC VICTIMS tell the tale of all that is wrong with India's system to take care of the mentally ill. The 26 manacled patients who were burnt to death are but a small representation of the much larger number of mentally-ill, who are either shunned by society or for whom the benefits of modern health care remain elusive. Nothing but a total abdication of responsibility by several sections of society — successive Governments and their administrations, the civil society and not to forget, the parents of the victims — could have resulted in this most tragic end. The immediate task is to bring in strict controls on the mushrooming of private ventures near traditional healing centres. At Erwadi, the Tamil Nadu Government should waste no more time and order the closure of all unsafe dwellings where the mentally ill are incarcerated. Simultaneously, steps should be taken to ensure that such patients are taken proper care of, through scientific and safe intervention mechanisms. In addition, strict punitive action should be taken against the perpetrators of this heinous crime.

A root cause for such events is the complete mismatch between the number of those afflicted with mental disorders and the availability of modern medical care. That there are only 23,000 beds in 37 hospitals across the country to take care of the estimated five crore Indians suffering from various forms of mental illnesses reveals the low priority that has been given to mental health. In a way, the predominant approach to curing mental illnesses — with a significant dependence on faith-healing techniques — is indicative of the low level of understanding of such disorders as well as the inability of the modern systems of medicine to enthuse public confidence in the effectiveness of the scientific cures available. Needless to say, the recourse to non-medical means to find a cure for such disorders only makes the case for further intensifying the efforts to enhance the quality of trained medical personnel and make them available

across the country. In providing ready access to such patients even at the district level lies much of the solution. Existing predominant notions that mental illnesses are a result of either the supernatural, the occult or of some inexplicable phenomena should be countered effectively through a systematic and well-conceived project of public education on the causes and the cures of disorders relating to the mind. As a corollary, the role played by places such as Erwadi, of which there are several examples across the country as well as in other parts of the world, should be understood. These centres have become a part of the public mindset largely because they have found relevance in a society that has failed to deliver on its basic commitments to cater to the interests of the needy, the vulnerable and the ill.

Chaining of the mentally ill, as is being done at several places, is a violation of the principles relating to human rights of the mentally ill. A resolution passed by the U.N. General Assembly in December 1991 states in clear terms that every patient should be given "the right to be treated in the least restrictive environment and with the least restrictive or intrusive treatment appropriate to the patient's health needs and the need to protect the physical safety of others". That the victims were all manacled goes against the principle that the "treatment and care of every patient shall be based on an individually prescribed plan, discussed with the patient, reviewed regularly, revised as necessary and provided by qualified professional staff". Continued acts of omission by the Government will only result in more ghastly recurrences of Erwadi. The measure of success of a state lies in its ability to care for its most vulnerable and helpless sections. For India to emerge with some amount of credible success on this front, it is imperative that correctives steps are taken to ensure the availability of the benefits from medicine to all.

THE HINDU

THE HINDU

8 AUG 2001

# Dalits wade into cancer centre row

HT Correspondent  
Thiruvananthapuram, August 3

DESPITE CHIEF Minister A K Antony's plea for restraint, the controversy over the alleged use of a banned drug in Regional Cancer Centre (RCC) has taken a political colour with Dalit organisations claiming that most of the patients on whom the drug was tested are from backward castes.

Various Dalit organisations are taking out rallies demanding that the Chief Minister, who chairs the governing body of the oncology institute, remove RCC director Krishanan Nair. Some have even urged President K R Narayanan to take back the Padmashree conferred on Nair last year.

"It seems the patients were selected with conscious intent. Poor Dalits are easy prey to such clinical trials. It is shocking that most of the patients are illiterate, so how can the director claim that their consent had been taken before the tests," asked an angry Dalit activist.

"I was misled by the hospital authorities. I cannot read English or Malayalam. I was asked to sign a paper and I was not even aware of the dangerous tests conducted on me," says Gopalan, a patient from Tamil Nadu. Gopalan has moved the State Human Rights Commission against the RCC, John Hopkins University (collabo-

115-7 4/8  
rator in M4N research), Central and State Governments, seeking compensation. Meanwhile, a group of doctors at the RCC disclosed to *Hindustan Times* that a cover-up operation had been initiated at the institute to save the skin of the beleaguered director.

They said a "dominant group" in the Congress was putting pressure on the State Health Minister and the Chief Minister to tone down the scope of the one-man inquiry panel. They allege that the inquiry officer, Dr Purvish Parikh of the Tata Memorial Hospital, has been selected at the initiative of the director. They cite the "studied silence" of the main political parties as an example of the director's "high connections".

"Even the Hopkins University has constituted a three-member experts' body to investigate the issue. However, the Kerala Government has settled for a doctor who is much junior in the field. A doctor who is eighth in the hierarchy of cancer specialists at Tata Memorial Hospital has been entrusted with the probe. His conclusion is everybody's guess," says RCC radiobiologist Dr V N Bhattathiri, who first questioned the alleged unethical medical practices in the hospital.

The last-minute cancellation of John Hopkins University experts' trip to the RCC has raised more doubts.

# Guinea pig syndrome

The Kerala cancer research exposes a wider malignancy

**W**ELCOME to the great Third World biomedical laboratory. As the scientific community takes long strides to increase human longevity and decrease suffering and disease, it may seem like a small price to pay if treatments formulated in cutting edge centres in the West are tested on the poor and needy in tropical lands. It may seem like a legitimate bargain if the good health of millions entails a few risks for tiny control groups. It may seem so, but such excuses cannot be tolerated in any society desirous of acquiring the adjective civil. Reports that patients with oral cancer at Thiruvananthapuram's Regional Cancer Centre have been administered an experimental formulation without being informed of its possible toxicity are spine tingling. It is alleged that doctors at the Centre, conducting clinical trials in association with researchers at Johns Hopkins University, did not unequivocally inform patients of the risks associated with the drug being prescribed to them. A flurry of inquiries have now been ordered — by the Indian government as well as by the American university in their effort to disassociate themselves from the scandal.

Even as the facts of the case are investigated — whether the drug was banned in the US by the Food and Drug Association or just placed in the "generally regarded as safe category", the extent to which the possible toxicity of the drug had been conveyed to patients — it raises serious questions about biomedical research in the country. Given past evidence, and the

flurry of medical research in the West that requires extensive clinical trials, it immediately calls for stringent guidelines and legal provisions. Take the RCC trials. Even at first glance they do not adhere to the most basic ethical standards. Not only was informed consent not taken meticulously, the drug (tetramethyl NGDA) was given to Indian subjects, and not American ones, in the Indo-US joint research. This is violative of guidelines laid down by the Indian Council of Medical Research that collaborative research cannot be carried out only on Indian volunteers. Some years ago plans for foetal tissue research by US and Indian scientists were aborted because it would have involved only Indian volunteers. The Kerala research also violates the Helsinki Declaration — an ethical standard evolved in response to the inhuman Nazi experiments — which states that "concern for the interests of the subject must always prevail over the interests of science and society".

The risk of the poor and illiterate being rounded up as eager guinea pigs cannot be emphasised enough. Just last year hectic attempts were made to change the clause in the Declaration stipulating the "best proven diagnostic and treatment methods" for volunteers to the "best proven diagnostic, prophylactic or therapeutic method that would otherwise be available to him or her" — meaning no treatment at all for vast swathes of the volunteer bank in poor countries. But then, the RCC trials show that such ethical standards in any case could count for little.

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## GUINEA PIGS

Cancer drug trials in Kerala 4/8

QUESTIONS need to be raised about an anti-cancer drug that was administered to patients at the Regional Cancer Centre, Thiruvanthapuram, apparently as part of a study being conducted by a professor who teaches at the Johns Hopkins University, not at its medical school but at its school of arts and sciences. How this is possible is yet to be fathomed. The Centre has a committee which goes into the question of administering new drugs, but according to one of the committee members researchers are allowed to proceed with trials before sanction. The drug in question had apparently been successfully tested on laboratory mice in the United States, before being administered to patients in Kerala where the type of tumour for which the drug has been developed is more prevalent, as it is in other parts of Asia. But is it absolutely nonexistent in the US? After all drugs for rare diseases are being tested all the time where the number of people afflicted is very low. What was the problem? The reason for this given by Johns Hopkins University is that testing protocol in the United States is more strict. It adds that plans for a follow-up study was submitted to the review board of the University, but no sanction was granted. In which case, the question needs to be asked whether people from developing countries are to be used as guinea pigs because they happen to be poor and ignorant and live in countries where laws and regulations are lax and not enforced.

It is yet to be ascertained whether the drug administered has had any harmful effects — Johns Hopkins says the drug was not screened for toxicity — but if it does, then the reputation of a top ranking research institution like the RCC is at stake. The patients were not informed that the drugs were being tested on them, which makes things even worse. One will have to wait and see what action the Centre takes on this, but Johns Hopkins closed down all its federally-funded research projects after a laboratory worker died in an asthma study. This hasn't happened at the RCC as yet, but at the very least an inquiry should be conducted and procedures for conducting trials of new drugs on human subjects should be re-examined and modified, if need be, so that at least the institution's reputation is not jeopardised by cavalier experimentation that invite the further charge of complying with the demands of foreigners whose research has not been approved in their own countries.

# Christian council moves NHRC on saffron excesses

BY OUR SPECIAL  
CORRESPONDENT

**New Delhi, July 30:** The All India Christian Council has called upon the National Human Rights Commission and fellow citizens to take action to counter a series of incidents in several states where the civil rights of Christian individuals and groups have been violently attacked.

The council has said these incidents were mainly carried out by fundamentalist extremists of the Sangh Parivar as well as by the police forces who were acting at their behest. The council is deeply concerned that the Union and the state governments have seemingly condoned such actions instead of taking urgent steps to restore confidence among the terrorised minority.

The council said the Centre was in fact — as per media reports — bringing forward a legislation that would further affect religious minorities and their work in the country and injure their constitutional guarantees.

In a statement issued here on Sunday, All India Christian Council president Dr Joseph D'Souza

AA 3/26/77 and secretary-general John Dayal gave a detailed account how the Sangh Parivar had been acting against the minorities.

"The council will extend all legal assistance to the victims who have been terrorised, especially in Orissa, Gujarat, Uttar Pradesh and Rajasthan," they said.

In Varanasi, a Christian religious worker was among five persons detained by self-styled vigilantes of the VHP on July 24. The five men had come to the city to attend a meeting. Despite the fact that the city superintendent of police admitted that the men were innocent of charges of conversion levelled against them and freed them, the police has not taken any action against the VHP goons, they said.

Death threats have also been made against Bishop M.A. Thomas and officials of an *ashram* in Kota district of Rajasthan, which is home to over 1,500 destitute and orphaned. In Orissa, tribal Christians are being coerced into "reconverting" to Hinduisim.

The police has evoked the infamous Freedom of Religion Act selectively against the Christians, but not against tormentors, they said.

THE FINIAN AGE

THE FINIAN AGE

31 AUG 1977

31 AUG 1977



# A draconian measure

By Kuldip Nayar

*The Union Ministry's circular (setting the guidelines for holding international conferences) violates the norms of a free society.*

IT IS unfortunate that the Supreme Court has dismissed at the admission stage a writ petition which challenged the Home Ministry's memorandum on the invitees from abroad, particularly China, Pakistan, Bangladesh and Sri Lanka, to a conference or seminar in India. The circular requires prior permission of both Home and Foreign Affairs Ministries if the topic at the meeting is "political, semi-political, communal or of a religious nature or is related to human rights".

I cannot make any detailed criticism of the Supreme Court's dismissal because the learned judges have not considered the matter important enough to merit a written judgment. The observations made by the judges during the hearing are my only guide. One observation is that under the cover of international seminars, "large amounts of illegal money" have flowed into the country. I fail to comprehend the connection. Will "large amounts of illegal money" stop coming if there are no international conferences? The type of money the judges are referring to comes to India anyway through many channels.

On the other hand, the international conferences and seminars have to follow several strict rules. There is so much supervision that every penny received from abroad has to be accounted for. The recipients of money have to comply with foreign exchange instructions. Even then I do not rule out certain hanky-panky things happening. It is possible that some money goes astray. Should that be the rationale for such a draconian measure?

The real point at issue is that of freedoms: freedom to express, freedom to know, freedom to assemble and freedom to act as a democratic nation does. True, all the rights guaranteed under Article 19 are subject to the security of the country. The learned judges have said that "large amounts of illegal money" from abroad endangers the security. It is an obiter dictum which has made me no wiser. Any arbitrary answer would be presumptive. The powers of the Court are so immense that it is almost impossible for the court to 'exceed' them. But this fact does not

absolve the court of the duty to use its powers with the greatest care and restraint.

With all humility I want to point out that the Home Ministry's circular is so pervasive and so vague that it violates the norms of a free society. Parliamentary democracy will become effective only when it is a guarantor of individual freedom. It cannot degenerate into something restrictive, something authoritarian. Suppose I want to hold a conference in Delhi to harness support against terrorism in South Asia. There are no guidelines to tell

me how to go about it except seeking permission of Home and Foreign Affairs Ministries. There are no guidelines why I could invite so and so and not so and so. I shackle myself before I prepare the list of participants. For the Supreme Court to give a clarion call to fight against the "illegal operations of the underworld" while rejecting the writ is not in character. We are talking about eminent educationists, lawyers, doctors and academicians who come from different parts of the world. No doubt, the country is going through a phase of violence and terrorism. But the consideration of national security cannot allow any step which may impair an individual's rights or tell upon the openness of our society.

Incidentally, the writ was filed on the basis of my article in this paper on the Home Ministry's memorandum. I also wrote to the National Human Rights Commission to complain that the Home Ministry's circular "attempts to muzzle the points which the Government is afraid to face". My other plea was that the activists who lent their voice to unpopular causes would be stopped in their track.

The commission said in its reply that it had taken up the matter with the Government. I do not know what will be the fate of the commission's intervention

when the Supreme Court has dismissed the petition even without pronouncing any judgment — as if it was a cursory writ. I shall, however, await the end of it because the National Human Rights Commission is headed by former Chief Justice of India, Mr. J. S. Verma. The PUCL petition on the memorandum has been disposed off by the present Chief Justice of India, Mr. A. S. Anand. It is an interesting situation.

However, I do see a glimmer of hope after having talked to the Attorney-General, Mr. Soli Sorabjee. He has been a human rights activist

and before accepting the present position he headed the Commonwealth Human Rights Initiative. He feels let down by the memorandum. He was embarrassed by the remarks some top jurists made when he was abroad. I have myself talked to the Home Secretary who seemed to be aware of the wide disappointment which the memorandum has raised. I got the impression that the Ministry was in the process of amending it. I do not know how the Supreme Court's decision would affect it.

Come to think of it, how superfluous the memorandum is. There are many ways, through the internet or voice devices, to reach one another across the borders. The international conferences convened in the country will at least be more organised and to the point than the Internet meets which may go off at a tangent. Restrictions only make human beings rebellious and irresponsible. The history of harsh steps on secrecy is replete with examples where even the law-abiding people have defied them to keep the torch of liberty aloft.

The memorandum has upset large sections of civil society and goes against Mahatma Gandhi's advice to keep doors and windows open to let the air come from all directions. Rabindranath Tagore

once said: "Nationalism is a great menace. It is this particular thing which for years has been at the bottom of India's troubles. And inasmuch as we have been ruled and dominated by a nation that is strictly political in its attitude, we have tried to develop within ourselves, despite our inheritance from the past, a belief in our eventual political destiny". Unlike the militant nationalists, Tagore placed social reforms before political independence.

Justice J. C. Shah, who went into the excesses during the Emergency (1975-77), found a similar tendency on the part of the Government to dictate when anyone dared to differ. He said in this final report: "If the officials on the one side and the politicians on the other do not limit their areas of operation to their accepted and acknowledged fields, this nation cannot be kept safe for working a democratic system of government". The memorandum has crossed those limits.

Shah also said: "If the nation is to preserve the fundamental values of a democratic society, every person whether a public functionary or private citizen must display a degree of vigilance and willingness to sacrifice. Without the awareness of what is right and a desire to act according to what is right, there may be no realisation of what is wrong".

During the Emergency, for many a public functionary the dividing line between right and wrong, moral and immoral, ceased to exist. The Home Ministry has given officials a legal rationale to go berserk. The Supreme Court, which failed the country during the Emergency, should have put the Ministry on the mat.

I had pinned my hopes on the Supreme Court. I am disappointed. In fact, I feel let down. Today the Court is preoccupied with difficult problems. But it must stretch the Indian Constitution to protect human rights — the rights of the individual citizen — against various manifestations of official and private power. I feel the law and Government impose more burden on an individual's rights than he or she can safely bear.

THE HINDU

- 1 AUG 2001

# The tradition of torture in custody

**S**erious human rights abuses include extrajudicial executions and other political killings and excessive use of force by security forces combating active insurgencies in Jammu and Kashmir and several northeastern states; torture and rape by police and other agents of the government, and deaths of suspects in police custody throughout the country; poor prison conditions; arbitrary arrest and incommunicado detention in Jammu and Kashmir and the Northeast; continued detention throughout the country of thousands arrested under special security legislation; lengthy pretrial detention; prolonged detention while undergoing trial; occasional limits on freedom of the press and freedom of movement; legal and societal discrimination against women; extensive societal violence against women; female bondage and prostitution; trafficking in women; child prostitution, trafficking, and infanticide; discrimination and violence against indigenous people and scheduled castes and tribes; widespread intercaste and communal violence; increasing societal violence against Christians; and widespread exploitation of indentured, bonded, and child labour...

The law prohibits torture, and confessions extracted by force are generally inadmissible in court. Nevertheless, torture is common throughout the country, and authorities often use torture during interrogations. In other instances, they torture detainees to extort money and sometimes as summary punishment.

Although human rights organizations welcomed the government's decision to accede to the United Nations convention against torture and other cruel, inhuman or degrading treatment or punishment, they believe that its decision not to accept Articles 20, 21, and 22 of the convention would effectively undermine the UN human rights commission's ability to investigate allegations of torture once the convention is ratified. In July the home minister told Parliament that "the question of ratifying the convention is engaging the government." By the year's end, the government had not rati-

Extracts from the US Department of State India Country Report on Human Rights Practices for 1998, released in 1999

fied the convention.

In 1997 the UN special rapporteur on torture reported that torture was practised "systematically by the security forces against persons in Jammu and Kashmir" in order to coerce them to confess to militant activity, to reveal information about suspected militants, or to inflict punishment for suspected support or sympathy with militants. Ac-



Right into it

ording to the special rapporteur, "on no occasion had information been made public regarding instances of action taken against security force personnel in Jammu and Kashmir for acts of torture". As of December 1997, 55 cases of disappearance and custodial death were still pending against Border Security Force personnel in Jammu and Kashmir. According to human rights organizations active in the state, 12 young men from Kurhama Ganderbal were arrested by personnel of the Dogra regiment in July and taken to an army camp, where they were beaten severely and had a mixture of water and chili powder poured on their genitals. On June 12, personnel of the 19th Rashtriya Rifles arrested and severely tortured Shabir Ahmed Malik of Gal-

moona district, Kupwara. He was admitted to SMHS hospital, Srinagar, following his release on June 13, examination revealed extensive damage to internal organs. In May, army personnel from Malangam Bandipora district, Baramullah, invaded the home of Ghulam Rasool Bhat in Malangam and tortured Bhat and his wife Nisara. According to human rights groups, both were stripped and subjected to electric shocks and cigarette burns. Human rights activists maintain that there is a similar pattern of abuse by security forces in the Northeast. Police atrocities against indigenous people include torture.

The UN special rapporteur on extrajudicial executions received responses from the government to several inquiries. In the case of Purushottam Kumar and Monoj Kumar, who reportedly died in police custody as a result of torture, the government stated that four police officers had been found guilty and that further investigations by the state police were under way. The government denied wrongdoing by the police in several other cases involving allegations of death from torture while in police custody, telling the special rapporteur that those in question had died of cardiac arrest or other illness, or by mishap during altercations with police. The special rapporteur also made new inquiries into allegations of extrajudicial executions during the year. The special rapporteur on torture noted that methods of torture included beating, rape, crushing the leg muscles with a wooden roller, burning with heated objects, and electric shocks. Because many alleged torture victims die in custody, and others are afraid to speak out, there are few firsthand accounts, although the marks of torture have often been found on the bodies of deceased detainees. The UN special rapporteurs on torture and on extrajudicial killings renewed their requests to visit Jammu and Kashmir to the government in 1998, but they were not permitted to do so.

The prevalence of torture by police in detention facilities throughout the country is borne out by the number of cases of deaths in police custody.

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## AGREEMENT REACHED ON PROLIFERATION TALKS

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28/7

# U.S., China to resume human rights dialogue

**BEIJING, JULY 28.** The United States Secretary of State, Gen. Colin Powell, today announced after meeting China's leadership that the two countries would resume a human rights dialogue broken off when U.S. jets on a NATO mission bombed Beijing's embassy in Belgrade in May, 1999.

"I am pleased that our two countries will be resuming our dialogue on human rights in the coming months," Gen. Powell told a news conference after talks with the Chinese President, Mr. Jiang Zemin, and other top officials.

"The dialogue will begin with immediate conversations between the Assistant Secretary of State, Mr. Lorne Craner, who has responsibility for this area, who is travelling with me and participated in all the meetings today," he added.

"I introduced him to the leaders in every single meeting and he will begin discussions regularly leading up to more formal discussions later in the year," Gen. Powell said. Gen. Powell said he did not raise specific cases of any detainees such as the three U.S.-linked scholars expelled this week.

Earlier, Gen. Powell, held official talks with his Chinese counterpart, Mr. Tang Jiaxuan, during which the two sides reached agreements in principle on several issues, including non-proliferation.

China and the U.S. agreed in principle to hold an expert consultation on non-proliferation, and details would be discussed through diplomatic channels, the Foreign Ministry spokesman, Mr. Sun Yuxi, said.

This follows severe pressure from Washington on China's non-proliferation track record, especially violation of its commitments under a Sino-U.S. agreement in November, 2000 in which China had agreed not to assist other countries such as Pakistan in developing nuclear missiles and delivery systems.



**The U.S. Secretary of State, Gen. Colin Powell (centre), and the Chinese President, Mr. Jiang Zemin, sharing a joke with the new U.S. Ambassador to China, Mr. Clark Randt, in Beijing's Great Hall of the People on Saturday. — AP**

Mr. Sun asserted that China had not violated any commitments made to the international community on arms control and missile proliferation.

Mr. Tang and Gen. Powell also agreed in principle to hold a special meeting on enhancing consultation mechanism on military maritime safety in August to avoid military incidents involving the armed forces of the two countries such as the April one mid-air collision of a U.S. spy plane and a Chinese fighter jet that rocked bilateral ties. — Reuters, PTI

THE HINE'S

19 11 2000

**E**ND of July, Hong Kong's human rights record will be scrutinised again at the UN in Geneva. This time, it is the turn of the Committee on the Elimination of Racial Discrimination. There is every reason why the Hong Kong Special Administrative Region government should approach this hearing with trepidation.

In the past few years, the issue has been repeatedly addressed by three UN treaty bodies, and all of them have made the same recommendation - the government should legislate to prohibit racial discrimination in the private sector.

In 1991, the Bill of Rights Ordinance was enacted by the British colonial government, but it only binds the government and public authorities. The private sector was

deliberately excluded because of the business community's objection.

Before the change of sovereignty on 1 July 1997, the UN Committee on the Elimination of Racial Discrimination held two hearings on Hong Kong in March 1996 and March 1997. Both times, the committee urged the colonial government to enact legislation to prohibit acts of racial discrimination by private citizens, groups or organisations.

In 1996, another UN treaty body, the Committee on Economic, Social and Cultural Rights, took the colonial government to task for its "majoritarian" position.

# Racial discrimination's ugly face

Hong Kong must accept the UN treaty bodies' recommendation and enact legislation to outlaw racial discrimination in the private sector, writes EMILY LAU

The committee criticised the government's step-by-step approach, whereby the decision to legislate to protect vulnerable minorities is dependent on the result of public opinion surveys, that is, on majority views.

In 1999, the UN Human Rights Committee expressed concern that no legislative remedies were available to racial discrimination victims. The committee repeated its call for legislation to ensure full compliance with Article 26 of the International Covenant on Civil and Political Rights which guarantees equality before the law.

The severest criticism came from the UN Committee on Economic, Social and Cultural Rights, which held its first hearing on the Hong Kong SAR in April. The committee criticised Hong Kong's failure to prohibit racial discrimination in the private sector and considered that a breach of the SAR's obligations under the International Covenant on Economic, Social and Cultural Rights. Sounding like a broken record, the committee repeated the call to extend prohibition of racial discrimination in the private sector.

In April I went to Geneva on behalf of The Frontier to attend the hearing by the Committee on Economic, Social and Cultural Rights. Later this month, I will go to Switzerland again to present The Frontier's views to the Committee on the Elimination of Racial Discrimination. Representatives from three other non-government organisations will also go to Geneva to lobby the committee.

In the Report presented to the UN, the SAR government repeated its "majoritarian"

position and asserted that anti-racism law should not be enacted because public opinion surveys have shown that over 80 per cent of the respondents were against it. Hence, the government said, public education offers the better way forward.

The government told the UN that legislation must be "attentive to the climate of public opinion" and have the community's support. A balance must be struck between conflicting pressures and judgments made about what is appropriate at a particular time and place.

In April, the Hong Kong Secretary of Home Affairs, WK Lam, told the Legislative Council the administration has an open mind on whether to legislate or not, but must feel the public pulse carefully.

Mr Lam said ethnic minorities have indicated they do not want to see themselves being pitted against the community.

Mr Lam said Hong Kong is a harmonious society where people from different backgrounds live and work together harmoniously and where violence based on racial discrimination is almost unheard of. He said the government has to be sensitive to the feelings of not just the minorities but also the majorities.

The Frontier thinks such argument is flawed because the essence of discrimination is discrimination of the minority by the majority. If we insist that anti-racism legislation can only be enacted when there is wide public support, we may never have such legislation.

It is our opinion that discrimination in whatever form is repugnant and intolerable. If we accept Mr

Lam's logic, Hong Kong should only contemplate enacting legislation to outlaw racial discrimination in the private sector when ethnic minorities have been beaten up or even killed. Surely, that would be far too late.

I do not deny that Hong Kong is a harmonious society, but under the veneer of harmony lies degradation and humiliation suffered by the ethnic minorities, particularly those with a darker skin. As Mr Lam said, many of these people do not want to confront the local Chinese. Hence they opted to remain silent.

An indication of the magnitude of the problem is the number of complaints received by the Equal Opportunities Commission which has no statutory powers to handle complaints relating to racial discrimination.

Last year, the EOC received 66 such complaints, which is more than double the number of complaints received in the preceding three years.

Being a party to the various international human rights covenants, the SAR government has an unshirkable responsibility to take immediate and effective measures to eradicate racial discrimination.

Legislation is a form of education and can send a powerful message to the community that discrimination is unacceptable and must be punished.

The excellent work done by the EOC is a testimony to the importance and the effectiveness of anti-discrimination legislation.

Though the government has maintained that public education is more preferable to legislation, the work it has done in this area is laughable. In the report submitted to the

UN, the government revealed that a paltry \$6 million was spent in 1998 and 1999 to educate the people to accept minority groups.

The money was spent on a television variety show, a television "announcement in public interest," two poster campaigns, a Code of Practice on employment, a services guidebook for migrant workers, publication of some comic story books, posters and leaflets and a drawing competition and exhibition. By any yardstick, these

efforts are pathetic. They will only re-enforce the impression that the SAR government has no intentions of eradicating racial discrimination.

The ethnic minorities have suffered in silence for far too long and they are beginning to speak out.

A responsible government should not take advantage of its people's good nature.

Hong Kong must accept the UN treaty bodies' recommendation and enact legislation to outlaw racial discrimination in the private sector.

(The author is a member of The Frontier, a pro-democracy group based in Hong Kong.)

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S <sub>1</sub>	R <sub>1</sub>	G <sub>2</sub>	N <sub>1</sub>	I <sub>1</sub>	A <sub>1</sub>	M <sub>3</sub>
A <sub>1</sub>	O <sub>1</sub>	A <sub>1</sub>	N <sub>1</sub>	R <sub>1</sub>	C <sub>2</sub>	T <sub>1</sub>
P <sub>2</sub>	L <sub>1</sub>	S <sub>1</sub>	E <sub>1</sub>	T <sub>1</sub>	T <sub>1</sub>	E <sub>1</sub>
S <sub>1</sub>	S <sub>1</sub>	U <sub>1</sub>	T <sub>1</sub>	I <sub>1</sub>	U <sub>1</sub>	N <sub>1</sub>

4th Letter Triple  
Triple Word Score

PAR SCORE 125-135  
by JUDD

FOUR RACK TOTAL  
TIME LIMIT: 20 MIN

**DIRECTIONS:** Make a 2 to 7 letter word from the letters in each row. Add points of each word, using scoring directions at right. 7-letter words get 50-point bonus. "Blanks" used as any letter have no point value. All Judd's words are in The Official Scrabble Players Dictionary (Merriam-Webster) and OSW Official Scrabble Words (Chambers). **JUDD'S SOLUTION TOMORROW** 3-23-01 © 2001, United Feature Syndicate, Inc.

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P <sub>2</sub>	E <sub>1</sub>	R <sub>1</sub>	J <sub>4</sub>	U <sub>1</sub>	R <sub>1</sub>	Y <sub>4</sub>	RACK 1 =	107
O <sub>1</sub>	V <sub>4</sub>	I <sub>1</sub>	C <sub>2</sub>	I <sub>1</sub>	D <sub>2</sub>	E <sub>1</sub>	RACK 2 =	63
W <sub>4</sub>	A <sub>1</sub>	R <sub>1</sub>	M <sub>3</sub>	T <sub>1</sub>	H <sub>4</sub>		RACK 3 =	17
P <sub>2</sub>	A <sub>1</sub>	R <sub>1</sub>	A <sub>1</sub>	B <sub>2</sub>	L <sub>1</sub>	E <sub>1</sub>	RACK 4 =	67

PAR SCORE 160-170  
JUDD'S TOTAL 254

3-23-01  
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THE STATEMAN

# MPHRC draws flak for report on caste-based flesh trade

MADHYA PRADESH

MD SHAHID PERVEZ in Bhopal

**T**HE Madhya Pradesh Human Rights Commission was recently accused of committing "gross human rights violation".

The MPHRC's report on "Caste-based prostitution in Madhya Pradesh" has drawn fire from many women's groups, human rights and voluntary organisations. They described the report as "shocking, misleading, discriminatory, inhuman, and humiliating".

"It is disgraceful that the report has specifically dubbed the people of three castes of Madhya Pradesh - Banchhara, Bedia, and Sansia - prostitutes, pimps and HIV positive," says Purushothaman Mulloli, general convenor of the Joint Action Council Kannur. JACK is an NGO spearheading the campaign against the MPHRC for the past few months.

MPHRC undertook the study with financial support from the Unicef last year. Its report was submitted to the state government on 13 September 2000.

These Scheduled Caste communities live in various parts of Madhya Pradesh. The report was written by MPHRC chairman Mr Justice Gulab Gupta.

JACK and other bodies like the Ekta Parishad, a social organisation, are outraged by statements in the report such as: "Prostitution among Banchharas, Bedias, and Sansias of the state is not an economic necessity but is a social compulsion forced by the males of the castes; prostitution is the hallmark of these castes; ... a minor girl born in (such a) caste is forced by her parents and relatives into prostitution (and she enjoys living such a life)...parents and brothers (of these castes) initiate their daughters and sisters into the flesh trade, procure customers for them and thrive on their earnings."

"Male Banchharas were criminals from the beginning and engaged in petty thefts... (they) are even now criminals...nowadays many of them act as pimps; (India) is also the only land where women are treated by some as saleable commodity and forced into prostitution; since prostitution is socially acceptable, the social status of Banchhara prostitutes is higher than Banchhara married women."

"These remarks are absurd as economic deprivation forces women into prostitution. They could belong to any caste or community," says Mr Mulloli,

explaining that many men and women from these castes are currently holding responsible positions in government and private sectors.

What has further angered the voluntary bodies is the claim made in the report that, "This year's medical examination of Banchhara females shows that about 50 per cent of them are HIV positive." "This estimate," says Mr Mulloli, is "baseless, unfounded and illegal since there is no scientific or medical basis for this assumption and no evidence has been given to corroborate this sweeping generalisation."

"Is the MPHRC aware that even testing people for HIV/Aids without their consent amounts to a gross human rights violation - leave alone going public about the HIV status of an entire community?" These organisations have demanded that the MPHRC immediately withdraw its "highly offending and insensitive" report and apologise to the people of the three communities.

"Apart from violating its obligations, the MPHRC, by preparing such a report, has flouted national and international laws and conventions on HIV/Aids such as India's NACO HIV policy, WHO HIV testing policies and guidelines, the Paris Aids Summit Declaration 1994, and the UN Sub-Commission resolution 1995," says Mr Mulloli.

In a historic Declaration of Commitment on HIV/Aids in June, the UN General Assembly said HIV/Aids is not just a medical problem, but an economic, social and human rights issue.

"The disturbing thing," says PV Rajgopal, national convenor of Ekta Parishad, "is that a statutory body created to safeguard the human rights of people, irrespective of their caste or creed, seems to have colluded with market forces with vested interests to come up with this scandalous, anti-people report."

In a letter to UN Secretary-General Kofi Annan in March, JACK protested against Unicef's sponsorship of the MPHRC report which had allegedly sought to degrade women on the basis of their caste. "Stigmatising population groups ... only serves to breed social contempt for women of these castes making it impossible for them to live respectable lives - thereby driving them to poverty and prostitution," the letter said.

Following public outrage over the report, Unicef urged the

MPHRC to "withdraw the report from circulation". Unicef representative in India Maria Calivis stated in May, "Those concerns (raised over the MPHRC report) are legitimate. Unicef also had reservations about the quality of the survey and its conclusions.... We were not involved in any way with the supervision of the research but we take responsibility for not having guided its outcome."

Mr Justice Gupta, however, stands by his report. In his defence, he says the MPHRC report is based on detailed, authentic official information and research and that it is the outcome of a "serious, honest and comprehensive study on the subject".

He says the report has drawn heavily on government documents and figures. Even the medical examination of Banchhara women were carried out under the aegis of the state government, which "has all along acknowledged that 'caste-based prostitution' is prevalent among Banchharas, Bedias, and Sansias, a fact recognised by other agencies and several researchers for decades."

"The state government had launched the now-defunct Jabali programme in 1982 for rehabilitation of the women prostitutes of these castes." Mr Justice Gupta says there could not be any doubt about the MPHRC's "right intentions" for preparing the report. He says the MPHRC believes caste-based prostitution among these communities is "one of the worst violations of human rights of their women." These need to be immediately eliminated to restore their human dignity.

He attacked JACK and other organisations for criticising the report. "Such criticism is negative and leads nowhere in curbing the evil of caste-based flesh trade," he says, adding that "it would be much more constructive if they (the critics) could visit these communities and suggest measures for their uplift and welfare."

Mr Justice Gupta claims the Unicef has not written to him so far to withdraw the controversial report. "How could Unicef ask us to withdraw a report which is ours," he argues. "The report is an independent study carried out by the MPHRC and Unicef's role was limited to providing it financial support only."

The opposing groups, however, will intensify their campaign against the MPHRC if it continues to refuse withdrawal of

the report.

They have also urged Chief Minister Digvijay Singh to

immediately intervene to preserve the sanctity of a vital statutory organisation like the MPHRC.

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L	I	M	T	A	I	I	RACK 1
L	B	E	R	T	M	E	RACK 2
O	B	R	C	T	I	O	RACK 3
N	E	I	D	T	S	N	RACK 4

PAR SCORE 170-180  
by JUDD

FOUR RACK TOTAL  
TIME LIMIT: 20 MIN

**DIRECTIONS:** Make a 2 to 7 letter word from the letters in each row. Add points of each word, using scoring directions at right. 7-letter words get 50-point bonus. "Blanks" used as any letter have no point value. All Judd's words are in The Official Scrabble Players Dictionary (Merriam-Webster) and OSW Official Scrabble Words (Chambers). **JUDD'S SOLUTION TOMORROW**

### SCRABBLE® YESTERDAY'S SOLUTION BY JUDD

W	A	N	I	G	A	N	RACK 1 = 63
P	I	L	L	O	R	Y	RACK 2 = 74
M	A	Y	H	E	M		RACK 3 = 16
T	H	U	M	B	S		RACK 4 = 21

PAR SCORE 110-120  
JUDD'S TOTAL 174

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THE STATESMAN

# কেন্দ্রের সায় ছাড়া ৫ দেশের প্রতিনিধি ডাকা যাবে না বিশ্ববিদ্যালয়ের সেমিনারে

দেবীদাস আচার্য

কেন্দ্রীয় স্বরাষ্ট্র ও বিদেশ মন্ত্রকের আগাম অনুমতি ছাড়া দেশের কোনও বিশ্ববিদ্যালয়ের আন্তর্জাতিক সেমিনারে বাংলাদেশ, পাকিস্তান, চীন, শ্রীলঙ্কা ও আফগানিস্তানের প্রতিনিধিদের আমন্ত্রণ জানানো যাবে না। সেমিনারের বিষয় যদি রাজনৈতিক, আধা-রাজনৈতিক, সাম্প্রদায়িক বা ধর্মীয় হয় কিংবা মানবাধিকার সংক্রান্ত হয়, তা হলেও স্বরাষ্ট্র মন্ত্রকের ছাড়পত্র প্রয়োজন হবে। আলোচনার বিষয়ের সঙ্গে কোনও ভাবে আন্তর্জাতিক সম্পর্কের যোগ থাকলে একই সঙ্গে বিদেশ মন্ত্রকের কাছ থেকেও সবুজ সঙ্কেত নিতে হবে। এই কেন্দ্রীয় সিদ্ধান্তে রাজ্যের বিভিন্ন বিশ্ববিদ্যালয়ের উপাচার্যেরা বিস্মিত ও ক্ষুব্ধ। তাঁদের মতে, কেন্দ্রের এই পদক্ষেপ বিশ্ববিদ্যালয়ের স্বাধীনতায় অবাঞ্ছিত হস্তক্ষেপ।

দেশের সব বিশ্ববিদ্যালয় এবং ডিমড বিশ্ববিদ্যালয়ের রেজিস্ট্রারের উদ্দেশ্যে মানবসম্পদ উন্নয়ন মন্ত্রক থেকে লেখা এক চিঠিতে বলা হয়েছে, এই ব্যাপারে এত কাল যে-নিয়মকানুন ছিল, স্বরাষ্ট্র মন্ত্রক তার কিছু পরিবর্তন ঘটিয়েছে। কোথায় কী ধরনের পরিবর্তন করা হয়েছে, তা বোঝাতে ওই চিঠির সঙ্গে স্বরাষ্ট্র মন্ত্রকের একটি নির্দেশিকাও জুড়ে দেওয়া হয়েছে। বিশ্ববিদ্যালয়কে কোন ক্ষেত্রে স্বরাষ্ট্র মন্ত্রকের এবং কোন ক্ষেত্রে বিদেশ মন্ত্রকের ছাড়পত্র নিতে হবে, ওই নির্দেশিকায় বিস্তারিত ভাবে

তা-ও বলে দেওয়া হয়েছে। গত ২০ জুলাই পাতিয়ালায় অ্যাসোসিয়েশন অব ইন্ডিয়ান ইউনিভার্সিটিজের সম্মেলনে বিষয়টি আলোচিতও হয়।

স্বরাষ্ট্র মন্ত্রকের এক বিজ্ঞপ্তিতে বলা হয়েছে, আন্তর্জাতিক সেমিনার আয়োজনের ছাড়পত্র পাওয়ার জন্য ১৯৮৬ সালের ২৬ মে এবং ৪ নভেম্বর যে-নিয়ম নির্দিষ্ট হয়েছিল, বর্তমান নির্দেশিকা তার জায়গা নেবে। নতুন নির্দেশিকায় আগাম অনুমতি নেওয়ার কথা বললেও রাজনৈতিক, আধা-রাজনৈতিক, সাম্প্রদায়িক, ধর্মীয়, মানবাধিকার বা কোনও স্পর্শকাতর বিষয়ের আলোচনায় কেন্দ্র যে সাধারণ ভাবে বিদেশিদের যোগ না-দেওয়ারই পক্ষে, বিজ্ঞপ্তিতে তা জানিয়ে দেওয়া হয়েছে। কারণ হিসাবে বলা হয়েছে, বিদেশিরা কোনও বিশেষ মত প্রচারের জন্য সম্মেলনের মঞ্চকে ব্যবহার করতে পারে। যে-সব ক্ষেত্রে বিদেশ মন্ত্রকের অনুমতি প্রয়োজন, সেখানে সংশ্লিষ্ট (এখানে মানবসম্পদ উন্নয়ন) মন্ত্রককে দু'সপ্তাহের মধ্যে বিদেশি প্রতিনিধি এবং সম্মেলনের খুঁটিনাটি তথা বিদেশ মন্ত্রকের কাছে পাঠাতে হবে। রাজনৈতিক দৃষ্টিকোণ থেকে বিচার করে বিদেশ মন্ত্রক দু'সপ্তাহের মধ্যে মানবসম্পদ উন্নয়ন মন্ত্রককে অনুমতি দেওয়া বা না-দেওয়ার সিদ্ধান্ত জানিয়ে দেবে।

রাজ্যের বিভিন্ন বিশ্ববিদ্যালয়ের উপাচার্যেরা উপাচার্যদের সর্বভারতীয় সংগঠনের মাধ্যমে এই সিদ্ধান্তের বিরুদ্ধে প্রতিবাদ জানানোর জন্য প্রস্তুত হচ্ছেন।

কলকাতা বিশ্ববিদ্যালয়ের উপাচার্য অধ্যাপক আশিস বন্দ্যোপাধ্যায়, বিদ্যাসাগর বিশ্ববিদ্যালয়ের উপাচার্য অধ্যাপক আনন্দদেব মুখোপাধ্যায় জানিয়েছেন, তাঁরা সংগঠনের বার্ষিক সম্মেলনে বিষয়টি তুলবেন। তা ছাড়া আলাদা ভাবে ওই বিজ্ঞপ্তি বিশ্ববিদ্যালয়ে পৌঁছলে কলকাতা বিশ্ববিদ্যালয়ের পক্ষ থেকে জোরালো প্রতিবাদ জানানো হবে বলেও উপাচার্য জানান। তিনি বলেন, সেমিনারে বিদেশি প্রতিনিধি এলে কেন্দ্রকে জানানোর একটা নিয়ম ছিল, কিন্তু কখনওই এই ভাবে স্পষ্ট করে দেশ বা বিষয় চিহ্নিত করা হয়নি।

কলকাতা ও বিদ্যাসাগর বিশ্ববিদ্যালয়ের উপাচার্যেরা মনে করেন, কূটনৈতিক সম্পর্ক থাকা সত্ত্বেও যে-ভাবে পাঁচটি দেশকে আলাদা করা হল, তাতে ওই সব দেশের সঙ্গে সম্পর্ক খারাপই হবে। একই সঙ্গে তাঁদের মতে, এই বিজ্ঞপ্তির মাধ্যমে কেন্দ্র সুরক্ষার বাহনায় বিশ্ববিদ্যালয়ের দেওয়াল ভেঙে ঢুকে পড়ল। এটা কোনও ভাবেই সমর্থন করা যায় না। সদ্য দক্ষিণ ভারত থেকে কলকাতায় ফিরে রবীন্দ্রভারতীর প্রাক্তন উপাচার্য পবিত্র সরকার বলেন, কেন্দ্রের এই সিদ্ধান্তের বিরুদ্ধে দক্ষিণের বিশ্ববিদ্যালয়গুলি ইতিমধ্যেই প্রতিবাদ জানাতে শুরু করেছে। তিনি বলেন, সেমিনারে যারা আসেন, তাঁরা সম্মাননীয় শিক্ষক। আগেভাগেই তাঁদের অপরাধীর কাঠগড়ায় দাঁড় করানোটা খুবই অপমানজনক। বিদেশে গেলে আমাদেরও একই ভাবে অপমানিত হতে পারে।

# Govt. circulars — violation of rights

By Rajindar Sachar

*The Government would be mistaken if it assumes that the challenge to such patently illegal circulars (as the one on holding international seminars) has ended.*

189-12

WJ

**T**HE REJECTION summarily by the Supreme Court, without giving any reasons, of the writ petition challenging the circulars of the Central Government by which prior approval is to be obtained from the Ministry of Home Affairs in regard to international conferences to be organised by Indian NGOs, associations, universities, even with regard to subjects of human rights, and worse, from the Ministry of External Affairs also if the participants are from Bangladesh, Sri Lanka and Pakistan may be considered by the Government's apologists as a shot in its arms. But it has also revived the debate about the effectiveness of the Judiciary in safeguarding the fundamental right of freedom of speech guaranteed to the citizens of the country and has occasioned the caustic comment that while legislatures are one generation behind public opinion, the Judiciary is one generation behind the legislature.

For some time, the alleged judicial activism was being projected as a repudiation of the charge of the courts being conservative. But that was due more to the concern over alleged environmental pollutions, an obsession of the affluent, while the misery of hundreds of thousands of slum-dwellers and oustees of projects such as Narmada has not received similar response.

The Government would be mistaken if it assumes the challenge to such patently illegal circulars has ended. The reason is that the Supreme Court in several decisions has ruled that dismissal of a petition at the preliminary hearing without giving reasons is neither a *res judicata* nor binding as a precedent under Article 141 of the Constitution, and could be challenged in fresh proceedings before the High Courts or Supreme Court.

The continuance of the Government order flouts the decision of the Supreme Court in its earlier judgment in the Secretary, Cricket Association of Bengal (1995) case affirming that "under Article 19(1)(a) every citizen has a right to impart and receive information as part of his fundamental right to speech and expression". And that the Government is under an obligation to ensure conditions under

which this right can be meaningfully and effectively enjoyed. And further that "freedom of speech and expression carries with it the right to gather information, and to exchange thoughts and ideas with others not only in India but also outside".

An equally forceful mandate was expressed in Article 13 of Universal Declaration of Human Rights, 1948. But the real embarrassment to the Central Government is that the circulars violate Article 19 of the International Covenant on Civil and Political Rights (ICCPR), 1966, and which has been ratified by the Central Government in 1979. Article 19 of the ICCPR reads "everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers". A similar right of the citizen is recognised in Article 10 of European Convention on Human Rights. Should India be the only defaulter amongst the democratic nations?

It is well settled that this fundamental right can be limited only by reasonable restrictions under a law made for the purposes mentioned in Article 19(2). And further that the burden is on the state to justify the restrictions. Government circulars undoubtedly have no statutory basis and that is why it is legally infirm as the Kharak Singh case (1963) has categorically held that "if any regulation constitutes an infringement of any of the freedoms guaranteed to him by the Constitution then the only manner in which this violation of the fundamental right can be defended is by justifying the impugned action taken by reference to a valid law i.e., be it a statute, a statutory rule or a statutory regulation".

This precondition is essential otherwise it will also violate Article 14, because as said in Satwant case (1967) "While in the case of enacted law one knows where he stands, in the case of unchannelled

arbitrary discretion, discrimination is writ large on the face of it. Such a discretion patently violates the doctrine of equality, for the difference in the treatment of persons rests solely on the arbitrary selection of the Executive. The argument that the said discretionary power of the state is a political or a diplomatic one does not make it anytheless an executive power".

The Government circulars also run foul of the fundamental right of Article 21 of the Constitution, because as said by the Supreme Court in the Reliance Ltd. case (1988), "Right to know is a basic right which citizens of a free country aspire in the broader horizon of the right to live in this age in our land under Article 21 of our Constitution". That right has reached new dimensions and urgency.

The Government cannot claim immunity by merely calling circulars a matter of procedure, as Article 21 mandates a "procedure established by law" which means an enacted law or statutory order, and not executive circulars as in the present case. It is well settled that procedure can only be followed if there is a statutory provision. Absent that, the present order is null and void. Also, "Procedure which deals with the modalities of regulating, restricting or even rejecting a fundamental right falling within Article 21 has to be fair, not foolish and must rule out anything arbitrary, freakish or bizarre. A valuable constitutional right can be canalized only by civilised process".

Why this suspicion about public bodies? The danger of foreign invitees being in fact saboteurs does injustice to the responsible individuals, NGO, universities. Such an approach shows greater confidence in the ability and patriotism of small officials rather than top academicians and public men.

If the circulars continue, we may have the indignity of the organisers (who include Supreme Court judges) of the International Law Association, who are

holding a conference at Delhi to be presided over by the Chief Justice of India, having to obtain prior approval for holding the conference (to be attended by foreign judges, law professors) from the minions of the Ministry, notwithstanding that all foreign visitors have to obtain Indian visas in any case.

Comical if not a tragic paradox that while seeking to improve good relations with our neighbouring countries especially Pakistan by even opening sensitive borders, the circulars should so insult their citizens that if the participants from these countries are attending a meet on even an innocent subject such as international arbitration law, clearance has to be taken from both the Ministry of Home Affairs and the Ministry of External Affairs, which is not needed if the participants were from other countries of Asia-Europe.

It is in that context that one recapitulates with nostalgia the anguished but determined rap given by Chief Justice Patanjali Sastri to the highest of political leaders such as Pandit Nehru, who were visibly upset at some earlier judgments of the Supreme Court striking down legislation because it violated fundamental rights of citizens by firmly stating "that we think it right to point out what is sometimes overlooked that our Constitution contains express provision for judicial review of legislation, as to its conformity with the Constitution. If then, the Courts in this country face up to such important and none too easy task, it is not out of any desire to tilt at legislative authority in crusader's spirit, but in discharge of a duty plainly laid upon them by the Constitution. This is especially true as regards the fundamental rights, as to which this Court has been assigned the role of a sentinel on the *qui vive* — and that while the Court naturally attaches great weight to the legislative judgment, it cannot desert its own duty to determine finally the constitutionality of an impugned statute". Wise and strong words which still continue to act as a beacon light to the legal fraternity.

(The writer is a former Chief Justice of the Delhi High Court.)

THE HINDU

20 JUL 2001

# Maharashtra tops list of custodial deaths

PRESS TRUST OF INDIA  
MUMBAI, JULY 18

MAHARASHTRA has the dubious distinction of topping the list of states where maximum undertrials have died in police custody in the period of 1999-2000, the State Assembly was informed here today.

Maharashtra, with 30 deaths in police custody, ranks first in the country and is overall third with 126 deaths in judicial custody, Home Minister Chhagan Bhujbal said in a written reply to a query by Girish Mahajan (Bharatiya Janata Party) and others.

The statistics were given by the National Human Rights Commission in connection with a petition filed by one Suruchi Agrawal in the Supreme Court, Bhujbal said.

The apex court has asked all the states to file affidavits in this regard, the Minister said.

In reply to Dinakar Patil's (Nationalist Congress Party) query, Finance Minister Jayant Patil, in a written reply, stated that 12 state-owned corporations have sought permission for floating bonds.

Patil, to a query by Wamanrao Kasawar (Ind) and others, said the Centre has apparently turned down the state's request for additional Rs 1,000 crore as special assistance to address various problems faced by the metropolis.

Bhujbal, in a written reply, said the Special Task Force (STF), appointed for implementation of Srikrishna commission report, has, so far, submitted eight interim reports to the Government.



## STEP FORWARD

States must worry about custody deaths

**T**HE incident of a young man charged with petty theft dying in police custody in Behala points to the compelling need to proceed along the lines now proposed by the Union home and law ministries to place curbs on policemen at thana levels. If the Centre has its way, the onus of proof for deaths or permanent disabilities suffered in custody will be on the policemen who will otherwise face charges of murder or torture. This is a step in the right direction given the unhappy record of many states, including West Bengal. Law and order is a state subject, which is perhaps why policemen have tended to be used (or misused) by parties in power. This is also why culprits in uniform get away with murder while political masters protect them in every way. State governments have paid lip service to the need to enlighten policemen at lower levels through a process of reforms. The Centre's proposals will demonstrate how serious state governments are in protecting the rights of ordinary citizens.

The number of custody deaths recorded in different states — 173 in 1999 — is unflattering. While Maharashtra tops the list with 31 deaths, West Bengal holds the dubious record of coming second with 29, mostly when victims were undergoing medical treatment. It is worth noting that most of the victims are from the poorest sections, including women who suffer humiliation and worse, while the police are cynically convinced about the need for third degree methods to extract confessions. The Centre has now taken a concrete step to amend the Indian Evidence Act of 1872. However, the effort may come to nought if states do not respond appropriately. If they do, it will restore a sense of confidence in the public mind and leave it to courts to deal with offenders. It will also remove suspicion that policemen go overboard to serve vested interests and then tamper with evidence to cover up their guilt. While proclaimed criminals must be brought to book, defenceless citizens only hope that the state will ensure justice.

**T**HE rationale of human rights is that human personality is invaluable. It is not expendable. Human rights flow from the common humanity and the inherent dignity of every human being and the equal and inalienable rights of all members of the human family. Human rights are not gifts conferred by the State. Constitutions do not create human rights. They are enacted to protect human rights which inhere in individuals antecedent to constitutions and the laws.

It is the solemn obligation of governments to protect and promote the human rights of every person. Unfortunately experience has shown that governments are notoriously remiss in discharging their obligation. Indeed some states are blatant violators of human rights. Consequently, the role of protection of human rights falls to the lot of the judiciary in countries which have a Bill of Rights and which entrust courts with the power of judicial review.

Let me turn to the role of the Indian judiciary, especially the Supreme Court, in the protection of human rights. In the beginning, Courts in India were most concerned with property and proprietary rights.

Personal liberty took a back seat. A telling instance of a literal and narrow interpretation of a vital fundamental right in the Constitution is the early decision of the Supreme Court in the Fifties in the case *AK Gopalan*. Article 21 of the Constitution of India provides that "no person shall be deprived of his life and personal liberty except according to procedure established by law" means any procedure established by law made by the Union Parliament or the legislature of the states.

It refused to infuse the procedure with principles of natural justice and concentrated solely upon the existence of enacted law. It was after three decades that the Supreme Court overturned its decision in *AK Gopalan*.

(The conservative image) of the Court was not wholly accurate. The Court did make some remarkable pronouncements on the issue of personal liberty in the Sixties. In *Satwant Singh's* case the Court held that the right to travel abroad was implied in "personal liberty" guaranteed by Article 21 of the Constitution and therefore a passport could not be arbitrarily refused.

The Court has also upheld the rights of minority educational institutions against encroachments on their autonomy by state legislatures. In its landmark judgment in *Sakal* (1962) the Court provided generous protection to freedom of the press. Restrictions placed on the press under the guise of curbing monopolies were struck down. The government's attempt to stifle press freedom on the pretext of implementation of the stringent import control policy relating to newsprint was foiled in the celebrated decision in *Bennett Coleman* (1973).

In 1973 the Supreme Court evolved the doctrine of the basic structure of the

# Judicial protection of human rights in India

*5-2 12/2*  
The judiciary has creatively interpreted the Constitution to expand the scope of human rights in India. Extracts from a lecture delivered by SOLI J SORABJEE, Attorney-General of India, at the University of Cambridge, England, on 10 July

Constitution in the path-breaking case of *Keshavanand Bharati*. According to this unique doctrine the power of amendment of the Constitution, which in the text

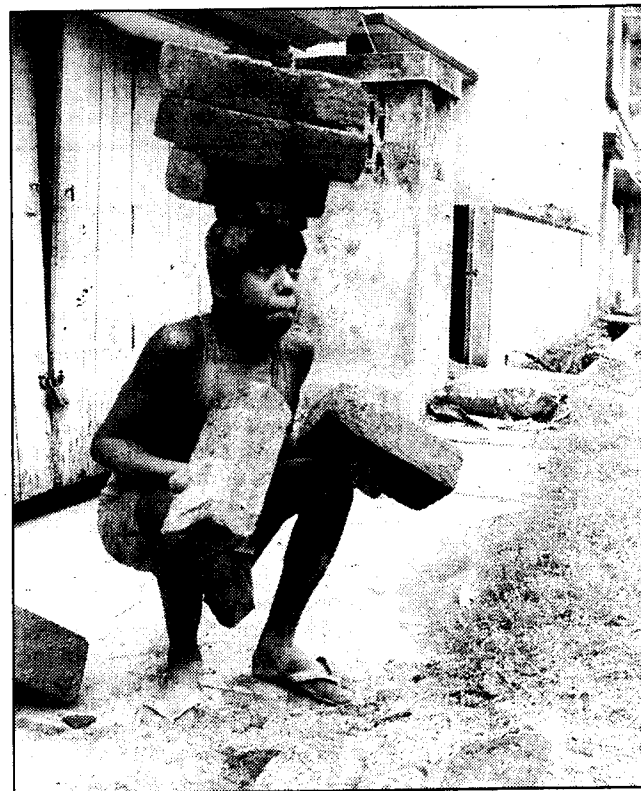
of the article is not subject to any limitations, is however not absolute and cannot be exercised so as to damage the basic structure of the Constitution. In other words, the power to amend does not contain the power to destroy the essential features, to demolish the pillars of the Constitution.

The judgment of the Supreme Court was initially much criticised. The thrust of the criticism was that limitations imposed on the amending power were the result of judge-made law. Besides, there was no unanimity amongst the justices about what were the essential features of the Constitution. There is judicial consensus that democracy, Rule of Law, secularism, federalism, independent judiciary constitute essential features of the Constitution and forms its basic structure. It is debatable whether the Parliamentary form of government based on the Westminster model is an essential feature.

A significant judicial contribution has been the enlargement of fundamental rights by deducing or spelling out fundamental rights which are not specifically mentioned in the Chapter on Fundamental Rights. This judicial exercise is performed on the principle that certain unarticulated rights are implicit in the enumerated guarantees.

May I give you some illustrations. The Constitution does not specifically guarantee freedom of the press as a fundamental right. In several decisions of the Supreme Court, freedom of the press has been held to be implicit in the guarantee of freedom of speech and expression and has thus acquired the status of a fundamental right by judicial interpretation.

There is no legislation as yet securing freedom of information. The Supreme Court by a creative interpretation of the free speech guarantee in *SP Gupta's* case



Can the law be made relevant to the needs of the least privileged of Indian society?

in 1980 deduced the right to know and the right of access to information on the reasoning that the concept of an open government is the direct emanation from the right to know which is implicit in the guarantee of free speech and expression.

The right to travel abroad has been spelt out from the expression "personal liberty" in Article 21 of the Constitution. Although there is no specific provision in the Constitution prohibiting cruel, inhuman and degrading punishment or treatment, the Court has evolved this right from other provisions of the Constitution, namely Article 21 in conjunction with Article 14. The Court has ruled that the right to elementary education up to the age of 14

is a fundamental right emanating from the all pervasive Article 21. Right to privacy has also been spelled out from Article 21 which apparently is a vast inexhaustible reservoir of unenumerated rights.

The Supreme Court has appreciably contributed to environmental protection. In the *Virender Gaur* case the Court ruled that the right to live with human dignity encompasses within its ambit, the protection and preservation of environment free from pollution of air and water and sanitation without which life cannot be enjoyed and that hygienic environment is an integral facet of right to healthy life.

In its efforts to prevent environmental degradation the Court has ordered certain tanneries and chemical industries which were discharging effluents into the lakes and rivers to stop functioning, unless the effluents were subjected to a pre-treatment process by setting up primary treatment plants as approved by the State Pollution Boards. The Court was conscious that closure of tanneries may bring unemployment, loss of revenue but firmly ruled that "life, health and ecology have greater importance to the people".

Another field in which the Supreme Court has made a remarkable contribution is in the case of

custodial violence. It is a notorious fact that in India torture is rampant in police cells and police stations. The Court has ruled that in case of death or injuries suffered whilst the person was in police custody, the burden will lie on the authorities to establish that the death or injuries occurred owing to natural causes.

Courts have awarded monetary compensation as a remedy in public law in cases of torture and death of persons by the police and have sometimes imposed a fine on the person found guilty of causing death and made the amount payable to the heirs of the deceased. The compensation awarded is distinct from, and in addition to, the remedy in private law for

damages for tortious action for which a regular suit may be filed and which may hopefully be decided in Indian courts after a couple of decades.

One of the greatest achievements, and one which has enabled the Court to make its invaluable contribution to human rights, has been the liberalisation of the rule of *locus standi*.

The traditional doctrine in civil law that only a person directly affected by an act or omission of the legislature or the executive can be regarded as a person aggrieved and can approach the court for relief has not been accepted by the Court.

The reason is that such a restrictive rule of *locus standi* would effectively deny access to a large number of people who, owing to poverty and severe social and economic handicaps, are totally unable to approach courts for enforcement of their fundamental rights which continue to be violated with impunity.

Such a state of affairs is subversive of the Rule of Law. In view of these realities, the Supreme Court has laid down that where judicial redress is sought for legal injury to the disadvantaged and downtrodden segments of society, any member of the public of an organisation acting bona fide and not for oblique considerations, can maintain an action on their behalf.

However, there is one area in which the judiciary has sadly lagged behind. It is well settled that access to Courts is a basic human right. However, unless there is effective and expeditious access there is denial of justice and also denial of this basic human right. Hamlet's lament about the law's delays still haunts us in India and the horrendous arrears of cases in courts is a shameful blot on our legal system, especially the criminal justice delivery system. If justice is not dispensed speedily, people will come to believe that there is no such thing as justice in Courts. This perception has caused many a potential litigant who has been wronged to settle out of court on terms which are unfair to him or to secure justice by taking the law into his own hands or by recourse to a parallel mafia-dominated system of "justice" that has sprung up. The gravity of this development cannot be underestimated. Justice delayed will not only be justice denied. It will be Rule of Law denied.

After briefly surveying the scene what honest appraisal can be made of the over all role of judicial sentinels in India about the performance of their solemn duty of protecting and promoting human rights? A fair assessment would be that despite the baneful effects of some of its judgments, the occasional aberrations of the judicial process and the rare lapses of some judges, the Indian judiciary has been a good sentinel on the *qui vive*.

The most heartening feature is that Courts have started taking human suffering seriously and are responding to it with sensitivity. On balance the Indian judiciary has upheld the Rule of Law, sustained constitutional values and made human rights meaningful. And that is no mean achievement.

# Stalin complains to rights panel

By Our Staff Reporter

**CHENNAI, July 11.** The Chennai Mayor, Mr. M.K. Stalin, today preferred a complaint with the State Human Rights Commission (SHRC), requesting action against "police officers who acted in a high-handed manner" in his house here on the night of the arrest of the former Chief Minister, Mr. M. Karunanidhi (two hours of June 30).

A copy of the complaint was forwarded to the National Human Rights Commission.

After handing over the complaint to an SHRC member, Mr. Swamidurai, Mr. Stalin said the "atrocities" which occurred that night should not happen to any citizen anywhere.

"I have not approached the Commission for my own sake. This is to ensure that no one in

the State is treated in the manner in which my family members were treated," the Mayor said.

The complaint lists the Home Secretary as the first respondent, the others named being the Director-General of Police, the DIG Crime Branch-CID and the Commissioner of Police.

In his complaint, Mr. Stalin says that since he was not available at his residence, the police were infuriated and ill-treated his family members to "win the sweet will and pleasure of the Chief Minister, Ms. Jayalithaa." "If a citizen of my stature - presently the Mayor and elected member of the Legislative Assembly - and my family members are tortured in an uncivilised manner to such an extent, think of the plight of ordinary citizens at the hands of

these merciless police authorities." Mr. Swamidurai said he had to first look into the complaint and decide whether there was a prima facie case of human rights violation. In the event of there being one, the Commission had three options - compensation to the affected; prosecution of those responsible or recommending of action against the guilty to the State Government.

Asked what action the Commission would take if there was no response from the Government, Mr. Swamidurai said it would do what it did "generally" in the given circumstances.

"We will approach the High Court or the Supreme Court and request them to give a direction to the State Government. This the Commission is empowered to do."

## Bihar tops NHRC's list for deaths in judicial custody

By Dipak Mishra  
The Times of India News Service

PATNA: The latest bulletin issued by the National Human Rights Commission (NHRC) in the month of June, puts Bihar on top for judicial custody deaths. Bihar has topped the list for the second successive year. According to the bulletin, out of 910 judicial custody deaths recorded in the country during the year 2000-01, Bihar accounted for 137. It was followed by UP (121) and Maharashtra (104). In the previous year, Bihar had recorded 155 judicial custody deaths. However, the bulletin notes that 90 per cent of the deaths occurring in jail were not related to violence. State human rights experts say that the deaths are more due to unhygienic conditions in jails and malnutrition.

In the category of deaths in police lock-up, it is Maharashtra that tops the list, recording 30 of the 137 deaths all over the country. Bihar did not record a single death in the police lock-up last year. The other states registering police lock-up deaths during 2000-01 are Punjab (13), Assam

(11), West Bengal (9) and Delhi (9). "The orders of the NHRC that a report must be submitted to it within 24 hours of a death in police lock-up, and making videography of the post-mortem and a magisterial enquiry into the case mandatory, have acted as great deterrent in Bihar," stated R. Sharma, the DIG of the human rights cell working under the Bihar DGP.

However, the human rights cell of Bihar is flooded with complaints of rights' violation every year. Most of the complaints are forwarded to it by the NHRC. The commission received 4,895 complaints from Bihar in the year 2000-01. It still was a distant second to UP from where the commission received 41,984 complaints out of the total 77,625 it received last year.

"Out of the complaints forwarded by the NHRC, less than two per cent pertain to policemen committing human rights violation. Over half the complaints are related to other departments like health, jail, excise and others," Mr Sharma stated. He said that during the last five

years, about 50 policemen in the state were penalised for various cases of human rights violation. "We have even recommended dismissal from service in cases related to death in police custody and outraging the modesty of women," he claimed.

He said that the NHRC had ordered recovery of money from the salaries of seven BMP jawans in order to pay Rs 2 lakh as compensation to the widow of Ravindra Kumar, who was shot dead by the jawans in a passenger train. This was not the only case of its kind. "We have ordered payment of compensation to a man beaten up by a sub-inspector from his salary," Mr Sharma stated.

He pointed out that most of the complaints against the state police pertained to non-registration of FIRs or lack of adequate action. He stated that the fact that there was an increase of more than 41 per cent in the number of complaints received by the NHRC between 1999-2000 and 2000-01 indicated the growing awareness about human rights in India.

# Rights panel to probe court lock-up death

HT Correspondent  
Kolkata, July 5

THE STATE Human Rights Commission (SHRC) will investigate the custodial death of a 35-year-old undertrial in the Alipore Court premises yesterday. Chairman of the SHRC, Mukul Gopal Mukherjee has sought the post mortem and judicial inquest report from the South 24-Paraganas SP.

Initial post-mortem findings indicate that no external marks of injuries were present on the victim's body. However, senior police officers said they were

awaiting the post mortem report. Sources said the report states that the victim was suffering from tuberculosis and had developed cysts within the body. "Some of these had burst, blocking the heart, causing the sudden attack," an officer said, quoting the report.

Meanwhile, the victim's mother, Gouri Mondal, has lodged a formal complaint against five officers of the Behala police station. The matter also came up in the State Assembly today when some Trinamool MLAs staged a walkout, demanding the Chief Minister's statement on the mat-

ter. The CPI, a front constituent also demanded a thorough inquiry into the matter. "If the allegations against the police officers are proved to be true, they should be awarded exemplary punishment," said CPI Kolkata district committee secretary, Satya Bhattacharya.

"This could tarnish the image of the Government and this could also hurt the sentiments of the common people about the Government," said Bhattacharya.

Refuting police claims that her son was a heroin addict, Gouri said Satyajit worked as a local

security guard and earned just Rs 500. She said he had been out the evening before and never returned. Police said Satyajit was booked for causing public disorder. The court released Satyajit after imposing a fine of Rs 40. The incident took place after this.

A senior police officer said today Satyajit, an addict, had been showing withdrawal symptoms ever since he was put in the lock-up. "Blood was oozing out of his eyes and nostrils, suggesting that he had a cardiac attack, which is not impossible in such acute cases," the officer said.

## NHRC seeks report from T.N. Govt.

NEW DELHI, JULY 2. The National Human Rights Commission (NHRC) today sought a report from the Tamil Nadu Government on the alleged human rights violation and contravention of laws by the state police while arresting the former Chief Minister, Mr. M Karunanidhi and the Union Ministers, Mr. Murasoli Maran and Mr. T R Baalu.

The NHRC, which took cognisance of the media reports as well as a complaint by an NGO in Tamil Nadu regarding "serious human rights violations in the manner in which the former Chief Minister, the Union Ministers and some mediapersons were arrested, issued notice to state Chief Secretary and the Director General of Police to "respond within a week to enable the commission to further consider the matter".

"In addition to complaints, the current media reports suggest the likelihood that the requirements of the Constitution and the laws for making any arrest may have been contravened by the Tamil Nadu police in effecting the arrests," the NHRC, which held a full commission meeting here, said in the directive.

"If this be true, the commission feels that it will require consideration whether according to the decisions of the Supreme Court and the law laid down thereunder, such acts constitute violation of human rights of the arrested persons," it said. — PTI

HT-8

## Is this a democracy or a police state?

The midnight arrest of M. Karunanidhi and the brutal behaviour of the Chennai police only go to show that no citizen in this country is safe from police atrocity. We are not even aware of our fundamental rights

IT'S AN irony that we feel proud of being the largest democracy when the police and government can almost always violate our constitutional rights. What happened with M. Karunanidhi in Chennai on Saturday is outrageous. But this kind of 'nasty and brutish' police behaviour is commonplace for most Indian citizens, especially those who have neither voice nor power. Besides, we are not even aware of our rights.

Even the elite and the educated classes are not aware that they have certain rights under the Constitution, even when they commit an offence and are arrested by the police in cognizable crimes (wherein the police can arrest them without a warrant from the court). The police have no power to keep anyone in illegal confinement. When such laws are infringed by those who are supposed to uphold the law, the people have the right to approach the court against such confinement.

The powers of arrest are wider in India; arrests can be effected on the basis of reasonable suspicion (Section 41 CrPC etc. refers). In the UK and the US, arrests are made only when the authority concerned has decided to prosecute. To put fetters on police powers, the Constitution grants constitutional rights to the person in custody so as to ensure protection of life and personal liberty. Article 21 of the Constitution lays down that "no person shall be deprived of his life and personal liberty except according to procedure established by laws".

Any wrongful confinement and use of third degree methods are violative of the fundamental rights of an individual. The person so confined and tortured can take recourse to the article and claim protection under the law.

Wrongful confinement is punishable under Sections 342 to 346 IPC and injuries caused to extort a confession are covered by Sections 330-331 IPC (simple as well as serious injuries).

Where a person/suspect has been released on bail and the police continue to visit his residence to ensure his presence (or harass him), the Supreme Court held that "domiciliary visits" by the police in the night to a private house for the purpose of making sure whether he was staying at home or he has gone out "were an invasion on the part of the police of the sanctity of a man's home and amounted to an intrusion into his personal security and therefore violative of personal liberty of an individual, unless authorised by a valid law".

Every person arrested in any bailable offence has the legal right to be released on bail. If bail has been offered and the police do not release him, it amounts to wrongful confinement. The police officer is legally bound to release the person arrested in such cases and the accused has the right to arrange for bail.

According to a directive of the Supreme Court issued in 1997, every accused in police custody will be subjected to medical examination if he remains in custody for more than 48 hours. People in custody have the right to inform about the arrest to their relatives. Police officers must inform his family as soon as possible. The police is

duty-bound to provide all facilities to the accused to contact his relatives about the arrest.

Clauses I and II of Article 22 of the Constitution guarantees four rights to those who are arrested:

- The right to be informed of the grounds of arrest. This is necessary so that he may prepare his defence.
- The right to consult and be defended by a lawyer of his choice. In the US, if a person is arrested, he is given an opportunity to consult a lawyer of his choice. If he is unable to employ a counsel, it is the duty of the court to employ a lawyer for him. In India, the court is not duty-bound to employ a lawyer unless a request is made.
- The right to be produced before a magistrate within 24 hours. This can be extended only under a judicial order.
- The freedom from illegal detention. No accused can be detained beyond 24 hours except by the order of the magistrate.

The above rights are meant for both citizens and non-citizens and to persons arrested and detained under any law providing for preventive detention.

No citizen charged with an offence can be compelled by the police to be a witness against himself — Article 20 (3). Explaining the scope of this clause, the Supreme Court has observed that it is a protection against the compulsion to be a witness; it is also a protection against any compulsion to give evidence "against himself/herself".

The Court has held in the Nandini Satpathy case (1978-SC 1025) when she was prosecuted under Section 179 IPC for refusing to make a statement — "that a police officer was a person in authority and (the) compulsion to answer questions within the

police station's atmosphere was unjustified where there was no safeguards against duress, intimidation, threats of prosecution etc." It was held that it was a clear violation of Article 20(3) of the Constitution. An accused has the right to remain silent when the answers are likely to expose him to a criminal charge.

A woman has the right to be questioned at her residence in the presence of male relatives and she can be brought to the police station only after she is formally arrested. She has the right to be searched only by a woman.

It is worth mentioning that the Legal Aid & Advice Board, the Indian Council of Legal Aid and Advice, the High Court Legal Aid & Advice Committee, the Legal Aid Cell for Woman etc. have been set up to guide the people. But do ordinary people know about them? Is it not the government's responsibility to disseminate this information through the media to the people?

When people in power choose to violate laws with such crude consistency, and when the police go about its task as if we are still slaves of a colonial country, what does civil liberties mean? The answer lies in public awareness. That every citizen, be he a chief minister or an ordinary citizen, has fundamental, constitutional rights, which no power on earth can violate.

The writer is a former Assistant Commissioner of Police



MIDNIGHT KNOCK: M. Karunanidhi

# Amnesty raps globalisation process for rights violations

**The Times of India News Service**  
**NEW DELHI:** Outlining human rights violations in 149 countries, the Amnesty International report has come down heavily on the globalisation process.

Released in the week of its 40th anniversary, the report says, "Globalisation, the spread of the free market economy and technological change" has led to enormous economic expansion, but has been accompanied by debt, poverty and widening inequalities. The challenge today, the report says, is how to hold states accountable for their conduct.

Criticising states who claim they have been forced to adopt economic policies which undermine social, economic and cultural rights, the report says, "It is a disingenuous claim because governments have the power to defend their people against arbitrary actions of multinational corporations or pressures of in-

ter-governmental financial institutions."

About India, the report says human rights violations occurred throughout the country, with socially and economically disadvantaged sections of society continuing to be particularly vulnerable. Inter-caste, communal, inter-religious and political violence claimed many lives in several states, including Assam, Bihar, Gujarat, Jammu and Kashmir, Tamil Nadu and West Bengal.

The government's continuing preoccupation with national security led it to pursue several initiatives for tackling "terrorism" throughout the country, including giving increased powers to a police force which continued to be identified with torture, corruption and other abuses, the report says.

The report quotes official studies during 2000 to show widespread use of torture and ill-treatment and points to political influence, broad powers of arrest, public approval and

inadequate methods of investigation as reasons for the continuing practice of torture.

The report makes special mention of attack on human rights defenders like T. Puroshottam, joint secretary of the Andhra Pradesh Civil Liberties Committee, who was killed by an armed group with a tacit support of state authorities. It also talks of preventive detention of hundreds of people who were going to attend a public hearing by the Narmada Bachao Andolan. Despite attempts by civil rights group, at least 30 people were sentenced to death in 2000 and at least 60 are on death row, it says.

According to the report, perpetrators of human rights violations are not only government officials and state agents, they often are family or community members or employers against whom governments fail to take action. Human rights abuses are also committed on a daily basis by armed opposition and

paramilitary groups.

The report documents extrajudicial executions in 61 countries; judicial executions in 28 countries; prisoners of conscience in at least 63 countries; cases of torture and ill-treatment in 125 countries and "disappearances" in 30 countries. However, Amnesty International believes that the true figures for all these statistics are much higher. "Governments have adopted the rhetoric of human rights, but few have delivered this as a reality," Amnesty International said.

"There is much that governments can and should do. They can ensure that workers are protected from the worst forms of exploitation. They can combat impunity which is the poison that allows human rights violations to spread, to recur or to re-emerge. They can stop attacking human rights activists. They can, and must, live up to their human rights obligations," says the report.

AFP



# Mask ripped off China's ghastly organ trade

Human Rights  
Dr. Wang  
28/6  
Washington, June 28 (Reuters): Chinese doctors have removed organs from executed prisoners who were not yet clinically dead to make money from foreign transplant patients, a doctor who fled China told the US Congress yesterday.

"My work required me to remove the skin and corneas from the corpses of over one hundred executed prisoners, and on a couple of occasions, victims of intentionally botched executions," Dr Wang Guoqi told a House of Representatives subcommittee on human rights. "It is with deep regret and remorse that I stand here today testifying against the practices of organ and tissue sales from death row prisoners," he said. Wang left China a year ago and has been living in the US.

Wang described coordinated procedures that he said government officials and Chinese doctors developed to extract organs from inmates immediately after their executions so they could be transplanted.

However, foreign ministry spokeswoman Zhang Qiyue told a news conference Dr Wang had fabricated "a vicious slander" and "sensational lies" for his own personal good. "Any clear-sighted person can see that this is a vicious slander against China by very peculiar individuals," Zhang said. "Some people will churn out sensational lies denigrating China to achieve their personal goals."

"It is China's policy to strictly forbid any sales of human organs," she added. "The main sources of human organ trans-

plants in China are the willing donations of citizens during their lifetime."

Chinese doctors removed the prisoners' organs on the execution site, in some cases before the prisoners' hearts stopped beating, Wang said.

Wang said that he became tormented by the practice after he followed orders to remove the skin of a still-living prisoner in October 1995.

The incident prompted him to alert the international community to the inhuman practice of organ harvesting in China. "Whatever impact I have made in the lives of burn victims and transplant patients does not excuse the unethical and immoral manner of extracting organs," Wang said.

PHOTOGRAPH BY AP/WIDEWORLD

# Communists turn the heat on Koirala

Keshav Pradhan  
Kathmandu, June 28

AS COMMUNISTS, both main-stream and underground, continue to tighten their noose on the Government, police detected four bombs planted by suspected Maoists here this morning along with a poster opposing the King and the Prime Minister.

Adding more to Prime Minister G P Koirala's woes, the major Opposition Communist Party of Nepal (UML) has replaced the ruling Nepali Congress (NC) as the biggest party in the Rashtriya Sabha, the Upper House of the Parliament.

Residents spotted four crude bombs wrapped in a red cloth hanging from a pole at Machchedra Bahal, about half-a-km from the Old Durbar Square where Kings are traditionally crowned. Police cordoned off the area after defusing the bombs. A couple of months ago, a poster of the Maoist chief Pushpakamal Dahal, alias Prachand, pasted in the locality had created sensation.

Elsewhere, Maoist insurgents looted over Rs 7 lakh and two

## Queen Komal discharged from hospital

QUEEN KOMAL was discharged from hospital on Wednesday, almost a month after she was injured in the massacre that left nine members of Nepal's royal family dead, the Palace said.

A statement said the Queen was discharged after doctors found her recovery satisfactory. She was shot twice in her left shoulder by Crown Prince Dipendra, who killed his parents and seven other royals at the fateful family dinner June 1. Dipendra was reportedly unhappy with his parents, King Birendra and Queen Aiswarya, who rejected his choice of a bride.

Komal was operated on twice. Three other injured royal family members are still recovering in the military hospital.  
AP, Kathmandu

guns from Nepal Bank Limited in Sindupalchok district bordering Tibet yesterday. The same day they shot dead two policemen in Dang in western Nepal.

The UML won eight of the 16 Upper House seats for which elections were held yesterday. The NC bagged seven while the Rashtriya Prajatantra Party managed to win one with the support of the UML. The UML now has 23 members against the NC's 21 in the House, 10 of whose total 60 members are nominated ones.

King Gyanendra himself nominated three members represent-

ing different professions amid reports of Koirala's failure to nominate three politicians as royal nominees.

The loss of majority in the Upper House may invite more trouble for Koirala who is desperately trying to resist the demand for his resignation.

Earlier, Koirala suffered a setback after he failed to get the Rashtriya Sabhas's approval for the Citizenship Amendment Bill that he had cleared before his Delhi visit in July. Communist MPs then alleged that the Bill was aimed at making India happy.

# Rights groups protest charity worker's arrest

By Hasan Suroor

LONDON, JUNE 26. Human rights groups have started a campaign to pressure the Government of India into reviewing the jail sentence of a disabled British charity worker Mr. Ian Stillman, describing it as a case of "miscarriage" of justice. The campaign includes lobbying with the British Foreign Office and the Indian High Commission here besides anyone else who might be in a position to intervene.

Mr. Stillman, who is deaf, was arrested near Manali last August on a charge of drug smuggling and after a trial, which his supporters and family have termed as a "farce", he was sentenced to 10 years, which he has just begun.

Mr. Steven Jakobi of Fair Trials Abroad, told *The Hindu* that the manner in which the trial was held was "in complete disregard of his disability" and amounted to "an abuse of a man who was deaf". He called it the "worst miscarriage of justice I have ever dealt with". Mr. Stillman's case has aroused great interest in the British media, but the Govern-

ment has declined to be drawn into it. Mr. Stillman has been living in India for over 25 years and runs the "Nambikkai Foundation for the Deaf" in Kanyakumari. It is stated that he was an adviser to the Government on disability and next month a conference in Chennai would focus on his "Deaf Child-India" initiative. One newspaper said he was hailed by supporters as a "Mother Teresa like figure" for his extensive work among the deaf in India.

Mr. Jakobi said that Mr. Stillman's travails began when police intercepted a taxi in which he was travelling with two others. While the other two - both Indians - were let off Mr. Stillman was arrested. Later, he was shown a bag containing cannabis. According to Mr. Stillman's family members, quoted in the British newspapers, he was not provided a sign language interpreter during his trial, making it impossible for him to defend himself. "We are totally convinced of his innocence," his brother-in-law, Mr Jerry Dugdale, told *The Guardian*. His sister, Ms. Elspeth Dugdale, said he was "completed committed to India".

# India yet to ratify UN convention

DINDRILA MUKHERJEE  
STATESMAN NEWS SERVICE

## DAY FOR SUPPORT OF TORTURE VICTIMS

51-8 26/6  
KOLKATA, June 25. — When police couldn't find 11-year-old Feroz Ahsan's father, in July 1997, they took Feroz in custody. Allegedly held in unlawful custody for nine days, Feroz was beaten severely. Even after the Human Rights Commission rescued him, he was a nervous wreck who jumped at the sound of a car horn.

Abhoy Sen, head constable of the Special Branch of police, was set on fire allegedly by a colleague in September 1999.

In December 1998, police arrested Bidhito Sarkar. It is alleged that he was cuffed him on the ear till his tympanum was damaged.

Tomorrow, the fourth UN In-

ternational Day in Support of Victims of Torture will be commemorated in more than 80 countries worldwide.

But despite its long history, West Bengal will be left out.

The UN Convention against Torture, enforced in 1987, requires national governments to ensure jurisdiction to punish torture committed either within their territory or by, or against, their nationals. Article 1 of the Convention defines torture as being carried out by or at the instigation of a public official or other person acting in an official capacity.

So far, 123 States have ratified the Convention, India being a notable exception.

In Kolkata, victims of torture are identified by NGOs such as the Association for the Protection of Domestic Rights (APDR). Most victims, the members say, have been tortured by state agencies. While these agencies help victims demand compensation and lodge complaints with the Human Rights Commission, medical treatment is offered by bodies such as the Centre for Care of Torture Victims (CCTV).

Dr Sujato Bhadra, member-secretary, APDR, himself a torture victim in the 1970s, remembers different methods such as 'dhobia', where the police beat you with a cudgel like dhobis beat clothes. "Or they

H. K. 25  
might place you naked on a slab of ice and make drops of water fall at regular intervals on specific parts of your body."

Another victim of police torture in the seventies, Mr Brojo Ray, said, "Imagine sitting upright for 72 hours, without food or water. Even the sound of keys opening a door somewhere while you're waiting your turn, can be terrifying."

CCTV tries to provide psychiatric, orthopaedic and other medical help. Mr Ray recalled the case of Albert Topnu, a worker in a Jalpaiguri tea-garden, who was accidentally shot by forest guards in August 1999.

"He was admitted to North Bengal College, where there is no neurological unit, where he lay for six months.", Mr Ray said.

THE STATESMAN

26/6/99

# NHRC asks Centre, Bengal to check child trafficking

BY OUR CORRESPONDENT

New Delhi, June 24: The National Human Rights Commission has asked the Centre and the West Bengal government to initiate steps to prevent illegal trafficking of Indian Muslim children to Saudi Arabia for begging during the Haj season.

According to a NHRC spokesperson, "The commission has asked the ministry of home affairs, ministry of external affairs and the government of West Bengal to take up preventive measures to check child trafficking. It has recommended that the people from vulnerable sections should be made aware of the dangers of child trafficking especially that of girl children." It was further stated, "As majority of the children sent to Saudi Arabia from India used to be from the border districts of West Bengal, the commission recommends that steps should be taken to stop influx of migrants from Bangladesh to West Bengal." The commission has also urged the Haj Committee of India to scrutinise the pilgrims especially the disabled children. It has recommended that individual

passports should be issued for every child instead of endorsing the name of the child on the passport of the escort. It has asked the immigration authorities of the international airports to interrogate every disabled child travelling to Saudi Arabia to ascertain whether the child is accompanied by his bonafide parent and is not a victim of illegal trafficking.

The spokesperson added, "The problem came to the notice of the commission through a press report that Muslim children, mostly handicapped and girls, were being sent to Saudi Arabia for begging for a period of six months on the payment of Rs 15,000 to Rs 20,000 and the promise of a gold chain. They are generally accompanied by a relative or a pilgrim." Since 1997 the Saudi Arabian authorities have apprehended 223 children while begging in Jeddah, Mecca and Madina during the Haj season and deported them to India. In this connection, 11 criminal cases have been registered, 15 persons arrested and charge sheeted. The spokesperson said, "Although the reported incidents were dealt with, the commission observed that it has brought to light an evil, which still persists."

# NGOs slam report on tribal sex workers

FROM SUCHANDANA GUPTA

**Bhopal, June 10:** The Madhya Pradesh Human Rights Commission might face the wrath of several NGOs for having "violated the fundamental human rights" of three backward tribes.

NGOs in Mandasaur, Neemuch, Ratlam, Bhind, Morena, Gwalior and other northern districts of the state are planning to launch an agitation with the affected tribes from next week against a report published by the state human rights commission, *Caste Based Prostitution in Madhya Pradesh*.

The report financed by Unicef was released on International Women's Day, 2000. The study

identified the womenfolk of three tribes — the Bachharas, Bedias and Sansias — as traditional sex workers of a "socially sanctioned system wherein a minor girl born in a particular caste is forced by her own parents and relatives into prostitution and enjoys to live with it throughout her life". The cover page of the report has the picture of a tribal prostitute.

A Kerala-based NGO, Joint Action Council, Kannur, first came across this report in Delhi. Shocked that such a report circulated by a state human rights commission was labelling women of entire castes as "prostitutes" and their men as "pimps" and describing in derogatory terms entire

communities as "enjoying" and "thriving" on prostitution, the NGO immediately got in touch with its counterparts in Madhya Pradesh.

The tribes had also been named "criminal tribes" by the British. "How is Independent India different from British India?" Mulloli asked. "All three are backward tribes and instead of giving them a helping hand we have a respected state organisation pin-pointing them as prostitutes."

The study describes Bachharas as a "social system supported by a social matrix of complex social forces where parents and brothers initiate their daughters and sisters into the

flesh trade, procure customers for them and thrive on their earnings".

On Sansias, the study observes: "Twenty-nine Sansia girls engaged in prostitution were recovered from Mumbai, Calcutta, Agra and Guna and rehabilitated locally. Seven such girls were married in a government-sponsored ceremony on August 11, 1985. It is said that even this failed to stop prostitution and 21 recovered girls returned to the flesh trade in Mumbai."

Throughout the 70-page report, the tribal women have been looked down upon as though they were social outcasts. There are sections which read:

■ "What should a liberated prosti-

tute do? The state seems to think that marriage is the solution to all their problems. But who will marry a prostitute?"

■ "A prostitute is a prostitute, whether with a birth mark or otherwise."

Even children were not spared by the report which said: "A child prostitute would need behavioural correction before rehabilitation and unless it is done, future rehabilitation planning may not succeed."

"The language is offensive," the NGO heads alleged. Brinda Karat, general secretary, All India Democratic Women's Association, wrote to Unicef. On May 2, the Unicef replied, washing its hands of the report.

# Caste-based discrimination stokes up international row

By Rajiv Shah

The Times of India News Service

**GANDHINAGAR:** The National Campaign for Dalit Human Rights' (NCDHR) latest effort to internationalise caste-based discrimination as a major issue needing focused attention at the upcoming UN Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance, to be held in August-September 2001 in Durban, South Africa, has thrown up a fresh round of controversy over a subject that has so far attracted little attention.

After the top-level preparatory committee meeting (PREP-COMM) at Geneva for the conference (May 21 to June 1), the campaign leadership and the Indian officialdom seem all set to confront each other over the issue.

It is led by two Ahmedabad-based Dalit leaders, Pravin Rashtrapal, a Congress MP, and NCDHR convener Martin Macwan, who runs Dalit NGO Navsarjan Trust. The issue has already led the Government of India to be on the defensive. Meanwhile, the Vishwa Hindu Parishad has strongly suggested the intention to challenge and fight back. The Centre's position was spelt out by Indian ambassador to the UN at Geneva (permanent mission) Savitri Kunadi, who told the PREP-COMM meeting that caste cannot be equated with apartheid. But she agreed to include "discrimination on the basis of work and descent" in the

UN covenant on human rights.

Back from Geneva, Mr Rashtrapal has sought Congress president Sonia Gandhi's intervention with Prime Minister A.B. Vajpayee.

In a letter to foreign minister Jaswant Singh, who chairs the Indian commission for Durban, he said, he was shocked to find that the official Indian delegation prevailed upon the UN secretariat to ensure the removal of the phrase "discrimination based on caste".

Meanwhile, the VHP has strongly opposed the NCDHR's stand. Acharya Giriraj Kishore, in a statement, widely circulated among Dalit NGOs, has said the "UN has no business to consider caste discrimination as form of human rights violation".

Calling caste as denoting "what profession man has adopted" and a part of "ancient customs and system" which "should not be and cannot be abolished by any court".

If Macwan has called the Acharya's statement a "slap to 50 years of constitutional guarantee to the Dalits in India", as convener of the NCDHR, he has written an open letter to all members of the official commission set up by the Central government, saying, "The issue of caste-based discrimination cannot be considered as the sole concern of one section of the Indian population." It should in fact be made into a "national concern".

The letter emphasises, "We do not agree with the Indian position

that caste is an internal matter of Indian society, and therefore should not be internationalised. In keeping with its Constitution the nation has committed itself to the international human rights regime. We are concerned that eminent diplomat Abid Husein has publicly expressed the view that by equating caste with race the campaign will harm national interests."

Mr Rashtrapal told the Geneva meet, "The Indian government does not enjoy consensus support within the country to deny the inclusion of such a major issue at this conference... A single government should not be able to stand in the way of addressing an issue that affects so many people in so many parts of the world."

Dalits of India, Nepal, Bangladesh and Pakistan, Burakumins of Japan, Osus of Nigeria, Rodiyas of Sri Lanka and certain oppressed communities in Senegal, Mauritania, Mali, Guinea and Madagascar fall under the category.

Top world NGOs, Amnesty International, Human Rights Watch, Max Romana, Lutheran World Federation, DanChurchAid, International Movement Against All forms of Racial Discrimination, Minority Rights Group International, Robert F. Kennedy Memorial, Asian Legal Resource Centre, Bakuru Liberation League of Japan and Human Development Organisation of Sri Lanka have backed the NCDHR stand.

# Rights violations in Kashmir alleged

1/6  
HD-15

**By Our Special Correspondent**

**NEW DELHI, JUNE 3.** A fact-finding team, comprising activists from civil, democratic and human rights organisations, has come out with a damning report on rights violations in the Kashmir Valley and Doda district of Jammu during the ceasefire. The team has accused the armed forces of extra-judicial killings, molestation, harassment of civilians and several other offences.

The team consisted of 11 activists, representing the Peoples' Union for Democratic Rights, Organisation for Protection of Democratic Rights and Human Rights Forum of Andhra Pradesh, Peoples' Democratic Forum, Karnataka, and the Andhra Pradesh Civil Liberties Committee.

Addressing a joint press conference while releasing the report to the media here on Saturday, the team representatives expressed "shock and disgust" at the atti-

tude and operations of the civil administration, the State Police — particularly the Special Operations Group or the Special Task Force — and the armed forces.

The team investigated about a dozen cases of custodial killing, 'revenge' killing, police firing, rape, torture in camps of Pulwama, Srinagar, Badgam and Baramulla districts, besides the towns of Sopore and Srinagar. It also claimed that the victims, who had shared their experience with the members, were being harassed.

Citing specific instances, the report said that custodial killings were explained as "an encounter with armed militants despite the presence of eye-witnesses to testify that the victims were taken into custody prior to the killing."

The team felt that many police acts were unjustified and the Armed Forces (Special Powers) Act was often misused. The Army had resorted to "well-publicised action" only in a few cases.



# Pak children sold as camel racers

Karachi

AT LEAST 30 boys a month are being kidnapped in Pakistan to feed the banned slave trade in racing camel jockeys in the United Arab Emirates.

According to a human rights organisation in Pakistan, the number of boys often as young as four smuggled abroad to work at camel camps is rapidly rising.

The Karachi-based Ansar Burney Welfare Trust (founded by Ansar Burney, a human rights lawyer) claimed last week that 2,000 boys have been taken to the camps over the last two years, despite laws introduced in the UAE in 1998 forbidding the use of small boys in the often dangerous sport.

The trade in boys for camel racing has long been the subject of a campaign by both the UN and Anti-Slavery International. Evidence, however, suggests the practice is becoming more prevalent.

According to a report last year by Anti-Slavery International, the children are often kidnapped, sold by their parents or relatives, or taken on false pretences. In the UAE the boys are often underfed and subjected to crash diets to make them as light as possible. Some children have reported being beaten while working as jockeys, and others have been seri-

ously injured during races.

The rules of the Emirates Camel Racing Federation forbid the use of riders under the age of 14, or weighing less than 45 kg.

The UAE Government said in 1998 it was doing its best to eradicate the practice and that "any camel owners found to be in breach of the rules should be severely punished".

Anti-slavery campaigners have had some successes in returning camel slaves. Two years ago, an eight-year-old Pakistani boy, allegedly kidnapped to work as a camel jockey, was repatriated by the authorities.

He was one of the luckier ones. In August 1999, a four-year-old jockey from Bangladesh was found abandoned and close to death in the desert.

Although some of the children are taken as indentured labourers with the parents' consent, in other cases children are drugged and abducted. Burney maintains that most of the agents kidnapping the children were Pakistani.

He said they could "easily get fake birth certificates, passports, and even fake parents, so the camel owners thought they were brought in with full consent". Children are sold for up to US \$ 3,000 each.

The Observer

THE HINDUSTAN

1999

# On the boil again

RICHARD BEESTON reports on the disturbing trend of human rights abuse in Macedonia

THE women and children should have been rejoicing as they stepped on to the bus to safety after three weeks of living in the middle of a war. Instead, they wept. Tears streamed down the grimy faces of mothers and wives, who knew that their nightmare had only just begun. For three months this conflict had successfully avoided the more brutal episodes of "ethnic cleansing" that plagued the wars in Croatia, Bosnia and Kosovo.

On Tuesday, however, some of the most haunting images of the Balkans returned to a dusty roadside, where men and boys were separated from their families and taken off by Macedonian police to an uncertain fate. It would have been easy to miss the tell-tale signs had the first policeman I approached not reacted so violently. There was little fighting in Kumanovo, in the northern corner of the former Yugoslav Republic of Macedonia on Tuesday and the refugee convoy of tractors and ancient cars looked much like any other blocking the country's roads recently. Yet the young officer was agitated. He swore and brandished his Kalashnikov. After checking that we did not have a camera, he ordered me out of the area. "You bastards, this is all your fault," he yelled, directing a string of abuse at my Macedonian interpreter, who was accused of being a traitor to his country.

The reason for his outburst became clear only when we spotted a group of 40 men and boys, some as young as 12, sitting and standing aside from the rest of the refugees. Some looked longingly at their relatives, who were being allowed to leave. Others stared down, avoiding eye contact with their captors. None spoke. When we caught up with Salvete, 33, a mother, in hospital at Kumanovo, the main regional town, she described the ordeal that her family has endured in the village of Matejce for most of May. "When the fighting started three weeks ago we went into the shelter of the house," she said. "At any one time there were up to 50 people down there. We rarely went out because of the fighting." The village, which has a mixed ethnic Albanian and Slavic Macedonian population, became a front line between government forces and the National Liberation Army guerrilla group. Last week, the Macedonian Army opened an offensive to dislodge the rebels and unleashed a furious barrage with tanks, artillery and helicopter gunships pounding the village. The minaret of the mosque collapsed. "The village sheikh told us to leave this morning, so we got out as quickly as we could," the mother said feebly as she lay in a hospital bed, suffering from exhaustion and dehydration. "I do not know where my husband is or the other men in my family." We told her that an old Yugoslav tourist bus escorted by paramilitary police in all-terrain vehicles had driven into Kumanovo's police station with the men, the first batch of scores of "suspects" being taken in for questioning. Once in the cells, the men have their hands tested with paraffin, a discredited method of searching for traces of gunpowder, which can come up positive if the suspect has smoked a cigarette, handled fertilizer or been put in a military vehicle that has been used to transport ammunition. "They are going to have a nasty time in there," said Peter Bouckaert, of Human Rights Watch, monitoring this disturbing trend in Macedonia.

*The Times, London.*

THE STATESMAN

# Amnesty's crusade

AMNESTY International, founded 40 years ago, was almost immediately dubbed "one of the larger lunacies of our time". The then bizarre idea was to collect information on people incarcerated in prison solely for their political views and then, by means of an army of volunteer activists, bombard the offending governments with massive numbers of letters, postcards and telegrams, calling for the prisoner's swift release.

Other critics called it "subversive" and "an agent of Satan". Ayatollah Khomeini, Idi Amin, Saddam Hussein, Augusto Pinochet, Margaret Thatcher and Jacques Chirac are all heavyweights who have gone into the ring to try and squash it.

In the 1990s and the new century, the criticism has been subtler. The attacks came not only from government leaders but from sceptics in the media as well. Some have argued that Amnesty has become respectable, a part of the international establishment. Others have claimed it has lost its unique profile and been submerged in a plethora of other human rights groups. Perhaps the unkindest cut of all has been the allegation that Amnesty publicity campaigns have resulted in the development of more insidious methods of torture and repression, designed to avoid the calumny of global exposure.

But the prisoners, often enough, have been released. The postcards, telegrams and parcels do get through. Letters return, many smuggled out of prison or past airport censors.

The same week that a young law student was sentenced to three years' imprisonment in an eastern European country - he had been arrested after collecting signatures calling for the release of political prisoners - his father wrote to Amnesty: "I have experienced the blessing of your appeal for you have raised your voice in defence of my son!"

"Amnesty International is a light in our time, particularly for those on whose eyes darkness has fallen, when the prison doors shut behind them".

Among the many victims was a teacher in Latin America. While he was being tortured by the police, they opened a telephone line between the torture chamber and the prisoner's home, forcing his wife to listen to her husband's screams. During the ordeal, she died of a heart attack.

The prisoner survived and eventually was allowed to go into exile with his children. He told Amnesty: "They killed my wife. They would have killed me, too, but you intervened and saved my life." The most unexpected challenge came from the USA. Successive post-Vietnam War governments, starting with the administration of Jimmy Carter, took up human rights as a geopolitical crusade.

Suddenly, US officials round the world were brandishing Amnesty International reports as they waged highly selective campaigns against their enemies, whilst often enough remaining tight-lipped or, at least reserved, about torture and "disappearances" in the regimes they supported for

"reasons of state" in the Cold War age. Famously, during his campaign to build up the coalition against Saddam Hussein prior to the Gulf War in 1990, President George Bush took to quoting Amnesty reports on Iraq, even letting it be known he was sharing them with his wife, who said they made her very upset and angry.

Yet at the same time, the US authorities were steadfastly ignoring Amnesty's critique of the role of the Central Intelligence Agency in torture in Guatemala or the use of capital punishment at home. Amnesty was being used in one-sided, high-profile diplomatic war that threatened to poison international human rights efforts. In what must surely be one of the most extraordinary dialogues for a human rights organisation, Amnesty sent one of its senior people to Washington to plead with US officials to stop quoting from its reports.

By the beginning of the 1990s, the question was not whether Amnesty would survive, but whether it could adapt to a changing world. On the economic front, growing disparities of income, the severe impoverishment of many countries and the danger of economic collapse in some new states of central and eastern Europe held the explosive potential for widespread political instability. Armed conflicts in Europe and Africa were seen

to be spinning out of control, increasing tensions in the surrounding countries and creating vast refugee populations, while international peacekeeping efforts were often proving

impotent. Observers were worried that Amnesty might be becoming overstretched, even developing a tendency in the face of large-scale atrocities to shoot from the hip.

Some claimed that Amnesty was moving too quickly and merely publishing rumours. Picking up the rumblings, the *New York Times* charged that there was a new culture in Amnesty which was "a response to CNN members who see atrocities on television, demand to know what Amnesty has to say about them - and to a growth in a number of rights groups putting out reports in the middle of conflicts".

The mass killings in Rwanda brought the debate to the boil. Pierre Sane, Amnesty's Senegalese-born secretary-general, determined that the genocide in Rwanda should not engulf the entire region, was passionate. "The objective of our report is to force governments to conduct their own investigations quickly". He sensed that time was running out in central Africa. And even without all the research completed, Amnesty had to fire all its cannons. He was right. Forty years on Amnesty remains on the front line, the organisation that has set the pace in making human rights a central tenet, if not always the practice, of the policy of democratic governments everywhere.

Dictatorships often feel they have to, at least, take notice of it. Its successes are often no more dramatic than the constant dripping of water on stone. If Amnesty may not yet have changed the world, it has not left it as it found it either.

## WORLD VIEW

By JONATHAN POWER

THE STATESMAN

JUN 2001

# Amnesty raps U.K. on asylum

By Hasan Suroor

LONDON, MAY 31. In an embarrassing turn to the asylum debate, the Amnesty International has sharply criticised Britain for its policy towards asylum seekers and questioned its human rights record in Northern Ireland.

The Amnesty report comes in the midst of an election campaign dominated by issues relating to asylum with the Tories calling for a tougher policy to keep out "illegal" immigrants, and the Labour indicating a quota system for asylum seekers in its second term in office.

The report, published today, pointed out that upto 1,000 asylum seekers were detained in Britain at any given time and there had been an "alarming shortfall" in providing legal advice to those seeking refuge.

It also condemned the "negative" media coverage saying it tended to pander to "racial prejudice" creating a "hostile environment for many refugees". The policy of dispersing

asylum seekers to areas where people have no experience of living with refugees has also been criticised.

"How can we claim to be a just and tolerant society when we greet those fleeing persecution with such hostility and suspicion," said the Amnesty's annual World Report.

Referring to the plight of refugees from Afghanistan, it said: "It is clear that the journey from Afghanistan to the United Kingdom is one from desperation to despair."

The world human rights organisation, whose findings are invariably invoked by advanced countries such as Britain to criticise the Third World record on civil liberties, has alleged human rights violations in Northern Ireland. It has pointed out that the new Police Act "failed to highlight the centrality of human rights protection" and was short on accountability. The Amnesty report mentions specific cases of alleged human rights violation in Northern Ireland, as also in mainland Britain.

# Amnesty targets US over death penalty

## FROM DEBORAH ZABARENKO

Washington, May 31 (Reuters): Amnesty International took aim at the US yesterday for its death penalty policies and ranked the Texas Board of Pardons and Parole among the world's "human rights scoundrels."

With convicted Oklahoma City bomber Timothy McVeigh set for execution on June 11 and two of four men convicted of bombing US embassies in East Africa now possible candidates for the death penalty, Amnesty accused the US of abdicating its global role as a leader on human rights.

"America's continuing use of the death penalty is another example of the failure of human rights leadership," said William Schulz,

the US director of the international group which has its headquarters in London.

Schulz was speaking at a news conference to release a global report on rights abuses in the year 2000. "It is no wonder that the US was ousted from the United Nations Human Rights Commission," Schulz said. "That defeat was precipitated in part by waning US influence and double standards practices by various administrations and Congresses in the US." He said the US "stands in the same shameful death penalty league as China, Iran and Saudi Arabia".

These four countries account for 88 per cent of all known state killings, Schulz said, noting that they go counter to an international

trend: more than 60 countries have abolished the death penalty since the US resumed executions in 1977.

Amnesty's report also criticized the execution of US prisoners who were under 18 when they committed crimes, the mentally impaired and those who got inadequate legal representation.

Responding to the report, state department spokesman Philip Reeker said, "We fundamentally disagree... with the assertion in the report that the US has become an impediment to the advancement of international human rights."

"I think anybody who has followed the cause of human rights around the world over the years and decades will realise that the

US has been and will remain the leading advocate for human rights throughout the world," Reeker said.

In its list of human rights heroes and scoundrels, the human rights watchdog cited the Texas Board of Pardons and Parole "for operating a flawed and unfair review of death penalty cases, reviewing clemency petitions in secret and voting by fax or telephone without due process procedures."

The group noted that Texas executed 40 prisoners in 2000, and imposed the death penalty 150 times during the five-year governorship of George W. Bush, who was elected US President in November.

In the heroes column, Illinois Gov. George Ryan drew praise for

declaring a moratorium on the death penalty "in light of evidence that wrongly convicted people stand a real chance of being executed." The year 2000 saw 85 US prisoners executed in 14 states, bringing the total number of executions to 683 since the Supreme Court lifted a moratorium on the death penalty in 1976.

The only other US entity on the heroes-and-scoundrels list was Unocal Corp., a California-based energy company criticised for giving financial support to the military government of Myanmar through its business operations there.

Unocal's web site, [www.unocal.com/myanmar/index.htm](http://www.unocal.com/myanmar/index.htm), defends the company's Yadana natural gas project in Myanmar and

criticised "activist groups" for "spreading false and hurtful allegations" about the company and its project.

"Unocal does not defend the actions and policies of the government of Myanmar. We do defend our reputation and the integrity of the Yadana project," the company said on the site. Besides the death penalty, Amnesty criticised the US for cases of police brutality, racial discrimination, torture and ill treatment in prisons and jails, abuse of incarcerated children and maltreatment of women prisoners.

## Cuba repression

President Fidel Castro's Communist government continues to repress political dissidents in Cuba,

with a "serious escalation" at the end of 2000, human rights group Amnesty International said.

"Individuals and groups peacefully exercising their rights to freedom of expression, association and assembly continued to face repression," Amnesty said in a section on Cuba in its annual report. Cuba maintains a one-party political system that outlaws opposition parties and frequently jails or harasses active opponents on grounds they are "counter-revolutionaries" in the pay of the US. Amnesty said some conditional releases of jailed activists led to hopes Cuba was easing off on opponents. "But new sentences and a serious escalation in repression during the closing months of 2000 discouraged such optimism."

THE HINDU  
THREE-DAYS OF INDIA

# Police atrocities

By Kuldip Nayar

*If the Government were to give exemplary punishment to those who indulged in excesses, policemen would learn a lesson. The public too would begin to have faith in the law and order machinery.*

110-10  
22/5

**A**T A Standing Committee meeting on Home Affairs, I asked the Delhi Police chief whether third degree methods, practised since the British days, had been substituted by some humane ways. His reply in writing was: "Over the years, this trend is on the decline. It has been made clear to the members of the force that third degree methods should not be used. Action is taken as and when any complaint is received".

The same reply, I am sure, must have been given some years earlier and if a member were to ask the same question some years later, he would have got the same reply. The bureaucracy of any type has a set way of expression. It does not change with the passage of time. Delhi police officialdom is no different. The Chennai, Hyderabad or Calcutta police will give a similar reply if asked about third degree methods. That the police have remained stuck in the same mould and that they have not renounced the dictum spare the rod, spoil the child is not surprising. None in the force, at even the National Police Academy at Hyderabad, has ever seriously tried to find out the reason for it.

Once at a discussion at the Academy, I raised the question: why, during the Emergency, the police had readily become an instrument of tyranny in the hands of the Government? There was an ominous silence. What hurt me was that even the top echelons present at the discussion did not exchange a word at the lunch interval on the question. I was told subsequently that they did not like my accusation.

I concede that political masters make the police work in the most undesirable ways. They have to harass their opponents and they need the police. But why should the force carry out highhanded and arbitrary actions with impunity? Why have even the highest in the force never refused to carry out illegal orders? If they are content to be mere tools and willing to lend themselves to questionable objectives, there will never be a dearth of unscrupulous policemen.

An ordinary person's introduction to a police station begins with the beating. And as the police proceed further they take the suspect or the accused to a torture cell, an integral part of every urban police station. The Red Fort at Delhi has a wing where

third degree methods are used. In Srinagar, there are torture cells, called Papa 1, Papa 2 and so on.

For the sake of propaganda, the police have opened human rights cells. It is comical that the cells have been put under the Vigilance Unit — probably the lowest rung in the hierarchy. Why should the Director General of Police himself not head the human rights cell? Human rights violations are a far bigger crime because they maim people not only physically but also psychologically.

Third degree methods are really an extension of police atrocities. The poor, the minorities, the Dalits and the tribal people are the main target. No amount of protests by the voluntary organisations has made any significant difference. The National Human Rights Commission (NHRC) has not been effective either. It has not even sensitised the force which it was supposed to do. The media has played a role in exposing the excesses by the police but has failed to improve the force. Its basic instincts remain the same: mow down even a semblance of challenge to the authority.

A recent instance is that of the beating of reporters by the BSF when they were covering the fallout from blasts in Srinagar itself. Why should the Government think that an apology after inhuman behaviour is adequate? Why should some heads not roll straightaway? The BSF in Kashmir, understandably, is under pressure. But this is the argument I have been hearing from day one of the insurgency. There is a belief that punishment would demoralise the force. The effect would be the other way round. If the Government were to give exemplary punishments to those who indulged in excesses, policemen would learn a lesson. The public too would begin to have faith in the law and order machinery.

Bihar, Uttar Pradesh and Madhya Pra-

desh are the worst examples of police highhandedness. People, poor and backward, are hapless victims. Social tensions in these States have come to prevail because the upper castes use violence against the Dalit workers. The process of social democratisation, which is taking place in the districts, is being retarded. The vested interests are so powerful and rich — for example, the landlords — that the police are on their side. It is profitable for the police to do so.

Take a recent case in Uttar Pradesh. A sub-inspector of the Attarra police station in Banda district committed atrocities upon some of the Dalits at village Aau at the behest of the biggest landlord of that village. He had

been defeated in a straight contest for pradhan by a Dalit woman's husband. The landlord was desperate to settle scores. He had the woman and her son beaten. The NHRC inquiry officer report confirmed that police dragged out both from the house. The son was beaten and the Dalit woman abused in foul language. The Commission said in its judgment it agreed with the inquiry officer and that "the law enforcement authorities cannot take law into their hands and commit atrocities on innocent citizens and get away by mere transfer". To inculcate discipline, the necessary disciplinary and penal action was warranted. The NHRC directed the authorities to take appropriate disciplinary action in accordance with law and to entrust the case for investigation to the State CID. In response, the police retaliated by registering a false case against a local activist who had pleaded on behalf of the Dalit woman and her son. The Commission passed yet another order that the case against the local activist be transferred to the State CID for investigation.

Even then the police did not give up. They sidelined the case of police atrocities

against the Dalit woman and her son. The activist has blamed the District Superintendent of Police. "If he (the SP) embarks on a campaign to target upright citizens and good institutions for raising their voice against police atrocity, then he has in effect set himself up as a dictator, and we might as well say goodbye to democracy and the rule of law."

The story of police atrocities against the Adivasis at Mehndikheda village in Bagli tehsil (Dewas), Madhya Pradesh, is worse. Four adivasis were killed in the police firing. A team of the People's Union For Democratic Rights, which went to the village to inquire about the incident, has put the blame on top Government officials. The report says the decision to "crack down" that led to the death of four Adivasis in the Mehndikheda firing as well as beating, looting and demolition of houses in the villages of the area was taken at the highest political level. The minutes of the meeting convened by the Chief Secretary clearly state the order to take strict action in the districts of Khandwa, Kargone and Dewas. "After singling out the villages associated with the Adivasi Morcha Sanghathan", the report says that action should be taken "to its logical end". The logical end is presumably firing, demolition and looting.

In protest against the destruction and looting of the Adivasi houses, the report says, the Adivasi Morcha Sanghathan organised a dharna and blocked the road near Jamasindh village. "The administration turned a blind eye and rejected any opportunity for talks while continuing raids on the villages on flimsy grounds. Subsequently, a large police party raided Mehndikheda. On hearing of the raid, villagers from the dharna site rushed there. Stone pelting started from both sides, using catapults. The District Forest officer claimed that the Collector gave the order for 'effective firing', says the report.

What Amnesty International has said in its latest report beats what even human rights activists in India have said: "Authorities in India are failing to prevent violence against women and sometimes take an active part in it. These women often suffer a double discrimination on the basis of caste as well as gender." It is a serious allegation and it cannot be just brushed away.

THE HINDU

22 MAY 2001

# NOT A GOOD THING

US voted out of UNHRC 49-6

IT is absolutely baffling that the United States is voted out of the United Nations Human Rights Commission by the regional group of Western nations in the Economic and Social Council, which has three seats. The Western bloc will be represented instead by France, Austria and Sweden which suggests a concerted anti-American initiative on the part of the EU. But do they have the economic and military clout nor the global presence that would make their sponsorship or endorsement of a UNHRC resolution meaningful enough to countries, such as China. Instead, we will have Sierra Leone, which is a pseudo-country in the throes of a civil war, whose government is propped up by British mercenaries, Sudan, which is a hardly a beacon of liberal and humanitarian values, as everyone should know, Pakistan which is fighting for the establishment of a medieval and barbaric regime in Kabul and Iran whose democracy is powerless to prevent the murder of intellectuals, writers and journalists. One could say this is not an unusual occurrence, the UNHRC is constituted from among the members of the Economic and Social Council, the majority of whom do not espouse liberal democratic values. But still, it is only because the United States was able, through its global reach, to constitute effective lobbies within the Commission that it was able to pass meaningful resolutions.

The USA occupied this leadership position because, with the end of the Cold War, it was no longer required to overlook a country's liberal democratic credentials in the fight against global communism and, as its relations with China have demonstrated, globalised trade does not put as much pressure on its commitment to democracy as the Cold War once did. The only real tensions that exist now are those between capitalist haves and the rest and there are human rights issues relating to economic and social deprivation where the US may find itself on the wrong side of the fence. But the systematic violation of basic rights — of the security, freedom and dignity of the human person — occurs most in the developing world, often in the name of cultural autonomy. The Western bloc has a crucial role to play because they are also the historical defenders of that ideological position. With the exit of the US, this leadership position falls vacant and it is not certain that France or Sweden or Austria will have the geopolitical and the moral credentials to build the kind of lobbies the US did and may lead to the enfeeblement of the Western voice on human rights questions. //

**THE STATESMAN**

8 MAY 2001

LOSS OF RIGHTS PANEL SEAT / U.S. FEELS BETRAYED BY EUROPE

# Congress may withhold funds to U.N.

By Sridhar Krishnaswami  
WASHINGTON, MAY 4. There is anger in the administration and Congress over the United States losing its seat at the Human Rights Commission; and the first impression is that law makers will react to the vote by denying funds already agreed upon to the world body. As if the snub to Washington was by itself not enough, countries like Pakistan and Sudan have been chosen for membership.

The stinging loss of the seat, the first time since 1947, has signalled to the Bush administration the feelings of not just the developing world, but by the developed nations of Europe. And Conservatives here are seething with rage making the assessment that it was not only countries like Cuba and China that worked overtime behind the seats to ensure the United States was thrown out, but also some European countries.

Senator Jesse Helms, a long time critic of the functioning of the United Nations system, said the loss of the seat did not come as a surprise for a "few European countries manoeuvred — in a secret vote — to eliminate the United States from the United Nations Human Rights Commission". Mr. Helms was one of the senior law makers who had crafted an agreement for the payment of U.S. dues to the U.N.

According to a report in *The New York Times*, the Bush administration has been caught by surprise, for over 40 nations had apparently made it known that they would support the U.S. What has caused outrage in Congressional circles is that countries which the U.S. consistently criticises for poor human rights record are now in the Commission.

Says Mr. Tom Lantos, a California Democrat who chairs the Human Rights Caucus, "It is absurd that ~~rogue~~ states and chronic human rights abusers such as Libya, Sudan and Cuba



Mr. James Cunningham, acting U.S. ambassador to the United Nations, listens at a meeting of the Security Council at the U.N. in New York on Thursday. — AP

remain on the Commission and sit in judgement on the human rights practices of others while the United States now stands on the sidelines".

Conservative law makers have predicted that the voting out of the U.S. will have an impact on the its payment plan to the world body. The House of Representatives, for instance, is to take up the State Department Authorisation Bill next week. What is being pointed out is that while Washington expected China and Cuba to campaign against the it, there had always been an understanding with Europe that the U.S. will have one of the three

allotted seats on the Commission.

That so-called accord with Europe has now come to mean little. The belief that Europe may have had a hand in the secret vote against the U.S. will be added to the long list of differences the Bush administration has been having with its cross-Atlantic allies. The Europeans were dismayed that the Republican administration was walking out of the Kyoto Accords; appalled that Washington would want to carry on a high profile anti-China Human Rights Resolution in Geneva which eventually flopped; and are apprehensive of the National Missile Defence system. The U.S. stand on such issues as the International Criminal Court of Justice has not helped as well.

For the record, the State Department, in expressing disappointment, has said that the vote will not change the basic thrusts of American human rights policy. "Our commitment and resolve to address human rights problems around the world is a matter of U.S. policy; it will not be affected by this vote", it said in a statement. Aside from Europe, there has been general resentment in the developing world over the attitude of the U.S. on a number of issues including human rights. Several nations have come to despise the sermonising of Washington on the subject of human rights and freedoms, including religious freedom; and have not taken kindly to the U.S. annual "report cards".

The throwing out of the U.S. and the election of Sudan to the Commission, ironically, came on the day the President, Mr. George W. Bush, delivered a speech strongly backing human rights, religious freedoms and a scathing attack on Sudan. "My administration will continue to speak and act for as long as persecution and atrocities in Sudan last", Mr. Bush said in a speech. Mr. Bush made no reference to the U.S. losing its seat.

THE HINDU

5 MAY 2001



# Britain rapped for rights violation

Strasbourg, May 4

THE EUROPEAN Court of Human Rights has ruled that Britain violated the rights of 10 IRA paramilitaries and two civilians who were shot dead by its security forces in disputed circumstances in Northern Ireland.

The court awarded 10,000 pounds compensation to each of the victims' families who had complained to the court that the men were killed by an excessive use of force in four incidents in the troubled province in the 1980s and early 1990s.

The court, in a written judgement, "held unanimously that there had been a violation of Article 2 (right to life) of the European Convention on Human Rights, concerning the failure to conduct a proper investigation into the circumstances of the deaths in question".

The ruling provoked a sharp reaction from David Trimble, leader of the Protestant, pro-British Ulster Unionist Party, who called it "astonishing" and "perverse".

But a spokesman for Prime Minister Tony Blair said the court had not made a finding of unlawful killing. Instead, he said, the court was critical of the methods of investigation.

Reuters

THE HINDUSTAN TIMES

5 MAY 2001

5 MAY 2001

# U.K. immigration move outrages rights groups

**By Hasan Suroor**  
**LONDON, MAY 2.** Next time, a Tamil, an Afghan or a Chinese lands at a British airport they are likely to be more closely examined before being waved in; and may even be detained or refused entry. They would be paying for the 'sin' of belonging to a certain nationality or ethnic group identified by the British Home Office as a source of chronic illegal immigration or asylum claims.

A list of such groups has been given to immigration officers with instructions to deal more firmly with them including detaining them or refusing entry if "there is statistical evidence showing a pattern of trend or breach of the immigration laws by persons of that nationality." Besides those mentioned above, these include Kurds, Somalis, Albanians, Pontic Greeks and Roma who account for the largest number of asylum seekers. The list is to be reviewed every month and new groups can be added and existing ones dropped depending on "statistical evidence".

The move has outraged liberal

opinion with civil rights groups denouncing it as an attempt to 'institutionalise' racial discrimination. Critics said that apart from encouraging racial prejudice against certain ethnic groups it was patently absurd to hold individuals responsible for the 'sins' of their compatriots. "How would they react if say Saudi Arabia were to start discriminating against every British citizen because a few Britons there have allegedly broken domestic laws?", asked one critic. Commentators said it offended the principle of natural justice, and the spirit of the Human Rights Act. "What case is there for punishing a newly arrived Serb merely because previous Serbs have been arrested?" argued Mr. Hugo Young, a seasoned analyst.

The sweeping powers given to immigration officers to discriminate against people on the basis of their collective identity was 'offensive', he wrote in *The Guardian*. It was 'revealing', he pointed out, that white economic migrants from Eastern Europe

— a known source of organised illegal immigration — were not covered by the "similar ethnic generalisation". For, according to the Home Office Minister, Mr. Mike O'Brien "white people are not one ethnic homogeneous group, incapable of being distinguished from one another".

Groups working with immigrant communities were reported to be "very disturbed". "It is another example of blatant discrimination in immigration control. This Government is strengthening institutional racism in the Immigration Service by just picking and choosing certain groups of people," Mr. Habib Rahman, chairman of the Joint Council for the Welfare of Immigrants told *The Independent*. Ms. Anna Chen of the Chinese Civil Rights Action Group was quoted as saying that the move "panders to all those racist views that certain people are inferior and have to be kept out of the country".

The move has come even as the Government has just enacted the progressive Race Relations (Amendment) Act 2000 officially

hailed as the "best anti-discrimination legislation anywhere in the world". The Government has denied that the 'hit list', as one newspaper described it, was racially discriminatory. A Home Office Minister, Ms. Barbara Roche, said in a written answer in Parliament that the decision would not affect the merits of individual cases.

"The decision on a passenger's entitlement to enter the United Kingdom will continue to be taken on the merits of the case in accordance with the immigration rules. The authorisation (to examine certain ethnic groups more thoroughly) simply allows the Immigration Service to prioritise and manage its resources effectively in undertaking examinations necessary in order to reach that decision."

Officials said it did not give "blanket cheque" to immigration staff to discriminate. The alternative, it was stated, would have been to subject all passengers of every nationality to the same degree of examination leading to significant delays and inconvenience.

# Rights body has a 'personal problem'

ABHIGYAN HANS  
STATESMAN NEWS SERVICE

NEW DELHI, April 30. — The National Human Rights Commission has recently written to the heads of police and jail authorities across the country. Only this time it is nothing to do with the usual orders/directives pertaining to human rights violations. It, instead, has a rather "personal problem" at hand.

The NHRC has asked them not to entertain any organisation claiming to conduct inquiry/investigation "on the NHRC's behalf" — either in jails or at police stations.

The exercise was undertaken after it was revealed that some "non-governmental organisations" were not just misusing its name but also its logo, address, telephone numbers and fax numbers. Not to mention, its good offi-

ces.

The commission would now like to ensure that the problem is done away with once and for all by bringing such "NGOs" to book. While FIRs have been registered against five of them, after a detailed investigation was conducted by the NHRC's investigation division, the commission is in the process of identifying other offenders as well.

Incidentally, almost all the "NGOs" against whom criminal cases have been registered were in the commission's mailing list. A senior NHRC official, however, clarified that it was not practically possible to verify the credentials of all the 450-odd NGOs in its mailing list.

"We send them (the NGOs in the mailing list) our newsletters and annual reports but that does not mean that they can start acting as NHRC's

representatives.

We have now not only deleted their names from the mailing list but are also reviewing the entire system of enlistment of NGOs with the NHRC," official said.

According to a senior NHRC official, the modus operandi of the "accused NGOs" to carry out their "nefarious activities" is varied. While some are realising money from victims for processing their complaints in the NHRC's name, others are taking registration fees between Rs 500 to Rs 1,000 as the NHRC's yearly/life membership. One was even found selling the NHRC's annual report for Rs 100 each. (The report is, otherwise, provided free of cost by the NHRC on demand.)

That is not all. The accused were allegedly charging "protection money" from the victims and were also in-

involved in liaisoning with jail and police officials. "Inspections" were being conducted at jails and police stations.

"The NHRC logo, address, telephone numbers and even fax numbers were also being blatantly misused," the official said.

The NHRC also proposes to soon undertake a massive publicity drive across the country about the "nefarious and illegal activities of such NGOs" so that people are not exploited and the "malpractices of such NGOs are checked."

Steps are also being taken not to entertain complaints filed / forwarded by these NGOs. Letters are being written to actual victims requesting them to send their complaints directly to the NHRC and not through any NGO," the official said.

## THE FIVE 'FAKE NGO'

■ "Human Rights Protection of India," based in Meerut, Uttar Pradesh, being run by one Mr Kripa Shankar, working as a junior level employee of the Delhi Development Authority.

■ "National Amnesty Redemption Organisation," located in Ghaziabad, UP, being run by one Mr DK Gupta;

■ "Rashtriya Manav Adhikar Parayaran Sanrakshan Sangathan," Meerut, UP, run by Mr Kishan Dutt Sharma;

■ "Free Legal Service Society," Bulandshahr, UP, run by an advocate, Mr Dayanand Swarup;

■ "Rashtriya Manavadhikar Sanrakshan Sangathan," Meerut, UP, run by Ms Atul Sharma.

THE STATESMAN

101 MAY 20.

# NHRC raps state rights panel

STATESMAN NEWS SERVICE

NEW DELHI, Feb. 15. — National Human Rights Commission has taken strong exception to the West Bengal Human Rights Commission's recent stand that the former should not have taken cognizance of two particular cases as those were already 'pending' before the state commission.

While one of the cases pertains to alleged human rights violation in Midnapore, the other is regarding the alleged remarks of chief minister Mr Buddhadev Bhattacharya on 25 December 2000 that police should kill criminals without bothering about human rights or human rights commissions.

On 5 February, WBHRC passed a resolution, saying that since as per Section 36 (1) of Protection of Human Rights Act 1993, the NHRC can't inquire into any matter pending before a state commission, NHRC should have treated both cases as pending before the state commission and sho-

## MIDNAPORE

NEW DELHI, Feb. 15. — NHRC will take up on 19 February the matter pertaining to alleged human rights violations in Midnapore. The matter will be put before the full commission, headed by NHRC chairperson, Mr Justice J S Verma.

The stand taken by the state government in its reply to NHRC was, however, not immediately known. — SNS

uld have refrained from taking cognizance of the same, a senior NHRC official said.

In its meeting yesterday, NHRC, however, held that it is the NHRC which was the first to take cognizance of alleged human rights violations in Midnapore and thus the state commission didn't have any right to take it up thereafter.

And with regard to taking cognizance of the alleged remarks of Mr Bhattacharya, the NHRC held that Section 36 (1) of the

Act wasn't applicable, as "the matter did not relate to complaint of any specific violation of human rights or negligence in prevention of such violation by a public servant, but related to an allegation that the West Bengal chief minister had made a disparaging public state statement about human rights commissions (not merely the state commission)."

As the statement attributed to the chief minister "was being construed as an exhortation to ignore even the NHRC, NHRC found it difficult to perceive how the state commission could claim exclusive jurisdiction in such a matter, which was naturally a serious concern to the national commission as well," NHRC said.

Calling for an authentic version of the chief minister's statement through the state chief secretary by the NHRC commission can hardly be a matter to which any clause of the Protection of Human Rights Act, 1993 could be attracted, it was stated.

THE STATESMAN

16 FEB 2001

# Human rights in the 21st century

110-12  
By G. Haragopal

ANY DISCUSSION on the challenges to human rights in the 21st century will be meaningful only as a part of a historical process wherein society's search for prosperity and power or happiness and freedom remained unfulfilled desires and half-finished tasks. The impulses for prosperity and power produced market, nation-state and possessive individual. This also led to major breakthroughs in science and technology. The combination of these forces engendered enormous wealth sufficient for need and even for greed. On an ideological frontier, self-interest, possessive individualism and the hunt for profit entered into a serious conflict with the collective and common good. In the competing and conflicting claims on resources and growing wealth there were several compromises, which could be seen in the concessions that capital was compelled to make giving rise to a wide range of rights. These historical forces laid the foundation to the ideals of equality and freedom. The life wire that permeates these values is continued emancipatory struggles to define and re-define the substance of what constitutes human happiness.

The 20th century witnessed a complex combination of these conflicting forces. There were attempts for both compromise and also polarisation. The first half of the century was a period of intense struggle to move to a higher point: the socialist revolutions and anti-colonial struggles of the Third World held not only immense promise but also several historical possibilities for enlarging the domain of equality and freedom. The counter forces were equally powerful culminating in world wars, particularly the Second World War. The one positive outcome of the latter was that it dealt a death blow to the forces of fascism. Given the alarming trends in the nature of governance at the present juncture, the spectre of fascism seem to be raising its head again.

The post-Second World War period provided an objective context for the birth of the Declaration of Universal Human Rights. These rights encompass civil,

political, economic, social and cultural domains indicating the search for a broader societal base for the values of equality, freedom and justice. Although the Declaration was called universal, all the standards set were not that universally acceptable. This was largely due to the underlying conflict between the forces of accumulation through market forces by using or abusing the rights and counter-forces emanating from a transformative world view. This dichotomisation is evidenced in the two covenants adopted in 1966 and which came into force in 1976. This does indicate that while the 1948 Universal Declaration attempted synthe-

freedom and equality, individuals, groups, communities and classes have come to suffer an identity crisis as a cause and consequence of loss of meaning to the very existence. For, the wealth generated and allocated through the market could at best provide a comfortable life for those who can afford it but could hardly impart meaning to life which could be discovered and realised only in fruitful cooperation and collective expression. The higher and larger the domain of collective activity, the greater is the creative expression of humanity. It is this part of human endeavour that suffered a serious setback. The collapse of

contradictions and the absence of adequate social mechanisms for their resolution landed human collectives in a tremendous identity crisis. The unending search for identity in the absence of favourable objective conditions is causing rupture after rupture, inflicting wounds on human nature and civilisational progress. This situation has all the potential to trigger endemic violence, criminality and vulgarity reducing life to triviality.

The forces of equality and freedom beaten by the counter-forces are compelled to search for deeper meaning and content and new sources of inspiration. There are a 'million mutinies'. Untiring and uncompromising struggles of human beings are there in every part of the globe. It is reported that there are 3,000 ongoing ethnic conflicts and 600 secessionist movements. Women — half of the sky as Mao put it — are on the warpath all over the world. Children today are better informed and are more questioning and curious about the universe than ever before. The youth are restless and some of them, although small in number, are giving up their lives for causes closer to their heart. In the specific context of India, Dalits are challenging the hierarchical and authoritarian stranglehold. Tribals, decent and transparent human beings, are engaged in a continuous struggle to protect and defend their lives, livelihood and environment. There are amazing assertions of democratic-minded people from every walk of life in support of social causes. The underlying common thread in this entire restlessness is the deep urge of humanity to change the context and content of human existence. The ideological propaganda that there is no alternative (TINA) is a lifeless attempt to push the struggling masses into subjugation. The successful overcoming of this impasse and the realisation of this unfulfilled pursuit of equality and freedom constitute the greatest challenge of the 21st century to the theory and practice of human rights.

(The writer is Professor, Department of Political Science, University of Hyderabad.)

## *Realisation of the unfulfilled pursuit of equality and freedom constitutes the greatest challenge of the 21st century to the theory and practice of human rights.*

sis, two separate covenants were an admission of the intrinsic tension.

During the latter half of the 20th century, progressive forces took a backseat and market forces became more aggressive. The consolidation of these forces is a consequence of varied factors which individually and collectively contributed to this disturbing process. This includes the collapse of the socialist experiment, denationalisation of the Third World elite and their nexus with the global elite, the self-adjustment that the structure of capital was able to make because of its ability to move spatially due to the advancement of techniques and uneven distribution of labour, the mismanagement or bureaucratisation of most of the welfare and development activity by the state apparatus, the overall erosion of several institutions based on collective expression and action, emasculation of the trade union movement, fragmentation of the people's movements and the advancement of notorious print and electronic media capable of 'manufacturing consent'.

In the overall encounter between forces of revolution and counter-revolution, the former operated with far more dexterity. In the absence of a creative agenda for

the socialist societies, which in principle were rooted in the postulate of collective existence, came to be interpreted as if such forms of social organisation were neither viable nor feasible. This is one of the most tragic fallouts of the 20th century.

In the absence of a full-blooded and concentrated endeavour for change, the forces accentuating inequalities and authoritarianism are in full play. Never in history were these forces as excited as they are at the present moment, giving rise to the notorious thesis that history has come to an end. However, the question remains whether human history has commenced at all? In fact, Marx held that human history was yet to begin.

Human society entered the 21st century through this critical route. All the challenges to human rights in this century emanate from this turmoil. The core of the crisis is basically the challenge of capital and of wealth to the labouring class, the forces of globalisation and marketisation to the social and political institutions, the crisis-ridden possessive individualism to the larger collective and common good and of comfort to the meaning to life. The sharpening of these

THE HINDU

30 APR 2001

# HD-12 Displaced and deprived

By Kuldip Nayar

*Oustees of one project or the other have no home or hearth and live on the periphery... The attitude of Governments is cold and cruel.*

THEY ARE not refugees. They are oustees of one project or the other, a dam, a powerhouse or a mining pithead. They have no home or hearth and live on the periphery. But their number is large, as many as 10 millions, moving from one place to another and clinging to the hope that one day the Government or society will wake up to their misery and help them carve out a niche in the country.

So many commissions and committees have looked into the circumstances which displaced people from the places they were tethered to for years. NGOs have articulated their demand for alternative accommodation but to no avail. Politicians and bureaucrats too have promised them resettlement. But they have gone back on their word.

At times when their cup of misery — and patience — overflows, the oustees protest and stage demonstrations. Only a few days ago, people in Tehri Garhwal in northern Uttar Pradesh squatted on a hilly road to draw attention to their plight. They had been driven from their homes to level the catchment area of the Tehri Dam. They had written to the Prime Minister and the Chief Minister and had drawn a blank.

The work on the dam stops off and on but the victims' sufferings do not. At one time these people showed sturdy resistance to the dam on the ground that it was located in the seismic zone. They pointed out how the impounded water could wash away every habitat up to Meerut, 50 km from Delhi, if ever an earthquake damaged the dam. But the authorities were determined to build the dam.

The oustees have somewhat reconciled themselves to the situation. But they want new homes to replace those which were flattened to prepare the ground for the dam's basin. They were assured full rehabilitation. But they cannot get an appointment with the officers concerned, much less Ministers, to remind the Government of its obligation. Once well off, they now feel humiliated when they have to queue up before a petty official who gives them arguments about how the nation would benefit after the dam was completed.

The Narmada project oustees are a bit

more fortunate. They were also moved from their homes, lock, stock and barrel. But the spotlight on their plight by Ms. Medha Patkar and some world organisations made Gujarat put together a better package. To their rescue has come the Narmada Tribunal Award, which makes it incumbent on Gujarat to give land — and a rehabilitation grant — to the affected, even if they are from outside Gujarat, whether in Maharashtra or in M.P.

Some resettlement colonies have also come up for the Narmada oustees. But many more are required for rehabilitation. The State simply does not have that much land. The Gujarat Government has been making false promises and getting away with them. Now the situation has worsened because thousands of

earthquake victims await resettlement. Whatever the State's claims, it has no resources to rehabilitate both the earthquake victims and the Narmada project oustees.

Ms. Medha Patkar's workers have given Gujarat unstinted support to help the earthquake victims. But what about the Narmada people? The monsoon is only a few months away. The proposal is to catch more water because of the added height that the Supreme Court has permitted. What will people whose land is submerged then do? The earlier lot is far from happy. In fact, all of them face a piquant situation. If they raise their voice, Gujarat considers them "an unnecessary digression" from the work it is doing — helping the earthquake victims restart their life. If the Narmada oustees keep quiet, they evoke less attention than they did in the past.

Jawaharlal Nehru hailed dams and mega projects as new temples. He did not live to see the plight of those who gave their homes and lands for the temples to come up and received little. In fact, over the years, many among them have turned into atheists because of the endless privations they have gone through. They have

found the deity unhelpful even when they did all to propitiate it.

The attitude of Governments, whether at the Centre or in the States, is cold and cruel. They have not implemented the recommendations made by the high-power committees on rehabilitation. The tendency of authorities is to run away from their responsibilities. There is no feeling, much less sympathy. The bureaucracy is lost in the effort to convert a human problem into an item on the Government's agenda. It has coined a phrase for refugees, "Internally Displaced Persons (IDPs)."

The oustees from different projects have been clubbed together with those who are victims of political, religious or other persecutions. Ethnic conflicts

have generated hundreds of thousands of IDPs in the North-East, Assam, Tripura, Manipur, Arunachal Pradesh, Mizoram and Jammu and Kashmir. The Government has put all victims on a par because the criterion to assess pain, according to it, is suffering and all have gone through it. What makes the whole approach inhuman is the absence of real understanding. Political refugees want their identity recognised. But oustees want land in exchange for land. An ILO convention, to which New Delhi is a signatory, provides for the protection of rights of indigenous and tribal people.

The National Human Rights Commission may not have done the job of protecting human rights properly or adequately. But it has at least taken up with the Central Government the question of persons displaced by dams and mega projects. The Commission wants New Delhi to amend the Land Acquisition Act in such a way that the rehabilitation of displaced persons becomes an integral part of the project. There can be no uprooting until the project makes arrangements for resettlement of the oustees. This is precisely what voluntary organisations have demanded relentlessly. Some

among them have come together to even prepare model legislation, the Land Acquisition, Rehabilitation and Resettlement Bill, 2000, to incorporate the principle of settling before uprooting.

In fact the Commission has woken up late: only after some voluntary organisations petitioned it that the Land Acquisition Act, 1994, was being amended without making any provision for resettlement and rehabilitation of the people affected. Since then the Commission has taken up the job in right earnest. It has told the Government that it was desirable to incorporate the rehabilitation and resettlement (R&R) packages in the Land Acquisition Act itself.

In addition, R&R packages in the law will ensure relief and rehabilitation to the project-affected people in a systematic manner. The provision for R&R in the law will help avoid litigation and consequent delays and prevent cost overruns of the projects. Once the R&R package is provided for in the law, there will be uniformity in dealing with the cases by the courts.

It is strange that the Government does not even look after the interests of tribal people. The Constitution makes it obligatory that the Government protect tribal land. They cannot be thrown out of their land. The President has expressed his anguish. But the authorities are not bothered. Vested interests continue to have their way. The Commission should take up the issue.

In its monthly letter, the Commission has done well to point out that in a number of cases, land was acquired by the authorities in excess of what was required for a project. It adversely affected landholders on the one hand and wasted the resources of the State on the other. The excess land, as the Commission found out, was not put to use by the project authorities. "A properly drawn project document," says the Commission, "would curb this tendency."

One advice by the Commission is worth pursuing. The authorities should have detailed consultations with the affected people before the land is acquired. Had such a step been taken, the highhandedness of authorities would have decreased. And so would have the woes of the victims of projects.

THE HINDU

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# NHRC to probe Rajasthan child labour practices

BY RAJEEV KHANNA *AA-3*

**New Delhi, April 22:** The National Human Rights Commission is planning to appoint a special team for the prevalent practice of child labour in Rajasthan. The move comes in the wake of alarming findings of a survey that was conducted in the state at the instance of the Supreme Court of India in 1997 wherein it was found that of the total children employed as labourers more than 35 per cent were working in hazardous establishments. Though the state government claims to have taken measures to improve the things, the NHRC feels that there is a need to have a senior official in the state to evaluate the developments.

The survey conducted by the government in 3,85,000 establishments across the 32 districts of Rajasthan revealed that 8090 children were working in the them and out of these 3026 were found employed in hazardous establishments.

The districts of Ajmer, Alwar and Tonk topped the list of having maximum number of children working in hazardous establishments. The figures for these districts stood at 467, 410 and 420 respectively. The findings revealed that Churu, Jalore and Nagaur did not have any child

*2319*  
labour employed in hazardous establishments. The districts of Sri Ganganagar, Bikaner and Alwar had maximum number of children employed in non hazardous units with the figures of 932, 478 and 406 respectively. The units classified as hazardous for the children included those where there was cutting and polishing of gems and precious stones, bidi making, carpet weaving, mines and construction works.

Following the survey the Rajasthan government claims to have withdrawn 2504 children from hazardous establishments and enrolled 2070 in the formal system of education.

It also claims to have set up child labour rehabilitation and welfare funds in all the districts and separate committees for the purpose have been constituted under the chairmanship of district collectors. It has stated that challans have been filed against those violating the provisions of the Child Labour (P&R) Act, 1986. The government has stated that till 1998 there were only two schools in the state at Jaipur and Udaipur functioning under the National Child Labour Project scheme at present the state has developed the capacity to rehabilitate 7000 children through 140 special schools under the NCLP scheme.

THE ASIAN AGE

23 APR 2001

# WOMEN IN JAIL-II

## Neglected, And With No Future

By SANKAR SEN

THE National Human Rights Commission members and officers visiting different jails have noted with dismay that there is no pre-release planning and no policy for rehabilitation of women prisoners after they are released. Indeed, women offenders in India often face serious problems of rehabilitation during their post-release period. They become vulnerable to suspicion. Again, imprisonment has more adverse effects on women than men. Society considers them pariahs. Some women prisoners in jails said to us that their husbands no longer accepted them and indeed they had no other place to go. They faced a grim and pathetic situation.

A number of women prisoners suffer from mental depression and other forms of psychiatric illness. In most jails, there is no arrangement for psychiatric treatment and counselling. In the report on women prisoners in Indian jails, the National Commission for Women pointed out that in many jails the proportion of female prisoners suffering from mental depression was high compared to the male prisoners.

### ABUSE

There were hardly any arrangements for psychiatric treatment and counselling; ailments of women prisoners were routinely unattended. The Krishna Ayyar Committee noted that lack of psychiatric attention in prisons is a serious drawback and affects the well-being of female prisoners. The committee suggested that for women prisoners, there should be special arrangements for pre-natal and post-natal care and treatment.

Women in prisons also suffer from various kinds of abuses. Vivien Stern in her book "Sin against the Future" says that in developing countries the rule that women should guard women is widely followed. Male staff are not admitted to the women sections or to perform duties with women prisoners. In developed countries the rule is seen to be in conflict with equal opportunities legislation and is not followed.

The deployment of male staff for women prisoners is widespread and brings problems. In 1996 Human Rights Watch, a NGO group in USA, published a report on sexual abuse of women prisoners in state prisons in the US. It was based upon research carried out for more than two years in different prisons in the USA. The report

found that "the male prison staff had vaginally, anally and orally raped woman prisoners and sexually assaulted and abused them. They had used their power over the prisoners to barter excess of goods and privileges for sexual favours". They had taken advantage of their position to spy on them whilst they were undressing in their living rooms or in bath rooms. They had subjected



women to verbal degradation and harassment.

In the USA courts have been receptive to the claims of female prisoners that their conditions of confinement should be equal to that of their male counterparts. Unfair conditions in women prisons in comparison to men's prisons have been held to violate the equal protection clause of the 14th amendment. In the case of Cauterino vs Wilson, the court held that the officials of the Kentucky Department of Correction unconstitutionally discriminated against the inmates of Kentucky's only prison for women. Among the equal protection violations were found inferior programmes, training, vocational education when compared to those available to similarly situated inmates at the state male correctional institutions.

### DISCRIMINATION

Similarly health care needs of family prisoners must be related to the American Supreme Court decisions in Estella vs Gamble. This decision lays down that the prison officials are in violation of the Eighth Amendment Principle against unnecessary infliction of pain when they show a deliberate indifference to the serious medical needs of the prisoners.

Children of women prisoners pose another problem. Children who are born in jails, and those who accompany their mothers in jails, are compelled to live behind the bars without being offenders. They spend the formative years of their lives

behind walls of the jails and are the victims of cruel circumstances. A research study on the status of children of women prisoners in Indian jails done by Prof BN Chattoraj of the National Institute of Criminology and Forensic Science points out that except for the provision in the jail manuals that these children should be provided with diet and clothes by jail authorities, there is no act in the country to take care of these children. They should

be considered neglected children as stipulated in the Juvenile Justice Act and the benefits of the Act should be made available to them. It is also necessary that every jail where children are living with their mothers should have a creche with qualified staff. This will not only enable the mothers to work during the day, but will also provide proper care to the children by trained staff. Jail authorities should consider collaboration with NGOs to make this facility available to the children of the women prisoners.

To appreciate the problems of women prisoners, it has to be borne in mind that women prisoners have an entirely different criminal profile to male prisoners.

### AMBIGUITY

This difference should be reflected in their treatment in the criminal justice system, and particularly in their treatment in prisons. Women commit far less violent and serious crimes and less frequently than men, and they abscond less when they are released temporarily from prison. These apply particularly to women who have children they love and want to see. A gender specific policy based on substantive equality should acknowledge that women in particular care for children in society. It should also note that imprisoned women receive far less support from their partners than do male prisoners.

It has been correctly said that the problems of women prisoners have not been properly and clearly dealt with. The history of imprisonment of women is the history of dealing with ambiguity. Prisons where women have been held have aped men's prisons and the rules they have been subjected to are Men's Prison Rules with slight concessions. They remain, as a Nigerian Civil Rights Organisation described them, "prisoners in the shadows".

(Concluded)

THE STATESMAN

21 APR 2001



# UN rights forum condemns Israel, China off the hook

BY STEPHANIE NEEHAY *UN*

*20/4*  
Geneva, April 19: The United Nations Commission on Human Rights condemned Israel on Wednesday for its "disproportionate" use of force in Palestinian territories, but let China escape scrutiny despite a US move to censure it.

The 53-member state body also easily adopted resolutions condemning Iraq and Afghanistan's ruling Taliban. It narrowly approved a Czech resolution denouncing violations in Cuba. A resolution welcoming contacts between Burma's ruling military and Opposition leader Aung San Suu Kyi — but expressing grave concern over "systematic persecution" of her National League for Democracy and deploring gross violations including executions, mass arrests and forced labour — also won consensus.

It ended a marathon day-long session without debating texts on hotspots including Iran, East Timor, Chechnya, Sudan, the Democratic Republic of Congo, Sierra Leone and Burundi. The main UN rights forum is holding its annual six-week session in Geneva until April 27 to examine

abuses worldwide. *AA 5*

China successfully used a controversial procedural motion calling for "no action" on the US resolution, which criticised it for alleged persecution of groups including the banned Falungong spiritual movement and the Tibetan minority. The United States said it was unfortunate that its resolution on China had been shelved, but it believed Washington had made its point anyway.

"We think it's unfortunate that more members of the human rights commission didn't choose to take up the China resolution at the commission this year," state department spokesman Richard Boucher told a news briefing.

"Nonetheless, we believe that we and other countries who lobbied against the "no action" motion were able to effectively make the point that the human rights record of member states should be reviewed and that no state should be exempt from scrutiny by the UN Commission on Human Rights," he added.

China has managed to avoid examination of its record virtually every year since its troops killed hundreds of protesters in Beijing in June 1989. (Reuters)

THE ASIAN AGE

20 APR 2001

# UN raps Taliban for rights abuse

**Geneva, April 19:** The United Nations Commission on Human Rights on Wednesday condemned Afghanistan's ruling Taliban for "mass killings and systematic human rights violations against civilians".

The 53-member state forum, holding its annual six-week session in Geneva, also denounced what it termed as Taliban's continuing grave violations of the basic rights of women and girls, "including all forms of discrimination against them."

The statement, approved by consensus, called for the Taliban, which holds some 90 per cent of Afghanistan, to immediately halt hostilities with the opposition with a view to creating conditions for a sustainable and durable cease-fire.

It also urged the Taliban to "protect Afghanistan's cultural heritage from all acts of vandalism, damage and theft; to withdraw its edict and to take immediate action to prevent the further destruction of the irreplaceable relics, monuments and artefacts of this heritage."

Last month, the Taliban drew international condemnation for destroying all pre-Islamic statues in Afghanistan despite appeals to spare two giant Buddha statues in Bamiyan.

The resolution passed by the United Nations also agreed by majority on an extension by one year the mandate of its special independent investigator for human rights in Afghanistan, Mr Kamal Hossein. (Reuters)



**IN MOURNING:** Two Taliban fighters stand guard outside the presidential palace in Kabul on Wednesday. Hundreds of government officials participated in the mourning ceremony held inside the palace for the death of top Taliban leader Mohammad Rabbani, who passed away in Pakistan on Sunday. (Reuters)

THE ASIAN AGE

20 APR 2001

# WOMEN IN JAIL-I

## Callous Disregard For Human Rights

By SANKAR SEN

PRISONS constitute a very critical area of human rights concerns. A person in custody in any civilised society cannot be reduced to the status of a non-person because he is in prison. The prison system must offer conditions that are compatible with human dignity and conducive to rehabilitation in the social mainstream. Article 10 of the International Covenant on Civil and Political Rights mandates that "All persons deprived of liberty shall be treated with humanity and with respect for the inherent dignity of the person". The United Nations Standard Minimum Rules for Protection of Prisoners known as the Standard Minimum Rules adopted by the UN Social Economic Council in 1957 provide guidelines for treatment of prisoners and reaffirm the tenet that the prisoners do retain their fundamental rights while in custody. The Supreme Court of India in the case of Prem Shankar Shukla versus Delhi Administration reaffirmed the principle that "the goal of imprisonment is not only punitive, but restorative, to make an offender a non-offender."

### HUMILIATION

In India the prison population is relatively small — approximately 279,082. The situation in India in this respect is to be juxtaposed with those in some of the developed countries. A report of the Bureau of Statistics of the US Department of Justice shows that as on December 1998, there were 1.5 million prisoners in different prisons in the US. This gives the USA a national incarceration rate of 628 prisoners per 100,000 against India's 28 prisoners per 100,000 population.

Unfortunately, human rights of persons languishing as prisoners are often disregarded and violated and women prisoners in this regard suffer the most. Female prisoners constitute a small proportion of the total prison population of the country. Out of the prison population of 279,082, the number of women prisoners is approximately 9,233. In prisons in different countries of the world, women remain a small minority. This relatively low proportion of women population in prisons has been attributed to various factors like women's innate nature, their domestic status, putative weaknesses, ambiguity regarding their public and legal responsibilities. But this minority status of women in prisons tends to reinforce their lost status. "It is the small number of women in prisons", says the All India Committee for Jail Reforms 1980-83 (better known as

Mulla Committee) "which in our view is responsible for their needs being neglected. The position of the women scattered in small clusters in jails is highly vulnerable".

In India as early as in 1919-20, the Indian Jails Committee had recommended that structurally separate jails or at least separate enclosures for women prisoners should be so constructed so that "female prison-



ers or lady visitors entering the jail should be able to reach the female yard without coming under the observation of male prisoners". Unfortunately, the condition in this respect has registered very little improvement. In most of the jails of the country — whether central prisons, district prisons or sub-jails — women prisoners have to walk through men's sections and often undergo very humiliating experiences.

The Indian Jail Committee, further, argued strongly in favour of creating one or more institutions for convicted women prisoners in each state and to concentrate women offenders there from all over the state. The committee felt that removal of women offenders from their home towns was a lesser evil than allowing them to languish in miserable conditions in some corners of the jails in their own districts.

### DISADVANTAGED

The commission stressed the need for proper classification of prisoners and separating women adolescents from old convicted prisoners, prostitutes and procurers from women who have lived hitherto a respectful life. Unfortunately state governments have paid scant attention to these recommendations.

Many of the women prisoners in Indian jails come from poor and weaker sections of the society. "They are the disadvantaged losers in our complex and competitive society..." Women have the added problem of responsibility for their dependents and many do not have the skill of legal employment after serving the term. Women prisoners also suffer from unhealthy living conditions,

exploitation and separation from their families. I still recollect how in a Naribandini-tetan in Lucknow a number of women prisoners undergoing long terms of imprisonment told me with great anguish that they had not heard anything from their children and families for a long time. They were particularly very anxious to know about the fate of their daughters. There is need to ensure that women prisoners get frequent opportunities to unite with members of their families.

The Mulla Committee on Jail Reforms expressed the view that to have separate jails for five to six women offenders in different sub-divisional jails is administratively difficult and financially unviable. Again concentrating all women prisoners in one jail can be faulted on the ground that this arrangement keeps women prisoners hailing from distant places separated from their kith and kin. In Russia, women are held in separate prison camps for women. This means they are held sometimes thousands of kilometres away from their homes. In Russia while there are five different levels of security for men prisoners, for women there are only two regimes — general regimes for first offenders and strict regimes for "dangerous recidivists". Often these dangerous women recidivists turn out to be persistent shop-lifters and other petty offenders.

### NEGLECT

Again undertrial women prisoners constitute more than 80 per cent of female jail population in the country. There are undertrial women languishing for more than four years in jails for offences for which the sentences may be less if they had been convicted. Again many women prisoners continue in jail for very long periods as they are unable to defend themselves and are ignorant of rules and laws of prison and totally at the mercy of the jail officers. The National Expert Committee of Women Prisoners under the chairmanship of Justice Krishna Ayyar (1987) stated after visiting many women prisoners that both the prisoners and prison staff suffer from "the pathology of misinformation and ignorance of rights and limitations". This often leads to callous disregard for human rights. Similarly courts often fail to show proper awareness of the problems of women, specially those with minor children or with bread earning responsibilities in female-headed households. They are, as stated in the report of the Krishna Ayyar Committee "a low dispositional priority and receive routine neglect".

(To be concluded)

The author is a former Director, National Police Academy.

YOUR TURN

THE STATESMAN

20 APR 2001

10-17

## China may escape censure on rights

GENEVA, APRIL 18. China looked likely to escape censure again at the U.N. human rights forum today by sidestepping a U.S. resolution condemning its record.

1914

The United Nations Commission on Human Rights, in the final stretch of its annual six-week session to examine violations worldwide, is due today to examine the records of countries, including China, Cuba, Iran, Iraq and Sudan.

The United States is expected to call for a vote in the 53-member U.N. forum on its resolution accusing China of violations, including the repression of Tibetans and of the Falun Gong spiritual movement.

But rights groups said they expected China to quash any true debate, and that western resolutions on Iran and Cuba could also be defeated by the Commission.

New York-based Human Rights Watch has denounced the composition of this year's forum, whose new members with voting rights include states accused of serious abuses — Algeria, the Democratic Republic of Congo, Libya, Saudi Arabia, Syria and Vietnam.

"I am very pessimistic on China. It is very, very unlikely something different from last year and the year before would happen," Ms. Joanna Weschler of Human Rights Watch said.

"Cuba is extremely iffy... Iran is a big question mark," Ms. Weschler, a veteran of the annual event, told Reuters in Geneva.

Supporters of the Falun Gong held rallies on Tuesday in Hong Kong and Washington ahead of an evening candlelight vigil by up to 200 activists outside the U.N. building in Geneva.

In a statement, the group alleged that at least 193 people had been killed by torture and police brutality during the "illegal crackdown" on its practitioners begun in 1999. — Reuters

THE HINDU

19 APR 2001

# NHRC butting into a sub-judice issue: Mahanta

BY MANOJ ANAND

**Guwahati, April 16:** The ruling Asom Gana Parishad president and Assam chief minister, Mr Prafulla Kumar Mahanta, said in Guwahati on Monday, that the National Human Rights Commission had crossed its limits by interfering in the matter of a rape case against his minister Rajendra Mushahary, as the case is pending before the high court.

The Assam ruling party had to face an embarrassing situation when the National Human Rights Commission pulled up the Mahanta government for letting a party leader, Mr Rajendra Mushahary, continue as a minister even after he has been accused of raping a minor girl last year. Mr Mahanta told reporters: "The matter is pending before

the court obviously the minister can not be held guilty unless he is convicted by the court.

Refusing to give any opinion over the case against the minister, Mr Mahanta said: "We have already send the reply to the NHRC that crossed its purview by attempting to pass an opinion on a sub-judice matter." The complaint lodged with the police by the rape victim (then 16 years old),

alleged that the minister had taken her to a hotel in the neighbouring West Bengal town of Borovisha on two occasions last year, forced her to consume alcohol and then raped her. The victim kept the matter under wraps, allegedly due to threats to her life by the minister. Six months later, she lodged an FIR with the police.

The All Bodo Women's Welfare Federation, a leading Bodo women's rights group, moved the Assam Human Rights Commission.

The AHRC called for a report from the Kokrajhar police.

The Kokrajhar police superintendent in his report named Mr Mushahary as the "prime

accused" and requested the Assam police authorities to move the state government for permission to arrest the minister. No action has, however, been taken against Mr Mushahary who continues as minister for welfare of plains tribes and backward classes in the Mahanta Cabinet.

In its complaint before the AHRC, the Bodo rights group had stated the minister had admitted to his "crime" before the vic-

tims' mother during a meeting at the Gosaigaon Circuit House on August 31. The minister allegedly offered them Rs 25,000 for an abortion.

Mr Mushahary could not be immediately contacted for his comments. But, he had earlier denied the charges and had offered to undergo a DNA test.

However, the report from the Kokrajhar police had said, "DNA profiling of the child (born to the victim) is not considered necessary at the moment. It may follow subsequently in the event of a paternity suit or case of disputed parentage filed by the aggrieved party."

On its part, the AHRC has closed the case on Thursday as the matter has gone before the NHRC that sought clarification from the Assam police and

THE ASIAN AGE

17 APR 2001

# Kangaroo court

Need to sensitise the forces to human rights issues

**S**LOWLY and painfully the truth behind two of the most shocking cases of extra-judicial executions in Jammu and Kashmir is being laid bare. As the process continues it is important to recognise that bringing the guilty to justice is necessary in itself and aids the healing process in the Valley. In both the cases a shameful saga of delay and prevarication has led to fears of a cover-up. But investigations by the J&K police under directions from the state High Court are now advanced enough to raise some hope that they will be brought to a conclusion in the not too distant future. Without a doubt the people of J&K will be watching further progress closely. In the case of the torture and custodial killing of the human rights lawyer, Jalil Andrabi in 1996, court martial hearings were begun earlier this year. Major Avtar Singh of the territorial army is the chief accused, along with a group of counter-insurgents. A special investigation team of the J&K police has now found evidence to link Singh with 10 other related deaths.

The second case concerns the killing of five men in March 2000 by a joint police-army team in a so-called encounter in the isolated village of Panchalthana. At the time, it was widely reported that the five were "foreign militants", presumably Afghan mercenaries, who had massacred 35 Sikhs in Chittisinghpura. Now a special investigation team of the state police confirms the five were completely innocent of that heinous crime. This allows the state government to give the families of the declared innocents some monetary compensation but obviously the

matter does not stop there. The implications of this SIT finding are extremely grave and need to be pursued by the army and the state and central governments at several levels and without further delay. It points to cold-blooded calculation from picking the victims to doing away with them and putting out a cover story. There may be a pattern of functioning here and an attitude of mind which no law-abiding government should permit under any circumstances. It calls for a thorough investigation and prosecution of the guilty personnel.

It is a tragic fact that the record of prosecution for torture and extra-judicial killings in J&K over the last decade is appalling. It is hard to recall a single case being brought to court. Officials explain that it is impossible to get witnesses to testify and that the procedure is for the security forces to take their own internal disciplinary action. It is also claimed justice is swifter than in a court of law. However, it has to be admitted that such disciplinary action appears not to be having the desired deterrent effect. As the pressures of coping with the insurgency and violent acts of militants have mounted, tough standards of behaviour have either not been set for the security forces or a gradual relaxation of the rules has been permitted. Whatever the reason, it is clear that there have been more than one or two aberrations. Some effort has and is being made to sensitise the forces to human rights issues. More needs to be done. This is one more reason why the guilty should be prosecuted. For everyone's sake, justice must be done and seen to be done.

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# Rights group slams China's 'whitewash' of record

**AGENCE FRANCE-PRESSE**

BEIJING, April 10. - Human Rights Watch today slammed China's white paper on human rights as a whitewash, clearly aimed at the ongoing session of the UN Human Rights Commission in Geneva.

Mr Sidney Jones, Asia director of the group, said the white paper was part of a two-pronged lobbying strategy to prompt the UN to take a soft line on China's human rights record.

"We've seen this combination before: high-level visits to Latin America to get allies for the commission and the release of a

report which boasts that China's human rights record has never been better," he said.

The UNHRC session opened on 19 March and China's rights record is expected to be discussed later this month.

Beijing's white paper highlights improvements in the general standard of living and in "people's rights to subsistence and development" at a time when the collapse of rural education and healthcare programmes have been of growing concern, the pressure group said.

Controls on freedom of association and expression are tightening further but the report

11/9 highlights the people's political rights while failing to touch on the recent arrests of scholars residing abroad and Falun Gong members.

**US plane issue:** China today said the US secretary of state, Mr Colin Powell's saying he was sorry a Chinese fighter pilot died in a collision with a US spy plane was a step towards resolving the stand-off, adds Reuters.

But foreign ministry sources said that USA must apologise for the incident which crippled the US plane and forced it to land on China's Hainan island, where 24 crew members have been detained for 10 days.

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THE STATESMAN

APD-17

## 'Chinese white paper on rights a cover-up' 167A

**NEW YORK, APRIL 15.** Human Rights Watch has said that China's new 'white paper' on human rights is clearly aimed at the ongoing session of the U.N. Commission on Human Rights in Geneva — part of the same lobbying strategy that brought the Chinese President, Mr. Jiang Zemin, to Latin America.

"This so-called white paper is a whitewash of China's human rights practices", said Mr. Sidney Jones, Asia Director of Human Rights Watch. "But we've seen this combination before: high-level visits to Latin America to get allies for the Commission, together with the release of a report which boasts that China's human rights record has never been better."

The current session of the U.N. Human Rights Commission opened on March 19 and China's rights record is expected to be discussed later this month. The new white paper, issued by Beijing recently, highlights: improvements in the general standard of living and in 'people's rights to subsistence and development' at a time when the collapse of rural education and healthcare programmes has been of growing concern; the guarantee of citizens' political rights, at a time when controls on freedom of association, assembly, and expression, already tight, are being tightened further. The recent arrests of Chinese scholars residing abroad and Falun Gong members are a case in point; China's efforts to ensure an impartial judiciary, when the politicisation and party control of the courts is a constant of the Chinese legal system; protection of women and children's rights; after a much publicised explosion in a school in Jiangxi province where children were illegally making firecrackers caused the deaths of 41 people; equal rights and special protection for ethnic minorities at a time when efforts to establish schools of Uighur children led to the arrest of a prominent Uighur businesswoman, and when Tibetan cultural institutions are under constant surveillance from state authorities; China's 'positive attitude toward carrying out international cooperation in human rights' at a time when it systematically flouts some of the most important provisions of the human rights treaties it has ratified (for example, the International Covenant on Economic, Social, and Cultural Rights) and signed (the International Covenant on Political and Civil Rights).

THE HINDU

10 APR 2001



# Concern mounts over slave ship children

Cotonou (Benin) April 15 (AP) — FEAR MOUNTED while scores of suspected child slaves were said to be languishing on a filthy ship off West Africa after being turned away from two African ports.

The ship has been roaming the West African coast for more than two weeks. It was turned back from Gabon and Cameroon, is thought to be carrying 180 children caught up in a lucrative trade in minors sold by poor families and forced to work abroad on plantations or as servants.

It is expected to arrive in Benin later on Sunday. The whereabouts and final destination of the Nigerian-reg-

istered MV Etireno, remained uncertain, but officials in Benin thought it was bound for the country's commercial Capital, Cotonou, where the ship began its clandestine journey more than a week ago.

Government officials said they were informed about the ship on Wednesday, shortly before port officials in Douala, Cameroon turned it away because they suspected child trafficking. Authorities in Gabon's capital, Libreville, had also refused to allow the boat to dock for similar reasons. UN officials believed the ship had 100-250 children from Benin and other African countries. The UNICEF had set up health facilities at Cotonou's har-

hour to receive the children.

Despite international efforts, child trafficking remains a serious problem in West and Central Africa. Aid workers say poor parents in Benin, Mali, Togo and other countries give up their children for as little as \$14 to frauds who promise to educate them and find them jobs. Boys are then resold to cocoa and cotton plantations for as much as \$340 in countries such as Gabon and Ivory Coast. Girls often end up as domestic workers.

Conditions are harsh. The children — some less than 10 years old — work up to 12 hours a day, but are paid little or no money, aid workers say. As hours passed with no sign of the ship,

the representative of the UN children's agency in Benin expressed concern that the captain might try to dump his human cargo at sea to hide the evidence. "If the boat comes here and there are no children aboard, I would be even more worried," UNICEF representative Estelle Guilman said.

The aging Etireno had made regular trips from Benin to Gabon loaded with human cargo over the past five years, said Hadi Lai Landou, a senior official with Benin's State shipping firm, Cobenam. The firm was contracted to provide docking and other services to the ship. Benin is one of the world's poorest nations, while Gabon, a thinly populated, oil-producing nation

in the southeast, and is relatively wealthy.

Landou said both countries' governments knew that unaccompanied minors were traveling in miserable conditions on such boats but had turned a 'blind eye' to the problem. The ship was overcrowded and filthy, without seats or clean places to eat or drink, he said.

Ramatou Baba Moussa, Benin's Social Protection Minister, denied the Government knew anything about the smuggling. She conceded, however, that the State shipping officials "might know more about what went on." She said the Government would pursue those responsible.

AP

Human trafficking

1674

# Why is rape accused still a Minister: NHRC

By Our Legal Correspondent

**NEW DELHI, APRIL 11.** Taking a serious view of the continuance of a Minister accused of rape in office, the National Human Rights Commission has called for a report from the Assam Chief Minister, Mr. Prafulla Mahanta, through the Chief Secretary and details of action taken in this regard.

The Commission felt that the continuance of a person accused of such a serious offence as a Minister ran counter to the basic rudiments of law. It wanted to know Mr. Mahanta's stand on the matter before considering it further. The Chief Secretary had been asked to inform about further progress in the matter.

The Commission had considered a complaint, alleging that Mr. Rajendra Mushahary, Minister of State (WPT & BC) of the Assam Government, had raped a minor after she had been lured by his henchmen.

The victim, allegedly raped twice, had been threatened against disclosing the matter. But when she conceived, a complaint was lodged in Gossaigoan Police station. However, no action was taken by police in this regard.

A report called for from the Director-General of Police, Assam, named the Minister as an accused in the offence which had been registered and investigated.

In his reply on March 7 to NHRC, the Assam Chief Secretary had replied that the Chief Minister would consider the further

course of action only after completion of the investigation and DNA profiling.

Expressing its uneasiness over the Chief Minister's response, the Commission said it was for him to consider the desirability of the Minister's continuance in office.

In the face of available material, including the police report, wherein the Minister had been clearly named as an accused who had obtained an interim bail from the Gauhati High Court, the propriety of the accused continuing as Minister did assume considerable significance.

## U.S. fellowships

**NEW DELHI, APRIL 11.** The United States Educational Foundation in India has announced the Fulbright Conflict Resolution Fellowships for the academic year 2001-2002 for Indian nationals, who have some level of experience in conflict management, humanitarian assistance, restorative justice, advocacy, human rights, or development activities.

The selected fellows will be affiliated with the Conflict Transformation Programme at the Eastern Mennonite University in Harrisonburg, Virginia, U.S. The prospective applicants can either download the application form from website or write to the United States Educational Foundation in India, "Fulbright House", 12 Hailey Road, New Delhi - 110 001. The last date for receipt of completed application forms is May 1, 2001.

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# Jiang faces HK rights body ire

Hong Kong, April 6

HUMAN RIGHTS activists said on Friday they plan to demonstrate during an expected visit by Chinese President Jiang Zemin, demanding the release of dissidents imprisoned in mainland China.

Jiang and former US President Bill Clinton are among the dignitaries scheduled to attend an economic forum being put on by fortune magazine from May 8-10, an organiser for the event said on Friday. The Hong Kong-based information center for human

rights and democracy, which monitors the plight of dissidents in the mainland, said it plans to stage a protest to call for the release of several people it calls political prisoners. Two of them, Xu Wenli and Wang Youcai, are ill in prison, the Centre said.

The group has also appealed for the release of several detained academics in the mainland. Hong Kong-based historian Xu Zerong, American-based political scientist Gao Zhan, American professor Li Shaomin and bookstore owner Leung Wah were detained in china in

recent months, according to the rights group.

The Hong Kong Government and china's representative office did not immediately return a reporter's phone calls inquiring about the planned protests.

Although Hong Kong was returned to China nearly four years ago, its citizens enjoy Western-style rights of free speech and protests here are common. But any demonstrations during Jiang's visit would likely infuriate Beijing's allies among local politicians and newspapers.

AP

THE HINDUSTAN TIMES

7 APR 2001

# UN rights envoy meets Suu Kyi at home

BY AYE AYE WIN

**Rangoon, April 5:** The first UN Human Rights monitor to visit Burma in five years met on Thursday with pro-democracy leader Aung San Suu Kyi at her home, where she has been detained by the ruling junta for more than six months.

A car carrying the UN official, Paulo Sergio Pinheiro, was seen entering the compound of Ms Suu Kyi's lakeside home in Rangoon. He left after 1 1/2 hours and did not speak to reporters gathered outside. No details of the meeting were immediately available.

By giving Mr Pinheiro free access, the junta is apparently softening its position toward Ms Suu Kyi amid reports that she and the top generals recently started reconciliation talks. Mr Pinheiro's

meeting with Ms Suu Kyi was closely watched in the hope that he might obtain a firsthand account of the secretive reconciliation talks, the first face-to-face parleys between the two sides in

six years. Neither side has divulged details of the talks, which started in October but were first reported in January by another UN envoy, Razali Ismail, after he was allowed to

meet with Ms Suu Kyi. Subsequently, a European union delegation and a US official met the 1991 Nobel Peace laureate. Ms Suu Kyi has been kept under virtual house arrest since September

ber 22, when she defied a travel ban. Burma's current crop of generals seized power in 1988 after crushing a democracy uprising. They called national elections in 1990, which were won Ms Suu Kyi's National League for Democracy Party, but the generals refused to honour the results. During the last decade the junta has jailed hundreds of NLD members.

But the generals, who have long reviled Ms Suu Kyi for mounting an internationally acclaimed struggle for democracy, have in recent months toned down their criticism.

Mr Pinheiro, who was due to leave Burma later on Thursday, also met during his three-day visit with senior figures of the military regime and central executive committee members of the NLD. (AP)

## Senators to Bush: Keep Burma curbs

Washington, April 5: A bipartisan group of 35 US senators is urging President George W. Bush to maintain sanctions against Burma to encourage continued dialogue between the Southeast Asian nation's military government and the democratic Opposition.

The senators said, in a letter to Mr Bush, they are convinced that US sanctions imposed in 1997 helped prompt the Burma government to open talks with pro-democracy Opposition leader Ms Aung San Suu Kyi.

"While it's too soon to determine if these talks will produce a plan for national reconciliation, we believe any change in sanctions pressure could

remove the incentive for the regime to negotiate," said the letter, made public on Wednesday.

Senior members of the ruling military in Burma, formerly Burma, held secret talks with Ms Suu Kyi raising hopes that the country's political stalemate could be finally broken.

The National League for Democracy, which Ms Suu Kyi leads, won elections by a landslide in 1990 but the military never let it govern.

Ms Suu Kyi, a Nobel Peace Prize laureate, was released from six years of house arrest in 1995 but has had limited movement since September after angering the government by trying to travel outside Rangoon. (Reuters)

# 2 womens' rights activists bag Neerja Bhanot award

EXPRESS NEWS SERVICE  
NEW DELHI/JAIPUR, APRIL 4

WOMENS' rights activist Alice Garg of Jaipur and Ashamma, a Scheduled Caste agricultural worker and former *jogini* from Karni village in Andhra Pradesh, are recipients of the prestigious Neerja Bhanot Award for 2000. Both will get Rs 1,50,000 each, a trophy and a citation at a special award ceremony to be held at the end of April.

This was decided by a jury comprising Hari Jaisingh, editor-in-chief of The Tribune Group, Harold Carver, an educationist, and M. Sarin, advocate and former solicitor-general of Haryana.

The awards are given annually in memory of stewardess Neerja Bhanot who sacrificed her life while trying to save the lives of passengers on board a Pan Am aircraft hijacked at Karachi Airport in 1986. Neerja was the only woman recipient of India's highest civilian award for bravery, the Ashoka Chakra.

Sixty-one-year-old Alice Garg of Jaipur has shown exemplary courage under adverse circumstances and relentlessly battled for the rights of women and the oppressed. She is currently secretary of the Bal Rashmi Society and has helped women harrassed for dowry, besides victims of rape, sexual exploitation, domestic violence,

discrimination and divorce.

Asked to react to the good news, Garg's voice chokes with emotion. "The award is a recognition of the good work we have done for poor women. It has given us strength and moral support after all the suffering and trauma we have undergone. It will boost the morale of other women in India, who have been facing similar problems. *Unko himmat milegi*. I now have to be even more committed. I have to a long way. People are watching us." Garg has been involved in bringing attention to many cases including the gang-rape of a young woman by students in the Rajasthan University boys hostel.

INDIAN EXPRESS

APR 2000

## UN rights envoy in Yangon

Yangon, April 3 (Reuters): UN human rights envoy to Myanmar, Paulo Sergio Pinheiro, arrived in Yangon today for a three-day visit that suggests further easing of tension between the military government and the pro-democracy opposition.

Pinheiro, a Brazilian who took over as UN special rapporteur on Myanmar after the resignation of his predecessor Rajsoomer Lallah in November, met the powerful secretary of the ruling state peace and development council, Lieutenant-General Khin Nyunt, and also foreign minister Win Aung.

"I am here at the invitation of the government," Pinheiro said after a busy round of morning meetings. "It is an exploratory visit and I hope I have the privilege to (carry on my) mission in this country." Asked if he expected to meet representatives of the Opposition National League for Democracy and its leader, Aung San Suu Kyi, Pinheiro replied: "I just don't know the details of the programme."

THE TELEGRAPH

# Human traffic racket smashed Kenya fossils to provide vital evolution link

Toronto ~~XX-10~~  
**NINE PEOPLE** have been charged in connection with a criminal network that smuggled nearly 1,200 illegal immigrants from China and North and South Korea through Canada into the United States over the past year, Canadian police said on Friday.

The Royal Canadian Mounted Police, working with Citizenship and Immigration Canada, the

U.S. Immigration and Naturalisation Service and Korean National Police, said the nine were part of an multi-million-dollar human smuggling ring run by an organised criminal network in the Toronto area and southwest Ontario.

"We believe this criminal

organisation was actively involved in the smuggling of Korean and Chinese migrants from Asia through Canada to the United States," Inspector Steve Martin said at a press conference. Martin said the immigrants, who were forced to make hazardous journeys in treacherous weather, paid between \$7,000 to \$25,000 to get to the United States — depending on their nationality and the complexity of their smuggling plan.

"And this was only part of the payment. Those who successfully entered the United States were required to pay off the rest of their debt by forced labour in sweatshops, restaurants, massage parlours and through prostitution," Martin said. "This criminal group used the people

they were smuggling as a commodity," he added. The U.S. Immigration Service said nine more arrests had been made in Detroit and New York, and two in Korea.

If convicted, those charged could each pay up to C\$500,000 in fines and be sentenced to 10 years in prison. "This organisation was a highly structured criminal group that preyed on the vulnerability of those looking for a better life for themselves and their families," Martin said. "Dismantling the network that facilitated this group's criminal activities and apprehending its major players is significant," he added. Arrest warrants have been issued for five more people in the Toronto area.

Reuters

Nairobi

**KENYAN ARCHAEOLOGISTS** here have discovered a fossil believed to throw new light on human evolution while confirming the country's bedrock as a cradle for mankind, the Panafrikan News Agency (PANA) has reported.

The fossils, aged between 3.2 and 3.5 million years were discovered during fieldwork sponsored by the National Geographic Society. Archaeologists from the Kenya National Museums, led by Meave Leakey, made the discovery near the Lomekwi River in northern Kenya.

The fossil named as 'Kenyanthropus platyops', coined from the Greek anthropos (human), platus (flat) and opsis (face) meaning the flat-faced human from Kenya. The discovery comes close on the heels of another recent historic finding in Kenya of a six-million-year-old "millennium man" fossils, which is believed to be the oldest fossilised remains of a Ominid, an ancestor of the modern man.

Apart from the "millennium man" the only other oldest fossils remain that of the australopithecus ramidus, which were discovered in Ethiopia and dated 4.5 million years.

AP

# Shahabuddin moves NHRC over Siwan clash

By Pranava K Chaudhary  
The Times of India News Service

PATNA: Controversial Rashtriya Janata Dal (RJD) MP from Siwan, Mohammad Shahabuddin, has adopted an offensive posture over the recent clash between his supporters and the police that claimed 10 lives last Friday. He has sent a fax message to the National Human Rights Commission (NHRC) urging it to intervene on humanitarian ground and probe the police atrocities. The people of Pratappur village killed in the clash were innocent, he claimed.

Mr Shahabuddin, in his message to NHRC chairperson Justice J.S. Verma accused the police of killing, looting and destroying the properties of the innocent residents of Pratappur, his own native village. He apprehended flaring up of communal violence in the district and

urged the NHRC to take immediate steps to restore peace and normalcy.

In a telephonic interview with this correspondent on Wednesday evening, Mr Shahabuddin said: "The police conducted raids at my residence without any search warrant and mercilessly killed innocent people, including some kids in the age group of 10-12 years. Kudus Khan and Daisy Khan (13), who had come here to spend their holiday from Dubai, had also become victims of the police raid." He claimed that he had submitted their passports to the government for verification.

Commenting on the role of the home commissioner and the director general of police, he said that it was "unfortunate" that top government officials did not even bother to visit the spot. "These high-ups mostly spent their time in the local

Circuit House only to review the law and order situation," he said.

When asked about if the people of Pratappur killed in the crossfire had criminal background, he said: "They are innocent people. If any of these people are shown to have criminal records then I will tender my resignation immediately." The villagers killed in the crossfire were all innocent people, he insisted. "I don't consider myself a guilty person," he maintained.

About the recovery of huge arms and ammunitions from his residence during the raids, he said that it was the conspiracy of the police to defame him. "What was the need for borrowing police force from Uttar Pradesh. I know there are some senior police officials of UP who falsely implicate persons in order to get the credit or award," he said.

The RJD MP refused to comment on Laloo Prasad Yadav and former finance minister Shankar Prasad Tekriwal. "I have a very long association with Laloo Yadav and I also enjoy good relationship with Tekriwal," he said.

Police and supporters of Mr Shahabuddin had clashed on Friday last following the alleged manhandling of a DSP by RJD MP when he tried to stop him from allowing mass copying during matriculation examinations at a centre in Siwan.

The incident claimed 10 lives, including two policemen. Though the MP managed to escape from the spot, after the clash, a huge cache of arms were recovered.

Meanwhile, Shahabuddin has filed a case in the court of the chief judicial magistrate (CJM), Siwan, against the then SP, B.S. Meena, DSP Sanjeev Kumar and others.



# THE ARMY WHY THE FORCES IN J&K IS SERIOUS ABOUT HUMAN RIGHTS VIOLATIONS

## The people do matter

The Army in J&K has realised that brutality is counter productive. Pradeep Dutta reports on its efforts to ensure justice to victims of violence

**G**ONE are the days when Army used to shy away from media on issues of human rights. Today they not only punish their men, but also publicise the issue to restore confidence among the public.

The Army, in the past two years, has taken strong action against soldiers found guilty of violating human rights. About 124 personnel including officers have been sentenced, which included punishment like rigorous imprisonment and even dismissal from service.

And unlike before, orders regarding the initiation of punishment are not clandestine, but publicised through media. As was seen in case of Captain Ravinder Singh Twithia of 12 Rashtriya Rifles (RR). On September 30, last year, an Army court found him guilty of raping a

woman and her teen-aged daughter while he was posted in Banihal. Twithia was sentenced to seven years of rigorous imprisonment and dismissed from service. The news item was faxed to all the news agencies and newspapers.

The forces are now trying to utilise it to restore confidence in armed forces among locals. The change in stance is believed to be a part of strengthening the process of peace initiated by the Prime Minister Atal Behari Vajpayee, last year during the month of Ramzan.

Punishing their own men which was considered to be demoralising by the troops is now felt to be a step which can help them restore normalcy in the Valley. The new mantra of the forces is respect and safeguard the human rights of the people. This is the new mind-set the



Angry villagers protesting a death in the Valley. Express photo

security forces combatting militancy in the state have started inculcating among its ranks.

Adjutant General, Lt Gen S S Grewal says punishing their own men is something which only Indian Army can boast of. But, he claims, reactivating the personnel when action is taken against one of their colleagues is an uphill task.

The General says this is one main hurdle they are trying to overcome by making their soldiers realise the importance of punishment. "We tell them that the people will lose confidence in them thus helping militants take advantage of the opportunity. Thus making the blood

of many of their colleagues go waste, who had laid down their lives to restore peace," he says.

Earlier, the defence and paramilitary forces felt that human rights organisations point an accusing finger at the secu-

rity forces on the slightest pretext while the inhuman conduct of insurgents and terrorists was ignored. But now they have started taking cognizance of the complaints being forwarded either by the National or State Human Rights Commission.

Chief Judicial Magistrate, Srinagar, Mohammad Nazir Fida says whenever he has issued summons to armymen, they have appeared before the court. "In case the Army personnel is posted somewhere out of the state, his seniors make it a point to appear. He said it is because of this co-operation that he had been able to clear some of the disappearance cases pending for years," Fida said.

An Army officer posted in Doda

pointed that roughshod behaviour by armymen have often ruined the good-will created by construction of schools, organising medical and other welfare camps. "It was only after positorment of these operations we realised that all our good work was nullified when the jawans of the same unit during operation misbehaved with the people or thrashed them," the officer claims.

"And if anyone complained against the Army next day, they suffered the wrath thus making the Army lose confidence of people," he added.

However, Army officers feel that a line needs to be drawn between atrocity and inconvenience. Lt General A S Khanna of 16 Corps says that he will not at any cost tolerate the atrocities committed by his men. But some inconvenience to the people is inevitable when Army performs its anti-militancy duty.

This inconvenience must not be misconstrued as atrocity. He gave ample of erecting barricades and check-posts at various places making people get down from their bikes and walk a few metres. "Such inconveniences cannot be prevented unless there is complete cessation of hostility," he says.

During the past two years, the Army has established various grievances and human rights cells at Command and Corps level. The role of these cells is to coordinate human rights issues.

# Time limit on keeping undertrials in custody

HT Correspondent & PTL  
New Delhi, March 22

THE SUPREME Court today held that undertrials should be released from prison if trial exceeds five years. This would help reduce the bulging prisons across the country, which house nearly two lakh undertrials.

The trial courts could keep the undertrials confined to judicial custody in prisons only in special circumstances, ruled a Division Bench comprising Justice KT Thomas and Justice RP Sethi. Expressing anguish over the delay in dispensation of justice, Justice RP Sethi said despite being aware of the huge number of pending cases, the Government did precious little to fill up the vacancies of posts of judges in the High Courts. Nearly one-fourth of the post of judges in the High Courts are lying vacant, resulting in delay in disposing the cases, he said.

Allowing the appeal filed by Akhtari Bi, Justice Sethi requested the Chief Justices of

all the High Courts to take immediate steps to dispose off the cases as soon as possible.

## Kidnap deaths

The Supreme Court today held that if a person after being kidnaped was found dead, the courts could assume that the kidnappers killed him. "The abductors alone could tell the court as to what happened to the deceased after they were abducted. When the abductors withhold that information from the court, there is every justification for drawing inference that the abductors are the murderers of the deceased," a bench of Justice K T Thomas and Justice R P Sethi said.

## Judicial separation

The Supreme Court has ruled that husbands living in adultery during judicial separation can be denied divorce as their action constituted "a continuing matrimonial offence" under the

Hindu Marriage Act. A Bench comprising Justice D P Mohapatra and Justice Doraiswamy Raju further held that a husband's refusal to pay a monthly alimony—in defiance of the court's order—during the separation period could also disentitle him to divorce. The judges explained that judicial separation did not snap matrimonial tie. It suspended certain obligations under marriage. The case before it was of a husband seeking divorce from his wife when the couple failed to reunite after a year-long judicial separation.

## Sexual harassment

THE SC took strong note of the alleged sexual harassment of two women IAS and IFS officers by former Kerala Forest and Transport Minister Neelalohithadasan Nadar. The SC sought a response from Kerala Government to a petition alleging that the Government has not taken steps to stop sexual harassment at workplace.

THE HINDUSTAN TIMES

23 MAR 2001

## ***U.N. rights chief to step down***

GENEVA: The top U.N. human rights official announced on Monday she was stepping down from her post, saying she thought she could do more outside the "restraints" of the U.N. system.

U.N. high commissioner for human rights Mary Robinson said she would leave office at the end of her current four-year term in September.

"I believe that I can achieve more outside the restraints" that the U.N. imposes, Ms Robinson said. She added that she supported the U.N.'s human rights work and "will continue to support it in any way I can."

Ms Robinson, a former Irish president, said she had told U.N. secretary general Kofi Annan of her decision and wanted to announce it early so there would be time to find a new high commissioner. "I want to ensure that my successor can be appointed in ample time for a smooth transition," Ms Robinson told the opening session of the U.N. Human Rights Commission. (AP)

THE TIMES OF INDIA

20 MAR 2007

# UK human traffic racket busted

Vijay Dutt  
London, March 19

A GANG of Asians, who had been illegally bringing people from Gujarat to UK in the last few years, was busted here. The gang members used to lure the gullible by promising them a Rolls Royce job in Britain.

Once here, their dream of El Dorado vanished. Most were made to work at sweet shops. But the gang members riding on the misery of the people illegally brought here enjoyed a lavish lifestyle. In a police raid of a house in Leicester, equipment for forging passports and other

documents was found along with a large number of fake passports. Over 60,000 were also stashed in a cupboard. All the gang members, including one Hari Krishna Patel from Wembley in north London, have now been jailed.

The court was shown a video footage in which another gang member Vinodbhai Patel is seen in a swimming pool in India and mocking British authorities.

The police, who have been on their trail for two years, have now revealed that the group comprising six men and one woman was one of the biggest human smuggling rings. They

44-11 2873  
charged 10,000 from each person and thereby amassed millions out of cargoes of human misery.

The police say that the gang, which operated mainly from Leicester, had built up a large international organisation akin to drug cartels. "We cannot put an exact finger on the number they illegally migrated but it has been in thousands. Most of the gang members, have hidden assets away in India apart from this country," says the detective inspector in charge of the investigation.

The inspector added that the gang used their own country-

men for financial gain and once in the UK the immigrant was either left to his own devices or made to work in a sweet shop. The modus operandi was elaborate.

The immigrants were provided false birth certificates, forged passports, driving licenses and given clothing with British brand labels and a crash course in English. Once past immigration officials they were taken to safe houses in the cities with large Asian population like Birmingham and Leicester. The gang had safe houses in Nairobi, Dubai and Johannesburg as well.

# Justice eludes victims of police atrocities in Punjab

VIDYA MENON  
STATESMAN NEWS SERVICE

NEW DELHI, March 10. — Kuljit Kaur has been staying at Golden Temple for years. Its her home now. Her husband and son went "missing" almost 10 years ago. She is not sure whether she has lost them forever.

But she is certain about the fate of one of her daughters and three other sons — she had seen their bullet-ridden bodies after the Punjab police killed them in "encounters". They were accused of having "militant contacts."

Her servant was also similarly killed. Her brother died in custody, unable to endure torture.

Kuljit and her youngest daughter, Sharanjit, were kept in custody illegally for

about six months. Kuljit works in the gurdwara for food and lodging. She earns money by working as a labourer for two days a week. "After all, I need to have some money with me," she said.

Kuljit married off Sharanjit, her only child to survive the ordeal, when she was just 14 years old. "I was not sure whether I would be able to protect my child. So I got her married. Even today, the fear lingers. I am still not sure about her safety," she said.

Gurucharan Singh comes from a family which has always opposed the Congress. Troubles started when his son, Gulmer Singh, decided to contest the panchayat polls. Gulmer's opponent was a relative of the then chief

minister of Punjab, Biyant Singh.

Gulmer was kidnapped and he never returned home. When his family begged for Gulmer's release, police demanded an exorbitant sum. Gurucharan remained silent

as another of his son had also been picked up by police. "I didn't want him to meet Gulmer's fate," he said.

Lakshbir Kaur lost her son, Balwinder Singh, since he shared his name with a militant whom police was looking for.

Tragedy struck all these people a decade ago, but their wounds are still fresh. "All the more so because nothing has happened to their tormentors. Not only have they been spared of any punishment, in many cases, the policemen have been

rewarded with promotions also," said Mr Ramnarayan Kumar, convenor, Committee For Coordination On Disappearances in Punjab, a voluntary organisation working on the issue.

"Human rights violation may not be taking place in Punjab the way it used to at that time. But then it all amounts to the same. The present Akali Dal government has done little to help us despite the fact that they once used to vehemently protest against police atrocities," Mr Kumar alleged.

"For example, when we produced evidence of the custody death of Gurudev Singh Konge, the acting head of Akal Takth during Biyant Singh's rule, Mr Parkash Singh Badal set up an inquiry. But its report is still

to be published. Our repeated requests to him in this regard have borne no fruit," he alleged.

(Despite repeated attempts, the Punjab government officials remained elusive and hence, their version of the story cannot be included in this report.)

The committee said the National Human Rights Commission also failed to take up the cause. "They have refused to widen the scope of inquiry and are only looking into illegal cremations which were conducted on a large

scale in three police districts of Amritsar. They refuse to consider the fact that there have been human rights violations all over the state and cremations were not the only way of disposing bodies," Mr Kumar said.

The NHRC pleads helplessness. Mr Justice K Ramaswamy, member, NHRC, said: "The NHRC was ordered to probe into the issue by the Supreme Court following a CBI report. The agency based its report on illegal cremations in three police districts of Amritsar. The NHRC is merely acting on the Supreme Court orders and cannot over step it. It is unfortunate that the organisation working on the issue cannot understand our predicament."

"The SC, in its 1998 order, had empowered the NHRC as its own extension in the case. The SC had also said the NHRC could approach it whenever in doubt. Hence, the NHRC is not confined in anyway insofar as the case is concerned," Mr Kumar said.

THE STATESMAN

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1 MAR 2001

# Russia to probe U.S. rights violations

By Vladimir Radyuhin

**MOSCOW, MARCH 9.** Enraged by American criticism of Russia's human rights record, Moscow vowed to investigate media violations by the United States and to launch an advertising campaign to polish up Russia's image in the West.

In a new sign of growing tensions between Moscow and Washington, Russia's Information Minister, Mr. Mikhail Lesin, accused the U.S. of acting like an "obnoxious policeman" and telling "lies" about Russia in an annual American report on the state of human rights around the world.

The U.S. State Department report released last week said Russia's record on press freedom had "worsened" and that "serious problems" remained with Russia's overall human rights record, especially in Chechnya.

"We cannot tolerate the pious tone or the unfounded accusations which come from a state where cases of arbitrary policing, violence, anti-Semitism, racism and the breach of fundamental rights and constitutional liberties are nothing unusual and go unpunished," Mr. Lesin told a press conference in Moscow.

The statement is bound to add acrimony to Russian-American relations overshadowed as they are by U.S. plans to build a national missile defence bitterly opposed by Russia.

Mr. Lesin said his Ministry was drafting a

"report on the state of freedom of speech and the freedom of media activities in the United States."

The report, to be released later this month, will cover restrictions faced by foreign news organisations and the concentration of U.S. media in too few hands, the Minister said. For example, Washington has refused to allow Russia's Radio Mayak to broadcast in the U.S. even while the U.S.-funded Radio Liberty has been broadcasting in Russia for years. Although Russia and the U.S. have a comparable number of media outlets, Mr. Lesin said, Russia's organisations were controlled by thousands of companies, while U.S. media were run by about 50 conglomerates.

"De facto, U.S. media outlets express the viewpoint of 50 people or 50 boards of directors," he said.

Mr. Lesin also said the Russian Government planned to commission an advertising campaign aimed at projecting a "positive image of Russia" in the U.S. and Europe.

"How long will the Americans be told lies about processes under way in Russia?" he said. "It's time to speak the truth."

The Minister accused Washington of clamping down on U.S. press freedom, saying Moscow was also studying ways to "support the public organisations that are struggling for freedom of speech in the United States."

THE HINDU

10 MAR 2001

# Rights panel blasts govt on jail conditions

STATESMAN NEWS SERVICE

KOLKATA, March 3. — The state Human Right Commission in its report for 1998-99 has lambasted the state government for the deplorable condition of the jails and its failure to improve health care system in the state. The report was submitted to the state government last week.

The commission pointed out that Munna, a six-month-old boy of an undertrial prisoner, had died in the hospital due to the health department's indifferent attitude.

Sakila Begum, Munna's mother was transferred from Asansol sub-jail to Presidency Jail in the city on 18 March 1998 for Munna's treatment by an order passed by the sub-divisional judicial magistrate, Asansol.

Sakila Begum took Munna to Bangur Institute of Neurology but the baby was not admitted. Two months passed. She took Munna again to the

hospital on 21 May where the baby was denied admission as there were no vacancies. She then went to SSKM where the baby couldn't be admitted for the same reason. The baby was again taken to the hospital in the evening and admitted in the Alexandar ward. The baby died on 26 May.

The report stated that an investigation carried out by the commission at Midnapore Central Jail had revealed that some of the undertrial prisoners were forced to carry water in up to 100 kg vessels inside the jail. Reluctance to do the job would invite torture and punishment. Some jail officers often visited the undertrial prisoners' houses and extorted money from their relatives to provide safety and security to their jailed relatives. The jail staff take money to provide additional blankets to the undertrials even during the severest winter. The investigating team also found that some veteran convicts and mates

in-charge of the jail used to indulge in sodomy with the freshers. Even the food supplied to the prisoners was unfit for human consumption.

The report said, "The commission fears that the jails in the state will no longer be institutes of correctional and custodial care unless the government displays greater determination and commitment to tackle the issue." The commission found that 113 primary health centres in the state were functioning without medical officers. The commission said that urgent steps should be taken to resolve the problem.

The commission criticised the state government for running an institute of mental health like a prison. The patients were locked up in the dormitories after their dinner at 5.30 p.m. The locks were opened at 6.15 a.m. They were again locked up after 12 noon. The patients were forced to sleep on the floor. There was no nurse or doctor.

THE STATESMAN

4 MAR 2001

# Illegal immigrants found under train carriage

REUTERS

LONDON, March 3. — Nine suspected illegal immigrants, including a three-year-old girl, were found hidden underneath a high-speed cross-channel train when it arrived in London from Paris, police said.

British transport police said the four men, four women and the child were found after passengers reported hearing banging noises from beneath the Eurostar train, which had travelled from Paris to London's Waterloo station via the channel tunnel yesterday.

"They are being questioned by home office immigration officers this evening," a police spokesman said.

The spokesman said the immigrants were found in an

open recess beneath one of the carriages, huddled close together against freezing temperatures.

The train had spent the night in Paris before travelling to London. The immigrants were found just minutes before it was due to turn round on Friday afternoon and head for Brussels.

It was not clear whether the group had hidden under the train in Paris or at another stop along the line. Officials at Waterloo said they claimed to be Romanian.

If they began their dangerous journey at Paris, they would have been under the train for more than 410 km, at a speed of up to 300 km per hour.

A doctor examined them

before they were handed over to immigration officials. There was no immediate indication of their condition.

Thousands of people seek asylum in Britain every month, many smuggling themselves or being brought into the country illegally.

Just two out of 60 illegal Chinese immigrants survived when they tried to enter the British seaport of Dover in an airtight truck carrying tomatoes in June. Some 54 men and four women suffocated.

The Dutch driver of the truck, Perry Wacker, is on trial in England charged with manslaughter.

Thousands of holidaymakers use Eurostar trains every year to cross beneath the English Channel

between Britain, France and Belgium.

Eurotunnel, the Anglo-French company which runs the rail link under the channel between Britain and France, called on the British and French governments earlier this month to stem the tide of illegal immigrants using the tunnel.

The company said growing numbers of immigrants trying to cross had disrupted its services.

Earlier this month an illegal Iraqi immigrant was found dead in the channel tunnel after being hit by a freight train. The French President, Mr Jacques Chirac, and the British Prime Minister, Mr Tony Blair, met in February to discuss the surge in illegal immigration.

THE STATESMAN

9 MAR 2001



# Buddha seeks report from consulate

1/3  
BY OUR SPECIAL CORRESPONDENT *Human Rights* *T/S*

Calcutta, Feb. 28: Reacting sharply to criticism from the US state department about human rights abuse in West Bengal, chief minister Buddhadeb Bhattacharjee today sought the full text of the report from the US consulate in the city.

He said it was "dangerous" and aimed at "lowering the dignity of the Left Front government in the state".

"I have gone through the entire report published in **The Telegraph** on Wednesday. It (the US state department report) is not only motivated but also dangerous... aimed at maligning our government. I have immediately contacted the US Consulate and asked for a copy of the report released in Washington on Monday.

"Let me get an official copy from the US administration before giving a fitting reply to such mischievous allegations. We shall not allow a foreign government to malign a democratically-elected government in the state so easily,"

Bhattacharjee said.

The US state department report criticised the Left Front government as well as the CPM for violation of human rights in the state. The report alleges that in Bengal detainees often disappear from custody, teachers are assaulted and reporters intimidated.

The Left Front said the "motivated" report was engineered by the pro-BJP lobby to help build an anti-Left campaign ahead of the Assembly polls.

On March 2, the CPM state secretariat will discuss the issue at its meeting where the decision to launch a counter-campaign is expected.

The CPI, RSP and the Forward Bloc, too, echoed the CPM.

"We need to build up a counter-campaign against it. The report has come at a crucial juncture when the campaign to the Assembly polls has virtually started. The Left Front can't take it lying low," a CPI leader said.

The Left Front is also planning to agitate in front of the US consulate in the city to protest against the report.

THE TELEGRAPH

1 MAR 2001

## NHRC cautions UP Govt against fake rights' bodies

PRESS TRUST OF INDIA  
NEW DELHI, MARCH 18

NATIONAL Human Rights Commission (NHRC) has cautioned the Uttar Pradesh Government against fake organisations "making money in the name of human rights" following increasing number of complaints of such bodies functioning in the state.

The Commission has received many complaints about activities of such organisations in the recent

past alleging that these bodies project that their NGO's were an adjunct of the NHRC, the Commission sources said.

After receiving the complaints, NHRC had asked its investigation department to hold on-the-spot inquiry and report to the Commission. As per the direction of the Commission, the officials visited some districts of Uttar Pradesh, including Meerut and Ghaziabad, and submitted their inquiry report.

The inquiry finding clearly

shows that these organisations have "fraudulently and dishonestly" induced people into a belief that they were an adjunct of the NHRC and would help them in securing relief, compensation and justice in the matter of human rights' violations.

The report also revealed that the organisations enrolled a large number of members against substantial fee through such deception, the sources said.

The NHRC officials also found

that some organisations in a bid to proliferate further had recently obtained permission to publish a weekly newspaper on human rights from Meerut.

After considering all the facts and findings, the NHRC came out with recommendations to watch out for these fake organisations which included publicity of as to how the petitions from the victims can be sent to the National commission to minimise middlemen operations.

INDIAN EXPRESS

19 MAR 2001

# ISRO SPY CASE HOW THE ACCUSED WERE VICTIMISED

## A glimpse of hell

The NHRC has ordered the Kerala government to pay Nambinarayanan, a senior scientist at the ISRO case, Rs 10 lakh as compensation for the human rights violations he suffered in the hands of the state police. **KOTA NEELIMA** reports on the espionage ISRO scandal

**N**AMBINARAYANAN has found the light at the end of the tunnel. The National Human Rights Commission (NHRC) on March 14 ordered that the Kerala Government pay him Rs 10 lakh as compensation for the gross human rights violations, including custodial torture, that Nambinarayanan suffered at the hands of the investigating agencies.

Nambinarayanan, a senior scientist of the Indian Space Research Organisation (ISRO), was one among seven others who were "accused" in the ISRO spy case in 1994, which devastated their lives and careers. Others included two Maldivian women, Mariam Rasheeda and Fauzia Hassan, senior scientist D. Sasikumaran, trade representative of a Russian space agency K. Chandrasekharan, his friend a Bangalore-based contractor S.K. Sharma, and the IPS officer Raman Srivastava.

The NHRC order says, "... this is an unusual case of gross violation of human rights of a reputed scientist whose long and distinguished career in space research has been tarnished apart from the physical and mental torture to which he and his family were subjected... It is difficult to assess in precise terms the monetary compensation to which he is entitled," the order says.

Significantly, the closure report of the CBI which was looking into the case in 1996 talks of the custodial torture that Nambinarayanan got during interrogation.

When a doctor checked him, according to the CBI report, "Nambinarayanan's legs were swollen with multiple hemorrhage rashes on both the legs... He (the doctor) also observed that Nambinarayanan was looking exhausted and tired. He stated before the CBI that he was not

allowed to sleep for two days and was kept standing."

The closure report also said the standard of living of Nambinarayanan who is very senior scientist and "has made a great contribution in the development of Vikas Engine" is very modest for his rank.

The CBI report further says, "Investigation has established that the accused persons including Rasheeda, Nambinarayanan and Chandrasekar were harassed and physically abused."

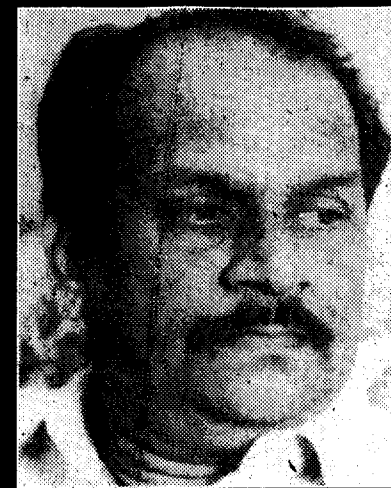
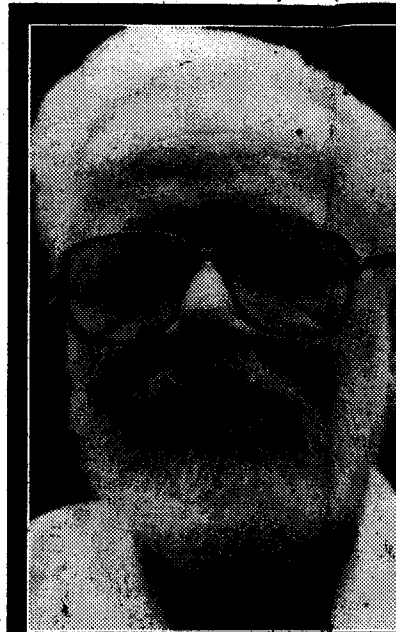
Former president of People's Union for Civil Liberty and former Chief Justice, Delhi High Court, Rajinder Sachar said "by awarding the interim relief the NHRC has rightly tried to reduce the rigour of a person whose reputation has been tarnished because of a false case."

On whether the Kerala Government would implement the NHRC directions which are only recommendations, he said, "No occasion has risen till now where the state has not followed the directions of the NHRC. In case they do not, then the NHRC can move the court and get a direction to the effect."

Senior Human Rights advocate, Kamini Jaiswal says, "It would be decent on the state government to follow the directions of the NHRC and award the relief to Nambinarayanan. The directions certainly have a moral binding on a state."

The controversy started in October 1994 when at the instance of Circle Inspector S. Vijayan of Kerala Police at Thiruvananthapuram, a criminal case of espionage for offences under the Indian Official Secret Act, 1923, was initiated in which Nambinarayanan was implicated.

On November 30, 1994 he was arrested by the Deputy Superintendent of Police (Vigilance), Jogesh. On December 1, 1994, he was produced before the Ad-



(Clockwise from top left): Nambinarayanan, Sasikumaran, Fauzia Hassan, Chandrasekhar, and Mariam Rasheeda

ditional Chief Judicial Magistrate, Thiruvananthapuram for remand upto to December 9.

Nambinarayanan was handed over to officers of the Intelligence Bureau who interrogated him till December 5, 1994. During which he alleged he was illegally detained and tortured in custody by officials of the Kerala Police and Intelligence

Bureau.

Nambinarayanan had alleged the involvement of the Inspector General of Police (Crimes) of Kerala, Police Sibi Mathew, Joint Directors Mathew John and R.B. Srikumar of IB. He had blamed them for "illegal detention and gross violation of human rights."

On December 2, 1994, the Kerala

Government handed over the investigation to Central Bureau of Investigation.

On December 9, 1994, Nambinarayanan was produced before the Chief Judicial Magistrate, Ernakulam and was remanded to CBI custody till December 24 where he is interrogated again.

On January 19, 1995, Nambinarayanan got bail from Kerala High Court.

In a shocking development, on April 13, 1996, the CBI's investigation report to the Chief Judicial Magistrate (CJM), Ernakulam concluded, "To sum up, in view of the evidence on record oral as well as documentary, as discussed above, the allegations of espionage are not proved and have been found to be false."

On May 2, 1996, discharging Nambinarayanan, CJM, Ernakulam, says, "I agree with the report that the allegations of espionage are not proved and have been found to be false in investigation."

On November 27, 1996, the Kerala High Court dismissed the petition for revision sought by Inspector Vijayan.

However, taking the case back from the CBI, the Kerala Government gave it to the Kerala Police issuing notification that there would be 'further investigation.' This was challenged in the Supreme Court by Nambinarayanan.

On April 29, 1998, the Supreme Court quashed the notification directing 'further investigation' into the case by Kerala Police and passed strictures against the Kerala Government.

The Supreme Court also awarded Rs 1 lakh to each of the appellants to be paid by the Kerala Government. The court judgment said, "...the notification issued withdrawing the consent to enable the state police to further investigate into the case is patently invalid and unsustainable in law."

The court also said, that notification for further investigation "does not conform with the known pattern of a responsible Government bound by rule of law. This is undoubtedly a matter of concern and consternation."

On October 14, 1998, Nambinarayanan complained to the NHRC of gross violation of human rights and sought compensation. On September 6, 1999, the NHRC directed Union Home Secretary, Director IB, Chief Secretary and DGP, Kerala, to submit a compliance report on action taken against guilty officers. Then on August 29, 2000, the IB informed the NHRC that chargesheets have been issued by Ministry of Home Affairs to nine IB personnel.

# China's rights record non-issue for Europe

**N**OTHING could have been more revealing of the ambiguities at the heart of Western policy towards China than when, in March 1997, the annual vote came up at the UN Human Rights Commission to condemn Beijing's record on the treatment of its dissidents and minorities.

Denmark, with strong support from the Netherlands, had tabled a critical motion. The Chinese lobbyists went into overdrive. Denmark was told by Beijing that its criticism would be "a rock that smashed down on the Danish government's head".

Several Danish contracts were cancelled and, as Chris Patten, now the European Union Commissioner responsible for foreign affairs, wrote in his book, *East and West*, "And what did anyone do? Nothing. What in particular did members of the EU do? They looked the other way." In 1998, Europe went a step further or, as Human Rights Watch described it, "A major step backwards". Rewarding China for its bad behaviour the previous year, the European foreign ministers threw in the towel.

The president of the EU's Foreign Affairs Council, British Foreign Secretary Robin Cook cited the token release of Wei Jingsheng, China's most well-known political prisoner, as an example of the results of the dialogue, a position roundly denounced by Mr Wei.

Mr Wei had once told me, "When Beijing's relations with the West improved, conditions got worse for the dissidents inside China's jails." It was with an almost audible sigh of relief that Washington joined Europe in dropping its sponsorship of the resolution. A senior Clinton administration figure was quoted in the *New*



Military police officers question women on the sidewalk opposite Beijing's Great Hall of the People, where a session of the National People's Congress was held on Saturday. — AP/PTI

## WORLD VIEW

By JONATHAN POWER

*York Times* as saying: "It is being done as a calculation. It is being done because we believe it is the way to make progress in the future."

As Mr Wei shrewdly added, "The Chinese government's concept of human rights has not moved towards the universal standard of human rights. On the contrary, the human rights values of Western politicians have moved closer to those of Communist China."

It is quite pathetic, it is laughable, but above all distasteful that Western countries regularly betray each other and, in so doing, the human rights activists inside China, in an effort to better position themselves in this quite modest marketplace.

If Western governments could stand shoulder to shoulder and say to Beijing and mean it: "Stop using economic and trade threats. You are in no position to do so. It is

unacceptable behaviour," Beijing would get the message. Sometimes, as Mr Patten once said (before he took his present post) one has to pinch oneself to remember who needs whom most.

To begin with, we should never forget that China represents only 1.7 per cent of all Western exports added together.

Only recently have cracks appeared in the unseemly union between the old-time Leftist/liberals

fantasists who have supported "revolutionary" China through thick and thin and the rightist, realpolitik, inhabitants of the White House and European capitals who first came to Beijing to balance Moscow and who stayed on, enthralled by its vast "potential" market. Just over a year ago the mood began to change.

In February 2000, the US state department in its annual report noted that China's human rights record had worsened over the past year. For the first time, the state department's reporting was as vigorous as that of Amnesty International and Human Rights Watch.

Two months later, the USA (but not the EU) cast its vote against China at the annual meeting of the UN Human Rights Commission. At last, the human rights lobby had broken through the Left-right consensus that had protected China for so long.

At the same time, President Bill Clinton balanced this by finally deciding that the time had come to support China's entry into the World Trade Organisation and by successfully persuading Congress to give China the permanent, most-favoured-nation trade status.

This is the right mix: the continuous drumming and tattoo of human rights lobbying,

at the same time as trading, commercial and educational links are being strengthened. Over time it might work, if anything will, to loosen up the dictatorship and widen the political space for dissidents.

Perhaps, rather surprisingly, given previous Republican administrations' lack of concern about Chinese internal behaviour, the White House has indicated it is going to follow Mr Clinton's lead and cast its ballot to censure China on 19 March when the vote comes up at this year's UN

meeting.

But it appears the European Union, still more anxious about gaining commercial favours from Beijing (not least for the Airbus super-jumbo plane) than giving support to important principles (despite Mr Patten's own, now internal, lobbying efforts) will not follow suit.

On such an important issue of the day does Europe want to be seen as lagging behind the USA?

For the moment, the answer is a very disappointing and quite counterproductive "yes".

# UN study on prostitution draws flak

## Madhya Pradesh human rights groups ask Kofi Annan to withdraw UNICEF' caste-based report

SREELATHA MENON  
NEW DELHI, MARCH 15

**A**HUMAN rights group here has appealed to UN Secretary General Kofi Annan to withdraw the Unicef study *Caste-based prostitution in Madhya Pradesh*.

The report is said to have made sweeping remarks about prostitution and prevalence of HIV positive cases among three castes in the state.

The Joint Action Council Kannur (JACK), which has made the appeal in an open letter to Annan, is leading the protest against the study which was reported by *The Indian Express* earlier ("MP rights report is a stigma on three castes", March 1).

Several women's groups like the Joint Action Front, the Mahila Dakshata Samiti and the National Federation of Indian Women have joined JACK in this protest.

JACK convener Purushottaman Mulloli says that Annan should help correct the direction of one of the UN agencies operating in India which has degraded and stigmatised Indian women of a particular caste.

The study done by the Madhya Pradesh Human Rights Commission was financed and supported by Unicef and circulated widely.

The Unicef study runs down the entire Indian nation as "the only land where women are treated by some as saleable commodity and forced into prostitution", JACK quotes the study as saying. "Labelling entire castes as prostitutes/pimps was bad enough but the report goes further by making the shocking statement that this year's medical examination of (caste-named) women shows that 50 per cent of them are HIV positive," it says in the letter.

Ranjana Kumari, co-ordinator of the Joint Action Front, a network of 97 women's groups, said that the UN chief must ask Unicef to withdraw the study.

"But we are not sure whether Annan will hear our demands. It is for our Government to act to protect the interests of our people," she said, adding that she was writing to Home Minister L.K. Advani and Prime Minister A.B. Vajpayee, asking for the with-



drawal of the report.

Ranjana Kumari, who is also general secretary of the Mahila Dakshata Samiti, said that she would mobilise groups in Bhopal and ask the Madhya Pradesh Chief Minister to withdraw the study that stigmatises castes in the state.

National Federation of Indian Women general secretary Amarjit Kaur has said that Kofi Annan must explain why an arm of the United Nations was violating the international norms set up by the United Nations itself. NFIW and AITUC president Amarjit Kaur said that UN is supposed to be the protector of human rights but its own agency has now branded women of three castes as prostitutes. "Annan must explain this violation of human rights," she said.

The Indian Express had reported that the World Health Organisation, which is also a United Nations body, had criticised the sweeping remarks in the report about the prevalence of HIV in a certain caste saying that such studies create public opposition to all efforts to prevent the spread of HIV.

INDIAN EXPRESS

15 MAR 2001

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## NHRC awards Rs 10 lakh to wronged ISRO scientist

New Delhi, March 16

THE NATIONAL Human Rights Commission (NHRC) has asked the Kerala Government to pay Rs 10 lakh to an Indian Space Research Organisation scientist as compensation for gross violation of his 'human rights' by public servants.

S Nambinarayan, indicted in a case of espionage under the Indian Official Secrets Act, submitted a petition to NHRC complaining gross violation of his human rights. According to the petitioner, Nambinarayan along with five others was arrested and the case was handed over to the Intelligence Bureau.

The petitioner had alleged illegal detention and custodial torture by the Kerala Police and IB officials. The State Government issued a notification entrusting the probe to CBI. He was then remanded to CBI custody till the Kerala High Court ordered his release on bail. The CBI in its final report said, "...To sum up, in view of the evidence on record as well as documentary, as discussed above, the allegations of espionage are not proved and have been found to be false."

THE HINDUSTAN TIMES

17 MAR 2001

# Dissident feared arrested in China

REUTERS

HONG KONG, March 13. - A Chinese dissident who traveled to Tiananmen Square to protest corruption in the ruling Communist party is missing and feared detained, a Hong Kong-based human rights group said today.

Miao Xike, 38, took protest banners to the square on Monday morning and his family has not heard from him since, said the Information Centre for Human Rights & Democracy in a statement.

His protest came as China's top law enforcers vowed in recent days to fight corruption which Beijing fears is eroding Communist Party rule.

The dissident previously operated a karaoke bar in southern Shenzhen city with his brother, but local police and triads tried to extort money from them, and his brother was subsequently "persecuted to death", said the statement.

Miao then set up his own political party, the China Citizens Rights Party, to fight official corruption and protect rights of citizens, said the statement.

Meanwhile, a school teacher from Shaanxi province, who mysteriously disappeared in March 1998 after receiving a large number of votes in county elections, has been released. Mr Zhao Changqing, who took part in 1989 pro-democracy demonstrations, disappeared when he received more votes at the polls than the official candidate, the rights group said.

He was subsequently sentenced secretly to three years' jail for "inciting subversion of state power", it added.

Mr Zhao's release on 1 March follows that of a handful of other dissidents who were granted early release, a move analysts say is related to Beijing's bid to host the Olympic games in 2008.

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## Govt. of West Bengal TENDER

Principal, Dr. R. Ahmed Dental College & Hospital, 114, A.J.C. Bose Rd., Kolkata-14, invites sealed tenders for selection of a firm/supplier on the basis of certain terms & conditions for supply of back issues of foreign/Indian Journals for the year 2000. The list of journals will be available from the librarian of Dr. R. Ahmed Dental College & Hospital. Tenders to be submitted by 16-3-2001 up to 12 noon. This tender is also available in [www.tendertimes.com](http://www.tendertimes.com)

ICA-907(3)/2001

Executive Engineer (Agri. Irrign.) Barasat (Agri. Irrign.) Division, 10, Taki Road, Bidhan Park, Barasat invites groupwise sealed tenders on behalf of the Zilla Parishad North 24 Parganas for drilling and installation of 150 mm. dia x 80 mm. dia. light duty tubewell through any type of soil strata. Total No. of Groups-5. Estimated value for each group Rs. 1,9,154. Last date of application for tender paper 19-3-2001 - 14 hrs. Last date of purchasing - 21-3-2001. Last date of dropping of tender documents - 23-3-2001. This tender is also available in [www.tendertimes.com](http://www.tendertimes.com)

ICA-937(4)/2001

THE STATESMAN

9 MAR 2001

2001

## CRIPPLED RIGHTS

### State human rights panel deserves attention

IF there is one message the state Human Rights Commission needs to deliver to Writers' Buildings, it is that it deserves to be taken seriously. In the absence of an effective mechanism for redressing grievances, the ritual of setting up the commission and creating opportunities for favoured bureaucrats after retirement does not serve the needs of the people. The commission's report for 1998-1999 shows a staggering rise in the number of registered complaints — 5,045 as against 1,567 the previous year — suggesting that there is an element of confidence that the people have in the commission. The trouble is that the commission can only recommend action and till now there has not been any instance of compensation for crimes like custody deaths in which the state has a very poor record. Worse, it is deprived of infrastructure and manpower and resembles the consumer courts also set up by the state government to demonstrate its concern for citizens while they function only on paper.

In the circumstances, it is doubtful what effect its findings on deplorable conditions in West Bengal jails will have. The report suggests that jails are a hotbed of evils ranging from torture to extortion, not to speak of neglect of any attempt at corrective measures. Escapes by undertrials in collusion with jail staff have ceased to surprise. Yet the Left Front has done little to set things right. The jail department is in the hands of the RSP, giving Alimuddin Street the excuse not to intervene. It is forgotten that this is no party matter; it concerns good governance. More than the lack of funds, it is the lack of will and vested interests, which come in the way of any improvement. For a public that is more alert than before, the deception no longer works. For what it is worth, the commission contributes to the citizen's sense of social awareness; the commission's reports are an eye-opener which government can ignore only at its own peril.

THE STATESMAN

14 MAR 2001



H9-16 2892  
**U.S. to move censure motion at U.N.**

By Sridhar Krishnaswami

WASHINGTON, FEB. 27. In a move that is bound to set the United States on a collision course with China, the Bush administration has announced that it will introduce a resolution on China's human rights practices at the United Nations Commission on Human Rights meeting in Geneva next month.

The announcement was timed to coincide with the release of the State Department's report on human rights practices of nations around the world, which incidentally, was sharply critical of Beijing. The State Department spokesman, Mr. Philip Reeker, argued that the decision to move the resolution against China was because of the fact that Beijing's human rights record had worsened in the past year.

"Our goal in sponsoring this resolution is to encourage China to take positive, concrete steps to meet its international obligations to protect the fundamental freedoms and civil liberties of the Chinese people", Mr. Reeker said in a statement. The Bush administration is faulting Beijing for having committed "numerous serious abuses" that would include the crackdown on religion and in Tibet besides suppressing persons or groups perceived as a threat.



**The United Nations Commissioner for Human Rights, Ms Mary Robinson, speaks at a press conference in Beijing on Tuesday. Ms Robinson said that Falun Gong followers in prisons were being mistreated, and urged Chinese officials to respect their rights. — AP**

In the past, through a series of diplomatic manoeuvres and political posturings, China has managed to avoid a vote on the resolution, but the Bush administration has been coming under varying degrees of pressure from

human rights groups and activists that it had to take a tough line against China in Geneva as this process itself was being undermined. The State Department's Human Rights Report for 2000 has set the stage for a showdown

between Washington and Beijing.

The Bush administration's stance in Geneva is not the only upcoming major irritant in bilateral relations. A top Democrat in the International Relations Committee of the House of Representatives has said that he is introducing a Bill next month opposing China's bid to host the Olympics in 2008.

"All who love freedom and respect human dignity take offence at China's human rights situation. The United States, as the world's leading democracy and champion of human rights, cannot ignore it", Mr. Tom Lantos said. Mr. Lantos will not be in a minority on Capitol Hill, for there are several law makers who are sharply critical of Beijing on several fronts including the crackdown on Falun Gong, Tibet and action towards Taiwan.

The Chinese Government has officially scoffed at the State Department's report as it has done in the past. But the latest action of the Bush administration adds to the growing differences between the two countries. For instance, in recent days Washington has expressed serious concern at reports of Chinese civilian and military personnel upgrading Iraq's military facilities; and in April, the Bush administration has to decide on Taiwan's requests for arms sales.

THE HINDU

28 FEB 2001

# US black mark on CPM reign

FROM K.P. NAYAR

Washington, Feb. 27: The Bengal government and the CPM have drawn unusual and unexpected criticism from the US state department which lists in a human rights report the "disappearance" of detainees, assault on teachers and intimidation of media in the state.

The report, released by the US acting assistant secretary for democracy, human rights and labour, also makes an unflattering comment on the state of the CPM. "In Calcutta, the CPM often threatens journalists. However, as the power of the party diminishes, journalists find it easier to criticise the government," it says.

Unlike earlier, this time the report, part of an exercise to meet Congressional benchmarks for US aid and trade assistance to foreign countries, has lengthy references to Bengal and the Northeast.

Last year, the US consul general in Calcutta, Christopher Sandrolini, was pulled up by the state government for sending two employees to Birbhum's Nandoor where 11 persons, said to be Trinamul Congress supporters, were

killed. The controversy ended after Sandrolini met the then chief minister, Jyoti Basu. The state department report does not mention the incident.

The most severe criticism of Bengal is contained in the section on "disappearance". The report disputes claims by the government that screening committees provide information to families about people detained by the police. "Other sources indicate that families are able to confirm the detention of their relatives only by bribing prison guards."

The report cites the case of Partha Majumdar, who was taken from his home by the police in September 1997. Despite requests from the State Human Rights Commission, it says, police refused to provide information about Majumdar, who was witness to police shooting which left one person dead.

In the section on 'Freedom of peaceful assembly and association', it criticises the state government for beating up primary school teachers holding a peaceful demonstration in front of the Assembly last year.

The report alleges that "in West Bengal, the organised traffic in illegal Bangladeshi immigrants is a source of bonded

labour". It says "Calcutta is a convenient transit point for traffickers who send Bangladeshis to New Delhi, Mumbai, Uttar Pradesh and West Asia", where "persons sometimes are sold to virtual slavery".

But the report has words of praise for non-government organisations in Calcutta for good coordination among themselves and with the police in combating the sexual exploitation of women and children. Such coordination, the report says, is severely lacking in cities like Mumbai.

It has particularly praised Sanlaap, a Calcutta-based NGO, for sponsoring "meetings between representatives of sex workers and the police to discuss such issues as violence against women and trafficking".

The report underscores that the state government has provided technical advice for an education project and points out that the "Central government contributed nothing to the project".

The report has not spared the Centre either. It accuses the BJP-led government of attempting to gain political control over NGOs and "abridging their freedom of assembly and association". It also refers to allegations of rights violations in Jammu and Kashmir.

THE TELEGRAPH

28 FEB 2001

# Communal tensions a challenge to India's secularism, says U.S. report

By Sridhar Krishnaswami

WASHINGTON, FEB. 26. Although the Government of India generally respects the human rights of its citizens in some areas, numerous serious problems remain. This in spite of extensive constitutional and statutory safeguards, says the United States in its Human Rights Report of 2000. Further, it has been asserted that tension between Muslims and Hindus and between Hindus and Christians continue to pose a challenge to the secular foundation of India.

The report is mandated by the Congress and prepared by the State Department.

The section on India is not very different from what it has been in the last few years, with much of the focus on extra-judicial killings, the goings-on in Jammu and Kashmir and the north east and the societal flare-ups including the communal violence between Hindus and Muslims and between Hindus and Christians.

On extra judicial killings, the report takes note of fake encounters, deaths of suspects in custody, excessive use of force by the police and security forces while combating insurgencies in Jammu and Kashmir and several Northeastern States, torture and rape, and the societal violence against Christians and Muslims.

"Many of these abuses are generated by a traditionally hierarchical social structure, deeply-rooted tensions among the many ethnic and religious communities, violent sec-

tionist movements... and deficient police training. These problems are acute in Jammu and Kashmir, where judicial tolerance of the Government's heavy-handed counter-insurgency tactics, the refusal of security forces to obey court orders and terrorist threats have disrupted the judicial system."

The report has detailed a number of instances of human rights violations including torture, degrading treatment, denial of a fair public trial and the use of excessive force and violations of humanitarian laws in internal conflicts.

The State Department has also an extensive section on the scope of civil liberties including freedom of religion; the criticisms levelled against the Government is somewhat similar to what has been said in the past.

"India is a secular state in which all faiths generally enjoy freedom of worship; Government policy does not favour any religious group. However, tensions between Muslims and Hindus and to an increasing extent between Hindus and Christians continue to pose a challenge to the secular foundation of the state. In addition, governments at the State and local levels only partially respect religious freedom."

The report has particularly taken note of the fact while Hindu extremist groups continued to attack Christians during the year, in many cases the Government response was inadequate "consisting largely of statements criticising the violence with few efforts to hold accountable those persons responsible or to

prevent such incidents from occurring".

## 'RSS influence not clear'

The report takes note of the fact that the BJP is a Hindu nationalist party with links to Hindu extremist groups which have been implicated in violent acts against Christians and Muslims. Many BJP leaders and workers, are members of the RSS and share some of its ideology. "However the BJP is an independent political party and the degree of RSS influence over its policy-making is not clear."

The BJP officially agrees that the caste system should be eliminated but many of its members are ambivalent. "Most BJP leaders are also RSS members. The BJP's traditional cultural agenda includes calls for construction of a new Hindu temple that was believed to have stood on the site of a mosque in Ayodhya that a Hindu mob destroyed in 1992; for repeal of Article 170 of the Constitution which grants special rights of Jammu and Kashmir..."

Taking note of the potential for renewed Hindu-Muslim violence, the report has said the attack by Muslim militants seeking to end Indian rule in J&K had driven out 95 per cent of Pandits in the Valley and that militants had carried out several execution-type killings of Hindu villagers, violently targeting the Pandit community and in one instance the Sikhs.

The report covers 195 countries on which the 'progress card' is issued on annually. The reports "are a tangible manifestation of the Department's intense focus on human rights issues", the introduction said.

# Nepal King on weeklong visit to China

Keshav Pradhan  
Kathmandu, February 26

**KING BIRENDRA'S** weeklong visit to China beginning today would help Nepal maintain a balance in its relations with Beijing and Delhi.

The inclusion of Nepalese Foreign Minister C P Bastola in the royal entourage has added more significance to the visit that comes at a time when internecine political quarrels have prevented the kingdom's elected Government from taking clear-cut decisions on any crucial subject, be it education or foreign relations.

Not only this, a row between ruling and Opposition parties

over a controversial aircraft deal between the Royal Nepal Airlines Corporation and Lauda, an Austrian firm, has brought Parliament to a standstill ever since its winter session began on February 8.

The fact that the monarch's ongoing state visit, third since he ascended the throne in the Seventies, equals the number of similar visits made to India makes clear Nepal's desire to have a balanced policy towards its giant neighbours.

As if in reply to the BJP-led coalition Government's decision to present the monarch as chief guest at the 1999 Republic Day parade in Delhi, Beijing has invited him as guest of honour at

the inauguration of the Boao Forum for Asia, the Asian version of the World Economic Forum, today in the Chinese province of Hainan.

Representatives from countries such as Japan, the Philippines, Malaysia, Bangladesh, India, Pakistan and Australia will attend the programme.

In his pre-visit interview to Xinhua, the 56-year-old King said he was "looking forward to discussing with President Jiang Zemin the strategies of setting up a good neighbourly partnership between the two countries in the new century."

The Chinese president invited the King to visit China when the

Nepalese Foreign Minister reached there about a fortnight after Prime Minister G P Koirala's weeklong India tour that began on July 31.

In recent years, China has sent a number of key representatives to Nepal that has been steadfast in its decision not to allow any kind of pro-Tibet activity within its territory.

This month alone, Chinese Defence Minister Chi Haotian and assistant Foreign Minister Wang Yi visited Nepal.

Delegations of the People's Liberation Army headed by its chief Gen F Quanyou and Major General Luo Bin toured the kingdom in 2000 and 1998.

## Pak rights panel asks Mushrraf to hold polls

Islamabad, February 23

PAKISTAN'S HUMAN rights commission has asked the military regime headed by Gen Pervez Mushrraf to immediately announce an elections schedule for a swift return to democracy and close down training camps being conducted by the Islamic militant groups in seminaries.

In a report highly critical of human rights track record of the Musharraf Government, the commission said the Government need not wait to hold the elections till October 2002 as stipulated by the Supreme Court in its recent judgment. "The restoration of democracy till October 2002 was unnecessary and would aggravate current national crisis," it said. The commission also detailed increasing state repression, raising levels of religious extremism, steep increase in crime and world's worst social conditions.

THE HINDUSTAN TIMES

25 FEB 2001

# Bosnian war victims get justice as court convicts 3

By ROME SOCOLOVSKY

The Hague (Netherlands), Feb. 23: A UN war crimes tribunal convicted three Bosnian Serbs standing trial on charges of rape and torture, the first case of wartime sexual enslavement to come before an international court.

The tribunal on Thursday convicted Dragoljub Kunarac of sexually assaulting and torturing Muslim women at rape camps during the Bosnian war, sentencing him to 28 years in prison.

The court said Kunarac was involved in a "nightmarish scheme of sexual exploitation" that was "especially repugnant." "You abused and ravaged Muslim women because of their ethnic-

ity, and from among their number you picked whomsoever you fancied," said the presiding judge, reading the first verdict. The second defendant, Radomir Kovac, was also found guilty of war crimes and crimes against humanity by rape, and sentenced to 20 years. The third defendant, Zoran Vukovic, was convicted of raping and torturing a 15-year-old girl — who was about the same age as his own daughter — but was acquitted on most other charges for lack of evidence. He was sentenced to 12 years imprisonment.

Presiding judge Florence Mumba went through the testimony of woman after woman who had told horrendous tales of rape and torture in the Bosnian town of Foca, southeast of Sarajevo, when Muslims were herded into separate prison camps for men and women after it was overrun in April of 1992. The women, both in their testimony and in the verdict, were identified by numbers rather than names to avoid further shame. The defendants stood silently, wearing headphones as the judgement was read in sombre tones.

Dirk Rynveld, the lead prosecutor in the case, welcomed the verdicts and commended "the bravery of the victims

who came forward to tell their stories."

Peggy Kuo, another prosecutor, said "the length of the sentences shows that court takes these kinds of crimes seriously." Judge Mumba said the defendants carried out their rapes in full knowledge of the systematic attack against the Muslim population ordered by the Bosnian Serb leadership.

They were not "political or military masterminds behind the conflicts and atrocities," she said. "However, they thrived in the dark atmosphere of the dehumanisation of those believed to be enemies." The verdict in the Foca case follows months of testimony from dozens of witnesses, including 16 former rape victims who came to the

Hague to confront their tormentors.

The trial began on March 20. The women told of how Bosnian Serb paramilitary soldiers entered detention centres and selected women and girls as young as 12 for nightly gang-rapes and sexual torture. They were charged with about 50 counts of war crimes and crimes against humanity, including rape, torture, enslavement and outrages upon personal dignity. The crimes carried maximum life sentences.

The tribunal was established by the UN Security Council in 1993 to go after the alleged architects of the Bosnian war's "ethnic cleansing" campaigns, including former Bosnian Serb President Radovan Karadzic. (AP)

## WAR CRIMES TRIBUNAL

THE ASIAN AGE

24 FEB 2001

## ***NHRC asks states not to jail mentally ill***

**The Times of India News Service**

NEW DELHI: National Human Rights Commission chief Justice J.S. Verma has in a letter to the state chief ministers asked them to put an end to the practice of keeping mentally ill patients in jails.

"The malpractice of lodging of mentally ill patients in prisons is a glaring and gross violation of the provisions of the Mental Health Act, 1987," Justice Verma has said. This is his second letter to the chief ministers in February. Way back in 1996, the then NHRC chairperson

Justice Ranganath Mishra also had written to the chief ministers on the subject and advised them that no mentally ill persons should be lodged in any jail after October 31, 1996. In 1998 a clarification about the expression "mentally ill persons" was issued to all states by Justice Mishra's successor Justice M.N. Venkatachaliah.

According to the commission, West Bengal tops the list with 112 mentally ill inmates followed by 92 in Rajasthan, 69 in Karnataka, 63 in Orissa, 38 in Delhi and Assam, 26 in Manipur and 24 in Jammu & Kash-

mir. Andhra Pradesh, Bihar, Goa and Maharashtra stated they do not have any mentally ill persons lodged in any jail. No information has been received from Arunachal Pradesh, Gujarat, Haryana, Himachal Pradesh, Kerala, Madhya Pradesh, Nagaland, Punjab, Uttar Pradesh, Andaman & Nicobar Islands and Daman and Diu.

The commission has also decided to send special rapporteurs to visit some of the jails to monitor the implementation of the NHRC's instructions.

THE TIMES OF INDIA

## Pak rights report slams religious extremism

ISLAMABAD: Accusing them of spewing "vicious hatred", a human rights report released on Thursday blamed Islamic extremists for an upsurge in violence against religious minorities and women in Pakistan.

The annual report of the independent Human Rights Commission of Pakistan also accused the army government of being a "silent spectator" to the rise in religious extremism, which resulted in the deaths of 40 people—all of them victims of religiously motivated killings.

"The outpouring of vicious hatred from these clergymen, in direct violation of law, not surprisingly resulted in numerous incidents of violence, harassment and even cold-blooded murder," the report said. "The fact that the authorities stood by as silent spectators clearly indicated that they were in fact colluding with the extremists," it said.

Crimes against women were on the increase, with the report saying that newspapers reported 315 honour killings in eastern Punjab province last year. A significant figure, given that most killings would

not be reported.

"More women were murdered across the country than in the preceding year as a result of motives stemming from perceived notions of honor, while crime of almost every kind remained on the rise," the report said.

The government defended its 16-month performance. The federal Law and Parliamentary Affairs Minister Shahida Jamil said the problems are difficult ones—cleaning up a corrupt and inefficient police system, protecting witnesses and disarming a nation awash in weapons. "Honour killings are murder and right now people are afraid to come forward as witnesses and the same is true in the killings of minorities," she said. "We know that and we are trying to do something about it. But protecting minorities and women is our responsibility and we promise to do it."

The report said the many cases of blasphemy filed against individuals last year is indicative of a growing intolerance in Pakistan.

The human rights report urged a quick return to democracy and condemned army rule.

THE TIMES OF INDIA

23 FEB 2001



# The law of arrest

By Rajeev Dhavan

India's law on arrest, pre-trial detention and charge remains colonial... Does no one care about civil liberties?

110-12  
239

INDIA'S LAW on arrest and pre-trial detention are in a mess. The harsh realities are worse. The National Police Commission's Third Report states that 60 per cent of the arrests were unnecessary or unjustified; 42 per cent of the expenditure in the jails was over such persons who "in the ultimate analysis need not have been arrested at all". Invaluable information provided by the National Human Rights Commission (NHRC) to the Law Commission in 1999-2000 from each State shows massive arrests for bailable offences (30-93 per cent) or for breaches of peace. Overall, Bihar boasts only 13.9 per cent of such cases. Could it be that one part of the rule of law is alive in Bihar? This is doubtful. Statistics are not enough. Each case tells its own human story.

The Supreme Court's recent judgment on pre-trial delays shows that 14 years elapsed in a case against two old women — now over 80 years — without even a charge being framed! Since I appeared in the matter, I will refrain from commenting on how and why the trial continues against the son-civil servant whose property has been confiscated, remains suspended from his job, is about to retire and does not know the charge against him!

If the truth is forbidding, the laws let it happen. The Union Government which is keen to bring back the harsh anti-terrorist TADA remains silent on enacting new humane laws to prevent awesome police disruptions in peoples' daily lives. In 1999, the Law Commission entered into the fray to invite comments on its 'Consultation Paper on the Law of Arrest'. To the extent that the Law Commission's paper states the obvious, it is welcome. But, it fails to get to the root of the problem. Its new typology of 'arrestable' and 'bailable' offences will partially help those arrested for offences punishable up to seven years. But, deep design faults will remain.

The Law Commission's analysis of the situation is perfunctory and based on undigested excerpts from the Third Police Commission Report, the English (Phillips) Royal Commission on Criminal Procedure and the Supreme Court's

judgment in the D. K. Basu case (1997) on the due process of arrest. We do not just require a re-classification of bailable and arrestable offences, but re-examination of the power to arrest, detain and charge a suspect. This the Law Commission has signally failed to do.

India's law on arrest, pre-trial detention and charge remains colonial. The British very carefully ensured that in these areas of police keeping, the Common Law and its variations was not re-

produced in India. Under the Common Law, arrests could originally be made

only for a breach of peace. This is partly included in India's Criminal Procedure Code (Cr.P.C.) in provisions that activists and NGOs call the "poor man's preventive detention law". English law empowered police arrest only in serious cases on a "reasonable suspicion" that the arrested person has committed an offence. Woolf LJ's decision in *Castorina's case* (1988) makes this test objective requiring all relevant, and not irrelevant, circumstances to be taken into account. If the 'reasonable suspicion' test is not satisfied, the police are liable to pay damages. Since the *Christie v Leachinsky* case (1947), heavy damages can and have been awarded in England for wrongful or false arrest. By contrast, India's colonial law (despite the revision of 1973) in Sect. 41 of the Cr.P.C. permits arrest of those "concerned in a cognisable offence", against whom a "reasonable complaint" has been made, or "credible information" is available. The Law Commission notes the difference between 'us' and 'them', but leaves this aspect of the law simply hanging in the air.

The biggest fear of people in India is that the moment an information (FIR) is filed with the police, they are liable to be arrested unless politics or money intervenes. The Cr.P.C. tests are too vague and

encourage false arrests. India's novel provisions for anticipatory bail are insufficient protection. The police become a law unto themselves. Arrests justify their existence, power and tyranny.

This leads to the second big difference with the rest on the non-colonial common law world. Before 1984, it was not possible for the English police to detain a person for an offence without a charge. When a policeman harassed me with racist intent in Picadilly, London, in 1980,

and asked me to accompany him to "assist in their inquiries", I simply

dared him to 'charge' me. He demurred knowing that a false charge without reasonable suspicion would lay him open to a case of false imprisonment as well as disciplinary action. This, then was the real protection. In India, the Cr.P.C. permits remand to jail to continue for 90 days unless the police files a 'chargesheet' (challan). Mind you, 'challan' — chargesheet not charge. As in the Maharashtra case, 14 years may elapse before the charge is drawn up. After the 'challan' the accused may continue in detention! This is being examined by the Supreme Court in a reserved judgment.

Is not a citizen entitled to know the 'charge' against him? Should it not be drawn up before or immediately after arrest? Who cares about the police's challan? It signifies only the end of investigation. The real problem can be traced to the colonial origins of our Cr.P.C. In England and the 'white' commonwealth, the 'charge' is drawn up by the police. If they falter and mess it up, they answer for it with their careers. Our colonial masters did not trust the police and separated the process of 'arrest' from the 'charge'. 'Native' police could be trusted with 'arrests' but the 'sahib' judges and magistrates drew up charges. The police, thus had powers but diminished

responsibility. This cocktail was an open invitation to police anarchy and day-to-day tyranny.

The third big difference lay in the period of detention without charge. In India, this period can work out to be indefinite. Challans may be filed, charges may take years; 90 days can elapse before challans are filed. Even in the post-Phillips Commission changes of 1984, English law allows pro-charge detention for only 36 hours — with the Magistrate extending the period up to 96 hours. Time is counted in hours and not days. What is important is the charge not the challan. This leads to monumental differences; and in India invites police harassment, careless monitoring by courts; and jails packed with innocent people who do not know the charge against them.

The fourth big difference is that there is no restraint on the police today — other than possible exposure by the NHRC. Civil suits cannot be filed. No code of practice disciplining the police other than the broad due process laid down in D.K. Basu's case (1997). The NHRC's attempt to evolve a 'code' in lie-detector cases is before the Delhi High Court at the behest of the administration. By contrast, since 1990 England has evolved four important codes which are ruthlessly enforced. Unless civil and administrative machinery sits over the police, they will remain a tyrannical law unto themselves. The Law Commission ignores this.

The Law Commission is right in concluding that no arrests should be made for bailable and non-serious cognisable offences; and that in cases attracting imprisonment for less than seven years, there should be an 'appearance — notice' in court, not arrests. These proposals are halfway and halfhearted.

The Law Commission has signally failed to examine or alter the colonial foundations of the law on arrest and detention. It is the same Law Commission which suggests a stronger anti-terrorist TADA. Does no one care about civil liberties?

THE HINDU

23 FEB 2001

# Too much of rights abuse: It's a lofty call for NHRC, courts

*'Use of force by state alienates people, how wise is it to further alienate disenchanting segments?'*

BY PATWANT SINGH

**New Delhi, Feb. 19:** India's human rights abuses exceed even those of nations who have regularly hit the headlines for their violations of such rights. Gen. Augusto Pinochet, the ex-Chilean dictator who seized power in 1973 and kept the country under military rule for the next 16 years, is well known for his crimes against his people and the laws he enacted to protect himself and his henchmen. The Amnesty Law of 1978 protected persons accused of serious human rights crimes from prosecution. Nor could misuse of Anti-Terrorist Law of 1984 be challenged in a regular court. Only military tribunals had jurisdiction in such matters. The security forces, in other words, were effectively insulated from the process of accountability with a servile judiciary conniving at this miscarriage of justice. Military tribunals were used to prosecute and convict "enemies of the state" who were denied regular safeguards of law.

With the restoration of partial democracy in 1989 and the establishment of the Chilean National Commission on Truth and Reconciliation established by President Patricio Aylwin, a 1991 report of the commission revealed that over 2,100 Chilean citizens had been executed or had disappeared during the military regime. (It is worth noting that the CBI's report to the Indian Supreme Court places the number of bodies secretly cremated by Punjab's security forces in just one district of the state at 2,097.) The reforms that followed the publication of this report "picked up momentum after the second democratic election of Eduar-

do Frei in December 1993. Slowly, the judiciary began to pick up courage against the forces of impunity. In September 1994, two Santiago court of appeals judges applied principles of international law to strike down the 1978 Amnesty Law. They said that Chile's adoption of the Geneva Convention and ICPR surpassed in its obligations the limitations of the domestic statutes. This decision became possible because of the 1991 constitutional amendment that placed international obligations above domestic law."

Gen. Pinochet, however, was not quite through with Chile. Despite the enormous power he still wielded as commander-in-chief of the Army, he also had himself appointed a Senator-for-life to get immunity under Chile's Amnesty Law. But his past was catching up. Chile's Supreme Court revoked his immunity in August, 2000 and he now faces prosecution in 171 criminal complaints filed by the relatives of his regime's victims. The support of the military, the array of lawyers assembled by him, and the medical grounds he keeps citing will be unable to save him from the due process of justice.

In Argentina, under General Videla's dictatorship established in March 1976, approximately 30,000 dissenters "disappeared." But the totalitarian state was unable to deal with the vigil organised by the mothers of those who had disappeared. Known as Mothers of the Plaza De Mayo, their determination to keep alive the memory of their near ones forced the Argentinean society — no less self-centred than India's — to respond to their call and in the end these

"Memory Women," who would neither take money, nor other inducements, nor yield to threats but only wanted to know who took their relatives away and why, finally forced the military dictatorship into a corner where it collapsed under the weight of its own excesses.

In the African state of Rwanda, the International Criminal Tribunal based in Arusha, is prosecuting the country's former key leaders for crimes committed

*The ultimate tragedy will be if our highest courts and statutory bodies like the National Human Rights Commission start compromising with the majesty of the law they represent. The public looks to them for justice which it cannot get from the increasingly corrupt governments.*

against their own people in 1994-95. Altogether 100,000 suspects accused of genocidal crimes are in jail awaiting trial and punishment. While in Cambodia, a quarter of a century after the horrific genocide conducted under the gaze of the Khmer Rouge, "Extraordinary Chambers" have been established to bring guilty leaders to justice through a constructive Cambodian and international legal collaboration aimed at underscoring the paramountcy of human rights.

Compare the history of human rights in these countries — from careering downhill to the journey back to a just society — with the disgraceful and disgusting deeds which go unpunished in India's ostensibly democratic society. The ultimate tragedy, of course, will be if our highest courts and statutory bodies like the National Human Rights Commission start compromising with the majesty of

the law they represent. At present the public looks to them for justice which it cannot get from India's increasingly corrupt governments. Will it be wise to further alienate large segments of already disenchanting Indians?

Even the Supreme Court's own moves, from its prompt response to Khalra's abduction in 1995 to its direction to the CBI and the NHRC, have — with the passage of time — shown a disconcerting indifference to bringing to justice those guilty of these crimes. When the CCDP failed to persuade the NHRC to review its order on the scope and modality of its inquiry into the disappearances and secret cremations, it moved the Supreme Court once again with the plea that the inquiry should not be confined to the limited area the commission was insistent on, because of the evidence of illegal crea-

tions the Committee of Disappearances had collected from six other districts in Punjab. But the Supreme Court rejected the petition in October, 1999; the same court which four years earlier had taken such a principled stand on these inhuman crimes.

What was the nature of the new evidence and why was the Supreme Court disinterested in it? The evidence from these six districts — other than Amritsar — proved that 934 bodies labelled as

unidentified had been burnt there. In the committee's own words it had "also completed a survey of 838 incident reports of illegal abductions leading to disappearances from all over Punjab. The survey showed that in 222 of the 838 incidents, one or more members of the families either committed suicide in despair or died under trauma. In 500 out of 838, family members reported morbid psychological effects, including clinical psychiatric symptoms. In 224 cases, the security forces had destroyed, damaged and confiscated family properties. In 290 cases of abductions, the persons who eventually disappeared had been seen in police custody. In 129 cases, the surviving relatives possessed sensitive information on 390 other incidents of enforced disappearance. In 759 out of 836 incidents, the family members of the disappeared persons had also suffered brutal torture in police custody. The relatives of 149 victims incurred legal expenses to move the Punjab and Haryana high court with petitions for writs of habeas corpus. Most of their petitions were dismissed following routine denials by the Punjab officials."

Aren't the above facts gruesome enough to rate the highest priority with the Supreme Court and the NHRC? Leave aside the perverse delight the police seems to derive from torturing and painfully putting their victims to death (the detailed reports collected from Punjab make chilling reading), isn't the trauma and psychological toll their disappearance takes on their families of any interest to these august institutions? Or does the court's interest depend on who sits on the bench, and wanes with the

change of justices? Whatever the reason, the thing to remember is that peoples' memories are long. And, as the Chilean, Argentinean, Rwandan and Cambodian examples show, it does not matter how many years elapse before justice is finally delivered. If the paramountcy of law can prevail in those countries after decades of waiting, India too should be able to do it. It too should be able to bring to trial and punish those responsible for crimes against humanity, even though at present the soft and unfocused Indian state lionises such men whose hands are awash with the blood of thousands of their innocent countrymen.

Why do Indians fawn on such killer policemen who do not enforce laws but break them with their wilful ways. As Padam Roshia, whose distinguished career in the police spanned some of the most difficult postings, puts it: "A culture is being built up in India which denigrates the due process of law as piddling constraints and glorifies officers who use force to teach lessons. But the use of force by the state, which is not sanctioned by law, can never carry the aura of justice, and this loss of legal and moral underpinning will further alienate people as the police depends on higher levels of force in dealing with them."

How true. In the final count the courts of justice and the National Human Rights Commission can either be bulwarks against wayward governments and their hitmen in uniform, or they can fall by the wayside as many other institutions in India have already done. Hopefully they will stand up to their lofty calling.

■ CONCLUDED

# The 'unseen hand' at human rights meet

By F.J. Khergamvala

TOKYO, FEB. 19. A team of 17 inspectors of the International Olympic Committee (IOC) begins a visit to Beijing on Tuesday and the city's Mayor has made a strong appeal to the IOC and the foreign media to keep the politics of human rights out of the consideration of whether the Chinese capital is a suitable host for the 2008 Summer Games.

Coincidentally, the Bush Administration has chosen this week to finalise a decision to propose a resolution to censure China at the annual session of the United Nations Commission on Human Rights (UNCHR), which meets in Geneva every March. Indications are that, tugged in opposite directions by different constituencies and government departments, the U.S. will opt to sponsor such a resolution, though it is debatable whether this would be intended for impact or domestic consumption.

In an interesting twist, due mainly to the actions, or inactions of both governments, and media coverage, the balance of power in public diplomacy on the human rights front has shifted in favour of sects like the Falun Gong. It's unseen hand will have a strong presence, both in Geneva and in the IOC.

Also later this week, the U.S. State Department will release its annual report on human rights. As usual, it is expected to employ strong words. This year, under a Republican administration influenced heavily by the Christian religious right, the report is expected to be particularly harsh



A Chinese man balances himself on an obstacle course in front of a stylised athlete painted on the wall of an exercise yard in Beijing on Monday. The yard is one of many installed across the city as part of a campaign to improve the health of the population. — AP

on China's refusal to grant full rights of religious freedom.

Whether that influences the IOC is debatable, but then China itself is dragging the politics of religion into the Olympics inspections, if not directly then by the deliberate accident of timing. Monday's editions of some widely circulated international dailies carry paid supplements about the suitability of Beijing's candidacy and there is a complete absence of human rights issues.

But, on Sunday, the Chinese authorities published a new textbook to step up the drive to campaign against the Falun Gong sect. Also on the weekend, 12 million youth were reported by Chinese dailies to have been mobilised to sign petitions and pledges to oppose the sect. Yet, on the international front, China has moderated its position. It appears ready to ratify the International Covenant on Economic, Social and Cultural Rights, with

certain notes of reservation, such as on the right to form trade unions. It had signed the Covenant in 1997.

Beijing has shown no inclination to ratify, hence will not observe the terms of a separate civil and political rights treaty that it signed in 1998. Despite that, when the Geneva meeting begins on March 19, it is very heavily "advantage China" among the UNCHR's 53 members.

Unlike earlier, when there were clearly defined camps, the developing or Third World nations and those from the West, over the past few years the high unemployment, low growth, on the dole European democracies have found other ways to pacify the strong human rights lobbies in their countries, but in Geneva they have split, largely in favour of not co-sponsoring or supporting the anti-China measures.

It is premature to judge if the Bush Administration will lobby for effect with its European allies and Japan. It might lose now but such a step could keep China on the ropes. Alternately, the Republicans could mean "business" of the kind that led to the Congress overwhelmingly approving the Permanent Normal Trading Relations status (PNTR) for China, without the need to subject China to an annual rite of passage on human rights. If there is any sincerity to attach a consequence to its opposition to China, the U.S. could keep the new Chinese Ambassador, a close Bush family friend, waiting a while before he presents his credentials.

THE HINDU

20 FEB 2001

# Kurds' fate evokes sympathy

By Vaiju Naravane

HD-17  
19/2

**PARIS, FEB. 18.** The ship carrying over 900 Iraqi Kurd illegal immigrants which sank off the French Riviera city of San Raphael in the early hours of Saturday was deliberately run aground by its captain and crew leaving the hapless survivors, including hundreds of women and children, floundering in icy seas, French authorities said today. "The captain fled, leaving the boat facing land with the propellers turning so it could not drift away. This was a deliberate act, professionally carried out," said Mr. Georges Ginestat, mayor of San Raphael.

The clandestine immigrants say they paid \$4000 per adult and \$1700 per child to get on board the boat. Officials believe the ship was bound for Italy but had lost its way and hit France instead. The 912 clandestine immigrants who were fleeing persecution, deprivation and poverty in Northern Iraq have been taken to the French military base in Frejus in the French Alps. Many of them are suffering from dehydration and hypothermia.

The Greek captain and crew of the rusty Cambodian-registered freighter the East Sea have fled. Police have mounted an international alert for them. Police are also on the look-out for the ship's owner, believed to be a Syrian. The ship was towed towards the military port of Toulon but broke up and sank before it could reach the harbour. The incident, which comes at a time of intense debate within Europe over

illegal immigration, has created consternation and outrage in France.

The Prime Minister, Mr. Lionel Jospin, has refrained from making any statement, allowing the General Secretary of his Socialist Party, Mr. Francois Hollande, to say that while the immigrants must be treated with humanity they must ultimately be repatriated.

Questions are being asked over the attitude of Greece and Turkey, one a full and the other an associate member of the European Union. The ship began its journey in Greece and made a stopover in Turkey before heading for France.

The plight of the immigrants is so pitiable that no politician has dared talk of outright expulsion. The French President, Mr. Jacques Chirac, in a statement said: "These people were transported illegally in unacceptable, unworthy, dangerous and inhuman conditions. The international community must act to prevent this sort of situation happening again and bring those responsible to justice."

Officials from humanitarian associations who examined the Kurds said they were in "deplorable health". Three babies were born on board the freighter which had "no sanitary facilities to talk of," a social worker said.

"We were hunkered down in the hold. We did not know if it was day or night. There was no water or food, no toilets. I do not know how many days we spent on the boat," one of the refugees told French radio.

THE HINDU

19 FEB 2001

# Rights abuse: NHRC turns a blind eye to Sikh killings in Punjab

Continued from Page 1

press note on January 16, 1995 accused the state's security agencies of secretly cremating thousands of dead bodies under the label of unidentified.

He showed that those cremated were earlier picked up by the police to ascertain their separatist sympathies. Khalra's disclosures were supported by data gathered from cremation grounds' registers for the purchase of firewood, and also from the registrar of births and deaths.

With the Punjab high court rejecting Khalra's petition for a comprehensive inquiry into police killings and cremations, the CIIP moved the Supreme Court for "an impartial and independent investigation into the systematic and sustained policy of extrajudicial executions and disposal of dead bodies." The court instituted two CBI inquiries after Khalra himself was abducted by armed policemen from his Amritsar home on September 6 of the same year. Despite widespread outrage, protests by Indian and overseas human rights organisations

and assurances by Punjab's advocate-general, Khalra was never seen again nor was his body recovered, which is what Ajit Singh Sandhu, Taran Taran's senior superintendent of police, had predicted.

Mr Sandhu had warned Khalra that unless he "ceased his involvement in the matter (of investigating police excesses) he would also become an unidentified body," which in fact this courageous man did become.

Of the two inquiries assigned to the CBI, the first was to ascertain Khalra's own disappearance, the second to establish the substance of Khalra's accusations about "a gory tale of human rights violations."

In the first, the CBI held nine officers of the Punjab police responsible for Khalra's abduction; in the second, it fully supported Khalra's allegations. The CBI's investigations revealed 2,097 illegal cremations in Amritsar district alone, of which 585 cremations were fully identified, 274 partially identified and 1,238 unidentified. The disclosure

of these "flagrant violations of human rights on a mass scale" led the Supreme Court to refer the matter to the NHRC. With the report of India's key investigating agency before it, and a clear directive from the nation's highest court in its hands, how did the National Human Rights Commission go about its mandate? According to the Committee for Coordination on Disappearances in Punjab, "Four years after the NHRC received the mandate, the matter, as we must report in great anguish, is on the brink of a dishonourable conclusion. The proceedings have been characterised by an atmosphere of encouragement of impunity and seeming collaboration with the very same forces of injustice and violence that gave rise to the original need to move the Supreme Court. On January 13, 1999, after two years of wrangling on the preliminary issues, the commission capitulated before the sources of impunity and decided to limit the inquiry to only 2,097 cases of cremations in Amritsar district mentioned in the CBI's report. With the

crucial emphasis on cremations, the commission deliberately shifted the inquiry from its basis in the fundamental human rights law to limited technical issues. More than anything else, the requirement that a complaint of enforced disappearance to qualify attention should first demonstrate cremation down night absurd. Further, by limiting the inquiry to incidents of cremation in Amritsar listed in the CBI's report, the commission discriminated against identically situated victims of atrocities in other parts of Punjab. It refused to extend the scope of the inquiry to cover all incidents of police abduction, forced disappearance, custodial executions and illegal disposal of dead bodies by cremation and other ways throughout the state of Punjab."

This curious stand of the commission not only degrades the universality of the right to life under Article 21 of the Constitution, it also vitiates the principal of equality before the law under Article 14. According to Mr Ram Narayan Kumar, convenor of the CDDP, despite all the information and initiative on Punjab, Khalra had in a

evidence they could muster to persuade the NHRC to change its stand "the commission remained unmoved." This was again evident on Thursday. Mr Kumar maintains that with a former Chief Justice of India at the head of it, the NHRC should know "that all international legal instruments define enforced disappearance as an ongoing crime. The main instruments being the Declaration on the Protection of all Persons from Enforced Disappearance, 1992, the Inter-American Convention on the Forced Disappearance of Persons, 1994, the International Draft Convention on the Protection of All Persons from Forced Disappearance, 1998, and Article 7(i) of the International Criminal Court Statute."

Aside from internationally accepted laws framed to deal with such crimes, the Indian judiciary too is invested with wide powers to deal with violations against a citizen's person and prerogatives. As one observer put it in the context of forced disappearances and mass cremations in Punjab: "In the beginning all seemed well. The commission's

August 4, 1997 order on the preliminary issues said that it was a sui generis designate of the Supreme Court under Article 32 and its powers to fulfil the referring provision of the Protection of Human Rights Act, 1993. In September 1998, the Supreme Court upheld the commission's understanding of its powers in the matter against the Union government's objections.

Four months after receiving this endorsement the NHRC capitulated before the forces of impunity and imposed technical, territorial and temporal restrictions on the scope of the inquiry, odious to the meaning of Article 32."

What happened in those four months? Why did the National Human Rights Commission climb down from its resolve to exercise its powers to the fullest, to the level of quibbling over the scope of its inquiry, and which crimes it would look into and which it wouldn't? Was it influenced by the Government of India through its home ministry, which

has over the years not only openly approved state-sponsored police brutalities in Punjab but has continued to give the police ever greater powers which were used with stunning savagery and impunity.

Repeated amendments to the Constitution provide evidence of the extent to which the statute was bent to bring Punjab to its knees, with 30 Punjab-related acts, constitutional amendments and ordinances promulgated between 1983 and 1989. Why? Because a small percentage of the state's population was militating against the excesses of the government — including its savaging of the Golden Temple — and New Delhi felt it was time to break the will of Punjab's people.

The separatist movement was exaggerated beyond belief and the enforced disappearances, arbitrary executions, and secret cremations became a part of the pogrom that followed.

■ TOMORROW: In some ways, India's track record is worse than Chile's

# NHRC turns blind eye to Sikh killings

BY PAWANT SINGH

New Delhi, Feb. 18: The proceedings of the National Human Rights Commission's full bench on Thursday in New Delhi could grievously damage the credibility and moral authority of the nation's premier rights body. Presided over by its chairman, Justice J.S. Verma, former Chief Justice of India, the commission's unchanging stand dampened hopes of families whose relatives had become victims of police brutality on Punjab's killing fields. No doubt these hearings will continue in the months ahead, just as they have staggered for over four years which have passed since the Supreme Court first asked the NHRC to determine all the issues arising from a Central Bureau of Investigation's report in the court on enforced disappearances and secret cremations by Punjab's security forces. It also rejected the plea to ask the Supreme Court for further elaboration of its mandate, even though the court's original order of December 12, 1996 allows the commission to come back for clarifications or difficulties. Its stand on enforced disappearances, arbitrary executions and secret cremations placed in it. Confidence many people had just one, it has shaken the investigation's report in the court on enforced disappearances and secret cremations by Punjab's security forces. The credit for bringing these crimes to the Supreme Court's attention goes to Jaswant Singh Khaira, a tireless human rights worker called the Committee for Amritsar, and a group of Punjab's Khaira had in a

Turn to Page 2

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**HUMAN RIGHTS / BUSH'S FIRST MAJOR DECISION ON CHINA**

## **U.S. to move censure motion at U.N.**

**WASHINGTON, FEB. 17.** The George Bush administration, in its first major decision on China, will sponsor a U.N. Resolution faulting Beijing's human rights record, administration officials said. "There is a consensus in the administration to go ahead with the Resolution because that's what the facts require," a senior official said. The Resolution will be offered when the U.N. Commission on Human Rights holds its annual meeting in Geneva in mid-March. The formal paperwork authorising the action was still being processed and it was unclear when an official announcement of the U.S. position would come. But the decision has been made, the officials said.

The annual question of such a Resolution has been a source of extreme irritation between the U.S. and China. How the President, Mr. George W. Bush and the Chinese Government handle it this year will help set the tone for Sino-American relations during his administration.

The U.S., reflecting concern over Beijing's record, usually sponsors or supports a resolution at the U.N. meeting in Geneva criticising Chinese human rights abuses. Republican and Democratic members of the Senate and the House of Representatives in recent days have put bipartisan pressure on the Secretary of State, Gen. Colin Powell, and Mr. Bush to continue this practice this year.

China has been faulted for its increasingly harsh treatment of the banned Falun Gong spiritual movement, widespread use of torture and curbs on the Internet. The State Depart-

ment's annual human rights report, due out next week, is expected to underscore those criticisms. Except for last year, the U.S. campaign on behalf of a U.N. censure largely has been lacklustre and symbolic, drawing little backing from other countries.

China over the past decade almost always has escaped even a direct vote on the issue. As a result, some China experts and U.S. policy-makers have questioned why the U.S. should again participate in an exercise of questionable value that does little or nothing to change the behaviour of a major world power with whom Washington has many other serious issues.

Human rights activists were particularly concerned that Mr. Bush, as a new President, mount an energetic campaign this year. They fear that Beijing's consistent success in escaping condemnation is undercutting the Geneva process.

China, a rising economic, military and political power, has become much more skillful at defusing international outrage over its human rights record, offering bilateral human rights dialogues to countries that do not back the Geneva resolution. But the dialogues have produced little.

The Europeans are to have a meeting of their human rights dialogue with China in Stockholm on Feb. 22 and experts say it could provide an opportunity for Beijing to make concessions. These could include the release of some dissidents or finally allowing the U.N. to investigate allegations of torture in China. A

U.S. official said if Beijing made any "significant" gesture, Washington would have to weigh that against plans to back the U.N. resolution, but it was unlikely China would do enough to persuade the administration to change its plans.

A senior U.S. official acknowledged that trying to win support for the China resolution "will be a hard fight." "There might not be much support out there but we think it's (sponsoring a resolution) the right thing to do". A State Department official was in Europe in recent days, sounding out allies on the China issue. Divisions among Europeans on how to approach Beijing on the human rights question "have hurt us," one official said.

Still, U.S. officials said the Bush administration would mount a "significant" effort to try to get a resolution adopted in Geneva. But whether that would mean Mr. Bush or Gen. Powell would get directly involved in trying to sway opinion has not been determined.

The decision to go forward with the resolution is the first stage, and now the administration will map a campaign to draft the resolution text and try to win passage, officials said. Asked how this decision fit into an evolving administration plan for dealing with China — which Mr. Bush called a "strategic competitor" — one official said: "This is a part of an honest human rights policy, more than anything else, and a foreign policy fundamentally that believes in freedom and democracy." — Reuters

**THE HINDU**

18 FEB 2001

## NHRC raps WB rights panel for going to media with protest

PRESS TRUST OF INDIA  
NEW DELHI, FEB 16

THE National Human Rights Commission (NHRC) today rapped the West Bengal Human Rights Commission (WBHRC) for the manner in which it protested over the NHRC's taking cognizance of a petition alleging civil liberty violation in the state.

The NHRC in its sitting here yesterday "regretted" that the state commission had made the "protest" through the media "instead of a written communication... So that it would be resolved between the two commissions without any unwanted publicity".

"The NHRC was constrained to give the above opinion to emphasize that the object of better protection of human rights obliges this commission to proceed with the inquiry it has instituted particularly when the state commission has closed the matter by referring it to the state government which is itself accused of the violation," an NHRC release said.

It also took exception to the WBHRC's observations on the allegations of human rights violations in Midnapore district, specifically involving public servants, that it was a "matter of failure of law and order and only requiring the Home Secretary of the state government to take appropriate action".

"The NHRC found it difficult to appreciate the stand taken by the state commission," the release said.

Referring to the WBHRC's February 5 resolution, the nhrc contended that state Chief Minister Buddhadeb Bhattacharya's reported statement "was being construed as an exhortation to ignore even the NHRC".

Calling for an authentic version of the Chief Minister's statement through the Chief Secretary of the state by this Commission can hardly be a matter to which any clause of the protection of Human Rights Act, 1993 could be attracted, it said.

The state Commission in its resolution had alleged that taking cognizance of any petition by the NHRC already "pending" with the WBHRC could attract the Section 36 (1) of the Act. Contesting the views of the state commission, NHRC maintained that cognizance was taken as early as December 29 whereas the facts given by WBHRC showed that it received an application on January 1 only, the release added.

INDIAN EXPRESS

17 FEB 2001

# WBHRC upset over NHRC's step against CM

STATESMAN NEWS SERVICE

45-9 9/2

KOLKATA, Feb. 8. - The West Bengal Human Rights Commission, in a resolution, has said that it had felt embarrassed by the National Human Rights Commission's decision to seek an explanation from Mr Buddhadev Bhattacharya about his statement asking the police to open fire on criminals. A copy of the resolution, passed on 5 February, has been sent to the NHRC in Delhi.

On 25 December, 2000 the chief minister, while laying the foundation stone of east Jadavpur police station, had asked policemen to shot at criminals. The WBHRC had asked the state home secretary to submit a report Mr Bhattacharya's speech.

The resolution stated that the WBHRC had taken cognizance of the matter and before it could take any final decision, it found that the NHRC had asked for a report on the same issue from the state government.

Mr Justice Mukul Gopal Mukherji, chairman, WBHRC, today denied criticising the NHRC, as he was earlier quoted in the media. The WBHRC in an earlier resolution had attacked the NHRC for taking cognizance of the alleged Chhota Anguria massacre.

The resolution also stated that the Chhota Anguria case was taken up by the state commission on 11 January, after Committee for Protection of Democratic Rights lodged a complaint.

Mr Mukherjee told the reporters that the state commission would not probe the alleged Chhota Anguria murders since the NHRC is already looking into the case. He said the state body would not interfere in the ongoing investigation.

THE STATESMAN

- 9 FEB 2001



# NHRC extends date for Bengal reply

BY RAJEEV KHANNA

**New Delhi, Feb. 5:** The National Human Rights Commission has extended the deadline set by it for the West Bengal government to reply to the findings of its fact finding team. The NHRC team had visited the state recently in connection with the incidents of political violence and human-rights violations in the state.

According to sources in the NHRC, the deadline has been extended by 15 days and the state government has now been asked to send its reply by February 15. This

has been done following a request received by the commission from the state government on Thursday in which the latter had sought more time to respond to the requirements of the commission on the grounds that it will be replying in regard to the findings of the NHRC's fact finding team.

The team was sent by the NDA to investigate into the matters and the allegations levelled by advocate Dr Tamali Sengupta.

The commission met on Friday and decided to extend the deadline by a fortnight.

It was on January 24, that the

NHRC after considering the report received from its director general (Investigation) had decided to keep it in sealed cover and had directed its secretary-general to send a copy of the report to the government of West Bengal, in confidentiality asking for its response, within one week.

According to the NHRC spokesperson, "On receipt of the response of the Bengal government, the commission will take up the matter for consideration. The date of the hearing shall be intimated to the chief secretary and DGP of the government of West Bengal,

Dr Tamali Sengupta, Advocate Mr Somnath Chatterjee, MP and Vijay Goel, MP on behalf of the Committee of MPs who had approached the commission."

The NHRC had also rejected the West Bengal Human Rights Commission contention that since the latter was already considering the matter, the NHRC should not take it up.

After considering the resolution passed by the state commission, the NHRC had said that it did not require any prior clearance from the state commissions to discharge its functions anywhere in India.

THE ASIAN AGE

6 FEB 2001

# Govt rejects NHRC plea on Army custody deaths

ABHIGYAN HANS  
STATESMAN NEWS SERVICE

NEW DELHI, Feb. 2. — The Union home ministry has turned down National Human Rights Commission's demand that cases of alleged custody death and rape by the Army and paramilitary forces be immediately reported to it.

The commission's demand for powers for "direct investigation" into such cases has also been given a cold shoulder by the ministry.

Unlike the police, the Army and paramilitary forces are not bound to inform NHRC about such an incident within 24 hours. Whether can the commission

sent its investigation team to probe such incidents.

As per the Protection of Human Rights Act, 1993, all NHRC can do is, either on its own motion or on receipt of a complaint, seek a report from the Union government in the matter. And after the receipt of such report, either not proceed further or make its recommendations to the government.

A senior NHRC official said the commission has been trying to convince the government to this effect for long, but to no avail. "In our annual report to the government recently, we had again sought that such cases be reported to us immediately as it would add to the credibility and

transparency of the armed forces in the conduct of their operations and also discourage unwarranted and propagandist charges against them," the official said, while quoting NHRC recommendations to the Union home ministry.

In reply to the NHRC recommendations, the ministry, however, held that it was "not necessary".

"The government of India is transparent in dealing with all complaints relating to allegations of custodial death or rape by armed forces. All such complaints are inquired into and action taken against persons found guilty. It is, therefore, felt that a procedure

for dealing with armed forces different from that provided in the Protection of Human Rights Act, 1993 is not necessary," the ministry held in its memorandum to the NHRC's annual report.

NHRC officials, however, do not seem too convinced about the "transparency" claims of the government. "For instance, the commission is yet to satisfy itself that justice has fully been done in regard to the tragic loss of life that took place in Bijbehara, in Jammu and Kashmir on 22 October 1993 in respect of which incident the commission had made specific recommendations," the NHRC report said.

THE STATESMAN

3 FEB 2001

# Pinochet nemesis to make world a safer place

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82  
H. K. S. W.

**T**HE Pinochet affair is now inexorably moving towards its denouement. The script is written. The players have but to act out their lines, which we in the audience by now know almost as well as the actors. At last, this most miserable of men is set to confront his fate and witness his final destruction — in name, and mind, but not in body.

The Chilean social and legal system is too kind and forgiving for that — even the daughter, Salvador Allende, the President he overthrew, asks for mercy once the trial is over.

Thus mankind this year will take a giant step towards its goal of civilisation, a state of political being where the rule of law grounded in the belief that disputes can be settled short of violence triumphs over the baser and more primitive instincts of each one of us.

In Chile Judge Juan Guzman this week, his interrogation of General Augusto Pinochet completed, set the wheels in motion for a trial almost exactly two and a quarter years since Scotland Yard detectives, acting on a warrant from a Spanish judge, arrested him in a London clinic where he was recovering from a back operation.

The next day, former British Prime Minister

Margaret Thatcher attacked the police publicly for disturbing the rest of a "sick and frail old man". Gen. Pinochet's arrest at the time appeared like a bolt from the blue.

Amnesty International had tried, but failed, on Gen. Pinochet's previous visits to Britain to persuade the authorities to investigate the case. Not even the most well-informed considered it a possibility. It can be said with certainty that it never crossed the mind of the British judges who were soon to be landed the job of untangling the legal intricacies.

Looking back it was Amnesty International's decision in December 1972 to campaign for a UN Convention on Torture that was the undoing of Gen. Pinochet. Ironically, it was Pinochet's coup in Chile in September 1973 that gave an enormous boost to the Amnesty campaign.

It gave a sense of immediacy and urgency to everything that Amnesty had been saying, spilling over into the UN General Assembly which began its session only days after the coup.

At the time, most Third World and Communist countries were highly suspicious of "Western" critiques of their human rights behaviour. But Allende was to

ny of them a heroic

figure, and they suspected that the USA was behind his overthrow. For all that, it took 11 years of hard, grinding work before the UN approved a legally binding treaty against torture, in 1984. The list of those who fought for it included the expected, Scandinavian governments and Holland, and the quite unexpected, the US administration of Ronald Reagan and the British government led by Baroness Thatcher.

When, after Gen. Pinochet's arrest, the House of Lords, Britain's highest court, met to decide on whether he was eligible for trial, it was Amnesty International which presented a long and detailed disposition. Never before had a high court anywhere allowed a non-governmental organisation to file an argument on such a sensitive political matter. The court agreed by a majority of six to one that torture was an international crime and there was no immunity even for heads of state.

That the British government then decided to allow Gen. Pinochet to return to Chile because they judged that his health was precarious will be a black mark forever in Prime Minister Tony Blair's book. To allow Gen. Pinochet his freedom, before the line was

properly drawn in history's sands, was to fudge a major turning point in the world's maturing understanding of jurisprudence.

At the time the British government had no way of knowing that the Chilean courts would pick up the baton in the way they recently have.

The Chilean Supreme Court even today has on its bench judges selected by Gen. Pinochet. The army, as was demonstrated by the tremendous welcome it staged for Gen. Pinochet on his return from London, still finds a place for him in its heart.

Yet something has profoundly changed in Chile over the years — and his two year detention in Britain and the court case there clearly worked to compel Chile to confront its past.

The Chilean doctors, unlike their British counterparts, decided he was fit for trial, even though the examination was carried out in a military hospital. The armed forces are not muscling in to save him.

Indeed one highly placed General from the Pinochet years has now denounced him. The end is in sight. It has now gone too far for there to be any turning back.

Gen. Pinochet will be surely convicted. And the world will be a safer place than it was before, not just in Chile, but everywhere.

**WORLD  
VIEW**

By JONATHAN POWER

THE STATESMAN

3 FEB 2001

Buddha denies remark on firing

# NHRC not to proceed further

5/1  
23/1

**STATESMAN NEWS SERVICE**

NEW DELHI, Jan. 22. — The West Bengal chief minister, Mr Buddhadev Bhattacharya, has denied telling the police that they should kill criminals without bothering about human rights and human rights commission, as reported in the media, the state government has informed the National Human Rights Commission.

After the government's "clarification" to this effect, the NHRC today decided not to proceed further in the matter. But it observed that "it would have been better for the chief minister to have made such a clarification immediately upon appearance of such media reports as these had given rise to serious misgivings."

On 10 January, the NHRC had directed the West Bengal chief secretary to ask the chief minister whether he actually made such a statement. The full commission had held that the "significance" to verify the authenticity of the statement has "increased" in view of the "increasing police atrocities, which, it is suggested in some media reports, were at least encouraged by such an exhortation."

The Union home minister, Mr L K Advani, also wrote to the NHRC over the chief minister's reported remarks and attached a letter written by Trinamul Congress leader, Miss Mamata Banerjee, asking the Centre to initiate action against Mr Bhattacharya.

The West Bengal chief secretary's reply in the matter was today taken up by the full commission, headed by the NHRC chairperson, Mr Justice J S Verma. The statement of

the chief minister conveyed to the commission in this matter and so understood did not give the impression conveyed by the media reports which had led to the issuance of notice by the commission to seek a clarification... In view of the authentic statements of the chief minister conveyed to the commission, it feels that no further action by it is necessary in this regard," the NHRC held.

As per the West Bengal government's "clarification", the chief minister had said that "the police might resort to firing only to save the lives and properties of innocent citizens from armed criminals committing heinous crimes," an NHRC statement said today.

The chief minister's statement was "in the context of tragic incidents of dacoities and murders that had taken place in certain areas of West Bengal" and "was intended to restore the faith of people in the police," it is stated. "Also, a section of the police personnel had become hesitant

in taking prompt action on the plea that if complaints were submitted to the human rights commission, they would be in trouble. To remove their misgivings, the chief minister had stated that the state government would take up the rightful actions," the government's reply said.

The NHRC held that "making a liberal construction of the state government's version of the chief minister's statement and keeping in view the responsible constitutional office which he holds by virtue of which his commitment to uphold the constitution and the laws has been assured, the

**POLITBURO ENTRY**

**BHUBANESWAR, Jan. 22.** — The CPI-M central committee today inducted Mr Buddhadev Bhattacharya into the Politburo. The move follows a Politburo suggestion. It was felt Mr Bhattacharya should be made part of the CPI-M policy-making body. He was not present when the decision was taken. — SNS  
(Details on page 3)

**Editorial: Commissions for rights! page 6**

ESMAN

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# Buddha breathes fire at NHRC

HT Correspondent

Bhubaneswar, January 21

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23/1

WEST BENGAL Chief Minister Buddhadeb Bhattacharjee today spewed venom at the National Human Rights Commission (NHRC) for sending a delegation to probe the Garbeta "killings".

In Bhubaneswar to attend the CPI(M) central committee meeting, he faulted the NHRC for sending a team to the State without prior information to the West Bengal Human Rights Commission. The visit of the "NHRC team is unwanted", more so, when the State has a rights body of its own. "I don't know why the team has come from New Delhi, and also, what that man (director-general, NHRC, Y N Srivastava) is doing in West Bengal," the Chief Minister said during a Press meet here.

West Bengal, he said, was one of the most peaceful States of the country. The State has as many as 446 police stations and the overall law and order situation must not be assessed by Opposition-created disturbances in only seven of them. The Opposition, he said, had a single-point "kill-all-burn-all" agenda.

**No CM candidate:** The Left Front won't project anyone as chief ministerial candidate, Buddhadeb Bhattacharjee said in Bhubaneswar on Sunday. Dismissing comparison with Jyoti Basu, he said: "I'm not trying to step into Jyotibabu's shoes. You shouldn't compare him with me. I am trying to function through collective leadership."

# Samjhauta Exp pact renewed

AFTER FIVE days of talks, India and Pakistan have finally renewed their rail agreement to run the bi-weekly Samjhauta Express for another three years.

The agreement signed by officials of the two countries at Rail Bhavan provides for "upgraded" services in the passenger train.

The train may have two additional coaches whenever needed to clear the extra rush. The number of freight trains can go up. The Pakistan Railways has accepted the Indian suggestion for eight-wheeler wagons of the Indian Railways. These wagons can carry substantially larger cargo.

The Samjhauta Express will now have Sleeper Class and Economy Class services in place of the "general" category accommodation.

Detailed report on Page 9

# NHRC agrees with our findings: DGP

STATESMAN NEWS SERVICE

KOLKATA, Jan. 20. — The National Human Rights Commission's probe into the alleged Garbeta massacre is falling in line with the one being done by the state government, said Mr Dipak Sanyal, DGP, after meeting the NHRC team at the Writers' Buildings today.

"They seem to be drawing the same conclusion as us," he said.

Two NHRC officials — Mr YN Srivastav, director general (investigation), and Mr Shivaji Singh, additional DG — today met Mr Sanyal, chief secretary Mr Manish Gupta, DIG (CID) Mr Chayan Mukherjee, DIG (headquarters) Mr Ram Krishna Roy, and IG (law and order) Mr Prasun Mukherjee.

The NHRC members reportedly told the state officials that they had come to verify allegations made by some MPs about the Chhota Anguria incident. The team has asked for a few more details, which the state police has promised to furnish at the earliest. The members said they would submit a report to the chairman within three

## STATE RIGHTS PANEL CHIEF SLAMS NHRC

KOLKATA, Jan. 20. — "Why isn't the NHRC inspecting law and order in a BJP-ruled state? Why is it always targeting a state not ruled by the party?"

The questions came from an unexpected quarter: chairman of West Bengal Human Rights Commission.

Mr Justice Mukul Gopal Mukherjee today posed these questions before journalists as he elaborated the jurisdiction of various human rights commissions.

"An HRC probe comes when a public servant has grossly violated human rights and committed atrocities on a citizen. Not when two individuals fight or two groups clash. Of late, the NHRC has been venturing out to inspect law and order in non-BJP states. Let it do so in a BJP-ruled state," he said.

He said if a state human rights commission had taken up a matter, the NHRC couldn't interfere. "We have just pointed this out before the commission. Of late, this is what the NHRC has been doing. This is its modus operandi." — SNS

days.

Asked if the NHRC was interfering in the state's powers, Mr Sanyal said the members had told him that they have come not to find fault with any one, nor were they sceptical about the state police's investigation.

Asked about Mr Srivastav's comment that there had been killings at Chhota Anguria, the DGP said: "How can I say so, when we are yet to find the dead bodies?"

Mr Sanyal was also not willing to call it a case of abduction before getting the names of those reported missing. He said he has names of a few people who were associated with the Chhota Anguria incident. They would be arrested at proper time, he said.

The NHRC team also met senior CID officers and discussed the latter's line of investigation into the alleged massacre. They asked the CID to give them a report on

the progress of the investigation. They also wanted to know the findings of the forensic experts.

In the evening, Mr Shivaji Singh met Abdul Rehman Mondal at an Ekbalpur nursing home, where he is under treatment for the past six days.

Dr MA Kasem told journalists that the team of doctors treating Rehman had allowed the NHRC official to interrogate Rehman. The CID has been allowed to question Rehman on 23 January. However, Rehman should not be grilled for a long time, Dr Kasem said.

Mondal's eyes were checked today by Dr Tarun Adhikary. Although his CT scan report is normal, Dr Kasem said the doctors were yet to decide whether he should be released.

### 'CID probe meaningless'

The BJP feels that the comments of the NHRC team, which visited Garbeta, make it clear that evidence had been tampered with and no meaningful investigation is possible by a state agency like the CID.

THE STATESMAN

29 JAN 2001

# Rights team grills witness

BY KUNAL SEN GUPTA AND  
PRONAB MONDAL

Abdul Rehman Mondal, star witness of the Garbeta affair, was finally declared fit to face interrogation by the Criminal Investigation Department (CID), which is probing the January 4 incident.

The declaration came just before Shivaji Singh, additional director-general of the National Human Rights Commission (NHRC), visited Bellona Nursing Home in Ekbalpore on Saturday evening to question Mondal. Singh and NHRC director-general (investigation) Y.N. Srivastava are here to investigate the incident.

A 12-member medical team formed during the day, examined Mondal and found he was stable enough to face the police. "The

CID can talk to him on Tuesday. The police wanted a particular date and time when they could question Mondal, so I told them to come on Tuesday at 11 am," M. Kasem, one of the doctors attending to Mondal, said.

Asked why the NHRC team and not the CID, which has wanted to meet Mondal ever since he was brought to the nursing home from Garbeta's Chhota Angaria village six days ago, was allowed to grill Mondal, Kasem said: "The NHRC team has come from a distant place. The state police can wait as they operate from the city itself."

He said Srivastava had asked the doctors treating Mondal if they could question him on Friday. "We told him that Mondal was not fit for interrogation. But today, the medical team found

him fit and allowed Singh to speak to Mondal," Kasem said.

The NHRC officer spent about 40 minutes with Mondal when Kasem acted as an interpreter. Singh declined to elaborate on what Mondal said.

Later, Mondal, speaking in monosyllables, admitted he had "said all" about the alleged incident. Sitting on his bed, Mondal said Singh spoke to him in Hindi which he understood perfectly well.

The findings of the two-member NHRC probe team have apparently concurred with those of the CID, according to state director-general of police Dipak Sanyal.

Both Srivastava and Singh went to Writers' Buildings on Saturday afternoon and met chief secretary Manish Gupta and police chief Sanyal. Both Srivastava and

Singh declined comment on the Garbeta incident. Gupta described the visit as a "courtesy call."

"We are here to get to the facts behind the incident and we will submit our report before the commission in three days," Srivastava said. He said the state human rights commission's reservations about the NHRC team's visit will be mentioned in the report.

"We are trying to trace either the living or the dead in connection with the alleged Garbeta clash," he said. The director-general of police admitted "some incident" did take place in Garbeta. "It could have been an incident where people were killed, injured or abducted. Till we get concrete evidence of what actually happened, how can I say anything for sure," Sanyal stressed.

THE TELEGRAPH

21 JAN 2001

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# Where the rights panel failed

1911

By Kuldip Nayar

**T**HE NATIONAL Human Rights Commission is more than 12 years old. But it has made little impact on those who are wont to violate human rights: the police and security forces. I imagined that the commission would foster among them the culture of good treatment and justice. But the police has not changed, either in its behaviour or in its ways. The same third degree methods, employed during the British rule, are more or less in use.

True, after the constitution of the commission, the number of prosecutions of and instances of punishments to policemen and their officials have gone up. But so have the tally of deaths in custody and cases of sheer brutality. When it comes to extracting a "confession," it is the same old lathi, whip or other forms of physical torture.

The commission has not been able to instil fear in the custodians of law and order that certain things should not be done to human beings. No amount of 'pious words' has had any effect on the force. The commission can well argue that it cannot take upon itself the responsibility which should rest on the shoulders of society or political parties. Still, it was expected to create a climate in which the men in khaki would act instinctively to protect human rights.

More powers to the commission are no answer. Maybe, it should review its functioning because it is too cluttered with legal requirements and procedures. The commission is not a law court. Had that been the purpose, the Government could have constituted another court. The commission is liberal in granting compensation to the victims. But how does it matter to the policemen or their officers if a few crores go out of the exchequer? The principle of accountability may touch them better. The compensation should be a charge against them.

Moral ethos was meant to be strengthened. This effort is lacking. In fact, the commission has got lost in form. There is a meticulous pursuit of cases which come to its notice. That may be the reason for the arrears going beyond 50,000 cases. The complainant has the satisfaction that unlike in the court his case is disposed of

*The National Human Rights Commission has not been able to instil fear in the custodians of law and order that certain things should not be done to human beings.*

within a reasonable period. But what about the police? Is its functioning better or is it more humane than before? The commission has not been able to cultivate a feeling of horror against brutality.

Perhaps the constitution of the commission is at fault. It is no reflection on the former Chief Justices who have headed the body. Coming from the background as they did, their approach was bound to be legalistic. In fact, this is also the problem with the Press Council of India whose chairman has been a judge

from inception. Legal, not professional, considerations have often come to the fore. The real purpose has been defeated.

Maybe, the judges have to be sticklers when it comes to legal matters. Cases relating to human rights violation cannot brook delay. Slow action encourages the perpetrators and dampens the spirit of the victims.

There are hundreds of examples of police tardiness and the authorities' connivance. No amount of patience or perseverance helps. Take the killings at Hashimpura in Meerut which occurred more than a decade ago. The commission should have intervened *suo motu* long ago. The guilty policemen did not surrender for years and the authorities took no action because some of them were themselves mixed up with the happenings. Only recently did some of the culprits surrender. The media, after initial notice, did not pursue the case. The authorities did not have to act. A few spirited public men, however, did not relent and got the surrender of the guilty policemen.

Such instances bring no credit to the National Human Rights Commission. Yet, if it motivated the police and made it feel obliged to bring the guilty to book, the commission would have done its job. It would have performed a still bigger duty of pricking the conscience of the guilty.

We saw during the Emergency how the

police became an instrument at the hands of the rulers to carry out arbitrary actions with impunity. Ethical considerations in the force in particular and among civil servants on the whole dimmed, in many cases beyond the grasp of public functionaries.

Yet, if the nation is to preserve the fundamental values of a democratic society, every person, whether a public functionary or a private citizen, must display a de-

## HUMAN RIGHTS DIARY

gree of vigilance and a willingness to sacrifice. Without an awareness of what is right and a desire to do what is right, there may be no realisation of what is wrong.

During the Emergency, for many a public functionary the dividing line between right and wrong, moral and immoral ceased to exist. I commend the efforts by the Committee for Coordination on Disappearance in Punjab. It has prepared a detailed report on forced disappearances, arbitrary executions and secret cremations. The interim report covers seven cases but the committee challenges the facts provided by the state. Such a body, if it acquires credibility, can build up the pressure of public opinion to counter the bid for immunity. More than that, it can initiate a debate on vital issues of state power, its distribution and accountability.

The interim report covers the disappearance of Jaswant Singh Khalra, whose case was once on the front pages of almost all newspapers. The report says that in January 1995, Khalra, then general secretary of the Akali Dal's human rights wing, released official documents which established that the security agencies in Punjab had been secretly cremating thousands of bodies, labelled as unidentified. Khalra suggested that most of these cremations were of people who had been picked up by the state on suspicion of having separatist sympathies. And within eight months, it was Khalra's turn to disappear.

He was kidnapped from his Amritsar home by officers of the Punjab police.

In November 1995, a Bench of the Supreme Court under Mr. Justice Kuldip Singh instituted two inquiries by the Central Bureau of Investigation. The first was aimed at determining what happened to Khalra. The second was intended to establish the allegations he had made. The report of the CBI's first inquiry (July 1996) held nine officers of the Punjab police responsible for his abduction. In December 1996, the report of the second inquiry disclosed a "flagrant violation of human rights on a mass scale." The court referred the matter to the National Human Rights Commission for a thorough investigation. The state agencies, however, continued to deny that there had been systematic human rights abuses. Whatever the CBI reports say or the subsequent efforts, Khalra remains 'missing.' It is an official cliché.

What should human rights activists infer? The word 'missing' continues to be used so that some persons in high places will not be held accountable. Or, is it the new word for murder in the parlance of authorities?

\* \* \*

Believe it or not, the statue of Manu, who authored *Dharma Shashtra*, is about to be unveiled in the precincts of the Rajasthan High Court. Apart from the fact that nobody knows how Manu looked like because he is from antiquity, the question is whether such a person should be revered or remembered. He is responsible for keeping a majority of Hindus sub-human. Social degradation occurred because of him. His statue will be an affront to human dignity.

Also, at a time when women are demanding equal treatment — they want 33 per cent reservation in Parliament and the Assemblies — the resurrection of Manu through a statue will be an insult not only to them but also to society. He not only considered women inferior but wrote a book of dubious reputation to justify his thesis. How can the court allow such an onslaught on civil society? It is a pity that some court persons are still anxious to unveil the statue.

THE HINDU

19 11 1996



# Let NHRC go to Bihar, say Naxalites

Liberation welcomes rights team

HT Correspondent  
Kolkata, January 18

THE CPI(M-L) Liberation welcomes the NHRC's visit to Garbha, but wonders why the rights panel hasn't bothered to go to Bihar, where genocides have almost become a routine affair.

Liberation general secretary Dipankar Bhattacharya told reporters here today that his party fully backed the NHRC visit to violence-scarred Garbha and Keshpur. "The CPI(M) has brought it on itself by its arrogant refusal to institute a credible judicial inquiry into the Garbha massacre, which has not only tarnished its image but has strengthened the anti-Left forces in the State," he said.

Bitterly critical of the way the CPI(M) was using "brute terror to silence the people disenchanted with Left rule," Bhattacharya said the gory incident at Baranagar jute mill had brought in sharp focus the Left Front Government's anti-worker attitude. "Instead of addressing the real crisis, the Government seems to be bent upon silencing workers through terror and repression."

He considered it ironic that the Front Government had now openly embraced the Andhra line of appeasement of foreign investors, while rural Bengal was witnessing the beginning of an actual reversal of the much-celebrated land reforms and Operation Barga. "This Government should realise that it can never industrialise the State by appeasing the owners and terrorising the workers," he remarked.

The Liberation general secretary ruled out immediate possibility of a poll alignment with the CPI(M), because of lack of any political understanding between the two parties. "We are more keen to stitch together an alternative Left force in the State, for which talks are underway with the SUCI and other Marxist units, staying away from the Left Front."

He is not eager to have Chowdhury and his followers in the proposed formation because of their proximity with the Congress. But he believes that in spite of differences within the leftist parties, it was still possible to build "a struggling unity among the left forces on broader political and economic issues."

## High school course may undergo change

Sharmila Banerjee  
Kolkata, January 18

CALL IT bitter pill with a sweet coating, but the Council for Higher Education (CHE) has taken up the task to make the higher education syllabus palatable for students. In a unique endeavour, Higher Secondary Council president Sudhin Chattopadhyay has taken it upon himself to communicate with the heads of Higher Secondary institutions in all 18 districts to revamp courses and "bring back efficiency in higher education."

Workshops for the purpose have already started, concentrating on academic, administrative and examination process. "We have completed conducting such workshops in North Bengal and will soon work out with the rest of the districts," said Chattopadhyay. By the end of February he expects the headmasters to go back to work with more determination and renewed interest to carry out the courses efficiently.

So has the council decided to reduce the 'syllabus load'? "With competition on the rise, reducing the syllabus will not be a good decision," feels Chattopadhyay. Courses can however be divided into semesters or internal and external examinations implemented. "We have to see whether the semester system is feasible in our state," he said. The Council feels that a system where students do not have to carry the load of class XI syllabus to the HS examination hall, is perhaps the only panacea that students shall have to make do with.

THE HINDUSTAN TIMES

19 JAN 1991

# NHRC sends team to Midnapore

STATESMAN NEWS SERVICE

NEW DELHI, Jan. 17. — The National Human Rights Commission this evening dispatched a two-member investigation team to West Bengal to probe into the recent violence at Chhoto Anguria and Kespur. 18/1 551

The state government has been directed to reply in two weeks to the report of a group of MPs who visited the strife-scarred areas and complained of human rights violation and political violence.

The decision to send the high-level investigation team comprising the NHRC director general (Investigation), Mr YN Srivastava, and its additional deputy-IG, Mr Shivaji Singh, was taken by the full commission, headed by the NHRC chairperson, Mr Justice JS Verma, at the latter's residence last evening.

"The DG (Investigation) of NHRC is requested to collect the facts, in particular relating to the allegations pertaining to the incidents at Chhoto Anguria and Kespur by visiting Midnapore," the NHRC order stated. The state government has been asked to provide all necessary facilities and security to the team.

Mr Srivastava reached Kolkata tonight. He will meet the chief minister, local SPs and DMs, among others.

Last afternoon, the MPs who visited Midnapore apprised the panel of their views. The day before, they furnished before the commission copies of their report, including "material evidence".

"The state government is requested to ensure that its reply, including that to the allegations by the MPs is submitted to the commission within two weeks positively," the NHRC order said.

Earlier, the panel issued notices to the state's chief secretary and DGP. "Notice has been issued by the commission to the state government by its order on 3 January on a complaint received from an advocate, Dr Tamali Sen Gupta, reply to which is still awaited," the NHRC said. The NHRC had directed the chief secretary to ask the chief minister whether he actually told police to kill criminals without bothering about human rights and the human rights commission, as reported in the media.

■ Arrest Rahman: Anil, page 3

THE STATESMAN

18 JAN 2007

# Rights panel on massacre mission

5/6  
19/11

**FROM OUR SPECIAL  
CORRESPONDENT**

**New Delhi, Jan. 17:** After taking the demand for President's rule to a high pitch yesterday, Mamata Banerjee devoted her entire day today to official work even as a National Human Rights Commission team landed in Bengal.

The two-member team, headed by the NHRC director-general (investigation), Y. Srivastava, will probe allegations of human rights violations in Midnapore. Srivastava told reporters tonight that his aim was to find the "truth in the incident".

For a change, Mamata did not talk of Bengal today as she was closeted with railway board officials to discuss the budget.

Prime Minister A.B. Vajpayee and home minister L. K. Advani, who are busy with the Kashmir developments, may take up the Bengal issue after a couple of days, Trinamul sources said.

The sources added that Mamata was happy with the rights panel's decision to send a team to probe the violence in Bengal.

The rights panel today directed the Bengal government to provide all necessary facilities and security to its team. It also asked for a comprehensive report by January 31 from the state chief secretary on allegations of human rights violations in Midnapore.

"In view of the urgency of the matter, the state government is requested to ensure that its comprehensive reply, including reply to the allegations contained in the papers submitted by the group of members of Parliament, is submitted to the commission within two weeks positively," it said.

The NDA team, which visited Chhoto Angaria after the alleged killings, submitted a copy of its report to the rights panel and requested it to send a delegation to the violence-hit districts. Vijay Goel, who led the NDA team, had briefed commission chairman J. S. Verma on Monday.

The rights panel said "the director-general (investigation) of the commission is requested to collect the facts, in particular relating to the allegations pertaining to the incidents at village Choto Angaria and Keshpur, by visiting Midnapore district."

Last week, the commission had asked the state chief secretary to check with chief minister Buddhadeb Bhattacharjee if he had made certain remarks attributed to him.

Bhattacharjee had been quoted as having told the police to shoot troublemakers at sight without bothering about human rights. Advani had forwarded Mamata's complaint, including press clippings containing the chief minister's remarks to the rights panel.

THE TELEGRAPH

8 JAN 2011

# Explain comment, NHRC to Buddha

SANTWANA BHATTACHARYA  
NEW DELHI, JAN 12

WEST Bengal Chief Minister Buddhadev Bhattacharya may have been hailed in certain quarters for reportedly ordering the police to use their guns without worrying about human rights, but it has got him into serious trouble with the National Human Rights Commission (NHRC).

Taking note of Buddhadev's alleged statement while inaugurating two police stations in West Bengal on Christmas, the full bench of the NHRC has sought clarification on whether he had actually made a statement abetting the police to violate human rights.

It was, of course, Bhattacharya's arch rival Trinamool Congress chief Mamata Banerjee who



brought it to their notice, via Home Minister L.K. Advani.

In a letter to the Home Minister, Banerjee, who has a running war with the Left Front Government in West Bengal on the law and order situation and human rights violation,

## Inquiry demanded

■ KOLKATA: THE CPI (ML) on Thursday demanded a judicial inquiry into the massacre at Chhota Angaria where several people were allegedly killed.

Addressing mediapersons here, party state committee member Shankar Mitra, who led a seven-member team to the troubled spot yesterday, said police inquiry could not unravel the truth. — UNI

had attached copies of the news-clippings quoting Bhattacharya's alleged anti-human rights statements.

Advani, in turn, brought it to the NHRC's notice in a letter which had a copy of Banerjee's letter (to the Home Minister) appended to it.

The NHRC asked the state Chief Secretary to ascertain the correctness of the media reports which quoted Buddhadev advising the police, "Shoot if you need to and do not worry about the human rights. I will take care of you".

The NHRC directions to the chief secretary was sent today asking for a compliance report to the Commission within one week.

INDIAN EXPRESS

13 JAN 2007

# NHRC to verify Buddha remark on police firing

STATESMAN NEWS SERVICE

NEW DELHI, Jan. 11. — The National Human Rights Commission today directed the West Bengal chief secretary to ask Mr Buddhadev Bhattacharya whether he actually told the police to kill criminals without bothering about human rights and human rights commission.

The full commission, presided by the chairman, Mr Justice JS Verma, today held that the significance to verify the authenticity of the statement has increased in view of the "increasing police atrocities, which, it is suggested in some media reports, were encouraged by such an exhortation," a NHRC statement said.

The state chief secretary has been told to submit his compliance report before the commission within a week.

Mr LK Advani wrote to the NHRC on 8 January over the chief minister's reported remarks. He attached a letter from Miss Mamata Banerjee, in which she expressed concern over the matter and sought the Centre to initiate action against the chief minister.

Mr Bhattacharya, also the home and police minister, reportedly made the remarks while inaugurating two police stations on 25 December.

As per media reports, the NHRC noted, the chief minister asked police to "use those guns that the government has given you" and "shoot if you need to and do not worry about human rights. I'll take care of that." Mr Bhattacharya had reportedly said the police officers need not bother about human rights commission since he could "handle the human rights commission".

Since the reports appeared in reputed newspapers and journals, the commission today felt that it was not possible to ignore them and the need was to verify their authenticity.

Earlier, the NHRC had taken cognisance of the recent police atrocities in the state and issued notices to the chief secretary and DGP. They are, however, yet to reply.

Mr Bhattacharya told **The Statesman** tonight that he had not received the letter from NHRC. "I will definitely reply when I get it," he said.

■ CM gaga over cops' showing: page 3

THE STATESMAN

12 JAN 2007

## NHRC is upset over Bhattacharya's order

The Times of India News Service

NEW DELHI: The West Bengal violence drama took a new turn on Thursday with the National Human Rights Commission (NHRC) asking the state government to explain the alleged statement of chief minister Buddhadeb Bhattacharya exhorting policemen to kill criminals without bothering about human rights commission.

"Use those guns that the government has given you. Shoot if you need to, and do not worry about human rights. I'll take care of that," the CM is reported to have said.

A full commission meeting at the residence of NHRC chairperson Justice J.S. Verma decided to seek verification and confirmation of the authenticity of the statements reported in the press and attributed to Bhattacharya. NHRC secretary-general N. Gopaldaswami has written to West Bengal chief secretary Manish Gupta to ascertain correctness or otherwise of the statements and reply within a week.

The matter was taken up by the NHRC on the basis of media reports and a January 8 letter to the commission

by home minister Advani. Mr Advani also forwarded a letter from railway minister Mamata Banerjee in which she had quoted newspaper reports citing Bhattacharya as asking the police to resort to violence. In its order, the commission felt that "it is not possible to ignore the reports and the need is to verify the authenticity of the statements. The significance has increased with reports of increasing police atrocities, which, as suggested in some media reports, are at least encouraged by such an exhortation."

While taking up the issue, the NHRC also highlighted section 12 of the Protection of Human Rights Act, 1993, which obliges the NHRC to "inquire into the complaint of violations of human rights or abetment thereof or negligence in the prevention of such violation by a public servant."

This is the second notice the NHRC has sent to the West Bengal government recently. Earlier, the commission had taken cognisance of the recent atrocities in the state and had asked the chief secretary and director general of police to reply to it immediately. But the state government's response is yet to come.

THE TIMES OF INDIA

12 JAN 2011