AMNESTY INTERNATIONAL
AI Index: ASA 20/001/2008
l5 January 2008

India: Urgent need to address large scale human rights abuses during Nandigram "recapture"

Amnesty International is concerned at reports that a range of serious human rights abuses, including unlawful killings, abductions, sexual assault of women and forced eviction and displacement of thousands of persons, have been carried out at Nandigram in East Medinipore District in the eastern Indian state of West Bengal. This report focuses on recent abuses, in the context of violence in late October and November 2007, which were reportedly carried out by armed supporters of the Communist Party of India-Marxist (CPI-M), which leads the ruling Left Front coalition in the state.

The organisation is also concerned that these abuses took place in the face of inaction by or acquiescence of the Government of West Bengal which to date has also failed to order an independent inquiry into the November 2007 violence.

1. Background

Throughout 2007, Nandigram has experienced violence as CPI-M supporters and farmers belonging to the *Bhumi Uchched Pratirodh Committee* Anti-displacement front, BUPC) clashed with each other in attempting to gain control over parts of the area.

On 28 December 2006, authorities at the neighbouring port town of Haldia circulated a notice announcing plans to set up a Special Economic Zone (SEZ) at Nandigram under the Government of India's Petro-Chemical Petroleum Investment Region PCPIR) scheme[1]. The project, envisaged as a chemical hub, reportedly required at least 4,000 hectares of land for the proposed SEZ, which was to be jointly developed by the state-owned Industrial Development Corporation and the Indonesia-based Salim group of companies. The land is owned by local farmers.

The BUPC had been formed to protest against forced eviction and displacement of local inhabitants, mostly farmers, as a result of this project. It consisted of activists owing allegiance to several political parties including the Trinamool Congress (TMC), Socialist Unity Centre of India (SUCI), Bharatiya Janata Party (BJP), Congress(I) and former supporters of the CPI-M.

A range of abuses including unlawful killings, forced evictions, excessive use of force by police, widespread violence against women, as well as failure of the authorities to provide protection to the victims, denial of access and information to the media and human rights organisations, harassment of human rights defenders and the continuing denial of justice to the victims have been reported from Nandigram during the year. The scale of such abuses recently intensified when violence broke out towards the end of October between supporters of the ruling CPI-M, and supporters of the BUPC.

[1] Since 2005, India has been promoting SEZs across the country. The policy of acquiring land for such industrial projects in several states has sparked protests from local communities fearing forced displacement and threats to their sustainable livelihood.

In January and March 2007, at least 25 people, mostly local residents, were killed and more than 100 injured and at least 20 women sexually assaulted by armed supporters of the ruling CPI-M, after 1,500 people, mostly CPI-M supporters, were forcibly displaced from their homes as the BUPC set up barricades to prevent access to some of the disputed land. On 14 March, 14 people were reportedly shot dead by police and over 150 injured in violent confrontations between police, supporters of the CPI and BUPC supporters protesting against their displacement due to the proposed industrial project. After this, the Government of West Bengal announced that the industrial project would be relocated. However the BUPC continued its blockade as it doubted that the Government of West Bengal would in fact relocate the project. Protests continued in Nandigram with the demands for justice and compensation to the victims of the 14 March firing being added to the existing demands.

Various Indian activists and human rights organisations have reported that a wide range of human rights abuses occurred during this period.[2] Amnesty International has repeatedly expressed its concerns about the excessive use of force by the police, called for full consultation with those living in the area about the proposed development and called for investigations into the abuses.[3]

During the latest outbreak of violence in Nandigram beginning on 6 November 2007, at least 15 people were reportedly killed, 100 injured and hundreds of people were displaced as groups of armed supporters of the CPI-M commenced an operation to "recapture" the area. Media and human rights organisations reported large scale violence initiated by armed CPI-M supporters, and alleged inaction by the state's law enforcement agencies who, according to the reports, failed to take steps to protect local inhabitants.

Reports stated that armed CPI-M supporters rode their motorcycles into the area on 6 November, attacking local residents with guns and home-made bombs and fighting with BUPC supporters. On 12 November, two units of the paramilitary Central Reserve Police Force (CRPF) were deployed in some of the areas in which violence had occurred, reportedly only after CPI-M supporters had stopped blocking their route. Subsequently five more units of the CRPF were deployed. In the meantime, for over five days CPI-M supporters had reportedly established control of the area, forcibly evicting and displacing scores of people and attacking BUPC supporters and other local residents while looting and burning down houses and destroying property. During this period, the media and human rights organisations were excluded from the majority of these areas as CPI-M supporters blocked the main highways.

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[2] Paschimbanga Khet Majoor Samity Report (PBKMS), *People's Uprising against Forced Land Acquisitions: All disquiet on the Nandigram front*, 22-24 January 2007; Association for Protection of Democratic Rights (APDR), PBKMS and Manabidhikar Suraksha Mancha (MASUM), *Report of Investigation Into Nandigram Mass Killings*, 23 March 2007; Sramajibi Swastha Udyog, People's Health and Janaswastha Swadikar Mancha, *Report of the Medical Team from Nandigram*, 5 April 2007; *Report of All India Independent Fact-finding Team on Nandigram Massacre*, 10 April 2007; *All India Citizens' Initiative, Report of the People's Tribunal on Nandigram*, 26-28 May 2007.

[3] Amnesty International public statements: *India: Deaths in West Bengal during protest against new industrial project*, AI Index: ASA 20/004/2007, 11 January 2007; *India: Deaths in West Bengal due to police firing during protests against new industrial project*, AI Index: ASA 20/008/2007, 15 March 2007; Amnesty International public statement: *India: Need for effective investigations and prosecutions as political violence continues in West Bengal*, AI Index: ASA 20/020/2007, 9 November 2007

On 9 November, the Governor of the State, Gopalakrishna Gandhi, described the situation in Nandigram as a "civil war" and stated that the "armed recapture is unlawful and unacceptable."[4] India's National Human Rights Commission (NHRC) sought a report from the Government of West Bengal on the violence and a six-member NHRC investigative team, which visited the area on 15-19 November, is expected to submit a report in the next few weeks. Meanwhile, the NHRC chairperson justice Rajendra Babu has stated, in a reply to CPI-M members of the Indian parliament that it was incontrovertible that human rights abuses on a mass scale took place at Nandigram.[5]

Reports from survivors, eyewitnesses, and relief workers alleged that months of discussions had taken place in the town of Khejuri between CPI-M supporters on their plans to "recapture" Nandigram. CPI-M supporters, armed with weapons, had reportedly been mobilized from other parts of West Bengal and neighbouring states of Jharkhand and Bihar.[6] Both the state administration and the police reportedly took little action to protect the local communities during the violence, and in some cases were alleged to have participated in attacks. The reports also stated that CPI-M supporters were involved in searching villages, detaining and interrogating persons suspected to be close to the BUPC and seizing weapons.

Amnesty International also learnt that hundreds of residents including women and children who managed to flee the violence were housed in two camps at Nandigram. A week after the violence, media and human rights organisations, which had limited access to these camps, reported that the camps were largely self-managed with very limited official assistance, and those in the camps did not have secure access to even minimum essential levels of food, water, shelter, sanitation, and health services. Relief materials had been provided mainly by human rights and humanitarian organisations. Medical teams from non-governmental organisations were able to reach the camps only after four attempts were blocked by CPI-M supporters.

Following this, during 28-30 November 2007, Amnesty International India took part in a research visit to Nandigram and Kolkata, the delegation comprising also a former high court chief justice, a senior lawyer and a researcher from Human Rights Watch. The delegation travelled to interior villages and relief camps, and met with the victims of the violence, relevant officials and others. This report sets out Amnesty International's concerns arising out of the findings of the visit

2. Preliminary Findings

a. Failure to protect local communities:

At Bhoota Mar in Gorchakraberia in Nandigram, the delegation members were informed by relatives of CPI-M supporters that, on 28 October 2007, BUPC supporters had vandalized their residences. The police said they had little access to interior villages as blockades had been erected by the BUPC. However, the delegation was informed by officials that there were sufficiently early reports from intelligence officials and local police that armed supporters of the CPI-M were gathering around Nandigram.[7] This was also admitted by the District Superintendent of Police Satya Prakash Panda who informed the delegation that the police had

[4] *Press release of West Bengal Governor, Kolkata,* 9 November 2007, cited in *'Time of India,* 10 November 2007.
[5] *NHRC Chairperson's reply to Members of the Parliament on Nandigram,* 21 November 2007.
[6] Profile of a hooded hunter, *The Telegraph.* 18 November 2007.
[7] *Interview with East Medinipore District MagistrateAnoop Kumar Agrawal,* Tamluk, 29 November 2007; *Interview with Officer-in-Charge Nandigram police station, Sub-inspector Champak Chowdhary,* 29 November 2007.

information that "arms and people were being mobilized in the region."[8] The risk of confrontation between BUPC and CPI-M supporters intensified towards 30 October, but the only remaining police posted at Nandigram were withdrawn without any reasons being given. District Superintendent of Police Satya Prakash Panda told the delegation members that orders to withdraw the remaining police came from his superiors in Kolkata.[9] However, it was not until 12 November 2007 that CRPF personnel were deployed to Nandigram.

The withdrawal of the state police and the delay before CPRF personnel were deployed left a period of two weeks in which the CPUM and the BUPC engaged in armed confrontations attempting to assert control over the area. There appears to have been a controversy as to the reasons for the delay in deploying the CRPF. On 13 November, the state Chief Minister, Buddhadeb Bhattacharjee, alleged that it was the Union Government which had caused the delay.[10] He said he had requested their deployment on 27 October but that several days later the Union Government informed him that the CRPF personnel could not be sent to Nandigram at that time as it was necessary to send them to other states where state assembly polls were to he held in December (Gujarat and Himachal Pradesh). On 5 November, the day before the armed CPI-M supporters arrived in Nandigram, the state Home Secretary P R Roy said he was not aware when the CRPF forces would be despatched there.[11] However, the Union Minister of State for Home Affairs, Sriprakash Jaiswal, said on 16 November that there was no delay in the deployment of CRPF in Nandigram.[12]

The Government of West Bengal had already been excluded from several areas in Nandigram by BUPC barricades and armed CPI-M supporters, and the withdrawal of the state police meant that between the end of October and ii November there was no significant official security presence in the area. Displaced persons in relief camps and eyewitnesses informed the delegation that during this period CPI-M supporters had closed in on several villages including Sonachura, Adhikaripara, Satengbari and Gokulnagar which had been barricaded by the BUPC. In these villages, residences of BUPC leaders were looted and burnt down by CPI-M supporters. By 11 November, the entire area had been "recaptured" by the CPI-M supporters, resulting in the forced eviction and displacement of hundreds of persons including women and children. During this period, the media (apart from one reporter from the daily *Dainik Statesman* who chose to stay with the local population) was prevented from entering the villages by CPI-M supporters. On 12 November, a team of social activists from Kolkata was able to start visiting some of the areas in Nandigram. Its report gives a graphic account of the difficulties encountered by that team and the media during the visits.[13]

From the above accounts, it is clear that the recent violence in Nandigram took place against a backdrop of inaction by the Government of West Bengal, including tacit acceptance of the violent operations of the armed supporters of the CPI-M. The state has a responsibility to protect the human rights of everyone within its jurisdiction, and accordingly to uphold law and order. This would include, where necessary, measures by law enforcement agencies such as taking appropriate action to end the blockade by the BUPC. But the manner in which the state

[8] *Interview with East Medinipore District Superintendent of Police Satya Prakash Panda*, Nandigram, 29 November 2007.
[9] *Interview with East Medinipore District Superintendent of Police Satya Prakash Panda*, Nandigram, 29 November 2007.
[10] Buddhadeb accuses Centre of delaying CRPF deployment, *Times of India*, 13 November 2007.
[11] Prime Minister concerned over violence in Nandigram, *Daily News and Analysis*, 5 November 2007.
[12] Centre did not delay deployment of CRPF in Nandigram, *Dailyindia.com*, 16 November, 2007.
[13] Report on Nandigram Events, Based on visit by social activists and intellectuals, 8-15 November 2007 p. 2-4.

authorities have acted, and in particular their failure to take action to prevent abuses by armed supporters of the CPT-M, suggests that they were not acting in an impartial manner. No arrests were carried out prior to the violence despite the flow of intelligence information that arms were being mobilised in the region; no search operations were carried out. No arrests were carried out during the period of the violence, and West Bengal Director-General of Police, Anup Bhushan Vohra has stated that since the police only had access the nearby town of Khejuri, where it was likely that only CPI-M supporters would have been arrested, no arrests had been ordered as "it would have been seen as partisan."[14]

Many local residents were caught up in the violence and, in the absence of sufficient protection from state law enforcement agencies, had to flee their homes and take refuge with relatives or in relief camps. The delegation found evidence to demonstrate that both the state administration and the police appeared to have taken little action or responsibility to exercise due diligence in preventing, stopping and punishing human rights abuses and to protect the local communities during the violence.

b. Victims of violence:

The numbers as well as the identities of persons killed and missing from Nandigram during this period remain unknown. Officials gave the delegation a list of five persons who died during the violence, but local authorities stated to the delegation that at least 42 people were reported missing from the days of the November 2007 violence, many of whom were presumed to have been killed. BUPC activists informed the delegation that an unknown number of persons, including BUPC supporters, had gone missing; some of whom might have gone into hiding fearing attack by CPI-M supporters. The BUPC stated in addition that complaints made to the police about missing persons had not been properly registered.

On 5 December, a grave with the remains of five half-burnt bodies was discovered at Bamanchok village near Khejuri.[15] Investigating agencies were trying to establish whether, as claimed by the CPI-M, the five persons were CPI-M supporters, including four from Gokulnagar near Nandigram and one from Belda, 50 km from Nandigram, who were killed in a bomb blast on 28 October.[16] Conflicting information received from local residents by the Association for the Protection of Democratic Rights (APDR), however, alleged that they had been killed while making bombs at Sherkhan Chak[17].

On 8 December, human remains were recovered from the Talpati canal in Bhangabera near Nandigram.[18] On 12 December, another body with two bullet holes was found in a field at Maheshpur. Shyamali Pramanick, a woman from the area, was reported to have claimed that the deceased was her husband, Harun Pramanik, a BUPC supporter who had been missing since 7 November.[19] On 14 December, two more local women, Sumitra Mirda and Annapurna Mondol, arrived at the Tamluk hospital to lay claim to the body. They said their husbands had been missing since 7 November.[20]

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[14] *Interview with West Bengal Director-General of Police Anup Bhushan Vohra,* Kolkata, 30 November 2007.
[15] Five half-burnt bodies found near Nandigram, *Times of India,* 5 December 2007.
[16] CID to probe Nandigram graves, *Times of India.* 7 December 2007.
[17] *Communication received from APDR, Kolkata,* 8 November 2007.
[18] More bones found in Nandigram, *Daily News and Analysis,* 8 December 2007.
[19] Body with bullet holes dug out: Wife of BUPC supporter says shirt belonged to her husband, *The Telegraph,* 13 December 2007.
[20] More claimants to the body from grave, *The Telegraph*, 14 December 2007.

c. Violence against women

The delegation interviewed several women who had been subjected to violence including rape, beating, threats and harassment. In addition, testimony concerning numerous incidents of violence against women has been gathered by several fact-finding teams investigating events that occurred in March as well as November. Anuradha Talwar an activist who was part of the first fact-finding team which reached Nandigram on 16 November, in a deposition submitted to the delegation, said in Satangabari village alone, local residents informed them that at least seven women had been raped.[21] In one case, a woman said that she was beaten and her four-month old son was snatched and flung on the floor. Another woman said that though she was pregnant, she was beaten until she bled.[22]

The delegation questioned officials of the Government of West Bengal and the state police about their efforts to investigate and prosecute violence against women. They found that very few incidents had been reported to the police and there were contradictory accounts from the different police forces as to exactly how many complaints of rape had been filed.

CRPF Deputy Inspector-General (DIG) Alok Raj stated that five cases of rape were registered at Nandigram including three after the November violence.[23] As against this, the Officer-in Charge, Nandigram police station said only two complaints c)f rape had been filed in the area.[24]

The Chief Secretary of West Bengal told the delegation that the authorities were taking the allegations of rape very seriously: "The accused generally belong to either political party. We have taken the cases of the women away from the local police. These cases are now being enquired by the Criminal Investigation Department of the State Police (C ID)."[25]

however, the delegation is concerned that these words have not so far been translated into action. In each of the cases given by the CRPF, some of the perpetrators were named.[26] Yet,

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[21] *Report on Nandigram events based on visit by social activists and intellectuals*, 8-15 November 2007, p. 12.
[22] *Report on Nandigram Events Based on visit by social activists and intellectuals*, 8-15 November 2007, p. 12.
[23] *Interview with CRPF DIG Alok Raj*, 29 November 2007.
[24] *Interview with Officer-in-Charge, Nandigram police station, Sub-Inspector Champak Chowdhary*, 29 November 2007. Of the two victims, one is at the Government Hospital at the District headquarters, Tamluk, while the other is at a relief camp.
[25] *Interview with West Bengal Chief Secretary Amit Kiran Deb*, 30 November 2007.
[26] The names of perpetrators in the five rape cases given by CRPF DIG Alok Raj:

A. Case No 316/07 dated 22 November 2007 under sections 448/363/361/380/325/354/506
1. Mir Aahsaan s/o Mir Masi Mir
2. Mir Barik s/o Abu Bakar
3. Mir Ilyass s/o Mir Kadir
4. Mir Kalu s/o Mir Akram
5. Mir Bachhu s/o Mir Akram
6. Maha Aditya Das s/o Sadanand Jha
7. Babun Dass s/o Nishikanta
8. Arubindo Mandal s/o Rishiesh

B. Case No 192/07/dated 11 November 2007 under IPC 376
1. Kallu s/o Ahsaan
2. Barrick s/o Abdul Rafe
3. Bachhu

C. Case No. 30/07 dated 4 March 2007 under sections 448/376 (2)
1. Sri Hari Samantra s/o Vijay Kalicharan

D. Case No 260/07 dated 17 November 2007 under sections 376 (2)/506
1. Kalipara Ganadass s/o Sudarshan
2. Sagar Das s/o Lal Mohan

E. Case No 47/07/19 March 2007 under sections 147, 148, 149, 448, 323, 326, 376, 511 IPC
1. Badal Gara Das s/o Netri

none of these names figured among the list of persons arrested so far. A number of local residents informed the delegation that the offenders were operating with impunity, taunting the people, forcing them to shout slogans in support of CPI-M, or attend CPI-M party meetings.

Accounts of both officials and villagers relating to violence against women agreed that the victims were either relatives or sympathisers of BUPC, and named the perpetrators as groups of armed supporters of the CPI-M.

The delegation was told that at least seven women from Nandigram have been admitted to the Government Hospital at Tamluk.. Two of them had been shot at, four were beaten and one was raped. Several others were admitted to hospitals closer to Nandigram.

The delegation met two women[27] who both said they had been raped by several persons during the violence in November. Among the rapists were men whom they knew and could recognize. Although they had named these men when they made their complaints, three weeks later, the police had not made any arrests. The women said they were too frightened to return home.

One of them, Akhreja Bibi, was still at the Tamluk hospital. She said that several men burst into her home in the middle of the night on 8 November. "I tried to run away but they caught me and beat me up. They raped my daughters in front of me and then they raped me." Akhreja Bibi's daughters, Ansura, 16, and Mansura, 14, are still among those missing from Nandigram. When the delegation asked about them at the Nandigram police station, the Officer-in-Charge said there was news that the girls had joined a circus at Howrah, Kolkata.[28]

The delegation also met Niyoti Patra, a BUPC supporter, who said she was also raped by several persons; she said she could not return home. "I know those men. They came to my house and asked me to join a meeting," she said. "When I refused they came inside and abused me. Then they raped me. There were three men. They were my neighbours. I am frightened. I have named them in my police report. Now they will punish me again." She has since been staying at the Nandigram school relief camp.

Roshomoi Das Adhikari, a woman in her 80s and mother of a prominent BUPC leader, Swadesh Das Adhikari, was beaten with rifle butts by three persons she could recognise as "CPI-M people". She said she was alone at home on 7 November. Her son and most of the villagers had already fled from the area. Three men burst into her house and started throwing things around. "I ran out into the courtyard shouting for help. Two men with big guns were

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2. Sunil Das s/o Kalachand
3. Sudarshan Gora Das s/o Netai
4. Gopal Garu Das s/o Sudarshan
5. Khorna Rai Das wife of Badal
6. Chargan Shil s/o of Srini Dash

[27] Except in two cases which were registered by the police and whose names have been widely reported in the Indian media, this report is withholding the identity of rape victims.

[28] *Interview with Officer-in-Charge, Nandigram police station, Sub-Inspector Champak Chowdhary*, 29 November 2007.

standing there. They started beating and kicking me. They tore at my sari, slapped me, pulled my hair and cursed me. Meanwhile, the others had set fire to my house. As they left they threatened me and told me that they would kill my son. I just lay there bleeding."[29] She also was able to name the CPI-M supporters.

Another woman, wife of a prominent BUPC member, said her home had been looted and burnt. Living in a relief camp, she said that when she returned to harvest the paddy, CPI-M supporters shouted abuses and threatened sexual violence. She was still in Nandigram school relief camp when the delegation met her, terrified because the district administration wanted to shut the camp and send her home. "I cannot describe the language they used. They told me, 'The CRPF will leave. Then we will come find you. We will chop off your head and kill your husband'."[30]

Several women who returned to their homes after the end of this period of violence, said that threats of sexual violence were made against them if they did not support the CPI-M. One woman said that she was forced to attend a party rally on 28 November because she was warned that she would otherwise be stripped in public and then raped along with her daughters."[31] Mahamaya Das Adhikari said that she went back to her village on 26 November but had to return to the camp a day later because her parents were threatened by CPI-M supporters. They were told that either their daughter had to publicly pledge her support to the CPI-M or not bother to return.[32]

Threats of violence have continued even after those who were displaced returned to their villages. CPI-M supporters are in "effective control" of most of the villages in Nandigram, and in some areas, particularly former BUPC strongholds like Satengbari, they have reportedly threatened women saying "We'll come back at night — light your lamps and wait for us with open doors. Send your men away, we'll come back to you at night."[33]

From the above accounts, it appears that there has been a deliberate pattern of gender based violence directed against women residents of Nandigram who were left behind as local male residents fled the advancing CPI-M supporters. The violence was directed against those women who were at the forefront of the protest against forced eviction and were unwilling to give up their homes and lands. Also, the delegation was informed by local residents that many women had refused to file police reports as they were still afraid of the consequences if they filed complaints with the police and were also unwilling to risk social censure associated with rape.

3. Key areas of concern

a. Due diligence:

Immediately after the violence, the Government of West Bengal defended the violence by the armed supporters of the CPI-M, and blamed the BUPC for the blockade and the subsequent violence. In media briefings Chief Minister Buddhadeb Bhattacharjee claimed that the protesters had been "paid back in the same coin" and that his party was both "legally and morally correct" to "recapture" Nandigram,[34] a comment which he apparently retracted three weeks later while

[29] *Interview with Roshomoi Das Adhikary of Adhikaripara*, Gokulnagar, 29 November 2007.
[30] *Interview with a victim in Nandigram*, name withheld, 28 November 2007
[31] *Interview with a victim in Nandigram relief camp*, name withheld, 28 November 2007
[32] *Interview with Mahamaya Das Adhikary of Adhikaripara, Gokulnagar*, at Nandigram relief camp, 28 November 2007
[33] *Interview with a victim at the Government Hospital*, Tamluk, 28 November 2007
[34] Buddhadeb accuses Centre of delaying CRPF deployment, *Times of India*, 13 of November 2007

admitting that the Nandigram events amounted to a "political and administrative failure."[35] Later, on 26 December 2007, he visited Nandigram to express regret for the violence, according to reports.[36]

East Medinipore District Magistrate Anoop Kumar Agrawal informed the delegation members that, after the written notification for withdrawal of the SEZ notice was issued to him on 19 March 2007, he had held meetings with the BLJPC and the other parties to resolve the issue; however, by this time, the BUIC appeared to have lost confidence in the administration.[37] As a BUPC activist, Sudhin Bijoli, put it "The Chief Minister may have said that he would not force us to leave, but he was saying so many things and there was nothing in writing. How could we trust him?"[38]

West Bengal Chief Secretary Amit Kiran Deb told the delegation that "we could not create an atmosphere of confidence ... We failed to persuade the people to allow the police to enter. They saw the police as partisan and against them."[39]

Amnesty International is concerned by officials' apparent readiness to accept this lack of confidence in the police and by the failure of the state authorities to take proactive steps to rectify it. The manner in which the Government of West Bengal failed to take positive action to address the issue suggests that the government was acquiescent in the human rights abuses by the armed supporters of the CPI-M during the November violence.

Amnesty International opposes human rights abuses whoever commits them and regardless of the cause espoused by the perpetrators. States have a responsibility to respect the human rights of all individuals within their jurisdiction — that is, not to commit human rights violations or to permit their officials to do so. They also have a responsibility to exercise due diligence to protect all individuals within their jurisdiction against human rights abuses by non-state actors by ensuring the maintenance of public order and security by state law enforcement agents authorised to do so and acting in compliance with international human rights standards on law enforcement, and by preventing, stopping and punishing human rights abuses by non-state actors.

Amnesty International is concerned that in this instance the state authorities have not fulfilled their responsibility to exercise due diligence to protect human rights. The recent failure to ensure an effective police presence to maintain law and order permitted, or even encouraged organized groups of armed supporters of the ruling party to step in to quell the protests by the BUPC, instead of the state exercising its responsibility to deal with them lawfully by effective, impartial and proportionate law enforcement measures. Amnesty International is also concerned

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[35] "I regret saying rivals paid back on the same coin": Buddhadeb, *Hindustan Times*, *4* December 2007.
[36] This time Buddha goes to Nandigram to say sorry, *Indian Express*, 27 December 2007. Later, according to reports, the Chief Minister announced that the Government of West Bengal has sent a fresh proposal to relocate the project at Nayachar island, also near Haldia and the BUPC has once again opposed it. See: Bengal government sends proposal on PCPIR to Centre, *The Hindu, 4* January 2008 & BUPC to oppose chemical hub at Nayachar, *Economic Times*, 7 January 2008.
[37] *Interview with East Medinipore District Magistrate Anoop Kumar Agrawal*, Tamluk, 29 November 2007.
[38] *Interview with Sudhin Bijoli*, Nandigram, 28 November 2007.
[39] *Interview with West Bengal Chief Secretary Amit Kiran Deb*, Kolkata, 30 November 2007.

that that state has not taken adequate measures to ensure that the population whose livelihood will be affected by the development of the SEZ is protected against forced eviction, by being ensured their rights to information, adequate consultation, and just and adequate reparation including resettlement in adequate alternative accommodation.

b. Justice for the victims

In Nandigram, there has been a general failure on the part of the authorities to ensure progress in investigations into earlier violence in January and March 2007. It is to be noted that no departmental or disciplinary action has been initiated against any administrative or police official for despite loss of life and property in the area, The Kolkata High Court, on response appeal filed by the APDR, the *Paschimbanga Khet Mazdoor Samity* (PBKMS) and other organisations, ordered an investigation by the CBI into the violent confrontations of 14 March when police used excessive force and fired on demonstrators. The CBI's preliminary report named at least ten CPI-M supporters — who were later released by the state police — as accused persons. The Government of West Bengal obtained a stay on this investigation. However investigations were finally re-instated on 16 November and the CBI commenced its investigations into the 14 March violence on the basis of its preliminary report of 24 March. The CBI, which submitted an interim report to the Kolkata High Court on 17 December, has been directed by the High Court to file its final report by 15 February 2008.[40] As per interim report, the CBI is reported to have filed four new cases against several CPI-M supporters, including a case of sexual assault, bringing the total number of cases against the CPI-M supporters to seven.[41] Even as the CBI was also inquiring into the allegation whether the state police was aware that the CPI-M supporters fired, along with them, on the protestors, the Government of West Bengal has successfully obtained a stay, from the Supreme Court of India, on the filing of charges against state police officials found responsible for the 14 March police firing.[42]

Chief Secretary Amit Kiran Deb informed the delegation that the Government of West Bengal had allocated funds for compensation of the victims of the 14 March violence as per the Kolkata high court order and that this was being distributed. However, the District Magistrate informed the delegation that he had received no formal notification nor had funds been released for disbursement.[43] On 31 December 2007, the compensation amounts were finally paid to 13 of the 14 victims of the 14 March police firing, according to reports.[44]

The Kolkata High Court, in a judgment delivered on 16 November described the police firing on demonstrators on 14 March as unconstitutional and illegal.

Amnesty International believes that the general impunity enjoyed by perpetrators of human rights abuses in Nandigram since January 2007 was a key contributing factor to the widespread abuses committed there since 6 November.

The CRPF was finally deployed on 12 November, and although this brought an end to overt violence, threats and intimidation continued, putting at risk the lives and safety of the local inhabitants. There has been very little sign of effort to arrest perpetrators, who have allegedly been threatening BUPC supporters against filing complaints, demanding their attendance at CPI-M party meetings and suggesting that they admit to looting and burning their own homes.[45]

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[40] Nandigram: court directs CBI to file report by 15 February, *The Hindu*, 17 December 2007.
[41] Nandigram: CBI files four new cases, *Times of India*, 19 December 2007.
[42] Nandigram: CBI restrained from filing cases against police, *The Hindu*, 14 December 2007
[43] *Interview with West Bengal Chief Secretary Amit Kiran Deb*, Kolkata, 30 November 2007; *Interview with East Medinipore District Magistrate Anoop Kumar Agrawal*, Tamluk, 29 November 2007.
[44] Compensation paid to Nandigram victims, *Hindustan Times*, 31 December 2007.
[45] *Interview with villagers*, Adhikari 29 November 2007

CRPF DIG Alok Raj expressed to the delegation his view that the state police force personnel did not appear to be interested in arresting the perpetrators and were interfering in the CRPF's operations. The CRPF was given a list of 180 people against whom there are registered cases of murder. But those arrested by the CRPF have all been released by the state police. Alok Raj said, on 21 November, he had sent an official notice to the Government of West Bengal, stating that a complete list of persons wanted in connection with offences in Nandigram was yet to be submitted by the state police and that if those arrested by the CRPF were subsequently released by the state police, it "will not allow normalcy to return in the area."[46]

Amnesty International, while noting that the Government of West Bengal has ordered inquiries as a result of the unearthing of bodies at Nandigram this month, points out that the Government has not so far taken any steps to establish the whereabouts of all those who have been missing from Nandigram since 6 November.

The Constitution of India clearly provides, in Article 32, for constitutional remedies when fundamental rights appear to have been violated, as in the case of the abuses committed during the violence in Nandigram.

Under international human rights standards states have a responsibility to take appropriate legislative, administrative and other measures to prevent violations and, where they occur, to investigate them effectively, promptly, thoroughly and impartially and where appropriate to take action against those alleged to be responsible. They should also ensure that victims have equal and effective access to justice, and provide them with effective remedies, including full and effective reparation. Reparation should include restitution, compensation for economically assessable damage, rehabilitation, satisfaction — including public acknowledgement of the facts and sanctions against those responsible — and guarantees of non-repetition.[47]

In particular, the obligation of states to conduct prompt, thorough, effective and impartial investigations into killings and other human rights abuses is also provided in international human rights law, including Article 2(3) of the International Covenant on Civil and Political Rights, ratified by India in 1979. In its General Comment on Article 2 the Human Rights Committee, the expert body charged with overseeing the implementation of this Covenant, has stated, among other things:

> *"There may be circumstances in which a failure to ensure Covenant rights as required by article 2 would give rise to violations by States Parties of those rights, as a result of States Parties' permitting or failing to take appropriate measures or to exercise due diligence to prevent, punish, investigate or redress the harm caused by such acts by private persons or entities. States are reminded of the interrelationship between the positive obligations imposed under article 2 and the need to provide effective remedies in the event of breach under article 2, paragraph* 3.[48]

Amnesty International urges the West Bengal authorities to ensure that the CBI investigations into the 14 March demonstration are not obstructed any further, and that all incidents of human

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[46] *Interview with CRPF DIG Alok Raj*, Khejuri, 29 November 2007.

[47] These principles are set out In numerous human rights instruments as well as the *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations o/ International Human Rights Law and Serious Violations of International Humanitarian Law*, adopted by UN General Assembly Resolution 60/147 of 16 December *2005.*

[48] Human Rights Committee, *General Comment No. 31 on Article 2 of the Covenant: The Nature of the General Legal Obligation Imposed on States Privies to the Covenant,* UN Doc. CCPR/C/74/CRP.4/Rev.6, 21 April 2004, para. 8.

rights abuses in the context of the violence since early 2007 are thoroughly investigated and the suspected perpetrators brought to justice.

In addition, Amnesty International urges the Government of West Bengal to urgently set up an independent and impartial inquiry into the violence at Nandigram since early 2007 including the violence since 6 November. Such an inquiry should examine broader issues than criminal responsibility, such as systemic factors, procedural deficiences, contextual factors leading to the violence, and accountability of the state authorities for failures to provide effective protection. Such an inquiry should in particular include an investigation into disappearances of persons, illegal possession of weapons by all non-state actors at Nandigram and an assessment of the impact and extent of violence against women at Nandigram.[49] In view of the fact that the Government of West Bengal and different state agencies have been implicated in responsibility for the abuses due to the manner in which they dealt or failed to deal with the violence at Nandigram, there is a need for the inquiry to be carried out by an independent and impartial body. The activities of law enforcement agencies during the violence should also be one of the objects of the inquiry. If the inquiry obtains information indicating that identified individuals or officials may have been responsible for committing, ordering, encouraging or permitting human rights abuses, that information should be passed to the relevant criminal investigation or prosecution bodies. Provisions of immunity should not be allowed to shield those named as responsible for such acts of omission and commission.

The findings of the inquiry should be promptly made public.

c. Reparation and protection of the rights of all internally displaced people (IDPs):

West Bengal Chief Secretary, Amit Kiran Deb, informed the delegation that humanitarian assistance, including the provision of rice, cash payments and medical care was being provided by the authorities. In addition, Rs. 7 million, as compensation to the victims of the 6 November violence, has been released from the Chief Minister's Relief Fund[50] in order to compensate for the loss of homes and other property in the violence.

At least two relief camps were functioning at Nandigram for those displaced since violence began in January 2007. However, neither of these camps were run by the state nor has the state carried out a survey to establish the extent of damage to property.

One relief camp *(shivir)* is located at the Brij Mohan Tiwari Siksha Niketan in Nandigram Block-I town, and at its height housed around 3,000 to 4,000 persons. Following the violence since 6 November, a fresh influx of local residents had arrived in the camp. However, by 29 November

[49] Amnesty International is aware that a consultation paper regarding the protection of the rights of witnesses was drafted in 2004 by India's Law Commission and subsequently submitted to the Government of India. Despite this initiative, the Government of India is yet to introduce a witness protection scheme. Amnesty International fears that in absence of a witness protection scheme and against a context in which police are feared to have colluded with CPI -M supporters in attacks against women in Nandigram and where a fear of security and safety remain, that victims and witnesses may refrain from registering First Information Reports or from pursuing cases through the criminal justice system.

[50] This contradicts what the East Medinipore District Magistrate informed the delegation when it met him on 2 November. He had said that no money has been released; only an announcement for it has been made to the media by the Chief Secretary.

the number of persons housed in the camp had dwindled to around 250, the reason being that a large number of displaced persons had left the camp to stay with relatives and friends.[51]

The delegation found that the camp was being run on limited resources by the Nandigram Bazaar Committee, *Bharat Sevashram,* a non-governmental organisation (NGO), and a few other NGOs which had supplied rice, other essential food items and blankets. TMC leaders also contributed relief materials to the camp. Medical services are confined to the voluntary services of local doctors.

The second camp was located at a high school at Khejuri and was run by CPI-M party workers who provide some essential services. Most of the villagers, reportedly numbering 1,500, who supported CPI-M had taken refuge in this camp in the wake of the BUPC blockade in January 2007. Towards the end of December, the camp was reported to be hosting around 750 people. The delegation was able to interview several local residents who returned home from this camp after the November 2007 violence.[52]

Amnesty International is concerned that the Government of West Bengal has not taken the necessary concrete steps to ensure that all persons under its jurisdiction are protected from forced eviction and displacement, and that all those forcibly displaced during the violence are ensured at the very least minimum essential levels of food, shelter, water and sanitation, health care and education, as well as their right to voluntary return or resettlement, and reintegration. Amnesty International is concerned that not all those displaced have access to essential services such as adequate food, water, shelter, and medical services.

There is a similar need to ensure access to justice and adequate reparations without discrimination for all of those who were forcibly displaced as well as those who suffered other human rights abuses.

The Government of West Bengal is responsible to ensure the protection of all internally displaced persons within its jurisdiction. This duty arises inter alia from India's Constitution, which guarantees to everyone in India the right to the protection of life and personal liberty (Article 21) (which Indian courts have consistently interpreted to include the right to access the minimum essential levels of food, shelter, and other requirements to live with dignity) and the equality of all persons before the law (Article 14).

The duty of the state to protect the rights of all IDPs is reflected in the UN Guiding Principles on Internal Displacement (the Guiding Principles)[53] which clearly affirm, in Principle 3(1), that "national authorities have the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons within their jurisdiction." The state also has a duty under its international human rights obligations, including under the International Covenant on Economic, Social and Cultural Rights, to provide essential services to all IDPs without discrimination. This is reflected in article 18(2) of the Guiding Principles, which state that:

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[51] *Delegation's visit to Brij Mohan Tiwari Siksha Niketan relief camp in Nandigram,* 28 November 2007.

[52] According to reports, West Bengal Home Secretary P. R. Roy has stated that the camps at Nandigram were empty and all the inmates had left them while admitting that some of the inmates might have gone to stay with their relatives. See All Inmates in Nandigram relief camps have left: WB government, *Times of India,* 3 January 2008.

[53] *UN Guiding Principles on Internal Displacement,* UN Document E/CN.4/1998/53/ Add.2 11 February 1998.

"At the minimum, regardless of the circumstances, and without discrimination, competent authorities shall provide internally displaced persons with and ensure safe access to:

(a) Essential food and potable water;
(b) Basic shelter and housing;
(c) Appropriate clothing; and
(d) Essential medical services and sanitation."

Amnesty International emphasises the right of all IDPs to voluntary return to their homes or places of habitual residence or resettlement, and reintegration and restitution of their homes and other property, and calls upon the Government of West Bengal to ensure a safe and dignified environment for their return. The organization believes that this will not be achieved unless there is a clear political will on the part of the authorities to put an end to the atmosphere of violence in Nandigram. Amnesty International is concerned that displaced persons who wish to return to their homes will be unable or unwilling to return if those responsible for human rights abuses against them during the violence remain at large, sometimes in positions of authority.

Amnesty International urges the Government of West Bengal that all those responsible for human rights abuses are brought promptly to justice, and to ensure full reparations for victims including adequate compensation delivered promptly and on a non-discriminatory basis.

Amnesty International also urges the Government of West Bengal and the Government of India to ensure that those returning home at Nandigram, irrespective of their political affiliation, are able to return to their homes or places of habitual residence or resettlement, voluntarily and in safety and dignity. They should also be guaranteed their right to reintegration and restitution of their homes and other property, and where this is not possible to adequate compensation, In order for this to happen, there should be the continued and effective deployment of adequate CRPF personnel.[54]

4. Recommendations:

Amnesty International urges the Government of West Bengal to:

- Ensure that all incidents of human rights abuses in the context of the violence since early 2007 are thoroughly investigated and that the suspected perpetrators, whether or not they are officials and regardless of their political affiliation, are brought promptly to justice:
- Establish an independent and impartial inquiry into all the violent incidents at Nandigram this year including the violence since 6 November. Such an inquiry should include an investigation into disappearances of persons, illegal possession of weapons by all non-state actors at Nandigram and an assessment of the impact and extent of violence against women at Nandigram. The findings of the inquiry should be made public.:

[54] After the delegation's visit, Chief Minister Buddhadeb Bhattacharjee was reported to have informed the state assembly that the Government of West Bengal was looking into complaints received from some CPI-M supporters in Nandigram that they were harassed by the CRPF. See: WB Government looking into CRPF excesses: Buddhadeb, *Times of* India, 13 December 2007. Earlier, state Home Secretary P. R. Roy stated that the CRPF would remain in Nandigram till 12 February 2008. See: CRPF to stay in Nandigram till February 12: Buddhadeb government, *Times of India*, 12 December 2007.

- Ensure that all those displaced have access, without discrimination, to essential services such as adequate food, water, shelter, and medical assistance:
- Put in place a policy of adequate reparation, including restitution, compensation and guarantees of non-repetition.

Amnesty International urges the Government of West Bengal and the Government of India to:

- Ensure that those returning to their homes or places of habitual residence in Nandigram, irrespective of their political affiliation, are able to return to their homes or places of habitual residence, voluntarily and in safety and dignity. They should also be guaranteed their right to reintegration and restitution of their homes and other property, and where this is not possible to adequate compensation and resettlement. In order for this to happen, there should be a continued and effective deployment of adequate CRPF personnel:
- Ensure that unlawful methods are not used, or allowed to be used, to quell protests against forced eviction or displacement and ensure that the human rights of all those protesting against forced eviction or displacement are fully protected;
- Protect the rights of the affected communities to information, consultation, participation, and freedom from forced eviction (which requires ensuring their rights to information, adequate consultation, and just and adequate reparation, including resettlement in adequate alternative accommodation.