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Torture of 11 Children in Delhi - Slum Dwellers

Delhi - India

Munni, Lala, Sharavan Kumar, Shiv Kumar, Jeetu, Babli, Asa, Ghan Shyam, Babulal, Manoj and Macchla.

On the evening of 26 June 1989, police from the Shalimar Bagh station received a complaint that a purse and some jewellery had been stolen from a wedding party. The police picked up 11 children from their *jhuggis* (huts) in Shalimar Bagh's slum area in connection with the theft. The youngest child, Manoj, was only six at the time. All 11 children were kept illegally throughout the night, and all were tortured.

A girl of 13 named Munni was stripped naked and beaten and one 12-year-old boy was given electric shocks and beaten with a leather belt. Another boy was stripped, hung upside-down from the ceiling and beaten until he fell unconscious. Two prominent civil liberties organizations brought the plight of the children to the public's attention, and gave them legal advice.

The youngest children were released the following morning and the rest that afternoon, after a crowd of 4,000 people had gathered outside the police station. Lawyers successfully petitioned the courts for the children to be given a medical examination. However, doctors at the first hospital to which the children were taken did not examine them. It took a week to arrange a medical examination at another hospital.

The publicity this case received forced the police to announce an inquiry, although the Deputy Commissioner of Police denied that the police were responsible. He said the children had been "roughed up" by members of the family whose goods were stolen. No police officers have been suspended. The case was transmitted to the Indian Government by the UN Special Rapporteur on Torture and cited in his 1989 report, but as of the beginning of 1992 the government had not responded.

Background

Slum Dwellers in Delhi

Migration to the cities has become common for landless villagers seeking to escape from social and economic oppression. Torture victims in India's major cities include jobless, or migrant labourers who live in the *jhuggi* settlements which constitute India's slums. Victims of police rape in Delhi, for example, include migrant women, many of whom disappear after the rape because they are too frightened to pursue the matter.

Groups, including labour unions, of slum-dwellers have been formed in cities throughout India in order to advance both social and economic rights for members of their community. These groups have also been targets of police oppression and intimidation.

Torture in India

Torture is pervasive and routine in every one of India's 25 states. It has resulted in many hundreds of deaths during the last decade. A major reason for the persistence of widespread torture in India is the refusal of leading government officials to recognise that torture exists, let alone that it should be vigorously tackled. This attitude is maintained despite the fact that judges, journalists, civil liberties groups, official commissions and even police officials have attested to its widespread occurrence.

Torture is extensive in the areas where political groups demand separatism or increased autonomy, especially when armed opposition groups are operative. This is the case in Jammu and Kashmir, Punjab, the northeast Indian states including Assam, and regions of central India where the *Naxalite* (Maoist revolutionary) movement is active. Here torture is a means of obtaining confessions and gathering intelligence, but it has an extra component: torture is indiscriminately used both as a deterrent and in reprisal for attacks by armed groups. A similar pattern occurs in states where there is organized opposition to economic repression, such as Bihar, where the police sometimes act as an instrument of local ruling groups, including local landowners and employers.

Victims of torture most frequently come from the poor and underprivileged sections of Indian society: notably *dalits* (oppressed castes) and *adivasis* (tribals), including women belonging to these communities who are frequently raped by the police in custody.

Civil Liberties Groups in India

The work done by the many civil liberties organizations in India has been invaluable in exposing human rights violations committed by the police and security forces. Civil liberties groups have frequently published the results of detailed investigations. The Andhra Pradesh Civil Liberties Committee (APCLC), the Association for the Protection of Democratic Rights in West Bengal, the Civil Liberties and Human Rights Organization (CLAHRO) in Manipur, the Free Legal Aid Committee in Bihar, the Jammu and Kashmir People's Basic Rights (protection) Committee, the Naga People's Movement for Human Rights, the People's Union for Democratic Rights, the People's Union for Civil Liberties (with offices in almost every state) as well as others, have reported in detail on torture and custodial deaths.

Their activities sometimes extend beyond documentation and publicity. Groups have sought legal aid for those wishing to pursue their cases through the courts, organized demonstrations and sit-ins, and filed petitions in the courts.

points to make in letters

- Write about the torture of the 11 children in Delhi in June 1989 by members of the Shalimar Bagh police (Please cite the names and the date and location of the incident described).
- Welcome the news that an inquiry was launched into the incident and ask whether it was a judicial or other inquiry and what the result was.
- Say that Amnesty International is concerned that one of the reasons for the persistence of torture is the fact that police officers often feel that they can act with impunity. Urge the government to ensure that torture be stopped and that those responsible be brought to justice.
- Note also the young age of some of the children, and ask the authorities to condemn the illegal detention of young children and ensure that all children are protected from illegal detention and torture. Ask whether official action has been taken against those responsible.
- Ask the authorities to take a strong stand against torture, and to implement preventive measures by ensuring that all detainees are brought before a magistrate within 24 hours, allowed immediate access to legal advice and a medical examination by an independent doctor.

please write to the following

Officials

Salutation

1. Mr Markandey Singh
Lieutenant-Governor
Office of the Lieutenant Governor Union
Territories of Delhi
Raj Bhavan
New Delhi

Dear Lieutenant-Governor

2. Mr Arun Bhagat
Commissioner of Police
Office of the Commissioner
MSO Building
Indraprastha Estate
New Delhi 110 002

Dear Commissioner

3. Ms Sheila Kaul
Minister of Urban Development
16 Janpath
New Delhi

Dear Minister

4. Mr M. L. Fotedar
Minister of Health and Family Welfare
6, Kushak Raod
New Delhi

Dear Minister

Please send copies of letters you write to the Indian embassy in your country.

Death in Custody of Dwarika Thakur - dalit

Bihar - India

On 4 September 1991 eight supporters of the Bihar Pradesh Kisan Sabha - the peasant wing of the leftist Indian People's Front - were arrested in the village Rugde Bigha, Jehanabad district, by police from Makhdumpur station. Dwarika Thakur was one of them.

The next morning Dwarika's wife Daulati Devi, accompanied by her daughter Kusmum, visited the police station and found that her husband had been beaten by the police and had lost consciousness. She pleaded with the Officer-in-Charge for mercy, and was told that the beatings would stop if the women handed over their earrings and *payals* (anklets). Daulati complied. When the police went to untie him they found that Dwarika was dead. They did not, however, inform Daulati.

The police then tried to cover up the death by telling Daulati Devi that Dwarika was being sent to Jehanabad where he and the others would appear in court. She went home to get some clothes for her husband. She rushed to the court, but did not find him there. Instead, other detainees told her that Dwarika had been tortured to death and that his body had been removed to an unknown place. Daulati then went from the court to the District Magistrate and Superintendent of Police who sent a Deputy Superintendent of Police (DSP) to investigate.

The DSP did not find Dwarika Thakur at the Makhadumpur police station when he went there to inquire about his whereabouts. He noted that the police case diary had not been filled in since 3 September, nor was there an entry of the arrests of the eight men in the register. Two police officers had fled the police station.

Daulati Devi brought legal action against the police. Two policemen were suspended. A press report commented on these suspensions:

"...as numerous such cases in the past have shown, suspension is no way to punish police officials. In Bihar police officials are suspended one day to pacify the anger of the people against police excesses, and the suspension is revoked the next day. Very often, the officials, after getting their suspensions revoked, get a 'reward' posting. Indeed in Bihar the number of times a policeman has been suspended, particularly on charges of torturing arrested persons, is taken as a symbol of his professional prowess". (Economic and Political Weekly, 28 September 1991)

The two suspended policemen had reportedly absconded, and were openly mobilising the Bihar Police Association to protest against their suspension. Local politicians were also alleged to be pressuring for the cases to be dropped.

Background

Deaths in Custody and Impunity

Amnesty International knows of 415 people who have died in the custody of the police or security forces in India since 1985 and where torture was alleged to have been the cause of death. This happens throughout India, regardless of the political party in power. The actual number of such cases is thought to be considerably higher. Although some officials have acknowledged the problem, India's record on ensuring that the culprits are brought to justice is extremely poor. Impartial judicial inquiries are rare and only three cases are known in which police officers have been convicted for such crimes since 1985. The inability or unwillingness of the authorities to bring those responsible to justice is one of the major reasons why such human rights abuses continue to happen throughout India.

The majority of those who die in police custody are criminal suspects who are tortured in order to extract a confession or information. In some states, people have died in custody after arrest on suspicion of involvement in or support for armed groups advocating greater autonomy or independence. Some appear to be innocent of any crime. Often deaths occur after people have been detained without the police acknowledging their arrest, or bringing them before a magistrate within 24 hours of arrest, as the law requires.

Most victims of custodial death are poor and illiterate, often belonging to the most disadvantaged groups: the *dalits* (oppressed castes) and *adivasis* (tribals) who in recent years have become increasingly organized. Some victims are as young as 13, or as old as 76. Women have also been tortured and have died of their injuries. Some people have died in custody after the police arrested and tortured them at the instigation of powerful interest groups, such as local politicians or landlords. Cover-ups extend to senior police, officials and even some members of the medical profession and magistrates.

Adivasis and Dalits

Almost one quarter of India's population, are members of the *dalit* ("oppressed" castes) or *adivasi* (tribal) communities. They are the poorest and most oppressed groups of people in India. Atrocities against them, and in particular against *dalits* by higher caste Hindus, have been commonplace for years. *Dalits* and *adivasis* have also suffered torture and public humiliation by the police. Women belonging to these groups are particularly vulnerable to police violence, including rape, and several women have died in police custody.

Forty million *adivasis*, 85 per cent of India's total tribal population, inhabit the mineral and forest-rich ranges that stretch across central India, including Bihar. Most of them live below the poverty line; as a group, their rate of literacy is one-third of the national average. Economic development of these regions, such as forestry, mining and hydro-electric projects, has resulted in increasing numbers of tribal peoples losing their traditional homes and livelihoods. Many now seek a living as small farmers, or as agricultural labourers for large landowners, or migrate to the cities in search of work.

Nearly 90% of all *dalits* live in rural areas, and over half are landless agricultural labourers. In recent years protest movements have arisen among the *adivasi* and *dalit* peoples, centred on issues such as compensation for lost land, higher wages, or autonomy for the tribal regions.

The *Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989*, makes the deliberate abuse of *adivasis* and *dalits*, including interference with legal proceedings, by police or security forces a criminal offence. It allows states to establish special courts to try such cases and provides for legal aid and compensation for victims. Since this legislation was passed, human rights violations against *dalits* and *adivasis* have persisted, yet Amnesty International is not aware of any special courts having been established.

Bihar

Bihar has a population of some 70 million. It is one of India's poorest states. It also has a high rate of violent crime, political and caste conflict, and police brutality. Many victims of torture in Bihar are landless labourers campaigning for land reform and minimum wages. Landlords have resorted to violence in suppressing the movement for higher wages and land reform, usually with the assistance of criminal gangs or private armies, whose growth is believed to have been encouraged by the police since the late 1970s. Local police have cooperated and sometimes even participated in attacks by these gangs on landless people. There is a long standing pattern of police rape and torture during raids on villages in Bihar, in searches for political organizers, frequently at the behest of local landlords. Some police have been accused of siding with the majority during the communal riots in 1989 which claimed almost 1,000 lives, mostly of the minority Muslims.

Amnesty International has recorded 49 deaths in custody in Bihar since 1985. In an open letter to all police personnel, the Inspector General of Police, M. Natarajan, asserted that inquiries into custodial deaths would take place within a fixed period and those found responsible will be punished. However, inquiries are still rare. Four inquiries, two by magistrates and two by police bodies, have implicated the police in the deaths of detainees, but no prosecutions are known to have taken place.

points to make in letters

- Write about the torture and subsequent death of Dwarika Thakur. (Please cite his full name and the date and location of the incident).
- Express concern at the number of reports of custodial deaths in Bihar, especially of *dalits* and *adivasis*, and that very little action is taken to see that justice is done and such incidents prevented.
- Urge the authorities promptly to institute a judicial inquiry into the death of Dwarika Thakur.
- Note that the police involved in the alleged torture of Dwarika Thakur have been suspended, but do not appear to have been brought to justice. Say that bringing to justice those responsible is very important to halt further torture and custodial deaths.
- Urge the authorities to implement safeguards against custodial violence by ensuring that all detainees are brought before a magistrate within 24 hours, allowed immediate access to legal advice and a medical examination by an independent doctor.
- Urge the authorities to grant full compensation to Dwarika Thakur's wife without delay once responsibility for his death has been established.

please write to the following

<i>Official</i>	<i>Salutation</i>
1. Mr Laloo Prasad Yadav Chief Minister Office of the Chief Minister Patna 800 001 Bihar	Dear Chief Minister
2. Minister of Home Affairs Bihar State Government Office of the Home Minister Patna 800 001 Bihar	Dear Minister
3. Mr A. K. Chaudhary Director General of Police Office of the Director General of Police Police Headquarters Patna 800 001 Bihar	Dear Director General
4. Ramashray Prasad Singh Member of the Lok Sabha for Jehanabad Communist Party of India 48 North Avenue New Delhi	Dear Sir

Please send copies of letters you write to the Indian embassy in your country.

The Death in Custody of Dhruvajyoti Gogoi

Assam - India

Dhruvajyoti Gogoi died in army custody in Assam in 1991. As in many other cases where political detainees die in custody, no action was taken against those allegedly responsible, despite there being, in this case, strong evidence of torture.

On 17 March 1991 Dhruvajyoti Gogoi was arrested by the army at Doomdooma, Tinsukia. Reported to be a member of the armed opposition group, the United Liberation Front of Assam, he had earlier been arrested under the *Terrorist and Disruptive Activities (Prevention) Act* (TADA) in 1989 and released on bail. Sometime later the wife of a local Superintendent of Police was killed in an ambush on the road from Tinsukia to Dibrugarh. The police suspected Dhruvajyoti's involvement in the murder.

The morning after his arrest, a *habeas corpus* petition was filed at the Guwahati High Court asking the government to produce him within a week. However, on the night of 19 March, the army handed over his body to the police.

The army stated that he had died of epilepsy. However, a photograph of his body indicated that both of his arms were broken, that he had a stab wound, roller marks on his legs and injuries on his face. The post-mortem report, conducted at the Assam Medical College Hospital, noted that he had a perforated liver and 28 injuries on his body. Despite these findings which clearly indicate torture, no inquiry is known to have taken place into the incident and no army personnel are known to have been brought to justice. On 21 March 1991 thousands of people attended his funeral in Dibrugarh.

Background

Deaths in Custody and Impunity

Amnesty International knows of 415 people who have died in the custody of the police or security forces in India since 1985 and where torture was alleged to have been the cause of death. This happens throughout India, regardless of the political party in power. The actual number of such cases is thought to be considerably higher. Although some officials have acknowledged the problem, India's record on ensuring that the culprits are brought to justice is extremely poor. Impartial judicial inquiries are rare and only three cases are known in which police officers have been convicted for such crimes since 1985. The inability or unwillingness of the authorities to bring those responsible to justice is one of the major reasons why such human rights abuses continue to happen throughout India.

The majority of those who die in police custody are criminal suspects who are tortured in order to extract a confession or information. In some states, people have died in custody after arrest on suspicion of involvement in or support for armed groups advocating greater autonomy or independence. Some appear to be innocent of any crime. Often deaths occur after people have been detained without the police acknowledging their arrest, or bringing them before a magistrate within 24 hours of arrest, as the law requires.

Most victims of custodial death are poor and illiterate, often belonging to the most disadvantaged groups: the *dalits* (oppressed castes) and *adivasis* (tribals) who in recent years have become increasingly organized. Some victims are as young as 13, or as old as 76. Women have also been tortured and have died of their injuries. Some people have died in custody after the police arrested and tortured them at the instigation of powerful interest groups, such as local politicians or landlords. Cover-ups extend to senior police, officials and even some members of the medical profession and magistrates.

Deaths in Custody in Assam

Amnesty International has documented 26 cases of deaths in custody in Assam since 1985, but knows of only one case in which an arrest was made in connection with the death. Dhruvajyoti Gogoi was one of at least 13 people who died in custody in Assam between November 1990 and April 1991, during "Operation Bajrang".

Assam and "Operation Bajrang"

Direct rule from New Delhi, known as President's Rule, was imposed in Assam on 28 November 1990, in response to rising political violence. The state was declared a "disturbed area" and responsibility for maintaining law and order was given to the army. The United Liberation Front of Assam (ULFA) was banned and a major counter-insurgency offensive - "Operation Bajrang" - was launched. During this campaign, and a later operation launched in September 1991, widespread human rights violations were reported. In January 1991 one national newspaper reported:

"Every single day reports pour in from different parts of the state about army atrocities, including killings, torture, rape and harassment ... The local newspapers are full of heart-rending reports of ordinary people being picked up by the army for no reason, women being raped and houses raided at uncanny hours". (Times of India, 15 January 1991)

During "Operation Bajrang", the army and police arrested almost 3,000 people in their search for ULFA militants. They included peasants, labourers, academics, political and social activists, doctors, and businessmen. Youths and students were a particular target. Many of those arrested are believed to have been tortured. In December 1990, the army strongly denied allegations of torture and rape during "Operation Bajrang", and claimed they were fabricated by "political leaders with vested interests".

The Guwahati High Court has often acted to protect people illegally detained and in danger of torture, although the security forces have defied some High Court rulings.

Special Legislation and Lack of Accountability

The accountability of the military for violations of human rights is inhibited by the *Armed Forces Special Powers Act*, in force in Assam, Jammu and Kashmir and Punjab. Section 6 of the Act grants the security forces prior immunity from prosecution for "*anything done or purported to be done in the exercise of the powers conferred by this Act*". The Act also gives the security forces wide powers to make arrests, conduct searches without warrant, and to shoot to kill "*any person who is acting in contravention of any law or order for the time being in force in the disturbed area prohibiting the assembly of five or more persons or the carrying of weapons or of things capable of being used as weapons.*" Several members of the Human Rights Committee, set up under the International Covenant on Civil and Political Rights (ICCPR), found that the Act contravened the rights guaranteed in the ICCPR, which India is duty bound to uphold, notably the immunity from prosecution granted under the Act. Amnesty International knows of only two cases in which members of the paramilitary forces have been charged with offenses which constitute violations of human rights, but knows of no convictions.

points to make in letters

- Write about the death in custody of Dhruvajyoti Gogoi and point out the substantial evidence - notably the post-mortem report - that he was tortured to death while in army custody (Please cite his full name and the date and location of the incident).
- Urge the government to institute an impartial and independent inquiry into the incident.

- Explain that Amnesty International is aware of the problems facing the military in the northeast and that it condemns the killing of prisoners by anyone, including armed opposition groups, but that nothing justifies the human rights violations being perpetrated by the Indian army.
- Say that Amnesty International know of 26 cases of custodial death since 1985 in the state, 13 of which occurred during "Operation Bajrang", including the death of Dhruvajyoti Gogoi. Say that strict orders should be given to army personnel engaged in military operations to respect human rights and refrain from using "third-degree" methods.
- Say that you are concerned at frequent reports of human rights violations in Assam and the northeast, and urge the authorities to implement the orders given by the Guwahati High Court that all detainees must be transferred to the nearest police station with least possible delay and brought before a magistrate within 24 hours of arrest.
- Express your concern that the *Armed Forces Special Powers Act* grants the army powers to shoot to kill and provides immunity from prosecution. Say that these provisions contravene the rights provided in the International Covenant on Civil and Political Rights which India is duty bound to uphold. Urge that the laws be changed to make them comply with international human rights standards.

please write to the following

Officials

1. Mr Hiteswar Saikia
Chief Minister of Assam
Office of the Chief Minister
Dispur
Guwahati 781 006
Assam
2. Mr H. N. Das
Chief Secretary
I.A.S Assam Secretariat.
Dispur
Guwahati 781 006
Assam
3. Mr Loknath Mishra
Governor of Assam
Office of the Governor
Dispur

Salutation

Dear Chief Minister

Dear Secretary

Dear Governor

Assam

4. Mr Paban Sing Ghatower
M. P. for Dibrugarh district
Assam Bhawan
New Delhi

Dear Sir

Please send copies of letters you write to the Indian embassy in your country.

Jairam Singh, a 50-year-old labourer, died in the custody of Patel Nagar police, Delhi, on 19 August 1991. The death was the seventh in police custody in Delhi in the first eight months of 1991.

Jairam Singh and his 12-year-old son, Manoj, were detained on 18 August 1991 after Manoj allegedly stole a purse at a marriage ceremony. Jairam Singh had done no more than accompany his son to the police station. No case was registered against him. The police later claimed that Manoj confessed to the crime, but the family alleged that the confession was forced.

Manoj and his father were both tortured. Later that day several other family members, including Jairam Singh's wife, were also briefly detained and beaten. They claim that Jairam Singh's hands were tied behind his back and that he was beaten mercilessly. In the early hours of 19 August Jairam Singh complained of stomach pains and problems with urinating. He was taken by the police to the Khera nursing home. At 4 am, after receiving treatment, he was declared to be "in a position to leave". A medical note reportedly stated that he had a clear chest and was conscious. Ten minutes later he collapsed and died.

The People's Union for Democratic Rights (PUDR) released a report on the death in which they condemned the "appalling negligence of the doctors" in what was a case "if not of blatant collusion at least of fatal callousness". They also met Manoj three days after the incident and noted that his body was still swollen from beatings and bruised with *lathi* (truncheon) marks.

Many deaths in police custody go largely unnoticed. Jairam's death, however, was brought to public attention by local protest and the work of the PUDR. The story of Jairam Singh's death was carried by national newspapers and discussed in the Lok Sabha (Parliament) on 21 August 1991. The Minister of State for Home Affairs declared that the government was determined to take action against "those exceeding or abusing their powers" and described the incident as "ghastly". The Delhi Police Commissioner, Arun Bhagat, acknowledged that "maltreatment" had occurred. Three policemen were suspended and a case of murder and wrongful confinement was registered. On 21 August the arrest of the three suspended policemen was ordered. The Station House Officer at Patel Nagar police station was transferred. The post-mortem report stated that death was due to the cumulative effect of injuries.

Two inquiries were launched into the death, one by a magistrate and one by the crime branch of Delhi police. Amnesty International does not know their outcome. As yet, no police officials are known to have been brought to justice and no compensation is known to have been paid.

Background

Deaths in Custody and Impunity

Amnesty International knows of 415 people who have died in the custody of the police or security forces since 1985 in which torture was alleged to have been the cause of death. This happens throughout India, regardless of the political party in power. The actual number of such cases is thought to be considerably higher. Although some officials have acknowledged the problem, India's record on ensuring that the culprits are brought to justice is extremely poor. Impartial judicial inquiries are rare and only three cases are known in which police officers have been convicted for such crimes occurring since 1985. The inability or unwillingness of the authorities to bring those responsible to justice is one of the major reasons why such human rights abuses continue to happen throughout India.

The majority of those who die in police custody are criminal suspects who are tortured in order to extract a confession or information. In some states, people have died in custody after arrest on suspicion of involvement in or support for armed groups advocating greater autonomy or independence. Some appear to be innocent of any crime. Often deaths occur after people have been detained without the police acknowledging their arrest, or bringing them before a magistrate within 24 hours of arrest, as the law requires.

Most victims of custodial death are poor and illiterate, often belonging to the most disadvantaged groups: the *dalits* (oppressed castes) and *adivasis* (tribals) who in recent years have become increasingly organised. Victims have been as young as 13, or as old as 76. Women have also been tortured and died of their injuries. Some people have died in custody because the police arrested and tortured them at the instigation of powerful interest groups, such as local politicians or landlords. Cover-ups extend to senior police, officials and even some members of the medical profession and magistrates.

Deaths in Custody in Delhi

In August 1991, the People's Union for Democratic Rights (PUDR) published statistics which showed an "alarming increase" of custodial deaths in Delhi: seven deaths in the first eight months of 1991, already more than double the figure of the two previous years. The reports also indicated that almost all those who die in custody in Delhi come from economically weaker sections of society. The issue of custodial deaths in the capital has been raised in Parliament.

In January 1989 the then Police Commissioner, Mr Vijay Karan, established a Central Checking Team of vigilance staff to make surprise visits to police stations. The squad apparently exposed the death of a labourer in the Inderpuri police station in 1988. Mr Karan was one of the few Police Commissioners in India who had publicly declared that he would work hard to eradicate torture. During 1989 and 1990, when he held office, the number of custodial deaths in police stations per year fell to three: half the number generally reported during previous years.

Official Action and Impunity

Of the 39 cases of deaths in police custody in Delhi recorded by Amnesty International since 1985, inquiries are known to have been ordered in 27 instances. This is a higher percentage of cases in which investigations have been ordered than in most other states. The reasons for this could be that any such incidents are closely scrutinized by the national press board in the capital and the opportunity interested groups have to raise them in parliament. Despite the high number of inquiries, results are known in only four instances, and legal proceedings have been initiated in only two cases.

The transfer or suspension of police officers involved is often the only action taken in cases of a custodial deaths. The PUDR report, referring to the transfers which occurred in Jairam Singh's case, concluded:

"the failure and lack of will when it comes to disciplining higher officials and making them accountable for what happens in their jurisdiction has perpetuated the dehumanising processes of 'law and order' maintenance in our society".

Civil Liberties Groups in India

The work done by the many civil liberties organizations in India has been invaluable in exposing human rights violations committed by the police and security forces. Civil liberties groups have frequently published the results of detailed investigations. The Andhra Pradesh Civil Liberties Committee (APCLC), the Association for the Protection of Democratic Rights in West Bengal, the Civil Liberties and Human Rights Organization (CLAHRO) in Manipur, the Free Legal Aid Committee in Bihar, the Jammu and Kashmir People's Basic Rights (protection) Committee, the Naga People's Movement for Human Rights, the People's Union for Democratic Rights, the People's Union for Civil Liberties (with offices in almost every state) as well as others, have reported in detail on torture and custodial deaths.

Their activities sometimes extend beyond documentation and publicity. Groups have sought legal aid for those wishing to pursue their cases through the courts, organised demonstrations and sit-ins, and filed petitions in the courts.

points to make in letters

- Write that you are concerned about the custodial death of Jairam Singh in custody of the Delhi police (Please cite his full name and the date and place of the incident described), and about the reported torture of his 12-year-old son Manoj. Say that the post-mortem report corroborates allegations that Jairam Singh was tortured to death.

- Say that Amnesty International is concerned at the sharp increase in deaths in custody in Delhi in 1991.
- Welcome the statement made by the Minister of State for Home Affairs that the government will take action against "those exceeding or abusing their powers" and note reports that three policemen were suspended and their arrest ordered. Ask when the trial will take place. Say that Amnesty International knows of no instances in which police officials in Delhi have been tried and convicted for such crimes.
- Welcome the determination to eradicate torture expressed by various Delhi Police officials and ask about the work of the Central Checking Team.
- Note reports that the original medical examination performed at the Khera nursing home was reportedly influenced by police pressure. Ask for strict instructions to the police to halt this practice. Ask the government to ensure that medical examinations are done by independent doctors and not by police doctors or in the presence of police officers.
- Urge the authorities to implement legal safeguards against custodial violence by ensuring that all detainees are brought before a magistrate within 24 hours, allowed immediate access to legal advice and a medical examination by an independent doctor.

please write letters to the following:

- | <i>Official</i> | <i>Salutation</i> |
|--|--------------------------|
| 1. Mr M. M. Jacob
Minister of State for Home Affairs
Ministry of Home Affairs
North Block
New Delhi 110 001 | Dear Minister |
| 2. Mr Markandey Singh
Lieutenant-Governor
Office of the Lieutenant Governor
Union Territories of Delhi
Raj Bhavan
New Delhi | Dear Lieutenant-Governor |
| 3. Mr Arun Bhagat
Commissioner of Police
Office of the Commissioner
MSO Building
Indraprastha Estate
New Delhi 110 002 | Dear Commissioner |
| 4. Sajjan Kumar, MP
MP for Outer Delhi
413/A/B, Paschim Puri
Janta Colony Pocket
Delhi 110 002 | Dear Sir |

Please send copies of letters you write to the Indian embassy in your country.

On a July morning in 1988, a 26-year-old teacher named Kalpana Sumathi was found half naked, unconscious and bleeding near the police station in Thally, a town in the Dharmapuri district of Tamil Nadu. She had been missing for some 16 hours, since she had gone to fetch water early the previous evening. Her husband's attempt to report her disappearance to the police had met only with the suggestion that he search for her himself.

Kalpana Sumathi was taken to hospital where she was found to have 21 injuries. She had several head wounds, including a partially severed ear lobe, and extensive cuts and bruising on her back. But the worst injuries were to her hands which appeared to have been slashed to pieces.

When she regained consciousness Kalpana Sumathi said that she had been abducted by a police employee, and then gang-raped by four police officers, and that most of her injuries were sustained when she tried to resist. She remained in hospital for medical treatment for the following three weeks.

The results of an inquiry conducted by the Hosur magistrate led the Tamil Nadu Government to order the prosecution of the four police officers accused of the rape, and the transfer of a further seven. All four police officers were granted bail.

A Madras-based lawyer read about her plight, travelled to Thally, and on 18 September 1988 filed a public interest petition with the Supreme Court calling not only for compensation for Kalpana Sumathi, but also for a comprehensive scheme for redress and rehabilitation for all victims of rape by members of the police and security forces.

Kalpana Sumathi was awarded Rs 20,000 interim compensation, and told she could appeal for further compensation once the trial was over. But she could but do so: two years later proceedings against the police officers had not progressed; charges had yet to be drawn up against them, and numerous hearings had been adjourned.

By this time Kalpana Sumathi had spent Rs 40,000 on medical treatment, twice the sum the Supreme Court had awarded her. In her own words:

"I have to take a lot of medicines and tonics for my general health. The shock and injuries are yet to heal and I suffer from dizziness every day.... I am suffering from 75 per cent disability in my hands...I am not able to do any ordinary work with them and am dependant on others".

In November 1990 Kalpana Sumathi petitioned the Supreme Court again, requesting expedition of the trial of the policemen, compensation from the Tamil Nadu government, and the provision of medical treatment necessary to restore the use of her hands. The petition also reiterated the request for a comprehensive scheme for the victims of rape and other

assaults by the "custodians of law and order". As of early 1992 the proceedings against the police had not progressed.

Background

Custodial Rape of Women in India

One common form of torture by police is rape. It is so routine in India that in 1988 a newspaper reported: "Another mass rape by Bihar cops". Although the Indian Penal Code lays down a minimum of 10 years imprisonment for police officers and other public servants, including soldiers, who commit rape, few custodial rape cases come to trial and convictions are rare.

Apart from the traumatic mental, physical and emotional consequences, rape has severe social repercussions in India. Because of the negative social stigma attached to rape, and the obstacles to obtaining compensation and rehabilitation, women are often reluctant to complain of rape to the police. This is especially true for women of the *dalit* (oppressed castes) and *adivasi* (tribal) communities, who are especially vulnerable to sexual abuse and intimidation from the police.

Women's Groups in India

Often it is only as a result of intervention by voluntary organizations, particularly women's groups, that custodial rape is reported at all. There are several women's organizations which have been very active in bringing human rights violations to public attention.

There are numerous organizations campaigning on women's issues in India. Their activities include consciousness-raising programs and seminars, family welfare advice, encouraging self-sufficiency, documentation of abuses against women, rehabilitation programs, and the organization of political action to bring about change.

Torture in India

Torture is pervasive and routine in every one of India's 25 states. It has resulted in many hundreds of deaths during the last decade. A major reason for the persistence of widespread torture in India is the refusal of leading government officials to recognise that torture exists, let alone that it should be vigorously tackled. This attitude is maintained despite the fact that judges, journalists, civil liberties groups, official commissions and even police officials have attested to its widespread occurrence.

Torture is extensive in the areas where political groups demand separatism or increased autonomy, especially when armed opposition groups are operative. This is the case in Jammu and Kashmir, Punjab, the northeast Indian states including Assam, and regions of central India where the *Naxalite* (Maoist revolutionary) movement is active. Here torture is a means of obtaining confessions and gathering intelligence, but it has an extra component: torture is indiscriminately used both as a deterrent and in reprisal for attacks by armed groups. A similar pattern occurs in states where there is organized opposition to economic repression, such as Bihar, where the police sometimes act as an instrument of local ruling groups, including local landowners and employers.

Victims of torture most frequently come from the poor and underprivileged sections of Indian society: notably *dalits* (oppressed castes) and *adivasis* (tribals), including women belonging to these communities who are frequently raped by the police in custody.

points to make in letters

- Write that you are concerned about the reported rape and other torture by police of Kalpana Sumathi in July 1988.
- Note the findings of the magisterial inquiry and the welcome the Tamil Nadu government's announcement ordering the prosecution of those police officers accused of raping her, and ordering interim compensation to be paid to her.
- Point out, however, that to Amnesty International's knowledge, the proceedings against the police have not progressed in almost three years, that this prevents her from suing for compensation, and that Kalpana Sumathi still suffers from her injuries.
- Urge the government to speed up the prosecutions and grant adequate compensation to Kalpana Sumathi.
- Urge the government to implement measures to prevent such human rights violations from occurring by ensuring that women are not taken to police stations for purposes of investigation, as Indian law requires, and that they be offered a medical examination by an independent doctor preferably within 24 hours. Urge that all detainees are brought before a magistrate within 24 hours and allowed immediate access to legal advice.
- Urge the government to establish an effective machinery for compensation and rehabilitation of victims of rape.

please write letters to the following:

Official

Salutation

1. J. Jayalalitha
Chief Minister of Tamil Nadu
"Veda Nilayam"
36 Poes Garden - 86
Madras
Tamil Nadu

Dear Chief Minister

2. Mr P. Sriramulu
Public Prosecutor
Office of Public Prosecutor
High Court
Madras 600 104
Tamil Nadu

Dear Public Prosecutor

3. Mr K. Suramanian
Advocate General of Tamil Nadu
193 St. Mary's Road
Alwapet 600 118
Tamil Nadu

Dear Advocate General

4. T. V. Venkataraman
Chief Secretary of Tamil Nadu
6 Ist Avenue
I Nagar
Madras 600 120
Tamil Nadu

Dear Chief Secretary

5. Ms R. Indira Kumari
Minister for Social Welfare
18 G. W. Road
Madras 600 128
Tamil Nadu

Dear Minister

Please send copies of letters you write to the Indian embassy in your country.

Manjit Singh, a constable with the Punjab police, died in Sector 16 General Hospital, Chandigarh, on 17 August 1991. There is strong evidence that he was tortured to death by the police.

Manjit Singh, aged 24 and married with one child, had worked for three years at the police station in Sector 36, Chandigarh. On 8 August 1991 he was summoned to the police station in Sector 36. Manjit's father, Nirmal Singh, was told on 9 August that his son had been arrested under the *Terrorist and Disruptive Activities (Prevention) Act (TADA)* for harbouring militants. Attempts by relatives to locate him proved futile. It was later reported that he had been charged with involvement in the murder of an Assistant Sub-Inspector of Police, and attacks on a village leader. A case of harbouring an offender had also been registered against him.

When Manjit Singh's father met the Inspector General of Police on 16 August he was told that he would be allowed to see his son who was in good health. However the following day, family members were told that he was in a serious condition and had been admitted to Sector 16 General Hospital. Police claimed that he was suffering from dysentery, but Manjit Singh reportedly told doctors he had been tortured in police custody. A medical examination at the hospital reported that Manjit had bruises and abrasions on his right cheek; a bruise on the left side of the abdomen; that his upper legs were bruised, inflamed and swollen; that there were bruises and circular abrasions above the ankles; that he was gasping for breath and that there were blood clots which may have been caused by muscle injuries. He died in hospital on 17 August.

The family were not allowed to see the body but Nirmal Singh claimed that the police forced him to sign a statement of identification. After the post-mortem Nirmal Singh was briefly shown the upper half of the body. He claimed there was a considerable amount of blood on Manjit's face and the upper chest and shoulders had injuries and scratches. Nirmal Singh said that the police again tried to pressure him to sign a statement allowing them to claim the body for cremation, despite the fact that a Judicial Magistrate had issued an order to stop the cremation until 19 August 1991 to enable the allegation of torture to be investigated and a post-mortem examination to be conducted by doctors at the Post Graduate Institute rather than at the Sector 16 General Hospital.

An inquest was carried out by an executive magistrate. The results of the post-mortem and inquest are not known. A number of people, including Manjit Singh's mother, father and wife, gave statements to the Sub Divisional Magistrate, Chandigarh, on 20 August 1991. In it they allege that Manjit Singh died as the result of torture in police custody. It is not known whether any measures have been taken against the policemen allegedly responsible for his death.

Background

Deaths in Custody and Impunity

Amnesty International knows of 415 people who have died in the custody of the police or security forces in India since 1985 and where torture was alleged to have been the cause of death. This happens throughout India, regardless of the political party in power. The actual number of such cases is thought to be considerably higher. Although some officials have acknowledged the problem, India's record on ensuring that the culprits are brought to justice is extremely poor. Impartial judicial inquiries are rare and only three cases are known in which police officers have been convicted for such crimes since 1985. The inability or unwillingness of the authorities to bring those responsible to justice is one of the major reasons why such human rights abuses continue to happen throughout India.

The majority of those who die in police custody are criminal suspects who are tortured in order to extract a confession or information. In some states, people have died in custody after arrest on suspicion of involvement in or support for armed groups advocating greater autonomy or independence. Some appear to be innocent of any crime. Often deaths occur after people have been detained without the police acknowledging their arrest, or bringing them before a magistrate within 24 hours of arrest, as the law requires.

Most victims of custodial death are poor and illiterate, often belonging to the most disadvantaged groups: the *dalits* (oppressed castes) and *adivasis* (tribals) who in recent years have become increasingly organized. Some victims are as young as 13, or as old as 76. Women have also been tortured and have died of their injuries. Some people have died in custody after the police arrested and tortured them at the instigation of powerful interest groups, such as local politicians or landlords. Cover-ups extend to senior police, officials and even some members of the medical profession and magistrates.

Punjab

About 12 million Sikhs live in Punjab, where they comprise 60% of the state's total population. Since 1983 armed Sikh groups in Punjab have demanded an independent Sikh state ("Khalistan"). These groups have been responsible for widespread abuses, including the deliberate and arbitrary killing of civilians, bombings, hostage-takings and assassinations of political leaders.

Punjab has been under central government rule since May 1987. Torture has been widely used by the authorities in Punjab, for example to extract confessions from Sikh detainees and to punish those suspected of harbouring "terrorists". Arrests and detentions are often not acknowledged by the police and other security forces operating in Punjab. Abuses are committed by the police, the Border Security Force (BSF) and the Central Reserve Police Force (CRPF) who are stationed in border districts. Some prisoners have been detained for months or years without trial under provisions of special legislation suspending normal legal safeguards (see below).

Amnesty International has details of 23 confirmed deaths in custody in Punjab since 1987. At most, police officers allegedly responsible for human rights violations have been suspended or dismissed from service. None of the alleged perpetrators of such crimes are known to have been tried. In many other cases in Punjab political suspects are feared to have been killed in custody, although the police claim they were killed either in an armed "encounter" with the police, or "while trying to escape".

Lack of Legal Safeguards in Punjab

India's human rights record was recently examined by the Human Rights Committee, the body that monitors how states implement the International Covenant on Civil and Political Rights (ICCPR), to which India is a party. Committee members were particularly concerned that provisions of special laws in force in India, namely the *Terrorist and Disruptive Activities (Prevention) Act (TADA)*, the *National Security Act* and the *Armed Forces (Punjab and Chandigarh) Special Powers Act*, contravened guarantees provided in both the Indian Constitution and in the ICCPR. These included the right to life and freedom from torture, as well as the right not to be arbitrarily detained and the right to a fair trial.

Most arrests in Punjab are made under the provisions of the TADA which allows detention in judicial custody for up to one year without formal charge for broadly defined "disruptive" activities, which include any support for secession. TADA is open to abuse, and there are many instances of false arrests, police excess and extortion. Trials under TADA take place *in camera* and the burden of proof is shifted to the accused.

The military are not accountable for human rights violations under the *Armed Forces (Punjab and Chandigarh) Special Powers Act*, introduced in October 1983, and still in force in Punjab. The Act provides impunity to members of the military from all prosecutions or legal action "in respect of anything done or purported to be done in exercise of the powers conferred by the Act."

points to make in letters

- Write about the death in custody of Manjit Singh, noting the medical report's findings. (Please cite his full name and the date and location of the incident described).

- Note that an inquest was held and ask for the results.
- Urge the authorities to institute a judicial inquiry into the death of Manjit Singh, and to grant compensation to his relatives once responsibility for his death has been established.
- Say that you are aware of the difficulties faced by the security forces and police in a context of widespread violence from Sikh opposition groups who are themselves responsible for murder and other violent crimes, but that this in no way justifies the human rights violations perpetrated by Indian security forces and police.
- Say that Amnesty International has documented 23 custodial deaths in the state since 1985, but that it is not aware of any case in Punjab in which a police official or member of the security forces has been brought to justice for human rights violations.
- Urge the government to demonstrate its commitment to protect human rights by bringing those responsible for Manjit Singh's death to justice.
- Note that Manjit Singh was arrested under the *Terrorist and Disruptive Activities (Prevention) Act* (TADA), and that his family were denied access to him when he was arrested. Urge the government to review the provisions of the Act and to introduce better safeguards and bring the laws in line with international human rights standards laid down in the International Covenant for Civil and Political Rights, as the Human Rights Committee has recommended.

please write to the following

Official	Salutation
1. Mr Surinder Nath Governor of the State of Punjab Office of the Governor Chandigarh Punjab INDIA	Dear Governor
2. Mr A. S. Chadha Home Secretary (Punjab) Raj Bhavan Chandigarh Punjab INDIA	Dear Home Secretary
3. Mr K. P. S. Gill Director-General of Police Chandigarh Punjab INDIA	Dear Director General

Please send copies of letters you write to the Indian embassy in your country.

"After tying me down they removed my pyjamas. They tied some cloth round my penis and set it on fire... Then they laid me face down. One man stood on my back. Another brought a rod and inserted it deep through my rectum. He kept thrusting it forward and back."

Manzoor Ahmed Naikoo, a shopkeeper from the northern state of Jammu and Kashmir, described his torture to Indian journalists from his hospital bed where he was being treated for multiple perforations in his intestines, stomach, liver, and lungs. He was tortured in October 1991 by Indian soldiers engaged in counter-insurgency operations against armed secessionist and fundamentalist groups. Torture is frequently used by the security forces in Kashmir, who are protected by special legislation granting immunity from prosecution. Manzoor Ahmed Naikoo appeared in a film documentary made by a group of journalists about the situation in Jammu and Kashmir. In the same film, made for the Indian company Eyewitness, army commander Lieutenant General S. Nath denied the allegations: "There is no torture. We have given very strict orders to our interrogators that they will not use any third degree methods." In November 1991, the government banned the film for "military security reasons".

Background

Torture in India

Torture is pervasive and routine in every one of India's 25 states. It has resulted in many hundreds of deaths during the last decade. A major reason for the persistence of widespread torture in India is the refusal of leading government officials to recognise that torture exists, let alone that it should be vigorously tackled. This attitude is maintained despite the fact that judges, journalists, civil liberties groups, official commissions and even police officials have attested to its widespread occurrence.

Torture is extensive in the areas where political groups demand separatism or increased autonomy, especially when armed opposition groups are operative. This is the case in Jammu and Kashmir, Punjab, the northeast Indian states including Assam, and regions of central India where the *Naxalite* (Maoist revolutionary) movement is active. Here torture is a means of obtaining confessions and gathering intelligence, but it has an extra component: torture is indiscriminately used both as a deterrent and in reprisal for attacks by armed groups. A similar pattern occurs in states where there is organized opposition to economic repression, such as Bihar, where the police sometimes act as an instrument of local ruling groups, including local landowners and employers.

Victims of torture most frequently come from the poor and underprivileged sections of Indian society: notably *dalits* (oppressed castes) and *adivasis* (tribals), including women belonging to these communities who are frequently raped by the police in custody.

The Situation in Jammu and Kashmir

Control over the territory of Jammu and Kashmir, two-thirds of which constitutes the Indian state of Jammu and Kashmir and one third of which is controlled by Pakistan, has been disputed by India and Pakistan since 1947, a dispute which has twice led to war.

Jammu and Kashmir is the only Indian state in which Muslims constitute a majority of the population. In recent years armed Muslim militants agitating for autonomy, secession or incorporation into Pakistan have become increasingly active. Militant armed groups in the state have increasingly resorted to violence, extortion and the taking and sometimes killing of hostages. In January 1990 a 145,000 strong force of the Central Reserve Police Force was flown into the state, and in July 1990 central government rule, known as President's Rule, was imposed.

Torture in Jammu and Kashmir

The Indian army, the paramilitary Border Security Force (BSF) and Central Reserve Police Force (CRPF), have been responsible for most human rights violations in Jammu and Kashmir.

In areas where militants are believed to have been active or the security forces have been attacked, cordon-and-search operations are conducted, while districts have been sealed off and house to house searches conducted. People are routinely tortured during these operations as well as in army camps and interrogation centres. Victims of torture include those suspected of being sympathizers or members of armed opposition groups, or having information about them, people arrested during street demonstrations, and even lawyers working on behalf of detainees. Women have been raped and sexually abused in a deliberate attempt to humiliate them.

It is impossible to gauge the true extent of torture in Jammu and Kashmir. In July 1991 unofficial sources estimated that 15,000 people were detained without trial. Many of those detained since late 1989 were released after interrogation, which can last for two weeks or more, and when subsequently interviewed, claimed to have been tortured or ill-treated. In most of these cases the detainees are never charged.

Although the government has announced inquiries, criminal charges and, in some cases, courts martial, Amnesty International knows of no case in which members of the security forces accused of human rights violations were convicted and sentenced. Nor does it know of any independent judicial inquiries.

Special Legislation and Lack of Accountability

The accountability of the military for violations of human rights is inhibited by the *Armed Forces Special Powers Act*, in force in Assam, Jammu and Kashmir and Punjab. In Kashmir, Section 7 of this Act grants the security forces prior immunity from prosecution for "*anything done or purported to be done in the exercise of the powers conferred by this Act*". The Act also gives the security forces wide powers to make arrests, conduct searches without warrant, and to shoot to kill "any person who is acting in contravention of any law or order for the time being in force in the disturbed area prohibiting the assembly of five or more persons or the carrying of weapons or of things capable of being used as weapons." Several members of the Human Rights Committee, set up under the International Covenant on Civil and Political Rights (ICCPR), found that the Act contravened the rights guaranteed in the ICCPR, which India is duty bound to uphold, notably the immunity from prosecution granted under the Act. Amnesty International knows of only two cases in which members of the paramilitary forces have been charged with offenses which constitute violations of human rights, but knows of no convictions.

points to make in letters

- Say that you have read with concern about the torture of Manzoor Ahmed Naikoo, and describe the case, including the medical treatment he was undergoing (Please cite his full name and the date and location of the incident described).
- Say that you are aware of the difficulties faced by the security forces and police in a context of widespread violence from opposition groups who are themselves responsible for murder and other violent crimes, but that this in no way justifies the human rights violations perpetrated by Indian security forces and police.
- Ask for information about what is being done to investigate the allegations that Manzoor Ahmed Naikoo was tortured, what is being done to bring those responsible to justice, and whether, if the security forces are responsible, he will receive prompt and adequate compensation.
- Say that you are concerned that the security forces are immune from prosecution. Stress that bringing the perpetrators to justice is an important means to prevent further human rights violations and appeal for the withdrawal of Section 7 of the Armed Forces Special Powers Act.
- Ask the authorities to acknowledge that torture occurs, to issue directives that torture will not be tolerated and that legal safeguards be fully implemented. Ask that all detainees are

brought before a magistrate within 24 hours, allowed prompt access to a lawyer and a medical examination by an independent doctor.

please write letters to the following:

<i>Official</i>	<i>Salutation</i>
1. Mr G. C. Saxena Governor of Jammu and Kashmir Office of the Governor Srinagar Kashmir	Dear Governor
2. Mr Sharad Pawar Minister of Defence South Block New Delhi 110 011	Dear Minister
3. Mr Vindra Prakash Advisor to the Governor Office of the Governor Srinagar Kashmir	Dear Sir
4. Mr J. N. Saxena Director General of Police	Dear Director General

Police Headquarters
Srinagar
Kashmir

Please send copies of letters you write to the Indian embassy in your country.

The Death in Custody of Matiar Rahman Gazi

West Bengal - India

Matiar Rahman Gazi, a 50-year-old man from Khoronpur village, died on 3 May 1989 in the custody of Hasnabad police. He had been arrested with four others on 2 May on suspicion of robbery and taken to Hasnabad police station in Calcutta. The following morning he was brought to Basirhat sub-divisional hospital with multiple injuries. He was declared dead on arrival.

A fellow-prisoner who was arrested at the same time said that he and Matiar Rahman Gazi had been severely beaten by the police and had been hung upside down.

Police originally claimed that Matiar Rahman Gazi had jumped from a moving van in an attempt to escape and died as a result. Later they changed their story, saying instead that he had jumped, from his terrace in order to escape arrest. On 18 August a Judicial Magistrate was quoted as saying:

"It is really shocking, disturbing and unthinkable to note that a portion of a judicial record had been tampered with in such a naked fashion."

A murder case was brought against the Officer-in-Charge at Hasnabad police station and other police officers by Matiar Rahman Gazi's son. He stated that his father had been beaten even after the police had been told that he had a heart condition. In court the doctor who had carried out the post-mortem examination confirmed that the deceased's heart had been found to be "big and dilated". Fifteen other witnesses alleged that Matiar Rahman Gazi had been tortured in police custody. A report by a local civil liberties group, the Association for the Protection of Democratic Rights (APDR), stated that the Officer-in-Charge of Hasnabad police station had tortured Matiar Rahman Gazi until he became unconscious and that he was not sent to hospital until more than three hours later. The APDR concluded that the ill-treatment and long period without medical attention were enough to cause his death.

The Chief Judicial Magistrate, Barasat, found there was *prima facie* evidence that the Officer-in-Charge at Hasnabad police station had caused the death and sufficient grounds to start prosecution. The Officer-in-Charge of Hasnabad police station was, however, granted bail. He was ordered not to enter the Hasnabad police station area as *"he may gain influence over the witness[es], or threaten them and hamper the trial proceedings"*.

It is not known whether he or any other police officials have been brought to justice. In January 1990, the Chief Minister of West Bengal, Jyoti Basu, admitted that the police "constantly spoke lies" and promised to institute an inquiry into the death by the Criminal Investigation Department. The results of this inquiry are not known.

Background

Deaths in Custody and Impunity

Amnesty International knows of 415 people who have died in the custody of the police or security forces in India since 1985 and where torture was alleged to have been the cause of death. This happens throughout India, regardless of the political party in power. The actual number of such cases is thought to be considerably higher. Although some officials have acknowledged the problem, India's record on ensuring that the culprits are brought to justice is extremely poor. Impartial judicial inquiries are rare and only three cases are known in which police officers have been convicted for such crimes since 1985. The inability or unwillingness of the authorities to bring those responsible to justice is one of the major reasons why such human rights abuses continue to happen throughout India.

The majority of those who die in police custody are criminal suspects who are tortured in order to extract a confession or information. In some states, people have died in custody after arrest on suspicion of involvement in or support for armed groups advocating greater autonomy or independence. Some appear to be innocent of any crime. Often deaths occur after people have been detained without the police acknowledging their arrest, or bringing them before a magistrate within 24 hours of arrest, as the law requires.

Most victims of custodial death are poor and illiterate, often belonging to the most disadvantaged groups: the *dalits* (oppressed castes) and *adivasis* (tribals) who in recent years have become increasingly organized. Some victims are as young as 13, or as old as 76. Women have also been tortured and have died of their injuries. Some people have died in custody after the police arrested and tortured them at the instigation of powerful interest groups, such as local politicians or landlords. Cover-ups extend to senior police, officials and even some members of the medical profession and magistrates.

Death in Custody in West Bengal

Amnesty International has received reports of 43 deaths in custody in the state of West Bengal since 1985. Official figures indicate that the number of deaths in custody is considerably higher.

The Chief Minister of West Bengal, Jyoti Basu, said in the state assembly in September 1989 that 71 prisoners under trial had died in police custody 1985 and 1988. Some of these deaths may have been as a result of natural causes. On 28 October 1987, following three deaths in custody within six days, Jyoti Basu made the following statement:

"Deaths in police custody are unthinkable in any civilised society. It is illegal and absolutely sickening. Nothing could be worse".

Of the 43 deaths in custody between 1985 and the present known to Amnesty International, an unusually high number, 19, are known to have been the subject of some kind of investigation. However, the outcome of these investigations is frequently not known. It is often alleged that the investigations, often carried out by the police themselves, are not finalized, are delayed, or are made to suit the police version of events, to enable the guilty policemen to evade punishment. No police are known to have been convicted for any of the 43 custodial deaths which have occurred since 1985.

Civil Liberties Groups in India

The work done by the many civil liberties organizations in India has been invaluable in exposing human rights violations committed by the police and security forces. Civil liberties groups have

frequently published the results of detailed investigations. The Andhra Pradesh Civil Liberties Committee (APCLC), the Association for the Protection of Democratic Rights in West Bengal, the Civil Liberties and Human Rights Organization (CLAHRO) in Manipur, the Free Legal Aid Committee in Bihar, the Jammu and Kashmir People's Basic Rights (protection) Committee, the Naga People's Movement for Human Rights, the People's Union for Democratic Rights, the People's Union for Civil Liberties (with offices in almost every state) as well as others, have reported in detail on torture and custodial deaths.

Their activities sometimes extend beyond documentation and publicity. Groups have sought legal aid for those wishing to pursue their cases through the courts, organized demonstrations and sit-ins, and filed petitions in the courts.

points to make in letters

- Write with concern about the death in custody of Matiar Rahman Gazi (Please cite his full name and the date and location of the incident described).
- Welcome the inquiry conducted by the Chief Judicial Magistrate, Barasat, and ask the authorities what steps have been taken to implement its recommendations that those responsible for his death should be prosecuted.
- Say that Amnesty International knows of 43 deaths in custody in West Bengal since 1985, but knows of no case in which police have been convicted. Urge the authorities to ensure

that the perpetrators are brought to justice. Request that Matiar Rahman Gazi's family is given full and adequate compensation.

- Note also that the magistrate expressed concern that the Officer-in-Charge of the police station in whose custody Matiar Rahman Gazi died, should be prevented from intimidating witnesses. Urge the government to protect witnesses in all inquiries into custodial death.
- Point out that there was evidence of police tampering with judicial records, and urge that measures be taken to prevent such practices.
- Urge the authorities to implement legal safeguards against custodial violence by ensuring that all detainees are brought before a magistrate within 24 hours, allowed immediate access to legal advice and a medical examination by an independent doctor.

please write to the following

Official

Salutation

1. Mr Jyoti Basu
Chief Minister of West Bengal
Office of the Chief Minister
Writers Building
Calcutta 700 001
West Bengal
2. Mr T. C. Dutt
Chief Secretary of West Bengal
Block E
FI-3
44 Irongise Road
Calcutta 700 019
West Bengal
India
3. Mr Manish Gupta
Home Secretary of West Bengal
Writers Buildings
Calcutta -700 001
West Bengal
India

Dear Chief Minister

Dear Chief Secretary

Dear Home Secretary

copies of letters to:

4. Mr Shankarrao Chavan
Minister of Home Affairs
North Block
New Delhi 110 001
India

Dear Minister

Please send copies of letters you write to the Indian embassy in your own country.

Moti Birua, a 25-year-old tribal woman, died in custody of police from Manjhari station, Singhbhoom district. On 10 December 1988, police took her for questioning about the murder of her boyfriend, Rajendra Saveya, in which she was apparently wrongly implicated. She died three days later, reportedly after rape and torture.

On 12 December the police took Moti Birua to her house and searched it. According to villagers present at the time, the police saw red paint and mistook it for blood. They then became violent, claimed that Rajendra Saveya had been killed in the house, and abused Moti Birua physically and verbally, threatening her with sexual violence. That night or early the next morning Moti Birua died. The police issued a statement that she had escaped from police custody and committed suicide by hanging herself from a tree.

On 13 December, Moti Birua's mother and her brother-in-law, Joneya Soren, saw Moti's body, lying in a police jeep. Joneya Soren noted marks he thought indicated that she had been tortured. Moti Birua's mother cleaned her daughter's body with her saree, and said that there were signs that she had been raped. When they questioned the police they were given contradictory statements about where she allegedly hanged herself. The *Munda* (Headman) of Bara Mauda village was threatened by the police when he tried to file a First Information Report about her death. He was told to leave the police station. With the help of a local politician, he informed the Superintendent of Police about the incident.

A post-mortem apparently revealed that Moti Birua had died of abrasion of the intestines. There were also serious wound marks above the navel, and no signs on the body of death by hanging. The pathologist did not investigate whether rape had occurred. According to the Forum Against Police Repression, a group investigating her death, the body was buried under police protection. The police chief suspended two officers on the grounds that the police had behaved suspiciously and negligently. Neither were arrested or remanded.

After considerable public pressure from the Communist Party of India (CPI), the Jharkhand Mukti Morcha (a tribal political party), and the Vidyarthi Parishad (student's union), a judicial inquiry was ordered to be held by the Sub-Divisional Magistrate, Chaibasa. After three sittings no witnesses could be found who were willing to give depositions before it. There is evidence that the police had earlier threatened the villagers not to cooperate with any investigations into the incident. Amnesty International does not know the outcome of the inquiry.

Background

Death in Custody in Bihar

Bihar is one of India's least developed and poorest states. Human rights violations against members of the *adivasi* and *dalit* communities are frequently reported. Despite extensive legislation aimed at tenants' rights, improved agricultural wages and land reforms, such laws are often not implemented, adding to tension between those seeking to assert their rights and landlords wishing to maintain the status quo. Officials and the police are often accused of adopting a partisan attitude in such disputes. Reports of massacres perpetrated by upper caste landlords where the police have failed to intervene or have even connived with local landlords are common.

In an open letter to all police personnel, the Inspector General of Police, Mr M. Natarajan, asserted that inquiries into custodial deaths would take place within a fixed period and that those found responsible would be punished. Amnesty International has recorded 49 deaths in custody in Bihar since 1985. Inquiries are rare, and no prosecutions are known to have taken place.

Deaths in Custody and Impunity

Amnesty International knows of 415 people who have died in the custody of the police or security forces in India since 1985 and where torture was alleged to have been the cause of death. This happens throughout India, regardless of the political party in power. The actual number of such cases is thought to be considerably higher. Although some officials have acknowledged the problem, India's record on ensuring that the culprits are brought to justice is extremely poor. Impartial judicial inquiries are rare and only three cases are known in which police officers have been convicted for such crimes since 1985. The inability or unwillingness of

the authorities to bring those responsible to justice is one of the major reasons why such human rights abuses continue to happen throughout India.

The majority of those who die in police custody are criminal suspects who are tortured in order to extract a confession or information. In some states, people have died in custody after arrest on suspicion of involvement in or support for armed groups advocating greater autonomy or independence. Some appear to be innocent of any crime. Often deaths occur after people have been detained without the police acknowledging their arrest, or bringing them before a magistrate within 24 hours of arrest, as the law requires.

Most victims of custodial death are poor and illiterate, often belonging to the most disadvantaged groups: the *dalits* (oppressed castes) and *adivasis* (tribals) who in recent years have become increasingly organized. Some victims are as young as 13, or as old as 76. Women have also been tortured and have died of their injuries. Some people have died in custody after the police arrested and tortured them at the instigation of powerful interest groups, such as local politicians or landlords. Cover-ups extend to senior police, officials and even some members of the medical profession and magistrates.

Adivasis and Dalits

Almost one quarter of India's population, are members of the *dalit* ("oppressed" castes) or *adivasi* (tribal) communities. They are the poorest and most oppressed groups of people in India. Atrocities against them, and in particular against *dalits* by higher caste Hindus, have been commonplace for years. *Dalits* and *adivasis* have also suffered torture and public humiliation by the police. Women belonging to these groups are particularly vulnerable to police violence, including rape, and several women have died in police custody.

Forty million *adivasis*, 85 per cent of India's total tribal population, inhabit the mineral and forest-rich ranges that stretch across central India, including Bihar. Most of them live below the poverty line; as a group, their rate of literacy is one-third of the national average. Economic development of these regions, such as forestry, mining and hydro-electric projects, has resulted in increasing numbers of tribal peoples losing their traditional homes and livelihoods. Many now seek a living as small farmers, or as agricultural labourers for large landowners, or migrate to the cities in search of work.

Nearly 90% of all *dalits* live in rural areas, and over half are landless agricultural labourers. In recent years protest movements have arisen among the *adivasi* and *dalit* peoples, centred on issues such as compensation for lost land, higher wages, or autonomy for the tribal regions.

The *Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989*, makes the deliberate abuse of *adivasis* and *dalits*, including interference with legal proceedings, by police or security forces a criminal offence. It allows states to establish special courts to try such cases and provides for legal aid and compensation for victims. Since this legislation was passed, human rights violations against *dalits* and *adivasis* have persisted, yet Amnesty International is not aware of any special courts having been established.

points to make in letters

- Express concern about the death in police custody of an *adivasi* woman, Moti Birua, who was reportedly raped and otherwise tortured before her death. (Please cite her full name and the date and location of the incident described). Say that the post-mortem indicated that she died from injuries which could have been the result of torture.

-
- Welcome the news that a judicial inquiry was ordered into Moti Birua's death and ask whether there have been any results from the inquiry. Ask whether her relations have been granted adequate compensation.
 - Point out that Amnesty International is concerned at reports that police reportedly threatened villagers not to cooperate with any investigations into the incident. Also express concern at reports that the police originally refused to register a First Information Report filed by the local headman. Urge that special measures be taken by the Bihar government to protect all witnesses from threats and intimidation.
 - Say that you are aware that at least 49 deaths in custody have reportedly occurred in Bihar since 1985.
 - Urge the government to ensure that existing legal safeguards are applied in all circumstances, notably the rules that all arrested persons be brought in person before a magistrate within 24 hours of arrest and that women and children are not taken to police stations for purposes of investigation. Also urge the authorities to grant prompt medical examinations by an independent doctor for all detainees.

please write to the following:

Official

1. Mr Laloo Prasad Yadav
Chief Minister of Bihar
Office of the Chief Minister
Patna
Bihar
India

2. Mr Jiya Lal Arya
Home Secretary
Office of the Home Secretary
Patna
Bihar
India

3. Mr Shallendra Mahto (Jharkhand Mukti Morcha)
Member of the Lok Sabha for West Singhbhum
113, North Avenue,
New Delhi
INDIA

4. Mr A. K. Chaudhary
Director General of Police
Office of the Director General of Police
Police Headquarters
Patna 800 001
Bihar

Salutation

Dear Chief Minister

Dear Home Secretary

Dear Sir

Dear Director General

Please send copies of letters you write to the Indian embassy in your country.

**The death in custody of
Namdeo Atak, and sexual abuse of
Parvati Rusankote - *adivasis***

Maharashtra - India

On the night of 21 June 1990, a group of drunken policemen from Tuljapur police station tried to rape Parvati Rusankote, a 25-year-old woman from the Bhagdi Dhangar tribe who was five months pregnant. Her brother Namdeo Atak intervened. Both were thrown into a jeep and taken to the local police station. Parvati Rusankote was beaten and sexually abused. Namdeo Atak was reportedly beaten to death. Parvati Rusankote described how they were tortured:

"some of the seven policemen tied Namdeo to a table and began whipping him with their belts and hitting him with their lathis [wooden truncheons]. Meanwhile, the rest caught hold of me. One of them gripped my hair and ripped apart my blouse, while another disrobed me and stood on my thighs. Kakde [the Sub-Inspector] tried to push me into an inner room, but I held on with all my strength. They kept abusing me and also kicked me on the stomach"

Namdeo Atak was beaten until he fell unconscious. He and his sister were then taken back to their hut. According to Ambadas, Namdeo Atak's father:

"They made my son stand up and then asked him to bend. He could not even stand. They abused him, bent him double and broke his back."

Parvati Rusankote says that her brother died after four hours of beating: "The policemen left only when they were certain he was dead."

A medical examination at the Civil Hospital reportedly found forty marks of external injuries on the body and many broken bones. Parvati Rusankote was treated for her injuries at the Civil Hospitals at Osmanabad and Solapur.

The death of Namdeo Atak and the molestation of his sister was condemned in the state assembly. All the policemen allegedly involved were suspended and the then Chief Minister, Sharad Pawar, instituted an inquiry by the Criminal Investigative Department (CID) into the incident. He promised that the victim's family would be adequately compensated. The Chief Minister admitted police responsibility for the killing, but rejected demands for a judicial inquiry saying it would only delay necessary action. A Sub-Inspector was arrested after his application for bail was rejected. It is unknown whether the CID inquiry was held or whether prosecutions have taken place.

Background

Deaths in Custody and Impunity

Amnesty International knows of 415 people who have died in the custody of the police or security forces in India since 1985 and where torture was alleged to have been the cause of death. This happens throughout India, regardless of the political party in power. The actual number of such cases is thought to be considerably higher. Although some officials have acknowledged the problem, India's record on ensuring that the culprits are brought to justice is extremely poor. Impartial judicial inquiries are rare and only three cases are known in which police officers have been convicted for such crimes since 1985. The inability or unwillingness of the authorities to bring those responsible to justice is one of the major reasons why such human rights abuses continue to happen throughout India.

The majority of those who die in police custody are criminal suspects who are tortured in order to extract a confession or information. In some states, people have died in custody after arrest on suspicion of involvement in or support for armed groups advocating greater autonomy or independence. Some appear to be innocent of any crime. Often deaths occur after people have been detained without the police acknowledging their arrest, or bringing them before a magistrate within 24 hours of arrest, as the law requires.

Most victims of custodial death are poor and illiterate, often belonging to the most disadvantaged groups: the *dalits* (oppressed castes) and *adivasis* (tribals) who in recent years have become increasingly organized. Some victims are as young as 13, or as old as 76. Women have also been tortured and have died of their injuries. Some people have died in custody after the police arrested and tortured them at the instigation of powerful interest groups, such as local politicians or landlords. Cover-ups extend to senior police, officials and even some members of the medical profession and magistrates.

Adivasis and Dalits

Almost one quarter of India's population, are members of the *dalit* ("oppressed" castes) or *adivasi* (tribal) communities. They are the poorest and most oppressed groups of people in India. Atrocities against them, and in particular against *dalits* by higher caste Hindus, have been commonplace for years. *Dalits* and *adivasis* have also suffered torture and public humiliation by the police. Women belonging to these groups are particularly vulnerable to police violence, including rape, and several women have died in police custody.

Forty million *adivasis*, 85 per cent of India's total tribal population, inhabit the mineral and forest-rich ranges that stretch across central India, including Bihar. Most of them live below the poverty line; as a group, their rate of literacy is one-third of the national average. Economic development of these regions, such as forestry, mining and hydro-electric projects, has resulted in increasing numbers of tribal peoples losing their traditional homes and livelihoods. Many now seek a living as small farmers, or as agricultural labourers for large landowners, or migrate to the cities in search of work.

Nearly 90% of all *dalits* live in rural areas, and over half are landless agricultural labourers. In recent years protest movements have arisen among the *adivasi* and *dalit* peoples, centred on issues such as compensation for lost land, higher wages, or autonomy for the tribal regions.

The *Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989*, makes the deliberate abuse of *adivasis* and *dalits*, including interference with legal proceedings, by police or security forces a criminal offence. It allows states to establish special courts to try

such cases and provides for legal aid and compensation for victims. Since this legislation was passed, human rights violations against *dalits* and *adivasis* have persisted, yet Amnesty International is not aware of any special courts having been established.

points to make in letters

- Say that you are concerned at the reported death under torture of Namdeo Atak and the sexual abuse of his sister Parvati. (Please cite their full names and the date and location of the incident described). Mention the findings of the post-mortem report.
- Ask about the outcome of the Criminal Investigative Branch inquiry and urge the government to institute an independent and impartial inquiry into the incident. Say that Amnesty International believes such inquiries to be crucial to establish the truth about what happened.
- Welcome the promise made by the then Chief Minister that the victim's family would be adequately compensated. Ask how much compensation was paid and to whom.
- Point out that Namdeo Atak and Parvati Rusankote were both members of the Bhagdi Dhangar tribe, and that Amnesty International is concerned that many members of the *adivasi* community are reported to be victims of torture.
- Urge the government to implement all the provisions of the *Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act*, which provides for the establishment of special impartial courts to try alleged offenders, and legal aid for the complainants.

- Urge the authorities to implement safeguards against custodial violence by ensuring that all detainees are brought before a magistrate within 24 hours, allowed immediate access to legal advice and a medical examination by an independent doctor.

please write to the following:

Official

1. Mr Sudhakar Rao Naik
Chief Minister of Maharashtra
Office of the Chief Minister
Mantralaya
Bombay 400 032
Maharashtra
India
2. Mr Sharad Pawar
Minister of Defence
Ministry of Defence
South Block
New Delhi 110 011
INDIA
[Sharad Pawar was Chief Minister
at the time of the incident]
3. Mr Madukarrao K. Pichad
Minister of Tribal Development, Forests and Forestry

Salutation

Dear Chief Minister

Dear Minister

Dear Minister

Office of the Minister of Tribal Development
Bombay
India

4. Mr Nivrutti N. Thite
Home Minister
Office of the Home Minister
Bombay
India

Dear Minister

Please send copies of letters you write to the Indian embassy in your country.

In 1991 the Guwahati High Court heard a petition filed by civil liberties lawyers about an incident of torture of many villagers which occurred in a tribal area of Manipur four years earlier. On 9 July 1987 a group of insurgents believed to belong to the National Socialist Council of Nagaland attacked the Oinam Assam Rifles post, next to Oinam village. The insurgents left with a large quantity of arms and ammunition. Nine soldiers were killed in the attack and three were seriously injured. The Assam Rifles sealed off the area and on 11 July began an extensive combing operation, code name "Operation Bluebird"¹.

In the course of the cordon-and-search operation, hundreds of villagers in and around Oinam were detained and tortured. At least 11 men died in the custody of the security forces, apparently as a result of torture. The Assam Rifles claimed that they had died in "armed encounters" or "while trying to escape". Over 300 villagers were interrogated and beaten, some of them so severely that their limbs were broken, given electric shocks, burned with cigarettes or hung upside-down. Some villagers had chili powder inserted into sensitive parts of their bodies. Others were buried up to their necks and led to believe they would be killed. The youngest victim was one year old, the oldest a man of 65. Thirty-four were children aged 12 and under. Boys of 15 and 16 were tortured with electric shocks. At least three women claimed they were raped, and several others that they were sexually harassed. Several pregnant women were beaten and miscarried as a consequence. The Headman of Oinam village described the torture he had witnessed:

"they also indiscriminately attack the villagers - hitting with police kicking down and pulling them up by their hair and repeating the kicking and hitting... chilli powder dissolved in water were rubbed into the nostrils, eyes and soft parts of the body and took sadistic pleasure from the cries of pain by the victims."

Local civil liberties lawyers worked hard to ensure that the victims, many of them illiterate, received redress. Consequently, on 6 June 1988 the Guwahati High Court directed the Sessions Court at Imphal to record first-hand evidence from the villagers about the incident. The Sessions Court concluded its hearings on 21 April 1990, and the case was referred to the Guwahati High Court. Throughout the hearings the security forces have repeatedly attempted to intimidate witnesses and their relatives through illegal detention, torture and death threats. Some of the villagers were arrested by the Assam Rifles and allegedly tortured to make them retract their evidence. Others were arrested after they had testified in court. The UN Special Rapporteur on Torture, asking the Indian Government about this, was told that these reports were false and politically motivated.

Not only are the victims waiting for redress some four years later, many reportedly still suffer from the effects of torture. The Naga Doctors' Forum and the Drug Action Forum of West Bengal examined 104 of the villagers. In August 1990 all but three of them were found to be mentally unwell and many still suffered pain and disability from injuries inflicted by torture.

¹see Amnesty International report "Operation Bluebird". A case study of torture and extrajudicial executions in Manipur, published October 1990, (AI Index: ASA 20/17/90)

Despite the gravity of this incident, and the detailed allegations of human rights violations, some of which have been confirmed in court, the central government refused to order an independent investigation into the allegations. Only a local police inquiry was held which confirmed some torture allegations.

Background

Torture in India

Torture is pervasive and routine in every one of India's 25 states. It has resulted in many hundreds of deaths during the last decade. A major reason for the persistence of widespread torture in India is the refusal of leading government officials to recognise that torture exists, let alone that it should be vigorously tackled. This attitude is maintained despite the fact that judges, journalists, civil liberties groups, official commissions and even police officials have attested to its widespread occurrence.

Torture is extensive in the areas where political groups demand separatism or increased autonomy, especially when armed opposition groups are operative. This is the case in Jammu and Kashmir, Punjab, the northeast Indian states including Assam, and regions of central India where the *Naxalite* (Maoist revolutionary) movement is active. Here torture is a means of obtaining confessions and gathering intelligence, but it has an extra component: torture is indiscriminately used both as a deterrent and in reprisal for attacks by armed groups. A similar pattern occurs in states where there is organized opposition to economic repression, such as Bihar, where the police sometimes act as an instrument of local ruling groups, including local landowners and employers.

Victims of torture most frequently come from the poor and underprivileged sections of Indian society: notably *dalits* (oppressed castes) and *adivasis* (tribals), including women belonging to these communities who are frequently raped by the police in custody.

Tribal Communities in the Northeast

More than 220 hill tribes live in seven states in northeast India: Assam, Nagaland, Manipur, Arunachal Pradesh, Meghalaya, Mizoram and Tripura. They are ethnically, economically and socially different from inhabitants of other parts of India, from which the northeast is nearly cut off by Bangladesh.

Accusing the central government of neglect and exploitation, several tribal movements in the northeast states have advocated autonomy or independence and some have taken up arms against the central government. Members of the security forces were first posted to the northeast Indian states in the 1950s. Human rights violations have been attributed to the police and the army, particularly the Assam Rifles, who report directly to the central government's Home and Defence ministries. Torture and ill-treatment occur routinely during counter-insurgency operations to flush out suspected members and supporters of the opposition.

The most serious abuses have been reported from the areas where armed groups such as the National Socialist Council of Nagaland, the People's Liberation Army of Manipur, the United Liberation Front of Manipur and the United Liberation Front of Assam, are active. All these organizations are banned. Amnesty International strongly condemns torture or killings of prisoners, including hostages, reportedly carried out by these groups.

Special Legislation and Lack of Accountability

The accountability of the military for violations of human rights is inhibited by the *Armed Forces Special Powers Act*, in force in Assam, Jammu and Kashmir and Punjab. Section 6 of this Act grants the security forces prior immunity from prosecution for "*anything done or purported to be done in the exercise of the powers conferred by this Act*". The Act also gives the security forces wide powers to make arrests, conduct searches without warrant, and to shoot to kill "*any person who is acting in contravention of any law or order for the time being in force in the disturbed area prohibiting the assembly of five or more persons or the carrying of weapons or of things capable of being used as weapons.*" Several members of the Human Rights Committee, set up under the International Covenant on Civil and Political Rights (ICCPR), found that the Act contravened the rights guaranteed in the ICCPR, which India is duty bound to uphold, notably the immunity from prosecution granted under the Act. Amnesty International knows of only two cases in which members of the paramilitary forces have been charged with offences which constitute violations of human rights, but knows of no convictions.

points to make in letters

- Write about the torture of many villagers which occurred during "Operation Bluebird" in Oinam and the surrounding villages in July 1987 (Please cite the date and location of the incident described).
- Express concern that none of the villagers including the relatives of those who died in custody have received any compensation. Urge that all those who are victims of human rights violations receive speedy and adequate compensation (You should here describe the 1990 medical findings). Note that the Guwahati High Court held an inquiry into the incident, and ask to be informed of the outcome of the inquiry.

- Say that despite the strong evidence of torture put before the courts, Amnesty International is not aware of any independent inquiry into the incident. Urge that such an inquiry be ordered.
- Say that you are concerned that the security forces have continued to intimidate witnesses and their relatives throughout the court hearings. Urge that all witnesses be given special protection and that strict orders are given to the security forces not to harass or intimidate witnesses.
- Ask the government to condemn torture, ensuring that those responsible for such abuses be brought to justice. Say that Amnesty International believes that one of the greatest hindrances to the protection of human rights is the special legislation which grants security forces immunity from prosecution. Ask the government to withdraw section 6 of the Armed Forces Special Powers Act which provides such immunity.
- Urge the authorities to take preventive measures to protect people from the threat of torture by ensuring that all detainees be offered a medical examination by an independent doctor preferably within 24 hours. Urge that all detainees are brought before a magistrate within 24 hours and allowed prompt access to legal advice.

please send letters to the following

<i>Official</i>	<i>Salutation</i>
1. Mr Chintamani Panigrahi Governor of Manipur Raj Bhavan Imphal Manipur	Dear Governor
2. Mr R. K. Ranbir Singh Chief Minister Chief Minister's House Imphal Manipur India	Dear Chief Minister
3. Mr Nabakishore Singh Deputy Commissioner Babupara Imphal Manipur India	Dear Deputy Commissioner
4. Mr Sharad Pawar Minister of Defence Ministry of Defence South Block	Dear Minister

New Delhi 110 011
INDIA

5. Meijinlung Kamson - Congress (I)
Member of the Lok Sabha for Manipur
171-172 South Avenue
New Delhi

Dear Sir

Please send copies of letters you write to the Indian embassy in your country.

The death in custody of Raju Mohite - *dalit*

Maharashtra - India

Raju Mohite, a 26-year-old married man from the *dalit* ("oppressed" caste) community died in Bhagwati Hospital on 6 July 1990, the day after his release from Oshiwara Police Station near Andheri in Bombay. The post-mortem report showed 19 injuries on various parts of his body, inflicted within four days of his death while he was held in custody. It concluded that all except one of the injuries were probably due to a "hard and blunt object". The police denied he was tortured, claiming his injuries were caused by a fall or accident.

Raju, the father of a two-year-old son, was arrested on 26 June 1990 in Nasik village by police investigating a burglary. His relatives and a lawyer were denied access to him while he was detained, and given incorrect information about his whereabouts and the circumstances of and reasons for his arrest.

Raju was taken by the police for a medical examination at Cooper Hospital on 1 July. The Casualty Register listed wounds which could have been caused by torture:

*"Abdomen pain and vomiting.
ENT [ear, nose and throat] bleeding on examination BP [blood pressure] 150/100
Infected wound on left arm abrasion 3" long.
Blackening of skin of both wrist and back.
Oedema [swelling] of both hands and feet.
Tenderness and old MA."*

The constable who brought him was requested by the hospital to return Raju Mohite the next day, which he failed to do. Instead, Raju was held another four days before being brought before a magistrate and released, barely able to walk. His eldest brother, Balu, recalled that when Raju came home:

"my brother's toes had been smashed, his legs were swollen and the entire lower part of his body as well as his back had turned green and black... With great difficulty, he spoke to us and told us that the police had repeatedly beaten him to make him confess to some offence". [The Daily, 12 July 1990]

Raju was immediately taken to hospital and died there the next day.

A civil liberties group, the Committee for the Protection of Democratic Rights, was instrumental in having the death of Raju Mohite raised in the Bombay press and the state's legislative assembly. After an inquiry by the Criminal Investigation Department, a case was registered against police officials for causing grievous injury in order to extract a confession. Seven policemen were arrested on 8 July, but released the same day on bail. There were reports that a circular was issued to doctors of Bhagwati hospital not to speak to the press about Raju's death. No independent and impartial investigations have been ordered into his death.

Background

Deaths in Custody and Impunity

Amnesty International knows of 415 people who have died in the custody of the police or security forces in India since 1985 and where torture was alleged to have been the cause of death. This happens throughout India, regardless of the political party in power. The actual number of such cases is thought to be considerably higher. Although some officials have acknowledged the problem, India's record on ensuring that the culprits are brought to justice is extremely poor. Impartial judicial inquiries are rare and only three cases are known in which police officers have been convicted for such crimes since 1985. The inability or unwillingness of the authorities to bring those responsible to justice is one of the major reasons why such human rights abuses continue to happen throughout India.

The majority of those who die in police custody are criminal suspects who are tortured in order to extract a confession or information. In some states, people have died in custody after arrest on suspicion of involvement in or support for armed groups advocating greater autonomy or independence. Some appear to be innocent of any crime. Often deaths occur after people have been detained without the police acknowledging their arrest, or bringing them before a magistrate within 24 hours of arrest, as the law requires.

Most victims of custodial death are poor and illiterate, often belonging to the most disadvantaged groups: the *dalits* (oppressed castes) and *adivasis* (tribals) who in recent years have become increasingly organized. Some victims are as young as 13, or as old as 76. Women have also been tortured and have died of their injuries. Some people have died in

custody after the police arrested and tortured them at the instigation of powerful interest groups, such as local politicians or landlords. Cover-ups extend to senior police, officials and even some members of the medical profession and magistrates.

Adivasis and Dalits

Almost one quarter of India's population, are members of the *dalit* ("oppressed" castes) or *adivasi* (tribal) communities. They are the poorest and most oppressed groups of people in India. Atrocities against them, and in particular against *dalits* by higher caste Hindus, have been commonplace for years. *Dalits* and *adivasis* have also suffered torture and public humiliation by the police. Women belonging to these groups are particularly vulnerable to police violence, including rape, and several women have died in police custody.

Forty million *adivasis*, 85 per cent of India's total tribal population, inhabit the mineral and forest-rich ranges that stretch across central India, including Bihar. Most of them live below the poverty line; as a group, their rate of literacy is one-third of the national average. Economic development of these regions, such as forestry, mining and hydro-electric projects, has resulted in increasing numbers of tribal peoples losing their traditional homes and livelihoods. Many now seek a living as small farmers, or as agricultural labourers for large landowners, or migrate to the cities in search of work.

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The Medical Profession and Torture

Many victims of police violence end up in hospital. If they are about to die, doctors are legally obliged to fetch a magistrate to record a dying declaration. Yet very few victims of torture make such a "dying declaration". A senior doctor was quoted as saying: "Normally the history of torture does not come out" - the reason apparently being that patients in custody rarely complain about torture since the police are always present. Expressing a sense of helplessness, the doctor added: "Even if it does, we haven't been taught to do anything. Torture is seen as official".

Many doctors have given detailed and honest accounts of the type of injuries - and their causes - inflicted on some of the men and women brought in for treatment or examination by the police. Post-mortems have frequently indicated police torture. However, the police have pressurized doctors to change the cause of death in post-mortem reports and some doctors have participated in such cover-ups, in order to make it appear that the person died of natural causes. The Resident Doctor's Association (RDA) of the All India Institute of Medical Sciences (AIIMS) has condemned the police for "interfering in the professional freedom of doctors of the AIIMS". A 1989 study found that many post-mortems in Delhi were conducted by police doctors in police hospitals to which the public had no access. Many private doctors have also apparently assisted in police cover-ups by failing to record injuries, falsifying records or removing the cause of death from post-mortem reports.

points to make in letters

- Write about the death in custody of Raju Mohite, and the medical evidence indicating that he was tortured to death (Please cite his full name and the date and location of the incident described).
- Ask for a judicial inquiry into his death. Point out that Raju Mohite was a *dalit* and that this group is especially vulnerable to police torture. Ask the government to implement all the provisions for members of this community required under the *Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act*.
- Note reports that six policemen and one sub-inspector were arrested in connection with his death, and urge the authorities that they be brought to justice.
- Say that Amnesty International has documented 21 incidents of custodial death in Maharashtra since 1985 in which there have been allegations of torture, and that one cause of the persistence of such human rights violations is the unwillingness of the authorities to bring to justice those responsible.
- Say that you are particularly concerned at reports that there was police intimidation of and interference with medical personnel, and urge the government to ensure that the medical profession be permitted to carry out its duties free from any interference by the police or other officials, and can safely report cases where they suspect that a detainee has been tortured.
- Welcome the statement made by the Minister of State for Home Affairs on 17 July 1990 that a new code for police had been prepared, including an obligation to conduct a medical examination immediately after arrest, and urge that this code be promulgated and enforced.
- Note that Raju Mohite was denied access to legal counsel. Urge the authorities to implement legal safeguards against custodial violence by ensuring that all detainees are brought before a magistrate within 24 hours, allowed immediate access to legal advice and a medical examination by an independent doctor.

please write to the following

1. Mr Sudhakar Rao Naik
Chief Minister of Maharashtra
Mantralaya
Bombay 400 032
Maharashtra
2. Mr Arun D. Mehta
Minister of Home, Labour, Parliamentary
Affairs
Office of the Minister of Home, Labour
and Parliamentary Affairs.
Bombay
India
3. Mr K. B. Ramamoorthi
Chief Secretary to the Govt of
Maharashtra
Mantralaya
Bombay 400 032
Maharashtra
4. Mr Shankarrao Chavan
Minister of Home Affairs, Information
and Broadcasting
Ministry of Home Affairs
North Block
New Delhi 110 001

Please send copies of letters you write to the Indian embassy in your country.

Assam, Northeast India

The Torture of Rajumoni Bezbarooah - student

Rajumoni Bezbarooah is a student at Guwahati University in Assam. On 28 January 1991 he was picked up by police from the university hostel during a raid, but was ordered released the next day by the Guwahati High Court. The Court also ordered that he could not be taken into custody without the permission of the hostel warden.

Despite the protection this court order should have given him, Rajumoni was arrested again two months later. He alleged that soldiers destroyed the court order

when he showed it to them. He was taken away by the army from his Kacharighat residence in Golaghat district and kept in the army camp in Golaghat for five days. He alleges that during this time he was beaten and given electric shocks by army personnel.

On his release, Rajumoni was first admitted to the Golaghat civil hospital from where he was referred to the Guwahati Medical College Hospital.

Torture is widespread in Assam. The People's Union for Democratic Rights (PUDR) described the methods used after visiting the state:

"Beating, stripping and hanging them upside down and then beating on head and chest, thumping on chests with boots, pouring ice cold water, burying them up to chest and then beating or keeping a bucket over the head, squeezing testicles with clamps, dipping in cold water drums, forcefully keeping them awake for days together, denial of food or water are some of the forms of torture used. But the most common form is electric shocks. Sensitive parts of the body including ears, tongue, armpits, genitals and head were repeatedly given electric shocks sometimes in progressively higher voltages. With electrodes at each temple the brain was subjected to electric waves."

Background

Assam and "Operation Bajrang"

Direct rule from New Delhi, known as President's Rule, was imposed in Assam on 28 November 1990, in response to rising political violence. The state was declared a "disturbed area" and responsibility for maintaining law and order was given to the army. The United Liberation Front of Assam (ULFA) was banned and a major counter-insurgency offensive - "Operation Bajrang" - was launched. During this campaign, and a later operation launched in September 1991, widespread human rights violations were reported. In January 1991 one national newspaper reported:

"Every single day reports pour in from different parts of the state about army atrocities, including killings, torture, rape and harassment ... The local newspapers are full of heart-rending reports of ordinary people being picked up by the army for no reason, women being raped and houses raided at uncanny hours". (Times of India, 15 January 1991)

During "Operation Bajrang", the army and police arrested almost 3,000 people in their search for ULFA militants. They included peasants, labourers, academics, political and social activists, doctors, and businessmen. Youths and students were a particular target. Many of those arrested are believed to have been tortured. In December 1990, the army strongly denied allegations of torture and rape during "Operation Bajrang", and claimed they were fabricated by "political leaders with vested interests".

The Guwahati High Court has often acted to protect people illegally detained and in danger of torture, although the security forces have defied some High Court rulings.

Torture in India

Torture is pervasive and routine in every one of India's 25 states. It has resulted in many hundreds of deaths during the last decade. A major reason for the persistence of widespread torture in India is the refusal of leading government officials to recognise that torture exists, let alone that it should be vigorously tackled. This attitude is maintained despite the fact that judges, journalists, civil liberties groups, official commissions and even police officials have attested to its widespread occurrence.

Torture is extensive in the areas where political groups demand separatism or increased autonomy, especially when armed opposition groups are operative. This is the case in Jammu and Kashmir, Punjab, the northeast Indian states including Assam, and regions of central India where the *Naxalite* (Maoist revolutionary) movement is active. Here torture is a means of obtaining confessions and gathering intelligence, but it has an extra component: torture is indiscriminately used both as a deterrent and in reprisal for attacks by armed groups. A similar pattern occurs in states where there is organized opposition to economic repression, such as Bihar, where the police sometimes act as an instrument of local ruling groups, including local landowners and employers.

Victims of torture most frequently come from the poor and underprivileged sections of Indian society: notably *dalits* (oppressed castes) and *adivasis* (tribals), including women belonging to these communities who are frequently raped by the police in custody.

Special Legislation and Lack of Accountability

The accountability of the military for violations of human rights is inhibited by the *Armed Forces Special Powers Act*, in force in Assam, Jammu and Kashmir and Punjab. Section 6 of the Act grants the security forces prior immunity from prosecution for "*anything done or purported to be done in the exercise of the powers conferred by this Act*". The Act also gives the security forces wide powers to make arrests, conduct searches without warrant, and to shoot to kill "*any person who is acting in contravention of any law or order for the time being in force in the disturbed area prohibiting the assembly of five or more persons or the carrying of weapons or of things capable of being used as weapons.*" Several members of the Human Rights Committee, set up under the International Covenant on Civil and Political Rights (ICCPR), found that the Act contravened the rights guaranteed in the ICCPR, which India is duty bound to uphold, notably the immunity from prosecution granted under the Act. Amnesty International knows of only two cases in

which members of the paramilitary forces have been charged with offences which constitute violations of human rights, but knows of no convictions.

points to make in letters

- Write about the alleged torture of the student Rajumoni Bezbarooah in Assam in January 1991 (Please cite his full name and the date and location of the incident described).
- Say that you are concerned at reports that the military defied the ruling of the Guwahati High Court not to detain Rajumoni Bezbarooah without permission of the hostel warden.
- Urge the government to set up an impartial and independent inquiry into the allegations and to bring those responsible to justice.
- Explain that Amnesty International is aware of the problems facing the military in the northeast that it condemns the killing of prisoners by anyone, including armed opposition groups, but that nothing justifies the human rights violations being perpetrated by the Indian army, or disregard for the Indian legal system.
- Say that you are concerned at frequent reports of human rights violations in Assam and the northeast, and urge the authorities to implement the orders given by the Guwahati High Court that all detainees must be transferred to the nearest police station with least possible delay and brought before a magistrate within 24 hours of arrest.

- Express your concern that the *Armed Forces Special Powers Act* grants the army powers to shoot to kill and provides immunity from prosecution. Say that these provisions contravene the rights provided in the International Covenant on Civil and Political Rights which India is duty bound to uphold. Urge that the laws be changed to make them comply with international human rights standards.

please write to the following

Official

Salutation

1. Mr Hiteswar Saikia
Chief Minister of Assam
Office of the Chief Minister
Dispur
Guwahati 781 006
Assam
India

Dear Chief Minister

2. Mr H. N. Das
Chief Secretary
I.A.S Assam Secretariat.
Dispur
Guwahati 781 006
Assam
India

Dear Chief Secretary

3. Mr K. Vijaya Bhaskara Reddy
Minister of Law, Justice and Company Affairs

Dear Minister

Ministry of Law & Justice
Shastri Bhavan
Dr Rajendra Prasad Road
New Delhi 110 001

4. Mr Kirip Challha (Congress (I) party)
Member of the Lok Sabha for Guwahati
184 South Avenue
New Delhi

Dear Sir

Please send copies of letters you write to the Indian embassy in your country.

According to the Tamil Nadu police, Sekar, a law student aged 25, and Kandan, a 28-year-old agricultural labourer who was married with one young child, were both killed as a result of police firing to disperse rioters in Sorapur village on 2 September 1989.

Witnesses tell a different story. They claim that the police fired indiscriminately into a crowd in Panaiya-dikuppam, in the Union Territory of Pondicherry, killing Kandan, and injuring Sekar in the leg. His relatives allege that Sekar died later in police custody as a result of beatings. In an affidavit, Sekar's mother said:

"I found the police dragging my son towards the limits of Tamil Nadu... I ran behind the Tamil Nadu police and beseeched them to leave my wounded son and not to carry him away... The two policemen went dragging my son by his legs. My son's body was lying on his back and he was bleeding profusely."

Sekar died later in police custody. Both Kandan and Sekar were members of the *dalit* community living in an area which was involved in a dispute with local landlords over the question of wages. The police had apparently intervened on the side of the landlords.

According to an investigation by the People's Rights Protection Movement (PRPM), a week after the incident local government officials asked the parents of the deceased to sign statements that they had received 10,000 Rupees for the deaths of their sons in Sorapur. But the parents refused to sign the statement saying that the deaths took place in Panaiya-dikuppam. The Tamil Nadu government ordered an inquiry into the incident. In October 1989 the wife of Kandan and Sekar's mother submitted sworn affidavits to the inquiry. Sekar's mother claimed in her affidavit that Sekar had not taken part in the disturbances in Sorapur village, and that witnesses were afraid to appear before the inquiry as they feared reprisals by the Tamil Nadu police.

A Supreme Court writ petition filed in 1990 criticized the government inquiry. It noted that the inquiry did not allow for the possibility of compensating the families of the victims and that the post-mortem report and other important legal documents were not made available to the family. They were therefore being denied the possibility of fairly presenting their case. The petition also urged that interim compensation be paid to the families and that an inquiry be set up under the *Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act*.

The outcome of the Supreme Court petition is not known. Amnesty International has not received any information to indicate that police officials have been brought to justice in connection with the death of Sekar or Kandan.

Background

Deaths in Custody and Impunity

Amnesty International knows of 415 people who have died in the custody of the police or security forces in India since 1985 and where torture was alleged to have been the cause of death. This happens throughout India, regardless of the political party in power. The actual number of such cases is thought to be considerably higher. Although some officials have acknowledged the problem, India's record on ensuring that the culprits are brought to justice is extremely poor. Impartial judicial inquiries are rare and only three cases are known in which police officers have been convicted for such crimes since 1985. The inability or unwillingness of the authorities to bring those responsible to justice is one of the major reasons why such human rights abuses continue to happen throughout India.

The majority of those who die in police custody are criminal suspects who are tortured in order to extract a confession or information. In some states, people have died in custody after arrest on suspicion of involvement in or support for armed groups advocating greater autonomy or independence. Some appear to be innocent of any crime. Often deaths occur after people have been detained without the police acknowledging their arrest, or bringing them before a magistrate within 24 hours of arrest, as the law requires.

Most victims of custodial death are poor and illiterate, often belonging to the most disadvantaged groups: the *dalits* (oppressed castes) and *adivasis* (tribals) who in recent years have become increasingly organized. Some victims are as young as 13, or as old as 76. Women have also been tortured and have died of their injuries. Some people have died in custody after the police arrested and tortured them at the instigation of powerful interest groups, such as local politicians or landlords. Cover-ups extend to senior police, officials and even some members of the medical profession and magistrates.

Adivasis and Dalits

Almost one quarter of India's population, are members of the *dalit* ("oppressed" castes) or *adivasi* (tribal) communities. They are the poorest and most oppressed groups of people in India. Atrocities against them, and in particular against *dalits* by higher caste Hindus, have been commonplace for years. *Dalits* and *adivasis* have also suffered torture and public humiliation by the police. Women belonging to these groups are particularly vulnerable to police violence, including rape, and several women have died in police custody.

Forty million *adivasis*, 85 per cent of India's total tribal population, inhabit the mineral and forest-rich ranges that stretch across central India, including Bihar. Most of them live below the poverty line; as a group, their rate of literacy is one-third of the national average. Economic development of these regions, such as forestry, mining and hydro-electric projects, has resulted in increasing numbers of tribal peoples losing their traditional homes and livelihoods. Many now seek a living as small farmers, or as agricultural labourers for large landowners, or migrate to the cities in search of work.

Nearly 90% of all *dalits* live in rural areas, and over half are landless agricultural labourers. In recent years protest movements have arisen among the *adivasi* and *dalit* peoples, centred on issues such as compensation for lost land, higher wages, or autonomy for the tribal regions.

The *Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989*, makes the deliberate abuse of *adivasis* and *dalits*, including interference with legal proceedings, by police or security forces a criminal offence. It allows states to establish special courts to try such cases and provides for legal aid and compensation for victims. Since this legislation was passed, human rights violations against *dalits* and *adivasis* have persisted, yet Amnesty International is not aware of any special courts having been established.

Land and Wage Issues

In recent years protest movements have arisen among *adivasis* and *dalits* centred on issues such as compensation for lost land, higher wages, or autonomy for the tribal regions. People who participate in such movements are at risk of custodial violence, especially when police act on behalf of the interests of local landlords. Incidents where police have opened fire upon peaceful demonstrations, or have deliberately intimidated local *dalit* or *adivasi* leaders, are frequently reported.

points to make in letters

- Write about the death in custody of Sekar (Please cite the date and location of the incident described).
- Welcome the inquiry set up by the Tamil Nadu government into the deaths of Kandan and Sekar. Ask to hear its outcome.
- Say that you are concerned at reports that witnesses are afraid of police intimidation, and that the police asked the parents of Sekar to sign false statements.
- Ask to be informed of the outcome of the 1990 Supreme Court petition asking for interim compensation to be paid to the family of the deceased and that they be allowed access to legal and medical documents.

- Note that Sekar was a *dalit* and that there was a land dispute at the time of his death. Ask the government to protect this particularly vulnerable group from police harassment.
- Ask the authorities to set up an impartial and independent judicial inquiry into Sekar's death, and to grant legal aid to the family of the deceased under the provisions of the *Scheduled Castes and Tribes (Prevention of Atrocities) Act*.
- Say that Amnesty International has documented 20 cases of custodial death in Tamil Nadu since 1985 in which torture was alleged to have been a cause of death, but knows of no prosecution of police personnel. Urge the authorities to implement safeguards against custodial violence by ensuring that all detainees are brought before a magistrate within 24 hours, allowed immediate access to legal advice and a medical examination by an independent doctor.

please write letters to the following:

official

Salutation

1. Ms J. Jayalalitha
Chief Minister of Tamil Nadu
"Veda Nilayam"
36 Poes Garden - 86
Madras
Tamil Nadu

Dear Chief Minister

2. Mr K. A. Krishnasamy
Minister for Law
255 Avvai Shanmugam
Salai-86
Madras
Tamil Nadu

Dear Minister

3. TMT. R. Indira Kumari
Minister of Social Welfare
18 Greenways Road 28
Madras

Dear Minister

Tamil Nadu

4. Mr T. V. Venkataraman
Chief Secretary of Tamil Nadu
6 1st Avenue
I Nagar-20
Madras
Tamil Nadu

Dear Chief Secretary

5. Mr M. M. Jacob
Minister of State for Home Affairs
Ministry of Home Affairs
North Block
New Delhi 110 001

Dear Minister

Please send copies of letters you write to the Indian embassy in your country.

Mass Rape of Tribal Women in Ujan Maidan village, West Tripura

Tripura - India

The Assam Rifles, a paramilitary group stationed in the northeast, conducted a cordon and search operation in Ujan Maidan, Khowai sub-division, between 31 May and 2 June 1988. They were searching for members of the outlawed Tripura National Volunteers (TNV), an armed opposition group active in the state. During those three nights, at least 14 women said they were raped. Several women were admitted to Khowai government hospital, one of them in a critical condition.

On 5 June the women recorded statements at the Hatimara school in front of the two senior state police officers. Two women said they had been raped by three and four men respectively on 1 June while alone with their children. Another woman said that her husband had been tied up when she was raped on 2 June.

Other women had similar accounts. The youngest of the victims was 12 years' old. All reported that their houses had been ransacked.

The president of the Tripura Upajati Juba Samity, then a ruling coalition partner in Tripura, visited the area and demanded relief for the villagers. The Tripura Home Minister described the allegations of rape as "false and baseless" but admitted that some of the women might have been beaten.

On 7 June, the Tripura government ordered an inquiry into the allegations and said that victims who had been admitted to hospital would be examined. The team included the District Magistrate, the Sub-Divisional Officer of the Khowai sub-division, the Deputy Superintendent of Police and a major of the Assam Rifles. Only six women could be persuaded to give statements to the team. The inquiry found that the charges were largely "fabricated and baseless", and that one woman had "probably" been raped and that two others had possibly been molested, although the women had refused medical examination. The state did give all the families in the village Rs 200 each. However, the demand for an independent judicial inquiry had, according to a June 1989 report by the All India Democratic Women's Association (AIDWA), been rejected by the state government.

The Supreme Court, acting on a petition brought by the AIDWA, was reported to have ordered Mr S. C. Deb, former judge of the Calcutta High Court, to carry out an inquiry into the allegations. Legal aid was made available. In early June 1990, eight women and one 12 year old girl gave depositions to the Deb Commission that they had been raped at gunpoint. The results of this inquiry, which was to have been completed by November 1990, are unknown.

Background

Custodial Rape of Women in India

One common form of torture by police is rape. It is so routine in India that in 1988 a newspaper reported: "Another mass rape by Bihar cops". Although the Indian Penal Code lays down a minimum of 10 years imprisonment for police officers and other public servants, including soldiers, who commit rape, few custodial rape cases come to trial and convictions are rare.

Apart from the traumatic mental, physical and emotional consequences, rape has severe social repercussions in India. Because of the negative social stigma attached to rape, and the obstacles to obtaining compensation and rehabilitation, women are often reluctant to complain of rape to the police. This is especially true for women of the *dalit* (oppressed castes) and *adivasi* (tribal) communities, who are especially vulnerable to sexual abuse and intimidation from the police.

Women's Groups in India

Often it is only as a result of intervention by voluntary organizations, particularly women's groups, that custodial rape is reported at all. There are several women's organizations which have been very active in bringing human rights violations to public attention.

There are numerous organizations campaigning on women's issues in India. Their activities include consciousness-raising programs and seminars, family welfare advice, encouraging self-sufficiency, documentation of abuses against women, rehabilitation programs, and the organization of political action to bring about change.

Tribal Communities in the Northeast

More than 220 hill tribes live in seven states in northeast India: Assam, Nagaland, Manipur, Arunachal Pradesh, Meghalaya, Mizoram and Tripura. They are ethnically, economically and socially different from inhabitants of other parts of India, from which the northeast is nearly cut off by Bangladesh.

Accusing the central government of neglect and exploitation, several tribal movements in the northeast states have advocated autonomy or independence and some have taken up arms against the central government. Members of the security forces were first posted to the northeast Indian states in the 1950s. Human rights violations have been attributed to the police and the army, particularly the Assam Rifles, who report directly to the central government's Home and Defence ministries. Torture and ill-treatment occur routinely during counter-insurgency operations to flush out suspected members and supporters of the opposition.

The most serious abuses have been reported from the areas where armed groups such as the National Socialist Council of Nagaland, the People's Liberation Army of Manipur, the United Liberation Front of Manipur and the United Liberation Front of Assam, are active. All these organizations are banned. Amnesty International strongly condemns torture or killings reportedly carried out by these groups.

Custodial Rape in Tripura and the Northeast

In August 1990, a report compiled by the government found that:

"the law and order machinery has completely broken down in the state of Tripura. There is no safety for life and property, especially of the tribal men and women." (The Sunday Statesman - 12 August 1990)

Rape by the security forces is repeatedly reported in Tripura state. Opposition members in the state assembly in April 1989 alleged that there had been 100 cases of rape in the previous few months. Rape usually occurs during counter-insurgency operations and gang rapes of tribal women by members of the police force and soldiers are frequently reported.

Reports of rape in the northeastern states were so frequent that the Assam High Court (the highest legal body in the northeast) issued an order in March 1991 prohibiting the army from taking any women to their camps for interrogation, not even when in police custody. In July 1991 the Supreme Court ordered the army in the northeast specifically to take measures to protect women from torture and harassment during army operations.

points to make in letters

- Say that you are concerned about the reported rape of tribal women by members of the Assam Rifles in Tripura in June 1988 (Please cite the exact date and location of the incident).
- Explain that Amnesty International is aware of the problems facing the military in the northeast, that it condemns the killing of prisoners by anyone, including armed opposition groups, but that nothing justifies the human rights violations being perpetrated by the Indian army.

- Welcome the Supreme Court's decision in March 1990 to have the charges investigated by a judicial official. Say that impartial inquiries by independent bodies are important for establishing the truth about what happened and can serve to prevent further human rights abuses. Ask for the outcome of the Deb Commission inquiry.
- Welcome the July 1991 Supreme Court order that the army in the northeast specifically are to take measures to protect women from torture and harassment during army operations, including observation of the provisions in the Code of Criminal Procedure to protect women during investigations and searches. Ask that these orders be implemented in all cases.
- Urge the government to take preventive measures against such human rights violations, by ensuring that existing legal safeguards are applied in all circumstances, notably the rules that all arrested persons be brought in person before a magistrate within 24 hours of arrest and that women and children are not taken to police stations for purposes of investigation.

please write to the following

Official

Salutation

1. Mr Sudhir Ranjan Mahjundar
Chief Minister of Tripura
Office of the Chief Minister
Agar
Tripura
India

Dear Chief Minister

Note that the Assam Rifles report to the Union Home and Defence Ministries. Letters should therefore be written to:

2. Mr Sharad Pawar
Minister of Defence
Ministry of Defence
South Block
New Delhi 110 011
India

Dear Minister

3. Mr M. M. Jacob
Minister of Home Affairs
Ministry of Home Affairs
North Block
New Delhi 110 001
India

Dear Minister

4. Mr Santosh Mohan Dev (Member of Lok Sabha for Tripura)
15 Ahoka Road
New Delhi

Dear Sir

India

5. Ms Bibhu Kumari Devi (Member of Lok Sabha for Tripura) Dear Madam
Ujjayanta Palace
Agartala
Tripura
India

Please send copies of letters you write to the Indian embassy in your country.