

“Evictions now a national crisis”

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10-11 ✓

Miloon Kothari is the Special Rapporteur on Adequate Housing appointed by the United Nations Commission on Human Rights. He spoke to *The Hindu* on resettlement and rehabilitation under development projects and forced evictions in urban centres. Excerpts:

Siddharth Narrain

The question of resettlement and rehabilitation in the Narmada Valley has been in the spotlight. What is your position on the issue?

The issue of rehabilitation and resettlement has been a contentious one since the beginning of the Sardar Sarovar Project. The inadequacy of resettlement and rehabilitation has been a common feature of the whole process of the dam till now. Unlike any other development project in the country, a very elaborate system of mechanisms and institutions has been set up since the beginning of the project where we have the Narmada Control Authority at the Central level and grievance-redressal mechanisms at the State level. Despite this, the rehabilitation has been inadequate. There is a tremendous backlog of displaced families who have not been rehabilitated. From the human rights perspective and constitutional commitments you cannot have any kind of development that leads to a situation where people are left to fend for themselves and are not adequately rehabilitated before the development takes place. I think it is that human rights principle that the Supreme Court had in mind in its 2000 and 2005 judgments when they said resettlement has to be completed six months before displacement. But this principle has not been followed.

Successive governments have been unable to rise above political considerations and think of the human rights of those who have been displaced. I would go to the extent of saying that even the courts are party to that now. The Supreme Court has overwhelming evidence that rehabilitation has not worked. In spite of that, and despite their own previous judgments, they continue to delay the judgment. The most logical decision according to the Constitution, international human rights law, and Supreme Court judgments would have been to stop construction of the dam until rehabilitation has been brought up to speed. But that is not being done.

What are the estimates of the number of people displaced in evictions in cities across India?

I don't have countrywide figures but in Mumbai between December 2004 and February 2005, 350,000 persons lost their homes. In Delhi around 400,000 have lost their homes in the last four years, and this figure is rising all the time.

If you had a similar number of people who were displaced from their homes without any alternative because of ethnic or armed conflict or a refugee situation you would have had a very different response. You have [a] tragic situation now where a slum dweller displaced in Delhi or a tribal family displaced in the Narmada Valley, without being provided resettlement, have literally nowhere to go. There is no institution they can complain to, even for minimum requirements like food. If internal displacement continues on this scale [it] will definitely



Miloon Kothari: “If internal displacement continues on this scale [it] will definitely lead to more social conflict in the future.” – PHOTO: RAJEEV BHATT

lead to more social conflict in the future.

Does the UPA Government's National Urban Renewal Mission adequately address issues of rehabilitation and resettlement?

I am very sceptical of policy documents like the National Urban Renewal Mission whose entire focus is on infrastructure. If there is going to be displacement, and if there is a need to move [a] large number of people or certain kind of projects to feed the energy needs of the country, there should be a National Rehabilitation Policy and a National Housing Policy in place. There should be legislation in place that specifies under what conditions people can be displaced — a

rehabilitation policy that said that all alternatives would be explored before carrying out a development project, or a policy that says that displacements will be minimised. The judiciary, and institutions like the NHRC have to be willing to monitor and intervene in such situations.

Courts are increasingly being seen as enforcers of evictions. Professor Upendra Baxi has termed it “a tradeoff between judicial and executive largesse.” But the traditional means of seeking redress in these situations has been to go to use legal instruments. How do you reconcile these trends?

If the courts in India were carrying out their deliberations and giving their judgments in accordance with constitutional obligations and India's international human rights commitments, we would not see the kind of judgments that we are seeing. I don't see any conflict. The problem arises when you have a body of law, whether it is derived from the constitutional or international instruments, and you fail to uphold that law, which is premised on protecting the inherent dignity of human beings, particularly people who are vulnerable. If you fail to do that, instead of being a protector you are becoming an accomplice in the violations that are taking place.

In the last five years of jurisprudence in India, particularly in the Delhi High Court and the Supreme Court, courts have created an artificial and very disturbing conflict between human rights. For example, there are a series of judgments where the right to a safe environment is being seen as more important than the right to housing or livelihood. These judgments are not only placing poor communities in a very difficult position but are going one step further and criminalising the poor. They are actually saying that if you are living in a slum and you don't have security of tenure and you don't have rights, you are illegal — and if you are illegal you don't deserve anything. So you have a judgment like Almitra Patel that actually says that giving civic services and security of tenure to slum dwellers will be like rewarding a pickpocket. To have that kind of hostile language in judgments is completely unacceptable.

Narmada Bachao Andolan activists recently protested against the “silence of the National Human Rights Commission” on the violation of the rights of those displaced by the Sardar Sarovar Project and on the wider issue of resettlement and rehabilitation. Is this criticism justified?

The NHRC has not been as active and forthright on the issue of evictions and rehabilitation as some would expect given its mandate. It is certainly within their mandate to monitor the situation and carry out field investigations, and to hold public hearings on sites. But they are not doing that. I think they are failing in their duty because the situation of evictions and displacement in the country now is a national crisis. We are seeing simultaneous evictions in cities and rural areas, and you are talking of hundreds and thousands of people.

There is overwhelming evidence of human rights violations. A striking feature in the evictions in the last few years has been the brutality of the police. People are not given notice, they are beaten up, homes are demolished when people are still inside, homes are demolished at meal times, before school exams, on festival days — all completely in violation of international principles. The NHRC has an independent mandate. They can carry out independent investigations even without a complaint, and they are failing to do that.

Bush promises to respect human rights in war on terror

11/13
2001

NICHOLAS Watt

GEORGE BUSH is expected to agree to a joint declaration to respect human rights in the fight against terrorism at the EU-US summit in Vienna on Wednesday. The declaration will say that all countries must observe international law as they fight terrorism.

European diplomats welcomed the declaration as a sign that Washington is heeding EU concerns about what are perceived as heavy-handed tactics by America as it tackles al-Qaida across the world and the Taliban in Afghanistan.

But there is no mention by name of the Guantánamo Bay detention facility and rendition flights in which the CIA has flown al-Qaida suspects across Europe. The White House believes the flights are legal and it is making clear that it will decide what to do with Guantánamo Bay on its own terms. A draft copy of the statement, seen by the Guardian, says: "Consistent with our common values, we will ensure that measures taken to combat terrorism comply fully with our international obligations, including human rights law, refugee law and international humanitarian law. We attach great importance to our ongoing in-depth dialogue on our common fight against terrorism and our respective domestic and international legal obligations."

European leaders hope that the summit will be another chance for President Bush to mend fences after the deep divisions of the Iraq war. Bush signalled that he wanted to improve relations soon after his re-election when he embarked on a special tour of most of the EU's institutions last year.

The Guardian

Pentagon admits prisoner abuse

Rights groups say reports on Iraq and Afghanistan are a whitewash

ASSOCIATED PRESS

Washington, June 17

MURKY PROCEDURES, lack of oversight and inadequate resources led to mistakes in the way US troops treated Iraq and Afghanistan detainees. But two Pentagon reports, made public on Friday, found no widespread mistreatment or illegal actions by the military.

A human rights group called the reports a whitewash that ignored countless documented accounts of detainee abuse.

One report detailed several incidents involving US special operations forces in 2003-04. It said interrogators fed some Iraqi detainees only bread and water for up to 17 days, used unapproved interrogation practices such as sleep deprivation and loud music and stripped at least one prisoner.

That report concluded the detainees' treatment was wrong but not illegal and reflected inadequate resources and lack of oversight and proper guidance rather than deliberate abuse. No military personnel were punished as a result of the investigation.

The findings were included in more than 1,000 pages of documents the Pentagon released to the American Civil Liberties Union on Friday under a Freedom of Information request. They included two major reports — one by Army Brig. Gen. Richard Formica on special operations forces in Iraq and one by Brig. Gen. Charles Jacoby on Afghanistan detainees. While some of the incidents have been reported previously and reviewed by members of Congress, this was the first time the documents were made public. Many portions of the reports were blacked out, including specific names and locations.

"Both the Formica and the Jacoby report demonstrate that the government is really not taking the investigation of detainee abuse seriously," said Amrit Singh, an ACLU attorney. Singh called the reports "a whitewash." In particular, she said, there have been numerous documents showing that special operations forces abused detainees, but Formica only reviewed a few cases. Pentagon spokesman Lt. Col. Mark Ballesteros said: "We've undertaken steps to investigate, hold people accountable and change our operations. This is all part of our effort to be transparent and show we investigate all allegations thoroughly, and we take them seriously."

Less than a week ago, three detainees committed suicide at the Guantanamo Bay detention facility in Cuba, highlighting accusations of abuse. A little more than two years ago, the Abu Ghraib prisoner abuse scandal

in Iraq came to light, with its graphic photographs of detainees being sexually humiliated and threatened with dogs. The Bush administration has been criticized internationally, including by US allies, for abusive treatment of terror war detainees. Late last year, Congress forced Bush to accept a ban on the cruel, inhuman or degrading treatment of prisoners by US troops. Administration officials have said the US uses legal interrogation techniques — not torture — to gain information that could head off terror attacks.

The Formica review recommended better training, new standards for centers and updated policies for detainee operations, among other things. The final report is of November 2004. Formica reviewed three allegations of abuse by special operations forces who held detainees in temporary facilities, often hastily set up near where they were captured.

THE AFGHAN TIMES

India now in UN rights body

S. Rajagopalan
Washington, May 10

INDIA, ON Tuesday, demonstrated its huge popularity in the UN by polling the largest number of votes among Asian contenders in elections to the revamped Human Rights Council. Yet, India will serve for only one year in the body, which provides for three-year terms with one-third of the members retiring every year.

In contrast, China and Pakistan, with fewer votes and a none-too-flattering human rights record, get terms of three and two years, respectively.

It being the first election to the modified council, India has been done in by the system of lots employed to determine which of the countries make way at the end of the first, second and third years.

According to the UN, the procedure of drawing lots to stagger the terms in the initial phase is consistent with past practice,

taking into consideration equitable geographical distribution. The system was approved by the UN General Assembly in March. All members, however, are eligible for re-election for a full second term.

In Tuesday's election, India topped the list of 20 contenders from Asia for the 13 council seats from the region. While India polled 173 votes out of 190, China trailed with 146 and Pakistan with 149.

In the draw of lots that followed the election, it emerged that India, Indonesia, the Philippines and Bahrain would serve for one year. Pakistan, Japan, Sri Lanka and the Republic of Korea are to serve for two years. And China, Bangladesh, Saudi Arabia, Malaysia and Jordan will serve for three years.

Ahead of the election, human rights groups had campaigned for the rejection of countries such as Pakistan, China, Iran, Russia and Saudi Arabia because of their "unworthy" human rights records.

Topping the list

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However, except for Iran, the other four countries got elected. After the massive win, India's Permanent Representative to the UN, Nirupam Sen, said India would go all out to see that the new council functioned as a "strong, effective and efficient" body capable of promoting and protecting fundamental freedoms across the world.

For human rights protection, a new beginning

The new Human Rights Council must transcend incidental political debates and emerge as an effective body.

Jorge E. Taiana

ON MAY 9, Argentina (along with India and 45 other countries) was elected by the U.N. General Assembly as one of the member states to the Human Rights Council, the new United Nations body that will replace the Commission on Human Rights established in 1947. Argentina is grateful to all those states which, bearing in mind our tragic history of gross and systematic violations of human rights, valued our present record and our commitments in this field today.

This election implies a deep responsibility towards all persons, organisations, and governments that expect this body to be a guarantee for a major enforcement of human rights around the world. This new body will be permanent and directly subsidiary to the General Assembly, which will enable it to deeply analyse human rights violations in any and all countries. The Council's work shall be guided by the principles of universality, impartiality, objectivity, non-selectivity, and constructive international dialogue; and it shall have to report in time to all bodies and agencies that, like the Security Council, may prevent or stop gross and systematic violations.

This new Council must transcend incidental political debates and become a stable, central, and permanent element of international relations. In the past, Argentine society suffered the politicisation and selectivity of the U.N. Commission on Human Rights, which privileged the bipolar balance of power existing at that time instead of the defence of fundamental and permanent human rights, such as the right to life.

Despite thousands of reports received at the Commission during the last military dictatorship (1976-1983), the government of my country was never condemned, and the indifference of the majority of U.N. member states forced the creation of a special working group to publicly expose the gross and systematic violations which were taking place in Argentina. We have learnt from our own history, and ever since the return to democracy we have assumed a position based on principles in the defence and promotion of human rights. We have ratified the

great majority of the regional and universal treaties on human rights and, as very few countries in the world, we have granted constitutional hierarchy to these human rights instruments. Argentina permanently cooperates with international monitoring bodies and participates in every forum with the goal of improving existing standards in this field worldwide.

Since the beginning of the debate on the reform of the United Nations system, President Nestor Kirchner's government has strongly supported the strengthening of human rights within the U.N. in order to place this issue on the same footing as other relevant issues such as development and the maintenance of peace and international security. This position is not just a choice but an obligation for all states in the light of the importance that human rights have today for peace, development, and democratic stability. We must highlight and reinforce the true importance of the contribution made by the Commission to the development of international human rights law through several decades, by developing standards and treaties.

At this first stage of the Council, we must ensure that procedural matters do not displace substantive issues and obtain a prompt approval of the International Convention for the Protection of all Persons from Forced Disappearances, as well as the Declaration on the Rights of Indigenous Peoples. The Human Rights Council offers the international community the opportunity to guarantee an efficient and effective international protection system. The achievement of this objective constitutes an obligation of all states which have assumed the responsibility to be a part of this early stage, bearing always in mind that respecting the principle of negotiation must not imply the negotiation of principles.

Thirty years after the military coup that disrupted the institutions and the fundamental rights of the people of my country, Argentina commits itself to making a sound contribution so that the United Nations Human Rights Council may meet the demands of the 21 Century regarding this issue essential for the survival of our nations.

(The author is Minister of Foreign Affairs of Argentina.)

THE HINDU

12 MAY 2006

Rights record~I

Century Of Remarkable Advancement And Abject Denial

The twentieth century stands out as the century that witnessed remarkable advancement as well as abject denial of human rights. In 1948 when the universal declaration of human rights was adopted as "a common standard of achievement of all peoples and nations", there were reservations of many state governments. Virtually all states shielded behind Article 2(7) of the UN charter in arguing that human rights were strictly an internal matter of the states concerned. Due to reservations of state governments, the universal declaration of human rights was not presented to the General Assembly as a treaty for ratification which would be binding upon the signatory nations, but an instrument to be endorsed as "a statement of goals and aspirations - a vision of the world as the international community wanted it to be become".

New treaties

The declaration was adopted by an affirmative vote of 48 members states and eight abstentions. While a UN commission on human rights was set up, its work was dominated by the governments and the role of NGOs was restricted to ad hoc appearances. The commission's mandate was confined in practice to the drafting of new treaties and other legal instruments.

However, before the 20th century came to an end there were many remarkable developments. The view that human rights violations are essentially a domestic matter receives very little credence from the international community. The universal declaration has been supplemented by a vast array of international standards, the most important of which are the six "core" human rights treaties. The UN has also created a vast array of monitoring mechanisms.

One of the important advancements of the 20th century was the recognition of democracy as, to quote Amartya Sen, "pre-eminently acceptable form of governance". Though democracy is not the only means by which improved governance could be achieved, it is perhaps the only reliable one. By providing greater public participation, democracy en-

Sankar Sen

hances the likelihood that national development goals will reflect broad social aspirations and priorities. By establishing political legitimacy of governments, democracy strengthens their capacity to function efficiently and effectively. Thus human rights and democracy are mutually supportive.

military action by outside agents acting on the authority of multinational bodies. The UN secretary-general, Kofi Annan, has said that "the world cannot stand aside when gross systemic violations of human rights are taking place".

As human society enters the 21st century, the unfor-

human rights is the increasing important role of non-government organisations. They have done useful work in popularising the ideas and concepts of human rights and drawing attention of international agencies to violations of human rights in different quarters of the globe. NGOs have also encouraged the growth of a human rights culture that cuts across national political boundaries. They constitute, to use the evocative phrase of Eleanor Roosevelt, "a curious grape vine". Their functions include education, advocacy, standard-setting and monitoring and in some cases enforcement. UN human rights institutions were suspicious of the NGOs at first, but gradually made increasing use of them. NGOs also play, and will continue to play, an important role in international conferences.

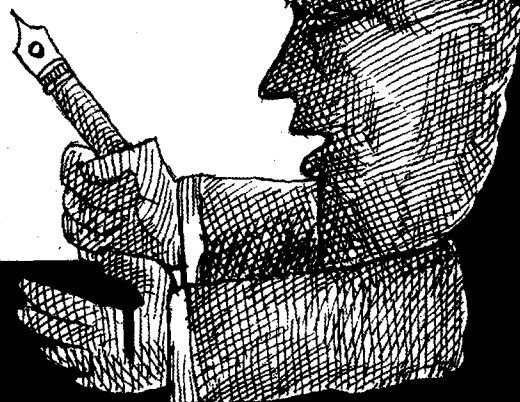
NGOs' role

Amnesty International's fight for abolition of death penalty, the role of the Habitat International Coalition and other NGOs to get the Istanbul Declaration of Acceptance of Human Right of Housing are some of the landmark contributions of NGO groups. The increase in the number of NGOs is, however, causing problems of cooperation. There is now some tension between western-based NGOs, which are well established and well resourced and NGOs from poorer countries, which are less resourced and have different perspectives on human rights.

National institutions in different countries have come up and become effective fora and instruments for promotion and protection of human rights, particularly in the areas of combating racism, racial discrimination, ethnic violence etc. One of the important items in the human rights agenda of 21st century will be to strengthen the national institutions and set up such institutions in states where they do not exist. NGOs and national institutions complement one another and working together can constitute effective instruments for advancement of human rights. In India, constitution of the National Human Rights Commission and State Human Rights Commissions have been important milestones.

(To be concluded)

HUMAN RIGHTS..



The democratisation of authoritarian political systems has sometimes proved dangerous for protection of human rights

However, history is not linear. The twentieth century also witnessed some of the worst instances of human rights violations. Only six years before the century ended, more than half a million citizens of Rwanda were murdered by their government in a state-sponsored genocide. It was expected that the end of the Cold War, which saw the downfall of many totalitarian regimes, would bring about improvements in respect of human rights. It was hoped that the post-Cold War increase in democracy would lead to human rights advancement. However, it was found, as Helen Fein pointed out, "there had been more murder in the middle". This means that life-integrity violations are more likely to occur in societies that lie between democracy and authoritarianism. The democratisation of authoritarian political systems has sometimes proved dangerous for protection of human rights.

The 90s also saw that, in different circumstances, gross local human rights violations have catalysed

unfortunate fact that stares us in the face is that global gap between haves and have-nots has widened. Globalisation has led to growing marginalisation of poor nations and growing human insecurity and inequality. The UN Human Development Report, 1999, tersely comments "the benefits of globalisation in the past decades have been so unevenly shared that the very word has come to acquire in certain quarters a pejorative tinge".

Calling globalisation as the central challenge to be faced today, world leaders attending the UN Millennium Summit on 8 September 2000, stated that while globalisation offers great opportunities, at present it benefits, are unevenly distributed. With globalisation and emergence of powerful multinational corporations, the role of governments is diminishing and they are relinquishing their responsibilities of serving the needs of citizens who are unable to protect themselves.

Another important development in the field of

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Human Rights record II

Need To Strengthen Movements In Developing Countries

Human Rights

Women continue to be discriminated all over the world and are subject to many forms of violence. In spite of ratification of regional and international instruments, many states still maintain laws and practices which discriminate against women.

Selective practices and customs used by states perpetuate discrimination. This is particularly true in the field of access to land and other important economic resources and rights within the family. Crimes against women are crimes against humanity and the failure of the governments to prosecute those who are responsible for such crimes imply complicity.

Gender question

The report on "Human Development in South Asia, 2000", dealing with the gender question focuses on deprivation borne by women in South Asia. In the foreword Mahabubul-Haq aptly remarks, "As we approach the 21st century we hear quiet steps of rising revolution for gender equality."

"Women have greatly expanded their capabilities over the last few decades through liberal investment in their education. It is quite clear that the 21st century will be the century of much greater gender equality than the world has seen so far".

Terrorism will continue to pose another serious threat to human rights in the coming decades. Successive resolutions of United Nation's General Assembly and United Nations Commission for Human Rights have stated that terrorism in all its forms and manifestations can never be justified.

There is need for the international community to enhance cooperation in order to fight against terrorism, and in accordance with relevant international instruments including those relating to human rights.

Terrorist violence has to be combated, but it has to be fought in a manner that accords due respect to human rights, whatever the difficulties it may entail for the state and all those engaged in the task.

The UN Secretary General Kofi Annan, has aptly said, "A genocide begins with the killing of one man not for what he has done but because of who he is. A campaign of ethnic cleansing begins with one

Sankar Sen

nation turning on another. Poverty begins when one child is denied his/her fundamental rights to education. Indeed what begins as a failure to uphold the dignity of one life, all too often ends as calamity for the entire nation".

The issue of universality

rights on the other. It categorically stated that human rights are interdependent, interrelated and universal.

However, in the Vienna Conference, the head of the Chinese delegation categorically stated "one should not and cannot think of human rights



Poverty destroys human dignity and without human dignity there can be no human rights or the capacity to fight against the denial of human rights

of human rights will continue to trigger debates and divisions in this new century. Many Asian countries, which are parties to the UN charter and signatories to Universal Declaration feel that western countries are utilising human rights institutions for their own ends and ideological hegemony. The crux of Asian criticism is that the western concept of human rights is a western imposition, an act of moral and cultural imperialism.

There is criticism that developed countries are seeking to impose western values on non-western societies under the guise of promoting good governance and human rights. The Vienna Declaration, 1993, tried to set at rest the debate between the primacy of civil and political rights on the one hand, and social and economic

standards and morals of certain countries as the only proper one and demand all countries comply with them. It is neither realistic nor workable to make international economic assistance of even international cooperation conditional on them".

It is true that protection of social and economic rights compared to protection of civil and political rights at both national and international levels have been poor and irregular.

There is also fallacious thinking that negative rights which gather round our own liberties are more important than positive rights that evolve from our basic needs. The argument that one set of rights is a prerequisite for enjoyment of other sets of rights is self-serving and fallacious.

They are also without any legal and empirical foundations and destroy the basis of an international human rights consciousness. In the 21st century there must be holistic and integrated approach of human rights and one set of rights cannot be bargained for the other.

In today's world, nearly three quarters of humanity who live in developing countries of Asia, Africa and Latin America are weighed down by poverty and underdevelopment. Widespread poverty among the masses in the developing countries is a great cause of denial of human rights.

Poverty destroys human dignity and without human dignity there can be no human rights or the capacity to fight against the denial of human rights. In these societies there are massive violations of human rights of disadvantaged groups and marginalised sections of the society.

Civil society

The state is often the major culprit, but in many instances civil society, which is feudal in its outlook and approach is the perpetrator of these violations with the connivance of state administration.

It has to be borne in mind that the problems of human rights in the countries of Asia and Africa are quite different from those in the west. In western countries, the role of human rights is to fine-tune the administrative and judicial system and fortify the rights and freedoms that are largely uncontroversial.

But in developing countries, human rights have a transformative potential. They are a constant challenge to the vested interests in society riven by enormous disparity of wealth and power with traditions of authoritarianism and helplessness of disadvantaged communities.

It is, therefore, imperative to strengthen movements for implementation of human rights in developing countries. What is needed is a strong conscience, which acts on the belief that human rights are indivisible and that their protection is the abiding responsibility of civilised international community.

(Concluded)

QUOTA STIR ■ Rights body urges striking medicos to resume duty for the sake of patients

NHRC seeks report on police action

ENS/PTI
NEW DELHI, MAY 16

DISTURBED by the police action on medical and engineering students protesting against Government's reservation proposal in Delhi and Mumbai, the NHRC today called for factual reports from police on the matter even as it appealed to striking medicos to resume their duties.

Noting that the allegations of police action, if true, raised a serious issue of violation of human rights, the Commission said, "No civilised state can justify use of brutal force on peaceful demonstrators."

The Commission, taking note of "disturbing news reports" about the alleged police action, has called for factual reports from the commissioners of police in Delhi and Mumbai in the matter within two weeks.

The NHRC has also taken note of news reports regarding the strike of work by resident doctors in government hospitals as also the call for 'medical bandh' issued by the Indian Medical Association (IMA) that have resulted in paralysing of medical services in Delhi.

Highlighting that the right to proper and timely medical intervention and treatment is an essential feature of right to healthcare, the NHRC has issued an appeal to the IMA, Delhi Medical Association (DMA) and the striking doctors to resume their duties in the interest of poor patients.

The representatives of the organi-



Medicos pull rickshaw, sweep streets

SAMBALPUR (Orissa): Agitating students of VSS Medical College at Burla in Orissa registered their protest against the OBC quota proposal in elite educational institutions by pulling rickshaws. Over 100 students pulled rickshaws in the town even as the stir entered the fourth day on Tuesday. The students had earlier swept the streets with brooms as part of their protest. "If talent is not given weightage, we will have to do the role of sweepers or rickshaw-pullers", one of the agitating students said.

Junior doctors and medical students block the Esplanade in Kolkata on Tuesday. PTI

'Country First' had submitted a memorandum to NHRC chairman Justice A S Anand, drawing the attention of the Commission on the unprovoked police action against the students.

The DMA had also submitted a similar memorandum requesting for Commission's intervention.

Meanwhile, the anti-quota protests spread across the country. In Madhya Pradesh, students and junior doctors of all five medical Gov-

ernment colleges (at Bhopal, Indore,

Gwalior, Rewa and Jabalpur) joined the strike to protest the proposed reservations for OBCs in institutes of higher education.

Students of the Government medical college in Tripura's capital Agartala continued to boycott classes for

Bhujbal talks of stepping up pro-quota stir

► **MUMBAI:** Over 400 activists of Mahatma Phule Samta Parishad, floated by Maharashtra Public Works Minister and NCP leader Chhagan Bhujbal, courted arrest after staging a pro-quota demonstration at Azad Maidan here today.

Those arrested included Bhujbal's son Pankaj and nephew Sameer.

Bhujbal, who was scheduled to participate in the stir, however, did not take part in the agitation.

"When my presence is needed, I will definitely be there to lead this battle for social justice. Today they (anti-quota protesters) wanted students... We sent students", Bhujbal, a strong supporter of reservations, said.

Asked about NCP's role in the pro-quota demonstration, Bhujbal, who had recently organised an all-India rally of OBCs in Delhi in the presence of party chief Sharad Pawar, said today's stir was organised by the Parishad but NCP activists were also present. "Today, there were 5000 people at Azad Maidan to support the reservations. Next time, when I participate in the demonstration, there would be 50,000 to one lakh people", he claimed. Members of four other organisations, including Bahujan Vidyarthi Mahasangh affiliated to RPI, also participated in the pro-quota protests. —PTI

Close secret prisons, UN panel tells US

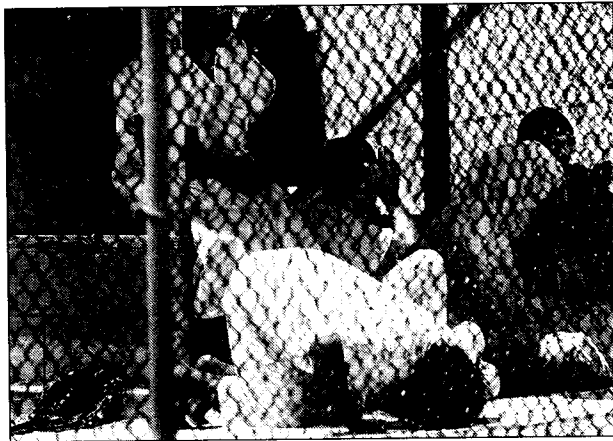
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The Guardian 24/5/05
Geneva, May 19 (Reuters): The UN committee against torture told the US today it should close any secret prisons abroad and the Guantanamo Bay facility in Cuba, saying they violated international law.

The 10 independent experts, who examined the US record at home and abroad, urged President George W. Bush's administration to "rescind any interrogation technique" that constituted torture or cruel treatment of foreign terrorism detainees.

It cited use of dogs to terrify detainees, "water-boarding" which is a form of mock drowning, and sexual humiliation.

The US "should ensure that no one is detained in any secret detention facility under its de facto effective control" and "investigate and disclose the existence of any such facilities," said the committee, which has moral authority but no legal power to enforce its recommendations.

"Detaining persons in such conditions constitutes, per se, a violation of the con-



Detainees inside the Camp Delta detention centre at the Guantanamo Bay US naval base in Cuba

vention," said the committee which examines compliance with the 1987 UN Convention against Torture, or other cruel, inhuman or degrading treatment or punishment.

The US is holding hundreds of terrorism suspects, most arrested since al Qaida's September 11 attacks in 2001, at its prisons in Afghanistan, Iraq and Guantanamo Bay.

Washington, which sent 30 senior officials to Geneva in

early May for the committee's two-day hearings, defended its treatment of foreign terrorism suspects held abroad, saying there had been "relatively few actual cases of abuse".

Suicide clash

Prisoners wielding improvised weapons clashed with guards trying to stop a detainee from committing suicide at the Guantanamo Bay prison, the military said.

20 MAY 2006

সৌমেন্দু-কাণ্ডে ধূতেরা জবানবন্দি দিলেন না

Amr 22 Human Rights 2018

নিজস্ব সংবাদদাতা, খড়্গপুর: ম্যাজিস্ট্রেটের কাছে গোপন জবানবন্দি দেবেন জানিয়েও পিছিয়ে গেলেন পুলিশ হেফাজতে সৌমেন্দু মণ্ডলের অস্বাভাবিক মৃত্যুর ঘটনায় জড়িত সন্দেহে ধৃত চিকিৎসক ও পুলিশকর্মীরা। শনিবার মেদিনীপুর জেলা আদালত ধৃত চার পুলিশকর্মী ও হোমিওপ্যাথ চিকিৎসকের জামিনের আবেদন খারিজ করে দিয়েছে।

সিবিআই সূত্রে শুক্রবার জানানো হয়েছিল, ধৃত পাঁচ জনের মধ্যে এক পুলিশকর্মী ছাড়া বাকিরা এ দিন জেলা আদালতের দ্বিতীয় জুডিশিয়াল ম্যাজিস্ট্রেট অরুণ রায়ের কাছে গোপন জবানবন্দি দেবেন। নিয়মমাফিক

ম্যাজিস্ট্রেট তাঁদের ২৪ ঘণ্টা ভাবার সময় দেন। কিন্তু শনিবার দুপুর সাড়ে ১২টা নাগাদ আদালতে তোলা হলে তাঁরা জবানবন্দি দিতে অস্বীকার করেন। দুপুর ২টো নাগাদ তাঁদের মুখ্য দায়রা বিচারক সুমিত্রা রায়ের এজলাসে হাজির করানো হয়। জামিন নাকচ করে বিচারক তাঁদের ২৭ দিন জেল হাজতে রাখার নির্দেশ দিয়েছেন। ২০০২ সালের ৮ জুলাই পুলিশ হেফাজতে সৌমেন্দুর মৃত্যু হয়। চলন্ত জিপ থেকে লাফিয়ে পালাতে গিয়ে তিনি মারা যান বলে পুলিশ দাবি করলেও মৃতের পরিবারের অভিযোগ, থানা লকআপে তাঁকে পিটিয়ে মারা হয়েছে। সিবিআই-এর কৌসুলি পার্থ তপস্বী বলেন,

“ধূতেরা নিজেরাই জবানবন্দি দিতে চেয়েছিলেন। আজ পিছিয়ে গেলেন কেন, বুঝতে পারছি না। ওই চার পুলিশ কর্মী-সহ ১৩ জনের বিরুদ্ধে যথেষ্ট তথ্যপ্রমাণ আমাদের হাতে আছে। বাকিদের মধ্যেও পাঁচ পুলিশকর্মী আছেন।” সিবিআই অফিসার পার্থসারথি বসু বলেন, “বাকি আট জনকেও শীঘ্রই গ্রেফতার করা হবে। ধূতেরা জবানবন্দি না-দিলেও কোনও অসুবিধা নেই। আমাদের কাছে যা তথ্য আছে, তাতে সৌমেন্দু মণ্ডলকে যে লকআপে পিটিয়ে মারা হয়েছিল তা প্রমাণ করতে অসুবিধা হবে না।”

অভিযুক্ত পক্ষের আইনজীবী শ্যামলেন্দু মাইতি অবশ্য দাবি

করেছেন, সিবিআই-এর হাতে তথ্যপ্রমাণ থাকলে তা আদালতে পেশ করতে তারা এত সময় নিত না। তিনি বলেন, “২০০৫ সালের ফেব্রুয়ারি মাসে সিবিআই তদন্তের ভার পেয়েছে। কিন্তু দেড় বছরে গোয়েন্দারা কিছুই এগোতে পারেননি। হঠাৎই চার পুলিশকর্মীকে কলকাতা থেকে ডেকে এনে গ্রেফতার করা হয়। চিকিৎসক রবীন্দ্রনাথ নন্দীকেও জিজ্ঞাসাবাদের নাম করে বাড়ি থেকে ডেকে এনে গ্রেফতার করা হয়েছে।” নিজেকে ‘নির্দোষ’ বলে দাবি করে ধৃত এসআই তাপস সান্যাল বলেন, “জবানবন্দি দেওয়া-না দেওয়া আমাদের ইচ্ছা। এখন কিছু বলব না।” ১৭ জুন ফের মামলার শুনানি হবে।

ANADARAKA

21 MAY 2006

Re-examine quota: NHRC to Centre

Demands report on brutal police action

HT Political Bureau
New Delhi, May 26

IN AN advisory — that indicates its assessment of the manner in which the UPA government has handled the OBC quota issue — the National Human Rights Commission on Friday asked the Centre to get the reservation issue examined “thoroughly”.

This should be done, the commission said, so that fairness and justice is not denied to any section or class of the society. This is the second occasion when the commission has taken note of the quota controversy and its fall-out — the first was 10 days back.

The NHRC had then asked police chiefs in Delhi and Mumbai for a factual report on the brutal police action on medical and engineering students protesting round of reservations.

RIGHT TO EQUALITY

It had also signalled its displeasure at the way the police had handled the protests, observing that “no civilised state can justify use of brutal force on peaceful demonstrators”. The commission still has not received the reports.

On Friday, the commission went beyond the handling of the situation by the police. “The commission felt that the government should ensure a balanced and orderly development of all sections and classes of the society while implementing its policy,” an official NHRC communiqué said.

It also referred to media reports that showed some of the doctors and students on hunger strike being removed for medical care to point that the “reservation issue” was a “complex one.” But just as it expressed concern over the deteriorating health of the students and doctors, it also expressed concern at the denial of health facilities to patients and urged doctors to resume work.



AP
Medicos stamp their protest against reservation in blood in New Delhi on Friday.

Better opportunities ahead: PM

HT Correspondent
New Delhi, May 26

A DAY after reiterating the UPA government's commitment to OBC reservation, Prime Minister Manmohan Singh on Friday assured striking anti-reservation doctors that he foresaw a huge growth in the educational opportunities available to all classes and categories of students.

“You needn't be worried about shrinking educational opportunities, since the technical expert groups being set up under the Oversight Committee will examine ways and means of expanding capacities and the government is committed to the expansion”, he told a delegation of striking medics.

In his first meeting with a 10-member delegation of agitating students and doctors that lasted around 90 minutes, the PM asked them to come up with specific suggestions that could be taken by the experts groups.

Incidentally, on Thursday, Singh had said in Srinagar that the UPA government would seek all “viable and credible ways to protect the interests of all sections of society”.

On its part, the doctors' delegation told the media they had a good meeting with the PM. AIIMS RDA member Jitender Kumar said the delegation members would go back to the anti-reservation activists with their impressions of the meeting. “The general body meeting of ‘Youth for Equality’ will take a final decision on the strike”, he said.

Significantly, ahead of his meeting with the striking doctors, HRD minister Arjun Singh is believed to have called on the PM, although no official confirmation was available on this.

The meeting came close on the heels of reports that the HRD ministry had firming up its proposals for the constitution of an Oversight Committee for drawing up a time-bound roadmap for implementing the 27 per cent OBC quota regime.

Funds no problem, says Arjun Singh

CHETAN Chauhan
New Delhi, May 26.

NOT ONLY HRD minister Arjun Singh, but even the Planning Commission believes that funds won't be a problem for implementing 27 per cent quota for OBC students. “There will be enough money to implement quota in next year's budget,” a panel member said.

The sub-group on education, likely to be constituted in June to study the 11th Plan, is expected to work out a scheme to disburse over Rs 10,000 crore required to implement the quota regime. However, the money is not expected to be disbursed in a single year but over a period of time.

The commission doesn't expect more than Rs 5,000 crore in the first year of the 11th Plan when reservation will become applicable.

“Infrastructure for increased student intake can't be built in a year. It takes time and funds can be allocated accordingly,” an official said.

Sparing money might not be tough as the government increased allocation for education by 31.5 per cent in the last budget, the highest for any sector. Already, additional money — around Rs 200-300 crore — has been provided to increase the intake of universities and IITs. “At least they can start working on increasing the intake before next budget,” an official said.

The 11th Plan is expected to see higher intake for the education sector as the Prime Minister has already emphasised the need to increase the reach of higher education in the next Plan period. In addition to this, the government is examining the Tapas Majumdar Committee report on increasing allocation for education to 6 per cent of the GDP. The report recommended a staggered increase in allocation over three to four years.

‘Vote bank politics is the reason’

LOK PARITRAN, a political party floated by former IITians, on Friday voiced their protest against reservation in higher education alleging that vote bank politics was the only reason for the policy being pursued in the country.

“It has been clear from the beginning that practically the only driving force behind the reservation policy in our country is vote bank politics and not the intention to empower and uplift the oppressed and downtrodden sections of society,” Tarunay Rajpurohit and Chandrashekar, the party's national president and general secretary respectively, alleged at a press conference, here.

The leaders claimed the polity propagated the caste system that promoted differences in society and did not truly help the needy and deserving cases. **HTC**

W. B. Govt. Tender

Sealed Tenders are invited by the Director General, West Bengal Fire & Emergency Services for “Brass Band with 12 Musical Instruments” for use in the West Bengal Fire & Emergency Services. Tender Form with other details will be available from the Directorate Cashier at 13-D, Mirza Ghalib Street, Kolkata-700016 on & from 19.6.06 within office hours. The last date will be mentioned in the Tender Paper.

....ICA-1619(5)/2006

U.S. record on torture comes under spotlight

Human Rights
Firm on eradicating inhuman treatment: official

GENEVA: The United States launched an emphatic defence of its record on preventing torture and abuse on Friday, as the U.N.'s top anti-torture body opened its first public examination of that record since President George W. Bush unleashed a "war on terror".

"U.S. criminal law and treaty obligations prohibit torture and the United States will not engage in it or condone it anywhere," top U.S. human rights official Barry Lowenkron told the 10-member U.N. Committee on Torture.

Legal reservations

Washington is committed to eradicating torture and other cruel and inhuman treatment, said Mr. Lowenkron, U.S. State Department's Assistant Secretary for Human Rights and Labour.

"This is not just a legal obligation. We are fulfilling a higher moral obligation which our nation has embraced since its earliest days."

However, U.S. officials also highlighted their legal reservations about the reach of the International Convention Against

Torture overseen by the U.N. Committee.

The U.S. insisted when it signed the treaty that it did not apply to armed conflicts, effectively excluding its activities in Afghanistan and Iraq, as well as the "war on terror," from the Convention's scope in U.S. eyes.

Washington was last reviewed by the committee in 2000, well before it implemented tougher measures to detain and interro-

gate terror suspects after the September 11, 2001 attacks.

Most of the initial 59 written questions submitted by the panel dealt with those measures.

State Department legal adviser John Bellinger later acknowledged that the U.S. was trying to correct its course following the revelations of abuse by soldiers at Abu Ghraib prison in Iraq and the controversy over Guantanamo Bay detention centre. — AFP

Guantanamo "a necessity"

VIENNA: The U.S. facility holding prisoners from the "war on terrorism" at a U.S. base in Guantanamo Bay, Cuba, remains necessary despite protests against it, according to U.S. Attorney-General Alberto Gonzales.

"Guantanamo exists because it is absolutely necessary.

"I hear some critics say we should close down Guantanamo and yet no one is willing to offer the

United States an alternative," Mr. Gonzales told reporters in Vienna, where he is meeting European Union Justice and Interior Ministry officials.

"You capture people on the battlefield fighting against your country. What are we supposed to do with them? Do we simply release them, and have them come back and fight against our soldiers," he asked. — AFP

06 MAY 2005

Delhi police appeal in Jessica murder case admitted by High Court; warrants issued

All nine accused acquitted by trial court restrained from leaving the country

Prashant Pandey

NEW DELHI: The Delhi High Court on Wednesday admitted the Delhi police appeal challenging the trial court verdict in the Jessica Lal murder case and issued bailable warrants against all nine accused who had been acquitted by the trial court last month. The accused have been restrained from leaving the country and have to appear in court on April 18, the next date of hearing.

Submitting the appeal before a Division Bench of Justice Manmohan Sarin and Justice Manju Goel, Additional Solicitor-General Gopal Subramaniam and senior State counsel Mukta Gupta prayed to the Court to issue non-bailable warrants against the accused. They argued that one of the accused had already left for the United States and others might follow suit.

However, the Court issued bailable warrants against the ac-

cused along with the restraining order.

The bail amount for prime accused Siddhartha Vashistha alias Manu Sharma has been fixed at Rs. 1 lakh, while for others it is Rs. 50,000 each.

While Manu Sharma had been out on bail since 2002, the other accused in the case, Vikas Yadav, is already in jail in connection with the Nitish Katara murder case. Amandeep Singh Gill alias Tony, Alok Khanna, Shyam Sunder Sharma, Harvinder Gupta, Vikas Gill, Raja Chopra and Yograj Singh are the seven other accused who were acquitted by the trial court.

Earlier this month the police had issued "look out" notices for all the accused and witnesses to ensure that they remained available for investigation into the fresh case registered on March 6 to probe the alleged destruction of evidence, fabrication of records and criminal conspiracy



that led to the acquittals in the sensational murder case.

Prepared in consultation with Mr. Subramaniam, the appeal cites 92 grounds for setting aside the trial court verdict.

The primary reason mentioned in the appeal was that adequate attention had not been paid to circumstantial evidence. It further mentioned that not

much weight had been given to statements of witnesses who did not turn hostile and supported the prosecution's contention. On the other hand, a lot of importance was attached to the statements of witnesses who turned hostile.

The appeal also mentioned that the conduct of the accused following the murder was not given any consideration.

"No one would be spared": Commissioner

Talking to reporters at Delhi Police Headquarters during the day, Police Commissioner K. K. Paul said the appeal specifically mentioned that a case had been registered to investigate who all concluded with the accused to derail the murder trial. He reiterated that whosoever was found guilty now of having colluded with the accused to botch up the trial would not be spared even if it meant taking action against

senior police officers. "Investigations so far have made satisfactory progress, and with the High Court issuing directions, the probe into the conspiracy case would be expedited," he added.

"Fears allayed by Court"

Meanwhile, Sabrina Lal, sister of Jessica Lal, expressed relief over the directions issued by the High Court. She told media persons that the biggest fear so far was that the accused might escape out of the country but with restraining orders in place now those fears had been allayed.

Jessica Lal was shot dead at a party here in Tamarind Court restaurant owned by Bina Ramani on the night of April 29, 1999, allegedly by Manu Sharma, son of a Minister, Venod Sharma. Besides Manu Sharma, the trial court had acquitted Vikas Yadav, son of former Member of Parliament D. P. Yadav.

জেসিকা-কাণ্ডে ৯ জনের নামে গ্রেফতারি পরোয়ানা

নয়াদিল্লি, ২২ মার্চ: জেসিকা লাল হত্যাকাণ্ডে অভিযুক্ত মনু শর্মা-সহ ৯ জনের বিরুদ্ধে আজ জামিনযোগ্য গ্রেফতারি পরোয়ানা জারি করল দিল্লি হাইকোর্ট। পরবর্তী নির্দেশ না দেওয়া পর্যন্ত ওই ৯ জনকে দেশ ছাড়তে বারণ করা হয়েছে।

এর আগে ২১ ফেব্রুয়ারি নিম্ন আদালত প্রমাণের অপর্থাপ্ততা ও বিভ্রান্তির কথা তুলে অভিযুক্ত ৯ জনকে বেকসুর খালাস করে দিয়েছিল। দিল্লি পুলিশ ওই রায়কে চ্যালেঞ্জ জানিয়ে হাইকোর্টে একটি আবেদন জানিয়েছিল। তার ভিত্তিতেই আজ এই রায় দেয় বিচারপতি মনমোহন সারিন ও বিচারপতি মঞ্জু গোয়েলাকে নিয়ে গঠিত ডিভিশন বেঞ্চ। অতিরিক্ত সলিসিটর জেনারেল গোপাল

বালসুব্রহ্মণ্যম এবং সুরকারি আইনজীবী মুক্তা গুপ্তা অবশ্য অভিযুক্তদের বিরুদ্ধে জামিন অযোগ্য গ্রেফতারি পরোয়ানা জারি করতে হাইকোর্টে অনুরোধ জানিয়েছিলেন। তাঁরা আদালতে বলেন, এক জন অভিযুক্ত ইতিমধ্যেই আমেরিকা পুড়ি দিয়েছে। অন্যরাও সেই পথ ধরতে পারে। তবে হাইকোর্ট সে আর্জি পুরো না মেনে জামিনযোগ্য পরোয়ানা জারি করে বলে, ১৮ এপ্রিল পরবর্তী জ্ঞানির দিন ওই ৯ জনকে আদালতে হাজির থাকতে হবে।

এদের মধ্যে হরিমানর মন্ত্রী বিনোদ শর্মা'র ছেলে মনু শর্মা'ই মূল অভিযুক্ত। তার বিরুদ্ধে জেসিকাকে গুলি করার অভিযোগ রয়েছে। তা ছাড়া, উত্তর প্রদেশের রাজনীতিক ডি পি যাদবের

ছেলে বিকাশ যাদব, প্রাক্তন রাষ্ট্রপতি শঙ্কর দয়াল শর্মা'র আত্মীয় শ্যামসুন্দর শর্মা এবং ক্রিকেটার যুবরাজ সিংহের বাবা প্রাক্তন ক্রিকেটার যোগরাজ সিংহ অন্যতম।

নিম্ন আদালতে ২১ ফেব্রুয়ারি অতিরিক্ত দায়বা বিচারক এস এল ভাওয়ানা জেসিকা হত্যার মামলা খারিজ করে দেন। এর পরেই ওই রায় নিয়ে দেশ জুড়ে প্রতিবাদ ও বিতর্কের ঝড় ওঠে। খানিকটা জনতার চাপে পড়েই পুলিশের পক্ষ থেকে তদন্ত শুরু হয়েছে। পুলিশের পক্ষ থেকে হাইকোর্টে ৪৪ পাতার একটি আবেদন করা হয়েছিল। তাদের বক্তব্য, 'নিম্ন আদালত অনুমান ও ধারণার বশবর্তী হয়ে রায় দিয়েছিল। ফলে, সে রায় খারিজ করা হোক।' বক্তব্যের পক্ষে

হয়। সেই রেস্টোরার মালিক বীণা। সেখানেও কাল নতুন করে তদন্ত করা হয়। জেসিকা হত্যায় দু'টি গুলি দিয়ে যে বিতর্কের সৃষ্টি হয়েছিল, সে রহস্য সমাধানে দিল্লির এক অস্ত্র ব্যবসায়ীকেও খুব শীঘ্র জেরা করা হবে বলে পুলিশ জানিয়েছে।

আজকের রায় শুনে স্বাভাবিক ভাবেই খুশি জেসিকার বোন সারিনা লাল। তিনি বলেন, "জামিন অযোগ্য গ্রেফতারি পরোয়ানা হলে আরও খুশি হতাম। তবে এটা মন্দের ভাল। দোষীরা অত্যন্ত দেশ ছেড়ে পালাতে তো পারবে না। স্বচ্ছ তদন্তের স্বার্থে ওদের দেশে আটকে রাখাটা খুব জরুরি ছিল।" সারিনার আশা, এ বার সুবিচার পাবেন জেসিকা। শাস্তি পাবে দোষীরা।

— পি টি আই

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U.N. Votes To Replace Rights Panel

U.S. Has Objections But Will Aid Agency

By Colum Lynch
Washington Post Staff Writer
Thursday, March 16, 2006; A01

UNITED NATIONS, March 15 -- The U.N. General Assembly voted overwhelmingly Wednesday to create a human rights agency to monitor and expose abuses by governments, replacing a discredited body despite objections by the United States that nations with a history of human rights violations could still join the new panel.

The assembly's action will effectively abolish the United Nations' main human rights body, which has been derided in recent years for allowing some of the world's worst rights abusers to participate. It will be replaced in June by a new Human Rights Council, which advocates and most nations hope will exclude brutal dictatorships and do a better job of confronting governments that abuse their own people.

The measure creating the 43-member rights body was passed by a vote of 170 to 4, with the United States, Israel, Palau and the Marshall Islands voting against it. Belarus, Iran and Venezuela abstained, citing a concern that the council would become a tool for powerful Western countries to punish poor nations.

In a shift in U.S. policy, the Bush administration agreed Wednesday to help fund the rights council and has begun an internal discussion over possible U.S. membership. John R. Bolton, the U.S. ambassador to the United Nations and a staunch critic of the new council, said that though Washington opposed it, the United States will pledge support for making it "as strong and effective as it can be."

"We remain committed to support the U.N.'s historic mission to promote and protect the basic human rights of all the world's citizens," Bolton said. "The real test will be the quality of membership that emerges on this council and whether it takes effective action to address serious human rights abuse cases like Sudan, Cuba, Iran, Zimbabwe, Belarus and Burma."

The debate over the new human rights agency had put the United States in a difficult position. Under President Bush, Washington has been urging a reform of U.N. management of a variety of programs. But in this case, it opposed the rules drawn up to determine which nations could serve on the panel and cast a vote.

Wednesday's action follows a nearly year-long campaign by U.N. Secretary General Kofi Annan to create a human rights organization to replace the Geneva-based Commission on Human Rights. Annan said the 60-year-old agency, which drafted the Universal Declaration of Human Rights, currently suffers from "declining credibility and professionalism" and has cast "a shadow on the reputation of the United

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Nations system as a whole."

Members of the current human rights panel include Zimbabwe, Sudan, Cuba, China and Saudi Arabia, all of which have long records of human rights violations. Rights abusers such as China have used their positions on the commission to block criticism of their human rights records.

Annan had proposed setting high membership standards, including a requirement that council members obtain votes from at least two-thirds of the U.N. membership to join. But he concluded that a compromise proposal, which required only an absolute majority of 96 votes for membership, was still worth supporting.

General Assembly President Jan Eliasson, who led negotiations on the council, said the resolution adopted Wednesday would strengthen the U.N. capacity to confront rights abusers and make it more difficult for them to join. "The true test of the council's credibility will be the use that member states make of it," Annan said.

Bolton said Wednesday that Washington opposed the council for several reasons, but he highlighted the proponents' failure to secure the two-thirds vote requirement for membership. "It would have helped to prevent the election of countries that only seek to undermine the new body from within," he said.

But other delegates and human rights advocates questioned the U.S. commitment to creating a strong human rights panel, saying that Bolton rarely participated in the months of negotiations aimed at forging a new council. When he did weigh in -- for instance, by asserting in December that the five veto-wielding members of the U.N. Security Council should have permanent seats on the rights panel -- he complicated the deliberations, according to diplomats and rights advocates.

In a thinly veiled attack on the United States, Peter Maurer, the Swiss ambassador, lashed out at those "who want to make us believe that they are the only ones fighting for an ambitious human rights machinery," saying: "All too often, too high-minded ambitions are coverups for less noble ambitions and are aimed not at improving the United Nations but at weakening it."

Senior U.N. officials and delegates said Bolton barely highlighted the importance of the two-thirds membership vote at a critical meeting this month with Eliasson, leading the General Assembly president to believe that the United States could accept the compromise. Eliasson declined to discuss the conversation.

"I really feel that this is a matter I can't go into, but you're right that the emphasis was not so strongly on two-thirds," he said.

Bolton insisted that he forcefully raised the issue with Eliasson and said suggestions that the United States was not fully engaged in the negotiations are "ridiculous."

Human Rights Watch, Amnesty International and other human rights groups praised the General Assembly's decision. But they cautioned that U.N. members will have to ensure that governments with poor rights records do not win election to the new council.

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Committee for widening of NHRC powers

Rights commission must be empowered to make surprise visits to jails

Siddharth Narrain

NEW DELHI: The Parliamentary Standing Committee on Home Affairs has proposed that the National Human Rights Commission be empowered to make surprise visits to jails. At present, the NHRC can visit jails only after intimating the State Government.

The Committee's recommendations on the Protection of Human Rights (Amendment Bill) 2005, submitted to Parliament, are based on suggestions by the Advisory Committee set up by the former Chief Justice of the Supreme Court, A.M. Ahmadi, and the recommendations

quire into violations on the direction of courts.

It must be given the power to recommend compensation to victims even during the course of inquiry in such cases. The NHRC can now recommend compensation only after the inquiry is over.

It has suggested modifications to the Bill to allow the Centre to consider a retired Supreme Court Judge having a minimum of three years experience for the post of NHRC chairperson.

At present, only a retired Chief Justice of the Supreme Court is eligible to be appointed to the post.

The chairperson must be allowed

to delegate some of his functions to the secretary-general. However, to prevent misuse he should not be able to delegate his "judicial functions."

As a result of the bifurcation of the National Commission of Scheduled Castes and Tribes, the Chairpersons of both Commissions must be considered deemed members of the NHRC.

The Committee has also recommended that the number of members of the State Human Rights Commissions be reduced from five to three to help reduce the financial burden on the States. In smaller States, a common SHRC for two or more States can be set up.

• **It must be empowered to inquire into violations on the direction of courts**

• **Delegation of chairperson's functions to secretary-general needed**

of an Inter-Ministerial Committee comprising the Ministries of Home Affairs, Defence and Law.

The Committee recommended that in addition to the existing system of making suo motu inquiries into human rights violations, the NHRC must be empowered to in-

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THE HINDU

China slams US for rights record rebuke

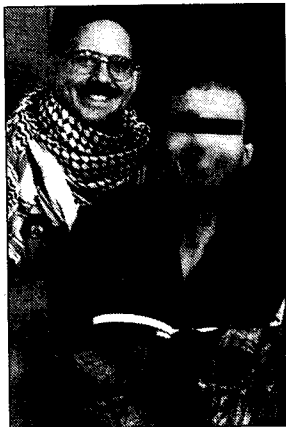
Says Blacks In America Still Getting A Raw Deal

Beijing: China hit back at US criticism of its human rights record on Thursday, unveiling its own report detailing what it said were rights abuses in the United States, involving everything from racial discrimination to crime.

The Chinese report, issued by the State Council, or Cabinet, takes aim at US democracy—calling it “a game of the rich”—the high murder rate, domestic wire tapping and detention of Iraqi reporters by American forces in Iraq.

“We urge the US government to face squarely their own human rights problems, reflect on their own actions, take practical measures and improve their human rights situation,” Xinhua quoted the report as saying.

Other abuses involved “secret snooping, police abuse,



Beijing also criticised the US for Abu Ghraib and Guantanamo Bay excesses

wrong convictions and the highest ratio of people behind bars,” Xinhua said. “The US has always boasted itself as the model of democracy and hawked its mode of democracy to the rest of the world, but in fact, American

‘democracy’ is always one for the wealthy and a ‘game for the rich,’” it said. Blacks are given heavier criminal penalties, arrested more often and are more likely to be targeted for hate crimes, the report said.

“We disapprove of countries meddling in other countries’ domestic affairs,” added Chinese foreign minister Li Zhaoxing, speaking on the sidelines of the meeting of parliament. The US said China increased its censorship of the internet and of media critics last year and that harassment and detention of those challenging the authorities grew.

China says its human rights definition differs from the West, insisting that the basic rights of its 1.3 billion people to food, clothing and housing take precedence over individual civil liberties. Reuters

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March 6, 2006

Voices Baffled, Brash and Irate in Guantánamo

By TIM GOLDEN

This article was reported by Margot Williams, Tim Golden and Raymond Bonner and written by Mr. Golden.

Among the hundreds of men imprisoned by the American military at Guantánamo Bay, Cuba, there are those who brashly assert their determination to wage war against what they see as the infidel empire led by the United States.

"May God help me fight the unfaithful ones," one Saudi detainee, Ghassan Abdallah Ghazi al-Shirbi, said at a military hearing where he was accused of being a lieutenant of Al Qaeda.

But there are many more, it seems, who sound like Abdur Sayed Rahman, a self-described Pakistani villager who says he was arrested at his modest home in January 2002, flown off to Afghanistan and later accused of being the deputy foreign minister of that country's deposed Taliban regime.

"I am only a chicken farmer in Pakistan," he protested to American military officers at Guantánamo. "My name is Abdur Sayed Rahman. Abdur Zahid Rahman was the deputy foreign minister of the Taliban."

Mr. Rahman's pleadings are among more than 5,000 pages of documents released by the Defense Department on Friday night in response to a lawsuit brought under the Freedom of Information Act by The Associated Press.

After more than four years in which the Pentagon refused to make public even the names of those held at Guantánamo, the documents provide the most detailed information to date about who the detainees say they are and the evidence against them.

According to their own accounts, the prisoners range from poor Afghan farmers and low-level Arab holy warriors to a Sudanese drug dealer, the son of a former Saudi Army general and a British resident with an Iraqi passport who was arrested in Gambia.

One 26-year-old Saudi, Muhammed al-Utaybi, said he was studying art when he decided to travel to Pakistan to train with the militant group Lashkar-e-Taiba. He was not much of a militant himself, he suggested, saying the training "was just like summer vacation."

The documents — hearing transcripts and evidentiary statements from the two types of military panels that evaluate whether the detainees should remain at Guantánamo — are far from a complete portrait of those in custody there.

They do not include the classified evidence that is generally part of the review panels' deliberations, nor

their final verdicts on whether or not to recommend the detainees' release. Of the about 760 men who have been held at Guantánamo, the documents cover fewer than half.

But a reading of the voluminous files adds texture to the accusations that the men face and the way they have tried to respond to them. It also underscores the considerable difficulties that both the military and the detainees appear to have had in wrestling with the often thin or conflicting evidence involved.

At one review hearing last year, an Afghan referred to by the single name Muhibullah denied accusations that he was either the former Taliban governor of Shibarghan Province or had worked for the governor. The solution to his case should have been simple, Mr. Muhibullah suggested to the three American officers reviewing his case: They should contact the Shibarghan governor and ask him.

But the presiding Marine Corps colonel said it was really up to the detainee to try to contact the governor. Assuming that the annual review board denied his petition for freedom, noted the officer, whose name was censored from the document, Mr. Muhibullah would have a year to do so.

"How do I find the governor of Shibarghan or anybody?" the detainee asked.

"Write to them," the presiding officer responded. "We know that it is difficult but you need to do your best."

"I appreciate your suggestion, but it is not that easy," Mr. Muhibullah said.

Bush administration officials and military leaders have often justified the extraordinary conditions under which detainees are held at Guantánamo by insisting that the detainees are hardened terrorists. Secretary of Defense Donald H. Rumsfeld famously described the Guantánamo detainees as "the worst of the worst."

And while many administration officials have privately backed away from such claims, they argue that most of the 490 detainees still being held would pose a significant threat to the United States if released. Pentagon spokesmen have generally dismissed the detainees' protestations of innocence as the predictable lies of well-trained militants.

Accusations and Replies

The hearing transcripts are from review panels known as Combatant Status Review Tribunals, where three military officers weigh whether a detainee is properly classified as an "enemy combatant." Few of them have made the process as easy as Ghassan Abdallah Ghazi al-Shirbi.

"Honestly," he said, "I did not come here to defend myself, but defend the Islamic nation; this is my duty, and I have to do it."

Among the accusations against Mr. Shirbi recounted in the hearing transcript were that he trained with Al Qaeda, was "observed chatting and laughing like pals with Osama bin Laden," and was known as the "right-hand man" to Abu Zubaydah, a top Qaeda operative. Mr. Shirbi said he was willing to accept all of those accusations.

He then told the hearing officers, "I found the accusations against you to be many."

With that, Mr. Shirbi unleashed a tirade against capitalism, America, homosexuality, Israel, support for

Saddam Hussein in his war against Iran, and the more recent war against Iraq.

"Your status as enemy combatants does not need a court," he told the officers.

As for his own classification of enemy combatant, Mr. Shirbi was blunt: "It is my honor to have this classification in this world until the end, until eternity, God be my witness."

In other cases, the incriminating evidence has generally been less clear-cut.

Another Saudi, Mazin Salih Musaid al-Awfi, was one of at least half a dozen men against whom the "relevant data" considered by the annual review boards included the possession at the time of his capture of a Casio model F-91W watch. According to evidentiary summaries in those cases, such watches have "been used in bombings linked to Al Qaeda."

"I am a bit surprised at this piece of evidence," Mr. Awfi said. "If that is a crime, why doesn't the United States arrest and sentence all the shops and people who own them?"

Another detainee whose evidence sheet also included a Casio F-91W, Abdullah Kamal, was an electrical engineer from Kuwait who once played on his country's national volleyball team. He was also accused of being a leader of a Kuwaiti militant group that collected money for Mr. bin Laden.

As for the Casio allegation, Mr. Kamal said the watch was a common one in Kuwait and had a compass that could be used to find the direction of Mecca for his prayers. "We have four chaplains" at Guantánamo, he said. "All of them wear this watch."

While many of the detainees are citizens of Afghanistan or were captured there during and after the Taliban's overthrow, the documents also make clear the long reach of the American campaign against terror.

One unidentified Pakistani detainee was seized as he tried to cross into the United States from Mexico. He said he had paid an immigrant smuggler \$16,000 to \$18,000 to take him to Guatemala and then north; his smuggler was known to the American authorities for having ties to Arab militant groups, documents from his case show.

Another Pakistani, Saifullah Paracha, was arrested in Thailand in July 2003. Mr. Paracha, a wealthy real estate developer who said he attended the New York Institute of Technology, was accused of making investments for Qaeda members, plotting to smuggle explosives into the United States and urging the use of nuclear weapons against American soldiers. He acknowledged having met Mr. bin Laden twice, but denied the other allegations.

An unidentified 34-year-old Mauritanian who appears to be Mohamedou Ould Slahi, the onetime imam of a mosque in Montreal who was linked in Germany to two of the Sept. 11 hijackers, told of being "kidnapped" after he turned himself in to the Mauritanian authorities and of being taken to Jordan for eight months while "they tried to squeeze information out of me." He said he was flown from Jordan to Afghanistan, and then on to Guantánamo.

Yet for all the gravity of the global fight against terrorism, the give-and-take at the Guantánamo hearings is sometimes reminiscent of a local arraignment court.

Consider the exchange over a Belgian detainee, captured in Afghanistan. One allegation, read in court,

was that he was a member of the Theological Commission of the GICM.

"What is GICM?" asked the detainee, who was not identified.

The tribunal president asked a clerk, "Could you explain what GICM is? I have the same question."

The clerk said he was not sure, either. Another accusation was read: that GICM is associated with Al Qaeda. The detainee answered again, "I don't know this group."

The tribunal president announced a short break so the clerk could "find out, for everyone's benefit, What GICM stands for." When the tribunal reconvened, the clerk announced that GICM stood for Groupe Islamiste Combatant du Maroc, or the Moroccan Islamic Combat Group.

To which the detainee responded, "I never before heard of all this."

Defining the Details

The files are replete with retractions. Detainees who had confessed to having ties to Al Qaeda or the Taliban or terrorism frequently told the tribunals that they had only made those admissions to stop beatings or torture by their captors.

"The only reason for my original statements is because I was tortured when I was captured," said a former mechanical engineering student from Saudi Arabia who was accused of training at a Qaeda camp in Afghanistan. "In Kabul, an Afghan interrogator beat me and told me they would kill me if I didn't talk. They shot and killed someone in front of me and said they would do the same if I didn't cooperate."

Another common defense of the detainees, particularly those captured in Afghanistan or Pakistan, is that they were turned over to American forces in exchange for some kind of bounty, or that they were arrested when they refused to or could not pay bribes to the local authorities.

"The Pakistanis are making business out of this war," said a detainee from Tajikistan who was arrested in Pakistan in November 2001. "The detainees are not being captured by U.S. forces, but are being sold by the Pakistan government. They are making 2, 3, or \$10,000 to sell detainees to the U.S."

As the Pentagon has defined the term enemy combatant for purposes of the tribunals, it includes anyone "who was part of or supporting the Taliban or Al Qaeda forces, or associated forces that are engaged in hostilities against the United States or its coalition partners."

But many of the detainees protested in their hearings that such a wide net was catching many who were not real enemies of the United States.

One 29-year-old Saudi acknowledged having fought with jihadist groups in the Philippines and Afghanistan, saying he had been a "zealous" younger man. But he also said that he had a brother and a cousin who had both married Americans, and he had a complex set of views on the United States.

"I'm an educated guy and I understand politics," the detainee said, suggesting that he had had a change of heart. "The United States has made some wrong decisions, but that doesn't give me the right to consider them an enemy or kill their people."

However improbably, many of the detainees said that the allure of Afghanistan for them was not jihad.

Maasoum Abdah insisted that his mission was entirely personal.

In 2000, he said, he left Syria and traveled to Turkey and Iran and finally Afghanistan. He was accused of living in a Taliban safe house in Kabul. The authorities said his name was on a list of men being trained as snipers.

He acknowledged that he knew how to shoot from his days in the Syrian police. But even in the police, he said, "in a year and a half, I only shot seven bullets." And he said he had no allegiance to the Taliban.

Then why the long, arduous journey to Afghanistan, a tribunal officer asked. "I wanted to go to Afghanistan to find a wife and get married and stay there," Mr. Abdah answered through a personal representative.

Why not find a wife in Syria?

"It is very expensive to find a wife," Mr. Abdah explained. "The price is at least \$3,000. I might work for years and still not be able to collect that much money. In Afghanistan, it is very cheap. The most is \$300."

Tom Torok contributed reporting for this article.

মাসে একটি

অজয় বিশ্বাস

ভ্রাগ পাচার বা অস্ত্র পাচারের মতো যুক্তি নেই। পুলিশের গুলির মুখেও পড়তে হয় না। নারী পাচার এখন রাজ্যের সব চেয়ে লোভনীয় ব্যবসা। মাসে এক জন নারী পাচার করতে পারলেই বছরে সাড়ে ৬ লাখ টাকা নিশ্চিত রোজগার। ঝুঁকিবিহীন এই মোটা আয়ের জন্যই দেশে নারী পাচারের এক নম্বরে উঠে এসেছে এই রাজ্যের নাম।

কোথাও একটু ভালো থাকার স্বপ্ন, কোথাও বা চরম দারিদ্রের হাত থেকে মুক্তির আশ্বাসের ফাঁদ পাতলে পাচারকারীরা। আর সেই ফাঁদে পা দিয়েই দার্জিলিং থেকে মুর্শিদাবাদ, নদিয়া, মালদা বা চব্বিশ পরগনার রানী লেপচা, ফতিমা কিংবা আরতিরা ভেসে যাচ্ছে দেশ থেকে দেশান্তরে।

কী ভাবে পাচার হয়ে যায় ওরা? কতই বা দাম মেলবে? কেমন করে চলে এই ব্যবসা? “কেন? আর পাঁচটা ব্যবসার মতো এটাও একটা ব্যবসা। লোকেরা এই ব্যবসায় নামে, কারণ এতে সহজে অনেক টাকা আয় হয়।” জানিয়েছেন নারী পাচারের সঙ্গে যুক্ত এক ব্যবসায়ী। মালদার এক

প্রাক্তন পাচারকারী শহরে ২১টি বাড়ির মালিক। তাঁর স্বীকারোক্তি, “যখন চুটিয়ে এই ব্যবসা করতাম, তখন মাসে দেড় লাখ টাকা আয় করা কোনও ব্যাপারই ছিল না। কিন্তু সব ব্যবসার মতো এখানেও প্রতিযোগিতা আছে। এলাকা দখলের লড়াই আছে। ও সব আর ভালো লাগে না।”

অন্য এক পাচারকারীর কথায়, “যারা মেয়ে পাচারে যুক্ত, তারা সুযোগ পেলেই গরু থেকে ভ্রাগ কিংবা অস্ত্রও পাচার করে। ফলে কাজটা আরও সহজ হয়ে যায়। গরু পাচারের জন্য তৈরি নৌকার খোলার অন্যামাসেই মেয়ে পাচার চলে। উপর থেকে দেখে কেউ বুঝতেও পারে না।”

জাতীয় মানবাধিকার কমিশন এবং ইউ এন এডসের আর্থিক সহায়তায় দিল্লির ইন্সটিটিউট অব সোশাল সায়েন্সেসের সাম্প্রতিক সমীক্ষায় উঠে এসেছে রাজ্যের নারী পাচার ব্যবসার এই চিত্র। প্রাক্তন দুই আইপিএস অফিসার জাতীয় মানবাধিকার কমিশনের প্রাক্তন প্রধান শঙ্কর সেন এবং পি এম নাম্বারের গবেষণায় ধরা পড়েছে এর আর্থিক প্রেক্ষাপটের চমকপ্রদ তথ্যও।

রাজ্যের ভিতরে এবং রাজ্য থেকে বাইরে নারী

পাচারের খরচ (বন্ধনীতে): গাড়ি ভাড়া ৬০-১০০ (৬৫০-১০০০) টাকা, খাবার ৫০-১০০ (২০০-৩০০) টাকা, যাতায়াতের পথে থাকার জায়গা (প্রয়োজন হলে) ১০০ (২৫০ - ৩০০) টাকা, আশ্রয়স্থলের দিতে হয় (প্রয়োজনে) ১০ হাজার থেকে ৩৫ হাজার টাকা, দালাল ১৫০০-২০০০ টাকা, পুলিশ ১০০০ - ৫০০০ টাকা, সব মিলিয়ে রাজ্যের ভিতরে মোট খরচ ১২,৭১০ টাকা থেকে ৪২,৩০০ টাকা এবং রাজ্যের বাইরের খরচ ১৩,০০০ টাকা থেকে ৪৩,০০০ টাকা। আর এই মেয়েদেরই পতিতা পল্লী কিংবা অন্য খদ্দেরের কাছে বিক্রি করে মিলে ২৫ হাজার থেকে ১ লাখ (৩০ হাজার থেকে ১ লাখ ৫০ হাজার) টাকা। এই হিসাবে রাজ্যের ভিতরের পাচারে নারী পিছু লাভ ১২,২৯০ - ৫৭,০০০ টাকা এবং বাইরে পাঠালে ১৬,৪০০-১,০৬,৪০০ টাকা।

এই রাজ্যের নারী পাচার চক্রের কেন্দ্রে রয়েছে কলকাতা। প্রতিবেশী দেশ বাংলাদেশ বা নেপাল কিংবা মুর্শিদাবাদ সব জায়গা থেকেই পাচার হয়ে আসা মেয়ের প্রথমে আসে কলকাতায়। সেখান থেকে পাড়ি মুম্বই-দিল্লি-গোয়া-জম্মু-কাশ্মীর কিংবা দুবাই-সহ অন্য আরও দেশে। মুর্শিদাবাদে নারী

মাঝে মাঝে বহুরে সাড়ে ৬ লাখ

বিয়ের চল বেশি (মোট বিয়ের ৮০ শতাংশ)। তাই বিয়ের টোপ দিয়ে নারীরা পাচারের ঘটনাও বেশি। পাচার কবলিত রানিনগরের ২৬টি গ্রামে নাবার্ডের সমীক্ষাতেও ধরা পড়েছে এই প্রত্যক্ষ এলাকার আর্থ-সামাজিক পরিস্থিতির চরম দুর্বলতার ছবি। বাচার তাগিদে যা তাদের ঠেলে দিচ্ছে এই পঙ্কিল পথে। নারী পাচারের বিকল্পে ইউনিফেমের সচেতনতা প্রচারের সঙ্গে যুক্ত নিয়মিত বসুর অভিজ্ঞতায়, “শিলিগুড়ি, মাল, দার্জিলিংয়ের নেপালি মেয়েদের আরও ভালো থাকার স্বপ্ন দেখিয়ে বের করে আনে আড়কাঠির দল। আর মুর্শিদাবাদের রানিনগর-জলাঙ্গির মানুষ দারিদ্রের খাবা থেকে বাঁচতে আত্মসমর্পণ করে আড়কাঠির কাছে। এই মেয়েদের একটা বড় অংশই ইদানীং চলে যাচ্ছে জম্মু-কাশ্মীরে।”

এই সচেতনতার তাগিদেই কলকাতায় ৮ মার্চ গঙ্গার তীরে পুরসভার নোচার পার্কে ‘কেন বা দেশ যাও গো কইনা’ চিত্র প্রদর্শনীতে ছবি আঁকবেন রাজ্যের নারী চিত্রকরেরা। ওই দিনটিই আন্তর্জাতিক নারী দিবস। এ বাবে পালিত হচ্ছে নারী পাচার বিরোধী দিবস হিসাবে।

Inmate shares grisly tales of Guantanamo

Prisoner describes life at the base

LONDON, March 3. — Hunger strikers were strapped to a restraining chair and force-fed through a tube three times a day at the Guantanamo Bay detention centre, a Kuwaiti detainee at the facility has claimed.

Fawzi al-Odah, a prisoner at the base since 2002, has said in a rare interview to the BBC that hunger-strikers were strapped to a chair and force-fed through a tube, a method, he said, that amounted to torture.

BBC had submitted written questions to Al-Odah's lawyer Tom Wilner, who has access to the camp, but was unable to challenge Odah's responses. "First they took my comfort items away from me. They put me in isolation for 10 days. One man said he was tortured in Saudi Arabia and that this was worse than

anything that happened there," Al-Odah said through his lawyer.

"They came in and read out an order saying that if I refuse to eat I would be put in the chair (for force feeding)." Odah described how detainees were given laxatives to empty their bowels and were placed in "the chair" three times a day and fed through the tube. US official Mr Colleen Graffey told the BBC that said all detainees were afforded regular status reviews and offered the opportunity to renounce violence.

Earlier, the UN Human Rights Commission had said that it regarded force-feeding at Guantanamo as a form of torture, which the Bush administration had denied. The latest remarks of the detainee came even as a US judge was preparing to hear a call to ban force-feeding, according to BBC.

New global rights forum taking shape

The commitment of the international community will be as important to making the proposed U.N. Human Rights Council work as any changes in structure or working methods.

Louise Arbour

IN THE coming days, the international community will have the chance to start putting in place a reinvigorated system for the protection of human rights around the world. This unique opportunity comes in the form of a blueprint for a new global rights watchdog now awaiting approval by the United Nations General Assembly. The initiative deserves our support.

The world body is being asked to act on the establishment of a Human Rights Council to replace the contested U.N. Commission on Human Rights. The Council has taken shape over months of often heated and difficult negotiations in the wake of the World Summit held last September in New York. All the international leaders at that gathering reaffirmed the place of human rights as a central pillar of the U.N.'s work and decided that the Commission should give way to a stronger institution.

The proposal submitted to the Assembly by its President has the features to be that stronger institution. The draft will allow the future Council to deal more objectively, and credibly, with human rights violations worldwide. It sets standards for new member-countries who will be asked to make an explicit commitment to promote and protect human rights. It also provides for the suspension of members who commit gross and systematic abuses.

New responsibility

Unlike the Commission, the Council will be required to review on a periodic basis the human rights records of all countries, beginning with its members. No country will be beyond scrutiny, and no longer will countries be able to use membership of the U.N.'s premier human rights body to shield themselves or allies from criticism or censure for rights breaches.

The Council will also meet for longer periods throughout the year and be able to respond quickly to developing human rights crises. Potential violators would be on notice that the world was watching permanently, not just for six weeks in the spring, when the Commission traditionally comes together.

The Commission gave the international community the Universal Declaration on Human Rights and a number

of core treaties to protect fundamental freedoms. During its annual sessions, the Commission drew attention to many human rights issues and debates. It allowed civil society groups to bring the grievances of individuals to the international stage, and as such was the only global forum where abusers could be directly confronted.

It also established a unique system of independent human rights investigators. One of those experts was among the first to warn of impending genocide in Rwanda, while another expert drew attention to the situation in Darfur before it hit the headlines.

There is no escaping that the Commission has lost much of its credibility. Some states wanted to become members not to strengthen human rights but to protect themselves against criticism or to criticise others.

And the Commission was slow to act to stem grave abuses on a number of occasions. This credibility deficit undermines the U.N. human rights system as a whole. The Council goes a long way to addressing the reasons for these shortcomings.

Let us be clear: the proposal now before the General Assembly is the result of compromise. It cannot be an ideal blueprint. And there is no reason to believe that more negotiating time will yield a better result.

But even an institution that is perfect on paper cannot succeed if the international community does not make the necessary change in the culture of defending human rights. It was in large part its failure to make this change — its inability to reinvent itself after laying down the framework for the international human rights system — that hobbled the Commission.

The case of Rwanda is sadly instructive. There, the Commission's procedures worked, yet the investigator's warnings went unheeded.

The political will and commitment of the international community will be as important to making the new Council work as any changes in structure or working methods. — (Courtesy: UNIC, New Delhi.)

(Louise Arbour is U.N. High Commissioner for Human Rights. Her Office works with the Commission and would be called upon to support the work of the Council.)

03 MAR 2005

THE HINDU

Centre hints at Jessica retrial

Statesman News Service

NEW DELHI, Feb. 27. — The Centre today indicated that a fresh probe into the murder of Jessica Lal could be possible after members of both Houses of Parliament demanded a retrial. They termed the acquittal of all nine persons accused of the crime a “glaring example of miscarriage of justice”.

“As the law exists today, no person could be tried twice in any case... Supreme Court has ordered re-investigation in some cases and it has become a kind of law for us... It (a re-investigation) can be followed,” home minister Mr Shivraj Patil told the Rajya Sabha during Zero Hour.

“A matter of this kind (the acquittal) is taken up and very rightly taken up on the floor of the House,” he said, adding instead of blaming anybody, “we should... find out who is really responsible”. He was responding to the members who wanted to know if the home minister would order a time-bound re-investigation into the murder and mete out punishment to all police officers and other officials who conducted the probe. “Whatever is possible as per the law to ensure that justice is done, will be done. Let there be no doubt,” Mr Patil said. He said a report of Delhi Police, sought by Delhi High Court, was awaited.

On protecting witnesses, Mr Patil said the proposed Communal Harmony Bill had provisions to offer protection to witnesses and the Centre was keen on incorporating such provisions



Eye on appeal

NEW DELHI, Feb. 27. — Delhi Police said today it was studying the grounds for an appeal. Confirming this, Joint Commissioner (Crime) Mr Ranjit Narayan said: “Delhi Police is examining the judgment in the Jessica Lal case in consultation with the Directorate of Prosecution.” — PTI

into the Criminal Procedure Code.

In the Lok Sabha, parliamentary affairs minister Mr PR Das Munshi told members that the concern of the House would be communicated to the home minister. The MPs also wanted the Centre to stop the elevation of the additional sessions judge, Mr SL Bhayana, who had acquitted the accused persons, to the High Court. Mr Bhayana is supposed to be sworn in tomorrow. Earlier, the Supreme Court refused to intervene in the matter. Outside Parliament, even the ruling Congress urged the Centre to “seek by all legal and constitutional means possible a re-trial”. Incidentally, the prime suspect in the murder was Mr Manu Sharma, son of Haryana minister and Congress leader Mr Vinod Sharma.

28 FEB 2006

THE STATESMAN

Shoddy probe botched Jessica case

G11-8
2/1/2

TIMES NEWS NETWORK

New Delhi: Suspicions that the police conducted a shoddy investigation into the Jessica Lal murder case have been confirmed by none other than the judge who, on Tuesday, acquitted every accused in the case.

The order of additional sessions judge S L Bhayana, which was accessed by TOI on Wednesday, is virtually a litany of the gaping holes in the prosecution's case. There are numerous inconsistencies, slipshod follow-up, a disregard for details and just plain incompetence, leading to the unavoidable question—did the investigators have their heart in the work on hand?

Check this out. When investigating officer Surinder Kumar Sharma was asked how he had narrowed down suspicion to Manu Sharma, he said he did so because his seniors had told him that Manu was the prime accused. Thereafter, judge Bhayana was left with little option but to observe that he was inclined to agree with the defence lawyer that Manu had been framed.

The probe officer was perhaps an honest cop, admitting how investigations are really done in this country—just follow the superior's diktat and junk the hard detective work. Or, this could raise suspicion that the sloppy answer was deliberately meant to weaken the case.

fence, on the basis of forensic reports that the two cartridges recovered from the spot were from different guns, also influenced the judge to believe that two weapons were indeed fired in Tamarind Court on the night of April 29, 1999, and it was difficult to tell which one was responsible for killing the victim.

The judge also punched holes in the story that a home guard, Shravan Kumar, had broken the windshield of the Tata Safari which was allegedly taken away later that night by Manu's accomplices, Vikas Yadav and Amarjeet Singh Gill. This, despite the fact that Kumar's gallant effort was widely reported by the media.

The judge instead relied on the daily diary of the Mehrauli police station which said that Kumar had left the police station at 2.20 am for his village, Dera, near Andheria Mor, while the investigating officer had claimed that the home guard had accompanied him to the spot of the crime. The Yadav-Gill duo had apparently come in the wee hours of the morning to take away the vehicle. The inconsistency between the police records and the officer's version made the judge ignore even Shravan Kumar's claim that he had noted down the registration number of the Tata Safari on his palm. Interestingly, the number was accurate and made the cops link it to Manu Sharma who, according to them, had come to

The judge said the non-recovery of the weapon used in the offence had weakened the case. The weapon may have been destroyed, but the judge hasn't recorded any effort on the part of the police to recover it, or for that matter, how Manu had accounted for his missing gun

Beyond the pale of law and human rights

Every year, the United States State Department publishes a sanctimonious document titled 'Country Reports on Human Rights Practices' skewering governments across the world for alleged human rights violations. Countries that do not match up to its standards of democracy are asked to shape up while those that do are given a pat on the back. Washington evidently takes itself very seriously when it comes to human rights — in other countries. In a proclamation on Human Rights Day last year, President George Bush made a "promise of liberty" for countries that denied their citizens human rights and individual freedoms. But for itself, the Bush administration has a whole different set of human rights standards ranging from secret detention centres in different countries to the practice of torture as "a method of interrogation." Described politely as American exceptionalism, this is nothing but double standards. That the U.S. does not practise what it preaches was always known, but never as flagrantly as when pictures of Iraqi prisoners tortured by U.S. troops at Abu Ghraib first surfaced in 2004. Now, a report by the United Nations High Commissioner for Human Rights details the abuse of prisoners at the extra-territorial detention centre at Guantanamo Bay as "amounting to torture." The report wants the U.S to close it down, shift the detainees to U.S. territory, bring them to trial before an international tribunal, or release them.

The Bush administration has cited national security and the threat of terrorism to justify Guantanamo. It has described the report — based on interviews with those fortunate to have been released, and lawyers of those still imprisoned there, aside from U.S. government records, and reports by international human rights organisations — as "inaccurate" and "largely without merit." It has made much of the fact that the U.N. investigators did not visit the camp but the investigators have explained that they rejected a U.S. offer to go to the camp as it made it clear they would not be able to meet prisoners. The truth is as ugly as it is plain: post-9/11, the Bush administration wanted to detain those it suspected of involvement with Al Qaeda outside the jurisdiction of the U.S legal system. Guantanamo Bay in Cuba, under U.S. military occupation since the 1930s, provided the answer, enabling the indefinite detention of suspects without being produced or arraigned in a court. On its fourth anniversary this week, the Guantanamo detention camp continues to hold 490 prisoners beyond the pale of law and human rights. The U.N Secretary-General, Kofi Annan, has thrown his weight behind the report, stating that while he did not agree with everything in it, it is wrong to hold detainees "in perpetuity." The incarcerated are citizens of 40 countries and it is time the world, including India, sends out a strong message to the U.S. that it is not above international law.

All accused acquitted in Jessica Lal murder case

"Police failed to sustain the grounds on which they had built up their case": Court

Staff Reporter

NEW DELHI: A trial court here on Tuesday acquitted Siddharth Vashisht alias Manu Sharma, son of Haryana's Excise Minister Venod Sharma, and Vishal Yadav, son of former Member of Parliament D. P. Yadav, in the sensational Jessica Lal murder case in which the young ramp model was shot dead at point blank range in socialite Bina Rani's crowded Tamarind Court restaurant at Mehrauli here in the wee hours of April 30, 1999.

The court also acquitted seven other accused in the case. Manu Sharma was the prime accused charged with murder.

Talking to reporters after pronouncing the judgment, Additional Sessions Judge S. L. Bhayana said: "The court has acquitted them because the Delhi police failed to sustain the grounds on which they had built up their case."

"The police failed to recover the weapon which was used to fire at Jessica Lal as well as prove their theory that the two cartridges, emptied shells of which were recovered from the spot, were fired from one weapon," the Judge added.

The accused acquitted in the



ACQUITTED: Manu Sharma.

case are: Manu Sharma, Vikas Yadav, Manu's uncle Shyam Sundar Sharma, Amardeep Singh Gill and Alok Khanna, both former executives of a multinational soft drinks company, cricketer Yuvraj Singh's father Yograj Singh, Harvinder Chopra, Vikas Gill and Raja Chopra.

There were a total of 12 accused. Two of them, Ravinder Kishan Sudan and Dhanraj, are absconding while the trial court discharged Amit Jhingana at the time of framing of charges.

The Delhi police allegation



MURDERED: Jessica Lal.

against Manu Sharma was that he had fired at the ramp model when she refused to serve liquor to him on the plea that the bar had closed for the day.

But the police failed to recover the weapon that, according to them, Manu Sharma had used to fire at her.

In the charge sheet, the police had claimed that the two cartridges were fired from the same weapon, but forensic examination revealed that the cartridges were fired from two different weapons. Mr. Bhayana said the

other ground on which the court acquitted the accused was that all three eyewitnesses listed by the police in the charge sheet -- Shiv Lal Yadav, an electrician at Tamarind Court, film actor Shyam Munshi and Karan Rajput, one of the visitors at the restaurant that day -- turned hostile during the trial.

The fourth factor that led to the acquittal of the accused was the police failure to establish a complete chain of the circumstances leading to the incident,

the Judge said.

The Mehrauli police had charge-sheeted Manu Sharma for murder and Vikas Yadav, Alok Khanna and Amardeep Singh Gill for destroying evidence of the case and conspiracy.

Shyam Sundar Sharma, Yograj Singh, Vikas Gill, Raja Chopra, Harvinder Chopra, Ravinder Kishan Sudan and Dhanraj had been charged with giving shelter to the accused and destroying evidence.

Shut down prison, UN tells US

Geneva, Feb. 16 (Reuters): The US today faced mounting international calls to close its Guantanamo prison camp with UN investigators saying detainees there faced treatment amounting to torture.

In a 40-page report, which had been largely leaked, five UN special envoys said the US was violating a host of human rights, including a ban on torture, arbitrary detention and the right to a fair trial.

The report is likely to fuel new Arab anger over the treatment of Iraqi inmates at Baghdad's US-run Abu Ghraib prison after Australian TV broadcast more images of abuse there.

"The US government should close the Guantanamo Bay detention facilities without further delay," the human rights rapporteurs declared.

Until that happened, the US government should "re-

frain from any practice amounting to torture or cruel, inhuman or degrading treatment or punishment", they added.

Harsh conditions, such as placing detainees in solitary confinement, stripping them naked, subjecting them to severe temperatures, and threatening them with dogs could amount to torture.

In London, UN Human Rights Commissioner Louise Arbour told the BBC she saw no alternative to closing the prison at the US naval base in Cuba where some 500 terrorism suspects are held, many of them for four years.

Speaking ahead of the release of the report, Arbour said that, although she did not endorse every recommendation it made, the US should put inmates on trial or release them and shut down the prison.



Detainees at Camp X-Ray in Guantanamo Bay, Cuba

Loss of respect

Dubai, Feb. 16 (Reuters): Arabs said today new images of US troops abusing Iraqi prisoners had eroded their respect for the West and would fuel the fury raging over cartoons of the Prophet Mohammad.

The photographs made headline news in West Asia the day after an Australian television station broadcast previously unpublished film and photographs of violations at Baghdad's Abu Ghraib jail. They could not have emerged at a worse time for the West's image in the region. Emotions were already running high over cartoons of the Prophet Mohammad published in European newspapers.

"This is awful because I always look up to the British and Americans as the best in the world," said Kuwaiti firefighter Khalil al-Amir. "They are supposed to be more civilised. But when I see something like this it makes me think twice."

Iraq seethes

New images of abuse at Abu Ghraib prison prompted Iraqi President Jalal Talabani to condemn the US today, demanding harsh punishment for "savage crimes" as Iraqis seethed over more humiliation. "We have condemned these savage crimes. We reject that a civilised country allow its soldiers to commit these ugly and terrible crimes," Talabani said.

Fresh video on prisoner abuse

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LONDON: Yet another video footage purportedly showing abuse of Iraqi prisoners by British soldiers has come to light, triggering a fresh controversy over the conduct of western troops in the war-ravaged country.

Hours after the news of the footage was published in the widely circulated *The News of the World*, the Ministry of Defence ordered a probe into the images which appeared to show U.K. soldiers brutally beating a group of Iraqi teenagers. The newspaper says the video was shot in southern Iraq in 2004. Chancellor Gordon Brown said the abuse, if true, was "unacceptable".

On the tape, described as a "secret home video", an unidentified cameraman is heard laughing and urging his colleagues on. It was apparently

filmed for fun by a corporal. The Ministry of Defence said it was aware of the allegations, which are being probed by the Royal Military Police. Mr. Brown told BBC that the "loyal, hard-working, decent troops" in Iraq would see the allegations as a "slight on their great work". Those responsible would be brought to trial, he added.

British military spokesman Flight Lieutenant Chris Thomas, based in Basra, said the newspaper's claims related "to only a tiny number of the 80,000 personnel that have served in Iraq". "The pictures are shocking and that's why I think the MoD are right and I'm pleased that they've said they'll carry out a full in depth and very quick investigation," Home Office Minister Andy Burnham said. — PTI

CHANGE ■ Police training should be reoriented so that personnel respect human rights, says court

SC guidelines to check custody torture

R. VENKATARAMAN

NEW DELHI, FEBRUARY 6

THE Supreme Court has called for empowering the Human Rights Commission or the CBI to investigate complaints of custodial violence. In a set of six guidelines, a three-judge bench of Chief Justice Y K Sabharwal and Justices B N Srikrishna and R V Raveendran said, "An independent investigating agency, preferably the respective human rights commissions or the CBI, should be given adequate powers to investigate such cases and take stern action followed by prosecution wherever necessary."

The bench also said that police training should be reoriented to change mindset and attitude of the force in investigation so that they respect human rights and adopt scientific methods. It also called for a "continuous" monitoring of lower-level police officers by superiors so that they adhere to "lawful standard methods of investigation". It said "simple and foolproof procedures" should be introduced for prompt FIRs.

Besides, it called for modern methods of record maintenance like computeri-

made it mandatory to inform a close relative of the person arrested as well as to allow the arrested the assistance of a lawyer. It had also said that the arrested should be produced before the nearest magistrate at the earliest.

The instant case came vide an "undated letter" from one Sube Singh of Haryana alleging "illegal detention, custodial torture and harassment to family members" which was registered as a writ petition by the court. In the instant case, however, the court came to the conclusion that there was no "clear or incontrovertible evidence about custodial torture" and pointed out that a CBI inquiry had already been ordered. The court also said that its judgment "will not come in the way of any civil court awarding compensation" to the complainant in future, if charges were proved against the police officials after the CBI inquiry. "The endeavour should be to achieve a balanced level of functioning, where police respect human rights, adhere to law and take confidence building measures and, at the same time, firmly deal with organised crime, terrorism, white-collar crime and the deteriorating law and order situation."

What the apex court wants

- The Human Rights Commission or the CBI empowered to investigate complaints of custodial violence.
- Police training reoriented to sensitise the force to human rights and to train it in scientific investigation methods
- Lower-level police officers to be mentored by superiors
- Foolproof procedures for prompt registration of FIRs
- Computerisation and video recording to prevent FIRs and other police records from being manipulated

sation and video recording to prevent manipulation, insertion, substitution and ante-dating of FIRs, *mahazars*, instant proceedings, post-mortem reports, witness-statements and other records and data.

The apex court also directed that the requirements settled earlier in the D K Basu case should be ensured in all cases of arrest and detention. In the Basu case, the Supreme Court had forbidden midnight arrests (except in rarest of the rare cases) and, in the event of an arrest, had

Human Rights

SC suo motu notice on 70-yr-old in custody for 38 years

EXPRESS NEWS SERVICE
NEW DELHI, FEBRUARY 6

THE Supreme Court today took suo motu cognizance of 70-year-old Jagjivan Ram Yadav, languishing in Faizabad jail in Uttar Pradesh for about 38 years now, and issued notices to the state government and the registrar general of the Allahabad High Court.

A division bench of Chief Justice of India Y K Sabharwal and Justice C K Thakker issued the notices

on the basis of newspaper reports that Yadav, arrested in 1968 for allegedly killing his neighbour's wife, could not be even granted bail as police could not trace the records relating to the case.

The apex bench said that the matter was serious and asked the state officials to reply to the notices on the status of the case. Earlier, the court had ordered for compensation to Machal Lalung of Assam who was under custody for over 60 years.

7 FEB 2006

INDIAN EXPRESS

UN drafts plan for new Human Rights Council

By Warren Hoge

United Nations: United Nations negotiators circulated a draft resolution on Thursday for a Human Rights Council that would have standards for membership, means for timely interventions in crises and a year-round existence.

The proposed 45-member council is meant to replace the widely discredited 53-member Human Rights Commission, and its creation this month is seen as a critical test of whether the UN can adopt meaningful reform and redeem its scandal-tarnished reputation.

The commission is scheduled to begin its annual six weeks of sessions in Geneva on March 13, and diplomats believe the new council must gain General Assembly approval by February 15 to be able to replace the existing body on time.

The commission has been a persistent embarrassment to the United Nations because membership has been open to countries like Cuba,

Sudan and Zimbabwe, current members who are themselves accused of gross rights abuses.

In introducing his recommendation for the new council last March, Secretary General Kofi Annan said such countries sought participation on the panel to block examination of their own records, a practice he said "casts a shadow on the reputation of the UN as a whole." Thursday's proposal, a refinement of a draft circulated in December, leaves open for further negotiation a critical element of Annan's recommended plan: a requirement that new members be elected by a two-thirds vote of the 191-member General Assembly. Put forward as a way of weeding out notorious rights violators, the requirement is a step backed by the United States, European countries and human rights groups.

"The new text substantially advances the discussion and gives a good basis to achieve a stronger human rights council, assuming there is a decision to have members of the

also be subject to a review of its rights records at least once during its three-year term.

Nations would not be eligible for immediate re-election after two consecutive terms, meaning they would have to step aside for a year before reapplying. The proposal also says that the General Assembly should "take into account" whether applicant countries have been cited by the United Nations or "whether there are situations that constitute systematic and gross violations of human rights."

The new text strengthens the council's ability to respond promptly to human rights crises but weakens the language on preventing crises by stressing the need for "dialogue and cooperation" with offending countries. Late last year, human rights groups faulted the US for scrimping on its support for the council, but Hicks said on Thursday that the American engagement had "intensified substantially." N.Y.T. News Service



WILL I BE HEARD TOO?

council elected by a two-thirds majority," said Peggy Hicks, the global advocacy director of Human Rights Watch. The proposal maintains the right of regional groups to put forward a slate of candidates, but adds the requirement that there be individual secret ballot votes in the General Assembly on each country. Every country on the council will

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NHRC takes positive steps

It has sought reports on Lunawada grave

Siddharth Narrain

NEW DELHI: The National Human Rights Commission (NHRC) had its hands full in 2005.

The Supreme Court upheld the appointment of the former Director of the Central Bureau of Investigation, P.C. Sharma, as a member of the Commission. A two-judge Bench delivered a split verdict on a petition filed by the People's Union for Civil Liberties (PUCI). The matter was referred to a three-judge Bench, which by a majority of two-to-one upheld the appointment.

Responding to the PUCI's argument that since the public perception of the police was poor, Mr. Sharma's appointment would erode the people's confidence in the NHRC, the court said this remark was a generalisation, which would not apply to the entire force and that public displeasure was not confined to the police.

The Punjab mass cremations case before the NHRC witnessed a protracted battle between the petitioner, Committee for Information and Initiative on Punjab (CIIP), and the State government. The CIIP asked for an opportunity to demonstrate that there was a pattern in the alleged killings and illegal cremations by security forces.

Senior counsel Indira Jaisinghasked the NHRC to go into how the deaths occurred. Solicitor-General Goolam Vahanvati, appearing for the government, argued that the NHRC had already ruled that the scope of the enquiry was limited.

The NHRC declared that the matter was already decided in its earlier orders.

Sadashiva report

Almost two years after the Justice Sadashiva Panel submitted to the NHRC a report on the alleged atrocities by the Joint Special Task Force (JSTF) during its operations against forest bandit Veerappan, the Commission sent the findings to the complainants. The report, which questioned the veracity of the JSTF's version of 'encounter deaths,' found that in 60 cases it had shot at the victims from close range. However, there was not enough evidence to name individual policemen for torture. Nor was there enough evidence

• **Protracted battle in Punjab mass cremations case**

• **A.P. liquor policy assailed**

• **Plea to set up State-level commissions**

to confirm allegations of rape.

The Karnataka and Tamil Nadu governments, in their responses to the report, said the panel had exceeded its brief, enquiring into complaints that were not referred by the NHRC.

During the year the Commission took a number of positive initiatives. In a report on suicides in the Singareni coal belt, NHRC Special Rapporteur K.R. Venugopal slammed the Andhra Pradesh government's policy of promoting the sale of liquor, which led to financial debts, illnesses and domestic problems in the families of workers.

Seeking repeal of Act

The NHRC joined civil society organisations to help to halt the Centre's plan to repeal the Infant Milk Substitutes, Feeding Bottles and Infant Foods Act (Regulation of Production, Supply and Distribution) or the IMS Act. It expressed concern that the repeal would lead to unethical marketing and thus interfere with breast-feeding.

The Commission, continuing its pro-active role in monitoring relief for victims of the 2002 Gujarat pogrom, sought reports from the State government and the CBI on unearthing of a mass grave at Lunawada in Panchmahals district. The NHRC called upon States which did not have human rights commissions at the State level to set up the forums and ensure that they were structurally and financially independent. The Centre is yet to respond to the NHRC's demand for changes to the Protection of Human Rights Act. It called for overarching powers to deal with issues of rights violations and granting relief. The Commission has also asked the government to modify the law to allow it to take cognisance of matters after the expiry of one year. Currently the law has fixed a limitation period of one year from the date on which an act occurred.