

IPT

Report

Caste Based Atrocities on Dalits
in Varanasi and Surrounding Areas
in UP

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**THE INDIAN PEOPLE'S TRIBUNAL'S REPORT
On Caste Based Atrocities on Dalits in Varanasi and Surrounding Areas
in UP**

Tribunal headed by:

JUSTICE K. SUKUMARAN
(Retd. Judge, Kerala and Bombay High Courts)

OCTOBER 2002

INDIAN PEOPLE'S TRIBUNAL ON ENVIRONMENT AND HUMAN RIGHTS

PANEL PROFILE

Justice K Sukumaran is a retired Judge of Kerala and Mumbai High Courts. He enrolled as a lawyer at the Kerala High Court in 1955 and was Government Pleader of the Kerala High Court from 1969 till 1976. He has been the Chairman of the Committee for Indian Laws Reports Kerala Services. He was appointed as an Additional Judge of the Kerala High Court in 1981 and became a Permanent Judge in 1982. In 1990 he was transferred to the Bombay High Court and retired in 1992.

He is the Chairman, Legal Reporting Trust which publishes *Niyama Sameeksha*, a journal in the Malayalam language for promoting legal literacy among the common people. He has authored five books on legal topics in Malayalam: *Nyayadhira Chintakal (Judge's Thoughts)*, *Bharana Ghadanayum Anubandha Chintakalum (Constitution and Allied Thoughts)*, *Jeevithavaum niyamavum (Life and Law)*, and *Niyama Sparsangal (Legal Touches)*. His latest book, *Niyamavum Jeevithavum (Law and Life)* has won the Kerala Sahitya Academy Award this year. Presently he is practising as a senior counsel at Supreme Court.

Professor Kusum Singh teaches international communication, ethics and human rights at Saint Mary's College of California. She was in India on a Fulbright Scholar award for field research in 1991 and in 2002 she was in India again on a Fulbright Scholar award for teaching.

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PREFACE

Varanasi situated on the banks of the Ganga is one of India's most holy cities. It has a great social, educational, and religious history, which makes it an important city in India. However, the unholy affairs in the fields of human rights, dalit atrocities and state oppression that is rampant in the city and surrounding areas casts a gray shadow on the city's reputation.

Some of the human right violation and state oppression cases on dalits were brought into the attention of the IPT by People's Vigilance Committee for Human Rights and others. On their request the IPT conducted an investigation into the alleged complaints. The Tribunal found that large-scale violation of rights is rampant against the dalit community in the region.

A look at the report will give an idea about the cases looked into and the findings of the Tribunal. The Tribunal found that at several dalit settlements, even the basic amenities were denied. Instances of bonded labour, systematic oppression of dalits by the feudal lords and police, and feudal system of punishment (where community punishment is awarded for individual crimes) were brought to our attention. Cultural symbols of dalit empowerment, like Dr Ambedkar Statue was destroyed. Dalits are not allowed to marry members of the upper caste and even cases where dalits are denied the right to vote or send their children to school were brought before the Tribunal. The Tribunal felt that it is a national shame that such things go unchecked and happen with government sanction.

Since the enquiry was conducted, there has been a change in the political situation of the State. A new government has assumed office. This change is likely to have an impact on the approach on social justice aspects.

The Indian People's Tribunal on Environment and Human Rights has been conducting investigations into various human rights and environmental issues through out the country over the past ten years. We are hopeful that our report on this issue will help the administration in inducing changes in the state of affairs in the region.

Justice K Sukumaran

Dr Kusum Singh

PART I: INTRODUCTION

A glaring social anomaly that is becoming increasingly apparent is the one that exists between the lower castes or Dalits and the upper castes of Indian society. This discrimination is manifested in several ways. The Dalits live in a segregated part of the village. They cannot use the wells, temples and other village infrastructure and facilities that are used by the upper castes.

The upper castes, usually economically better off, with their caste groups in the Administration and Police, subjugate the Dalits with threats if ever they try to break the caste barrier. They monopolise all facilities provided by the Government thus ensuring that the Dalits have no opportunity to better their social status. The Dalits are mostly illiterate, as they cannot afford the cost of modern education. Schools do not exist for them and where they do, there is usually no proper infrastructure, hence they do not have any knowledge of their rights.

In recent years, due to the intervention of Non Government Organisations (NGOs) including the People's Vigilance Committee on Human Rights, the Dalits are mobilising themselves and organising demonstrations, rallies, petitioning the administration and also taking legal action. Though this uprising may not be very apparent, it is gathering momentum and one cannot turn a blind eye to this movement.

The upper castes and richer and landed classes are countering this with violence and threats to frighten the Dalits by using criminal gangs. Unfortunately the very guardians of law and order, the police force, either due to the lure of money or the prejudice against lower castes, are often seen by the Dalits and lower castes as the greatest perpetrators of terror, and appear to be the 'criminal gangs', or as one person put it, '*governmental goondas*', hired by the upper castes. The lawlessness of the keepers of the law and their ability to get away with it, is a shocking revelation of the collapse of justice.

The Indian People's Tribunal on Environment and Human Rights (IPT) was requested to conduct an inquiry into caste based atrocities by State and non-State actors in Varanasi and Chaundoli districts of Uttar Pradesh by People's Vigilance committee on Human Rights (PVCHR) & Ashoka: Innovators for the Public. The organisation wanted an independent inquiry conducted - on atrocities perpetrated on Dalits within a small area in a single year in order to analyse the trend, record the type and number of atrocities, and the manner in which Dalit groups are persecuted and prevented from empowering their people.

The IPT, established in 1993 by the mandate of grassroot groups, is positioned as a people's court to investigate into gross human rights violations and environmental degradation. The Tribunal is headed by a panel of retired judges, guided by a council of experts, and is supported by grassroot organisations from around the country. The administrative work is done by national secretariats based in Mumbai and Delhi.

Through its queries, the IPT process endeavours to uncover the facts behind large scale or group violations, in order to give the administration, the judiciary and the people concerned, an alternative of a more equitable vision of development, possible solutions, and a way forward. Each inquiry conducted consists of site visits to the area, meetings with the affected people, followed by a public hearing at which all parties concerned are requested to depose before the Tribunal and present their version of the event. On the basis of the evidence gathered and a thorough study of the documents, laws and legislation concerning the event, the panel writes a report. The report is released at a press and public meeting.

The IPT panel headed by Justice K. Sukumaran (Retired Judge, Kerala and Mumbai High Courts) accompanied by Dr. Kusum Singh (Professor in Gandhian Studies, Media and Social Change), Deepika D'Souza (Co-convenor of the IPT), Sunil Scaria & Devlyn Newnes (Joint Coordinators of the IPT) visited the districts of Varanasi and Chaundoli between February 16 - 17, 2002. They visited the villages of Narketi, Babatpur and Belwa. On February 17, 2002 a public hearing was held in Varanasi at which people from Piyari Gaon deposed as well as individuals who were victims of human rights violations.

The Terms of Reference

1. Victimization of Dalits
2. To investigate into police firing on peaceful protests
3. Torture and illegal detention by the police

PROGRAMME OF THE TRIBUNAL

16 February 2002

After landing at Varanasi, the IPT team visited the remote village of Narketi in Naugadh Block of Chandauli district which was organised by *Gramya*, an NGO & Voice of Partners (VOP). It entailed a long 3-hour drive, first through the congested surrounds of Varanasi and then through the peaceful, fresh and serene wooded hills leading to Naugadh. After a brief halt at Naugadh, for refreshments and to change vehicles, the team started off on the final length of the journey to Narketi. It soon became clear why it was necessary to change to a sturdier vehicle. The metal road soon gave way to a dirt track, which after a while disappeared into tiny shrubs and bushes. With no motorable path in sight, the jeep careened and wobbled, often dangerously along the rough terrain. After about forty-five minutes of this camel-back ride, the IPT team arrived at Narketi.

On alighting from the jeep, the incident that occurred on the 16th of May 2001 began unfolding through the narratives of the villagers. As the team made its way to the meeting place, people began pointing to places narrating how the police came, where their vehicles had been parked, the direction from which the firing was carried out and the houses that were destroyed. After meeting with the people and listening to and recording their statements, the IPT team left Narketi and made their way back to Varanasi via Naugadh.

17 February 2002

The following day, the team began their inquiry at the Badepur area of Belwa village. Over here a large gathering of the villagers awaited the team. The team spent about two hours listening to the statements of the people, recording them and asking further questions to clarify their understanding.

After the inquiry at Belwa, the team visited the residence of Sashikant Pandey, the president of the Sanyukta Kisan Sangharsh Samiti (SKSS) at Babatpur. Some women gave their statements to the panel about the happenings on the 21st of May 2001. The persons who were shot showed the scars of their wounds to the team. From there the team departed for Varanasi.

At 3:00 p.m. Justice K. Sukumaran met with the press. After the press-meet there was a public meeting held at Gandhi Vidyapeet Bhawan which commenced at 4:00 p.m. The Public hearing was attended by people from the villages of Narketi, Belwa, Babatpur, and Piyari. Depositions were made before the Tribunal by people from these villages as well as by Vijay Kumar Jaiswal and Mukundi Lal.

PART II: AREAS VISITED

NARKETI

Socio-Economic Condition of Narketi

Narketi is located in Eastern Uttar Pradesh (U.P.) in a region that is hilly with dense forest cover. The majority of the people in this area are Adivasis and people from backward castes like Kols, Manji, Chamar, Mushar and Kalvaar. Due to a hilly topography and lack of water, the people earn their livelihood from the jungle largely through the collection of Tendu patta (leaves used for the making of *bidis* - an indigenous cigarette). They also collect honey, dry twigs and herbs, for personal consumption and for sale, to earn some money to cover their essential needs. Some families have small land holdings where they grow mostly paddy, and sometimes grow vegetables. Due to the seasonality of the work, landlessness and total lack of education the people of this village are extremely poor. Often, during the summer months and early monsoon, they do not have enough to feed their families. For example, in Sonebhadra region in the Babhani Development Block in the villages of Randah, Hathiyaar, Chapki, Jiganva, Kuba, Pokhra, Chaina, Machbandva and Asandih between March and April, the calorie intake is 2400, but between July and September it comes down to 1500 calories (Survey by PVCHR, 1998).

According to this survey, in recent years, a massive exploitation of forest wealth has taken place. Forest trees, sand from the banks of the River Son and stone from the surrounding hills are being removed. Illegal felling of trees has increased tremendously since 1980. For example, in the Naugadh region, the forest had decreased from 45% to 40% between 1960 to 2001. Illegal mining of sand from the banks of the River Son has resulted in the lowering of the ground water level and cracks in the upper layer of the ground. Further, stones are cut from the surrounding hills which are used for making stone slabs, or are crushed into small stones or *gitty* which are used in the making of roads.

According to the people, a mafia gang of contractors with political backing and the support of corrupt officials are responsible for carrying out these illegal activities. It is alleged that the chiefs of this gang include Brijesh Singh and politicians like Hari Shankar Tiwari. It is also alleged that in order to facilitate their illegal activities, Section 20 of the Indian Forest Act has been declared notifying the area as a Reserved Forest. This prevents the tribals from the freedom of collecting from the forests, food and other non-timber items on which they are dependent for their livelihood. This has given the local officials and forest guards an opportunity to exploit and harass the people. Corruption among Government officials and employees is well known, but in these remote areas far from the scrutiny of city-based media and human rights organisations, exploitation of any sort goes unnoticed and the cries of the poor and the marginalised remain unheard.

It is this exploitation and the absence of law and justice that brought about the so-called "naxalite menace." The government administration uses the excuse of curbing the naxal menace to unleash a reign of terror and violate basic human rights like the freedom of expression and the freedom of association of these people. The cause of the people was taken up by the Left parties and by people's organisations called the Mazdoor Kisan Morcha, Kanhar Bachao Andolan and Voice of Partners (VOP). Between 1980 and 1990 the CPI (Communist Party of India) and the CPM (Marxist Communist Party) stepped in. Near Chakia, close to the Majirathi Bandh, the Communists forcefully occupied 4,000 *bighas* of land. In Naugadh, South Chopan and North Duddhi area, the influence of the CPI (ML), CPM and Maoist Communist Community (MCC) has been increasing. In Sonebhadra, the influential CPI (ML), MCC and PWG has taken up the cause of the people.

The mafia gangs of dishonest contractors are earning crores of rupees from this region through unhindered exploitation of forest wealth. They do this under the very nose of the administration and police officials, who are given a percentage of this illegal earning. It is alleged that every truckload of sand earns the forest officials approximately Rs. 500 in corrupt money. The mafia of contractors make large contributions to politicians and political parties, to ensure patronage of their illegal activities. Even the collection of *tendu* leaves is in the hands of the contractors who pay a very nominal amount, which is arbitrarily arrived at, while they themselves earn at least ten times that amount.

The naxal presence in this region is a great hindrance to the illegal activities and the exploitation of the people, which is why the police have been asked to eliminate the naxalites. However, a corrupt police force led by corrupt officials, without any knowledge of the forest or jungle warfare, is no match for the trained MCC cadres. Thus to please their political bosses, they turn on the innocent villagers. This is precisely what seems to have occurred in Narketi between 16 and 19 May 2001.

Incidents from 16th May to 19th May 2001 as narrated by the Villagers of Narketi

On 16 May 2001, a few MCC members came to Narketi village and summoned all the villagers for a meeting. Around 100-150 villagers were present at the meeting. The meeting was held under the tree near the village temple. The purpose of the meeting was to call for a strike on the collection of *tendu patta* which the villagers sold in the market to supplement their income. The purpose of calling a strike was due to non-payment of dues owed to the villagers by the Forest Corporation over the past year.

The Forest Corporation owed the villagers of Narketi Rs. 50,000/-, while in the entire block the balance due to the people was approximately Rs 17 lakhs. Another demand was for a raise in the wages paid for the collection of the leaves from Rs. 32/- to Rs. 40/- per bundle. (Each bundle consists of 100 bunches of 80 leaves each). The MCC told the villagers that the U.P. government was giving far less than other states like Madhya Pradesh and Bihar where the wages are as high as Rs 50-60 per bundle.

Also present at this meeting were three persons from the Forest Department viz. Kamlesh Upadhyay (Vandaroga) Forest Officer; Kushi Ram Dubey, Forest Guard; and Ram Lal, Watcher. At around 11:00 a.m. the meeting with the villagers came to an end, and the MCC sent the villagers back to their houses. The MCC continued to hold discussions with the Forest Department personnel. One of the villagers narrated the following:

"Around 11a.m. the naxalites ended the meeting and told us to go for lunch. They continued talking to the Forest Department people. We were making preparations for lunch when the police came into the village. Initially I heard one shot, but I don't know where that came from, whether from the MCC people or the police. After that there was a lot of firing by the police".

The villagers stated that the police began firing without giving any warning. Around 25 rounds were fired. The MCC people who were present fired in retaliation. The MCC took the three Forest Department personnel and left the village. The police too left the village. After about three hours, the police returned in five or six vehicles and began beating those villagers who were returning to the village from the forest. They then left the village after taking Nakhru, one of the villagers, into custody. He was released the next day on 17 May 2001.

It may be mentioned here that on 17 May 2001, the bodies of two of the employees of the Forest Department, Kamlesh Upadhyay and Kushi Ram Dubey, who appeared to have been abducted by the MCC the previous day, were discovered about 9 km away from the village. The third, Ram Lal, had apparently escaped from the MCC on the night of 16 May 2001. The violent rampage that the police went on the next day appears to have been in retaliation to the death of the Forest Department employees.

The following day i.e. 18 May 2001, the police returned to the village. The villagers hid in their houses out of fear. But the police forced their way into the houses, went on a rampage, beating people, destroying everything that was in sight and looted whatever was of worth. While beating the people, the police rebuked them for holding a meeting with the "naxalites", by which they meant the MCC.

Nauhar, a lady from the village describes the police actions thus, *"The police personnel came straight into our houses, where we were hiding in fear. They pulled us out and began beating us. They used abusive language and beat everyone. They took away my neighbour's rooster".*

Purushottam, a resident of the village describes his experience with the police on that day. *"As I came out of the house the police began beating me. They asked me to take them to Chandrabhan's¹ house. When I took them there we found Lachmi, Shyama, Ramchander (Pradhan), Ramkisan, Pattu, Ghura, Dulare and Rammurat gathered at the entrance to the house. They beat all of us and broke the roof of Chandrabhan's house".*

Statements given by other men and women from the village during the site visit by the panel and the Public Hearing are recorded below.

Bimla: *The police dragged me out of the house. One caught my neck and the other my hair. They beat me till the stick broke. They just wouldn't speak to us or give any answer to our questions as to why we were being beaten.*

Phuljari: *I was pregnant at the time and still I was beaten. My abdomen was also probed with a stick. My 5-year-old daughter was beaten severely on her hands.*

Pattu: *I was beaten by the police till I fainted and blood began coming out from my mouth. They left me alone only when they thought I was dead.*

Radhe Shyam: *I was tending the goats and was not in the village. When the police found me they began beating me. It was a group of around 15 policemen who beat me.*

Laxmi: *We wanted to welcome the police, to offer them water. Instead the police came and began beating us straight away. We tried to ask them the reason for them beating us, but we got no answer. I was beaten very badly. My son has been arrested. I was pulled out of my house, and beaten over a distance (of about 200m). The police kept asking whether I knew the naxalites. There is nobody to help us, only God. We went to see Sadyaprakash Sonar, a local MLA, but he too did not intervene. Sometime in October*

¹ Chandrabhan is alleged to be an aid of the MCC.

or November of 2001, the police again approached me and questioned me about the naxalites. I said I had no information. The police abused me, took the stick with which I was tending the catt,le and beat me.

Rambart *The police broke into my home. My father was ill and they insisted that he come out of the house saying that he was merely making a fuss. My father was pulled out of the house and terrorised. A month later he died. The police also broke our few possessions, damaged our houses and stole poultry and goats from the village. The houses that were most damaged were those of Jaganath, Arjun, Dhunkdhair, Chandraban, Dhola and Phuljari.*

That day the police beat men, women and even children. Anjani, Phuljari's 5-year-old girl was severely beaten on the hands by the police. She has been so terrorised that for months she would run away if any stranger approached the village. They destroyed the houses of those villagers whom they suspected of having links with the MCC. They took away chickens, farming implements, a bicycle, and broke household items such as pots, utensils and plates.

The police took twelve people of the village into custody. Their names are listed in Table 1. Ramvriksh, one of the twelve put in jail, stated that they were interrogated several times, and also beaten. At 3:00 a.m. in the morning he could hear Shyama (another person who was taken into custody) screaming in terror and begging not to be beaten. The following day six of them were released while the other six were detained and have been in jail for nine months now.

Table I

	Adivasis arrested on 17 May 2001 and released the following day		Adivasis arrested on 17 May 2001 and still in prison as on 16 February 2002
1	Babulal	1	Naipali
2	Ghure	2	Shyama
3	Nakhru	3	Ghura
4	Sabhajeet	4	Ramshakal
5	Ramvriksh	5	Arjun
6	Santosh	6	Dulare

Table I: List of those arrested by the police on 17 May 2001, indicating those released after a day and those still detained.

When asked by the Tribunal what the villagers' demands were, Guhira from the village succinctly summed up and voiced the feelings of the villagers by saying "the police should release our six people and ask them to leave us alone." An incredibly small demand for a village, from a government that has not provided them with a school, irrigation facilities, roads or health posts. What was also incredible was that inspite of all the damage done by the police, the villagers themselves did not voice the demand for compensation. The only thing they requested from the administration was peace and freedom from the exploitation of the police.

BABATPUR

At Babatpur, the process of land acquisition was underway for the extension project of the Varanasi airport. Land was being acquired from three villages adjoining Babatpur viz. Mangari, Baikundpur and Karmi. The land being acquired was mainly agricultural land. A village farmer's organisation, "Sanyukta Kisan Sangharsh Samiti" (SKSS), comprising of farmers from the three villages, had been negotiating with the District Administration over the final payment package for the lands acquired from the farmers. On 30 April 2001 an agreement was reached between the SKSS, under its president S. K. Pandey, and the then District Magistrate (DM) on the final payment package (Annexure II). Two weeks later, on 14 May 2001, SKSS submitted a petition to the DM protesting the slow implementation of the agreement arrived at during the 30 April 2001 meeting with the DM.

Incident on 22 May 2001

On 22 May 2001, the administration began its work on the repair/construction of the boundary wall. At around noon, the women of the affected villages arrived at the site and confronted the administration. Also present were the ex-Pradhan of Karmi and the Pradhan of Baikuntpur. They stopped the construction work, demanding that no work should commence until the final payment had been made to the villagers. To enforce this, several women lay down or sat on the ground, obstructing the workers from proceeding with their work. The Sub-Divisional Magistrate (SDM) then arrived on the scene and called for the police who arrived shortly afterwards. A heavy police contingent, including senior officers such as the SDM (N) R.K. Mishra; Commanding Officer (C.O.) Cholapur; Station House Officer (SHO) of Phulpur and Badegaon, were present at the site. The SDM said that work would go on. Along

with seven others, the police then arrested Shashikant Pandey, President of SKSS, the Pradhans of Karmi and Baikuntpur, and took them to the police vehicle. The women present there attempted to stop the police from taking away their leaders. They tried to climb onto the jeep, but were pushed away.

At this juncture the police went on a lathi charge led by the SHOs of Badegaon and Phulpur and the SDM of Pindara, the Director of Airport Authority, U.P. Singh and C.O. of Cholapur. The women were brutally beaten with the butts of the rifles. The officials present even chased the women and beat them. Some of the women were stripped and beaten. As a result of this commotion, the people from nearby Mangari village arrived at the scene. The police initially stopped the lathi charge, but then, without any warning, opened fire. This resulted in the death of one person (Mewa Lal) and injury to six others. Several people were shot in the chest and on the legs.

The police then raided the village, beat up the residents and took the relatives of the deceased, Mewa Lal, to the police station.

The IPT visited the residence of Shashikant Pandey, President of SKSS and spoke to him. The members of the Tribunal also spoke to a few women. Shanti Devi said that she had lost all her land. Two young men who had received bullet injuries showed the scars to the panel members.

BELWA

Village Belwa lies in Varanasi District. The population of the village is around 7,000. The village has 8 *purvas* (Divisions), but only one Government School, which is not at all sufficient to meet the education demands of the village. In the Badepur *purva* of Belwa village, the voting population is around 1,900. There are no people of high caste living in this area. Those living here are mainly Patels, Mushahars, Kohars, Lohars and Nuuts.

This area of U.P. is particularly known for the segregation of village communities along caste lines. Generally the upper caste, i.e. Brahmins, Kshatriyas and Vaishyas live together, while the lower castes, i.e. the Dalits and others live in a separate part of the village, which is usually on the outskirts of the village. Traditionally, the Dalits were not allowed into the areas dominated and designated for the upper castes, nor could they use any facilities available there like community wells, hand pumps etc. If they did, the Dalits were punished and the upper castes would wash the "defiled" item in the Ganga to cleanse it.

Punishment for the Dalits translated into punishment for the whole community, but in the case of the upper castes, only the individual or the group of individuals concerned was punished.

Today these people continue to live in segregated communities. Their locality has no modern facilities with regard to education, health, etc. All government development schemes are cornered by the higher caste. Normally individuals of the upper caste occupy a dominating position in the village and ensure that all important posts are controlled by the people of their caste.

For example in Village Belwa, a Brahmin named Mr. Rajindra Tiwari controls the post of Pradhan. He was the Pradhan for 20 years. During his tenure, he prevented the people of Badepur from voting and even stopped some people from getting their photo-identity cards being made. When the Government scheme for Women's Reservation was introduced, he manipulated things so that his wife Radhika Tiwari became the Pradhan. Being a traditional, conservative woman who does not leave the house, she is hardly suited for the job. Since she took up office, she has not held any meetings in the village, and hardly comes out of the house. Her husband's obvious intention was to continue to exercise control over the Panchayat through his wife. In this way he prevented any school from being set up for the Dalit community or any kind of development projects from being implemented in the Dalit area. In the recent Vidhan Sabha elections he did the same and once again the entire Dalit community was unable to exercise its vote. This apart, without their ration card, they do not have access to the subsidized items available in their ration shops.

There is, however, a government school functioning about 1 km away from the village. It has approximately 200 children but only 2 teachers. As a result, the quality of education leaves much to be desired. Mr Rajinder Tiwari has been running his own private school in the Government Health Centre in the village. The children of Badepur cannot afford the high fees charged there.

The Dalits cannot hope for fair treatment from the Government or the Police, which are usually dominated by the upper caste, and are generally not interested in delivering justice. Local groups stated that even in the judiciary, if the judge handling the case happens to be a Dalit, manipulation is done to transfer the case to an upper caste Judge.

In recent years, due to efforts of people's organisations, the Dalits are becoming increasingly aware of their rights, and have become more vocal and active in their demands. The upper castes feel threatened, and are becoming more violent not only towards the Dalit community but also towards

people's organisations, as is evident from the increasing amount of threats received by People's Vigilance Committee on Human Rights (PVCHR).

Incident on 12 November 2001

On 12 November 2001, the local community at Badepur organised a street play with the assistance of PVCHR. Apart from education, the misdeeds of Mr Rajinder Tiwari were highlighted in the play. The following day, armed men of Rajinder Tiwari attacked Mrs Durga, the coordinator of the Savitri Da Phule (Women's Forum), and her husband.

Durga: *On 12 November 2001 we had a street play on education in the village. The next day, early in the morning when I had gone to the toilet, some goons of Rajendra Tiwari attacked me. I shouted for help. My husband who was nearby came to my help. They attacked him and he was seriously injured on the head. The reason I was attacked was because we had demanded a school. Then we went to the police and lodged an FIR at Phulpur police station. The officer asked us to take my husband for an x-ray as the injury to his head was very serious. After returning from taking the x-ray, we went back to the police station. The police kept my husband in custody overnight. Only when I informed the PVCHR the following morning by telephone and they went to the police station was my husband released.*

By the evening of that day the police put three members of the group that attacked Durga in jail. However the police, under pressure from political patrons of Mr R. Tiwari, had held Mr Adya, Durga's husband, in jail for more than 24 hours. Only after a lawyer had applied for bail was he released.

Other persons in the gathering also explained the situation to the members of the Tribunal.

Parmanand: *At present Rajendra Tiwari runs his own private school in the Government Health Centre. We don't want to send our children there as the fees are high. The government school is about 1.5km away. There are around 200 children and only two teachers.*

Kailash: *I am a farmer. The Pradhan, Rajendra Tiwari has not done any developmental work for the last 25 years in our area. He and his wife have been leaders of the Gram Sabha through illegal means and booth capturing. The polling booth is placed near his house and his goondas surround the area and do not let non-supporters vote. In spite of our names being on the voter's list we have been denied ration cards and a school. We are discriminated because we are from backward castes. We want a primary school and we want a Primary Health Centre and the land of the Gram Sabha that has been illegally taken over by the Gram Pradhan. Ever since we started our school the goondas have been harassing us. The local goondas names are Mohan, Daula and Vidya Sagar-all supporters of Baba Singh (Block Pradhan).*

The Tribunal also learned of incidents of bonded labour occurring in the village. Bothu Mushar working in a brick kiln narrated his condition. He had taken a loan under Indira Awas Yojna of Rs. 20,000. Initially he was told that the house would be built of cement, but it was built of wood and has since collapsed. Due to the loans taken, he now has to work as a bonded labourer in the brick kiln. He stated that there are over 100-250 people who work in the brick kiln and are bonded to the Gram Pradhan.

PIYARI

The following report about the incident at Piyari village has been compiled from written records of the incident (presented to the Tribunal) and a deposition made by Lalman, a resident of the village, during the Public Hearing.

In Piyari village, at the meeting of the Gram Sabha, a proposal was passed, which was agreed to by all present, that a statue of Dr. Bhimrao Ambedkar would be set up on the village land near the pond. Accordingly, the statue of Dr. Ambedkar was set up in the Harijan Basti on the village land near the pond.

Sometime after the statue had been set up, Shankar Singh *alias* Nepali Singh, procured orders from the S.D.M. office to have the statue removed. Nepali Singh is the former Pradhan of the village. A few days prior to the incident of 26 March, 2001 he was excavating sand from the pond near the Dalit Basti. The Dalits objected to this and he had to stop the activity. Around 8:30 p.m. on 26 March, 2000, the officer in charge of Chaubepur Police Station, Pramod Tripathy and several constables including a lady constable arrived in Harijan Basti. Immediately after they arrived, Nepali Singh and Juit Singh along with the sons of Nepali Singh also reached the place. At the same time the officer in charge of Sholapur Police Station along with his constables arrived in Harijan Basti.

The two officers along with the constables, and Nepali Singh and his group, went to the site where the statue was located and began removing it. All the people of Harijan Basti came and tried to explain to the police officials that the statue had been erected only after the Panchayat had passed the proposal. And if there was an order that the statue was to be removed, they should do so without damaging it. However, the removal of the statue was carelessly handled by the police and Nepali Singh resulting in the dais breaking. They then loaded it onto a tractor. The residents of Harijan Basti asked for the statue to be handed over to them, but the police refused to hand it over. Instead, they told the driver of the tractor to start the vehicle and drive away. The Dalits then stood in front of the tractor. The officers, as well as the constables, and others who had gathered there began to heap vulgar abuse on the Dalits. The officers threatened the Dalits saying that they would break their legs and implicate them in false cases.

Suddenly, the police, and Nepali Singh and his gang lathi-charged all the residents of Harijan Basti. They chased the Dalits and beat them with sticks. Even those who had tried to save themselves by hiding in the houses were not spared. The police, and Nepali Singh and his gang, broke down the doors and beat-up everyone in the Basti, injuring them severely. Not only were the Dalits beaten, but also their houses were looted and items destroyed. They smashed things in the house like television sets, weaving machines, and looted money and jewellery from the boxes. The villagers alleged that Nepali Singh took away chickens and hens and set the police jeep on fire in order to implicate them. This mayhem continued for an hour or so. Some of the villagers began throwing stones to protect themselves and in this both the police and the villagers were injured. Several villagers were seriously injured including women and children. To cover up for this bedlam, the police arrested around 20 persons, some of whom were below the age of 17 years.

Due to the police atrocities, the villagers fled from the village in fear of return visits by the police as well as Nepali Singh, and as a result no FIR was filed immediately by the villagers in the local police station.

PART III: PUBLIC HEARING

PUBLIC HEARING AT GANDHI AYDHYANPEETH, VARANASI

A Public Hearing was held at 3:00 p.m. on 17 February 2001 at Gandhi Vidyapeeth Bhavan, Varanasi. Shortly before the Public Hearing, Justice K Sukumaran met with the press. Around two to three hundred people who were the victims of police atrocities from Narketi, Belwa, Babatpur, and Piyari villages came to depose before the Tribunal. Also present were Vijay Kumar Jaiswal and Mukundi Lal who came and deposed before the Tribunal. The statements given by the residents of Narketi, Belwa and Piyari have been incorporated in the sections covering the report on these areas. The depositions made before the panel by Vijay Kumar Jaiswal and Mukundi Lal have been recorded here.

Vijay Kumar Jaiswal

Statements made before the tribunal at the Public Hearing.

My name is Vijay Kumar Jaiswal alias Kullu. I am a tempo driver and carry building material in my tempo. We are six brothers. There is a dispute going on between us brothers regarding the division of the land and house. Three of us brothers, Bholanath, Satyaprakash and me share a cordial relationship. We have differences with Chhote Lal, Dilip Kumar and Pradeep Kumar, our other brothers, who are well off. On 31 January 2001, in connection with our dispute, two of my brothers entered my house in my absence and badly beat up my wife and children. My wife later called me on the telephone. I was at the tempo stand at that time. As soon as I reached home, two constables from Hanuman Phatak Police Station arrived at my place and without saying anything caught me by my hair and dragged me away. When I protested they began hitting me with lathis and the riffle butt. On the orders of S.H.O. Adampur, I was put into jail. The S.H.O. Mr. Anil Rai said that he would take up my matter in the night.

At night around 1 o'clock, the S.H.O. Shri Rai arrived in an intoxicated state. He had me removed from the lock up. On his orders, two policemen took me to a pillar within the precincts of the police station itself, spread my hands on the sides of the pillar and the two policemen caught my hands. Then like an animal I was brutally beaten with a hockey stick. As a result of the beatings I became unconscious whereas my elder brother Satyaprakash who was also in prison fell senseless to the floor. After being beaten around 100 times with the hockey stick, my skin peeled off in several places. One kind-hearted constable gave me tea in the police station. The next morning I was released. Due to financial problems I was able to get a medical check up done at the District hospital only on 2 February 2001.

On 2 February 2001 my story was published in the newspaper "Aaj". After the publication of the article, Anil Rai has been on the look out for an opportunity to murder me. Anil Rai has taken bribes from my brothers and continues to threaten me saying that he will show me the real meaning of Section 151. Due to his inhuman beating my mental condition as well as my physical condition is upset. When Anil Rai was beating me he kept saying, "My name is Anil Rai and due to my beating, people either depart from the town or this life." The injuries are so bad that I have difficulty sitting on the tempo seat. Also I find it very painful while passing my stool. Anil Rai has claimed that nothing can be done to touch him. The SSP is his close friend and he has powerful political security.

Vijay Kumar also showed the panel photographs of his wounds. The report of the inquiry conducted by the SSP, into the complaint by Vijay Kumar Jaiswal of custodial torture, (*Annexure III*) prepared in compliance with the order of the National Human Rights Commission, was also looked into. After reading the report the panel found that there were major contradictory situations that emerged from the statements given by the people in the report.

The most conspicuous contradiction is the date of arrest of Vijay. Vijay claims that he was arrested on the evening of 31 January 2001, while the statements of all the other persons have it that he was arrested on the morning of 1 February 2001. The statement of Satyaprakash gives no dates. The statements of both Vijay Kumar and Satyaprakash concur with the fact that Vijay was not arrested along with Pradip and Satyaprakash, and was not present at the time there was a fight due to the unloading of the cement. The statements of other witnesses, the constables as well as the entry in the register indicate that Vijay was present at the scene of the fight when the constables arrived. They also indicate that Vijay Kumar, was arrested together with Pradip and Satyaprakash on the morning of 1 February 2001. The inquiry report makes no effort to verify this contradiction. The statements of the wives of Satyaprakash and Vijay have not been recorded.

The second contradiction concerns the injuries suffered by Vijay. According to his claim and statements, the injuries were due to police torture while in custody. This is borne out again by his brother Satyaprakash. While the statements of the other witnesses claim that Vijay was involved in the fight that took place between the brothers, Vijay claims that he was not present at all. Setting

aside this discrepancy, yet another variance is seen in the statements recorded in the inquiry report. Some of these same witnesses go on to state that Vijay had abscesses on his hip, and due to the fight the abscess burst and there was blood oozing from his hip. However, in his statement, Head Constable (HC) 58, Shiv Pujan Singh, Police Post Hanuman Phatak, PS Adampur, Varanasi, has said that the accused complained of body pain but did not show any external injury or express desire for a medical examination, hence there appeared no necessity for medical examination. This has also been verified by SI / Incharge of Police Post Hanuman Phatak, PS Adampur, Varanasi, Shri Kamleshwar Singh.

Mukundi Lal

The team heard the statements of Mukundi Lal who tearfully narrated his story. According to Mukundi Lal, his son Satyendra was killed in a false police encounter. The root cause of the trouble appears to be the enmity between Mukundi Lal's family and a Srivastava family of the same village, sparked by a love affair between Satyendra's brother and a girl from the Srivastava family. Satyendra's brother being a Dalit and the Srivastava family being high caste landlords, a match such as this could not possibly take place in the eyes of the high castes. Hence the Srivastavas had Satyendra's brother killed in connivance with the police. Satyendra then filed a case against the Srivastava family in Sahabganj police station.

Subsequently, it appears that the police and the Srivastava family had falsely implicated Satyendra in 8 different cases under many sections of the IPC and CrPC and Arms Act. Finally, on 07-09-2001, he was declared a naxalite and killed in a fake encounter.

On the fateful day of 7 September 2001 Satyendra Harijan had come to the Varanasi District Court at Kanchehari in the morning for the hearing of his case (Ref:- Session Trial No. 78, Year 1994, - State vs Satyendra and others, Nyayalai Shriman Duithia, Doothgami Nyayalai, Varanasi, Thana Sahabganj).

Three persons, Marachhu alias Baba, Boojharath, and Mewa accompanied him. After the hearing, at around 1 p.m. the four walked towards the Eastern Gate of the Court premises, with the intention of going home. However on reaching the gate, they found the S.O. of Adampur Police Station, Shri Bhulan Yadav and the S.O. of Ramnagar Police Station, Shri Pradeep Singh Chandel, waiting with some men in a jeep. Amid abuses they forcefully grabbed Satyendra, dragged him into the jeep and drove away. The three persons accompanying Satyendra witnessed this whole incident. One of them, Mr Marachhu, immediately sent a telegram to the Senior Superintendent of Police (S.S.P.) at around 1:50 p.m., informing of the forceful seizure of Satyendra. At approximately 4:30 p.m., the Ramnagar Police announced the killing of Satyendra in an encounter near Bhati Village under Ramnagar Police Station of Varanasi.

Though invitations had been sent to the police, district authorities, and the State Government to attend the Public Hearing, not one of those invited attended the Public Hearing. Toward the very end of the Public Hearing, the panel was informed that a packet had been delivered by a policeman containing the police version of the happenings at Piyari village and the incident related to the killing of Satyendra S/o Mukundi Lal in a police encounter.

Lalman of Piyari Village narrated the incidents that occurred at Piyari on the night of 26 August 2000. This has been included in the Chapter covering the incidents at Piyari

PART IV: FINDINGS/RECOMMENDATIONS/CONCLUSION

FINDINGS OF THE PANEL

The Tribunal in the various site visits and the public hearing found a certain pattern when it came to the relations between Dalits, the state and the upper castes. They are:

1) A DELIBERATE ATTEMPT TO KEEP THE DALITS BACKWARD AND IN POVERTY

All the Dalit villages visited were extremely poor, inspite of being eligible for numerable government schemes and benefits like schools, pumps, health services and government loans. It is impossible that there has been an oversight, or that the government machinery has failed to reach those areas in all the villages. The IPT team is of the opinion that this is almost deliberate. If these schemes had reached these people, they would have made use of them long ago as a stepping stone to uplift themselves and fight the oppression of the upper castes.

This view is further reinforced by the observations and depositions made before the Tribunal. For example:

- a) BREAKING RESISTANCE: In Narketi the police which is supposed to be neutral and an arm of the State, involved in maintaining law and order, seems to be in direct collusion with the local contractors. The raid on the village and the subsequent beatings and terror unleashed on the village was more to break their resistance and their strike for a raise in wages. If the raise in wages were to be granted, it would detrimentally affect the income of the petty contractors, and marginally improve the livelihood of the villagers.
- b) ILLEGAL ACQUISITION OF LAND: In the case of the acquisition of airport land in Babatpur, it is clear that even though the people did not protest against the acquiring of their land, the State, instead of giving them their rightful dues, was intent on taking over the land illegally. When the people protested, led by the women of the village, the police had no hesitation in firing on them, and beating them mercilessly. It is questionable if the same would have happened if the land were acquired from an upper caste village. The IPT was not able to go into this but it would be useful and necessary to study the varying possibilities for land acquisition that were before the State, and whether this land was deliberately chosen because it belonged to a lower caste community.
- c) DENIAL OF BASIC RIGHTS LIKE EDUCATION: The Tribunal found the Belwa case particularly serious, where a mild demand for a school was met with such opposition. It is obvious that the local Pradhan and the upper castes in that area fear that once the villagers are educated, their power over them will be threatened. Therefore, all attempts were made to shut the school, and to prevent the village from accessing their rights granted to them in a democratic country.
- d) DEMOLITION OF CULTURAL SYMBOLS OF EMPOWERMENT: This observation made by the Tribunal was further re-inforced in the case at Piyari village. In this incident, a statue of Dr. Ambedkar, one of the greatest Dalit leaders who institutionalised Dalit emancipation in the Constitution of India, was pulled down by the police in collusion with the local upper caste mafia without giving any notice or reason as to why the statue should be removed. There too the police were responsible for unleashing a reign of terror, beating women and children and looting household items and even poultry.

2) THE MAFIA IN UNIFORM

The police in this area of the country are not involved in protecting law and order or in protecting the weak from the strong. In each case the Tribunal saw a clear indication of collusion of the police with the local upper caste mafia and actually being agents to implement the illegal activities of the upper castes in the region.

- a) The Police have clearly violated their Service Rules, the Scheduled Castes and Scheduled Tribes Act, the Constitution as well as International Covenants like the United Nations Covenant on Civil and Political Rights. There is no law in India that allows the police to arbitrarily arrest people, beat children, or terrorise and insult old people as the police did in the Narketi case.
- b) In Belwa, when the goons of the Pradhan beat up the local activist, her husband was taken into custody inspite of there being no complaint against him. It is strange that the police should arrest and punish the victim, unless the police were hand in glove with the Pradhan.

- c) In Babatpur and in Piyari Gaon the Police have behaved in violation of Human Rights and Constitutional protection.
- d) Similarly, in the cases of Mukundi Lal and Vijay Kumar Jaiswal, the police have been used as agents by the rich and the powerful to settle personal scores by eliminating and torturing those who come in the way. The inquiry report submitted by the Senior Superintendent of Police (SSP) of Varanasi in compliance of the order of NHRC appears flawed, as there are contradictory statements, as has been pointed out in the body of this report.
- e) The people who deposed before the Tribunal see the police as 'goondas'; a force to reckon with rather than a force for good.
- f) In all cases, the people mentioned that the police have been directly responsible for looting, pillaging and destroying their homes, and stealing their poultry and cattle. This is yet another instance of police mafiaism.

3) IS A DALIT ENTITLED TO THE PRIVILEGES OF A DEMOCRATIC STATE?

After 50 years of independence, none of the privileges of living in a democratic state seem to have been given to the Dalit community. This has taken place in a country that, on paper, has one of the finest Democratic Constitutions in the world; a Constitution where Dalits are entitled to special concessions and privileges. The reality, in villages across Uttar Pradesh, and other parts of the country, is very different. For example:

- a) A FEUDAL SYSTEM OF PUNISHMENT: In cases like the Narketi case, where some of the people are alleged to support the MCC, the entire village is punished. This seems to be a common practice when it comes to "so called" crimes of the Dalits - communities are punished and not just the individual. However, when it comes to higher castes, individual punishments are meted out for individual crimes.
- b) COMPLETE DISREGARD OF LEGAL PROCEDURES. The inquiry reveals that people are arrested and not brought before the magistrate, kept in custody without reason, and families are not informed that they have been taken into custody. The latter is in complete violation of Supreme Court guidelines in D. K. Basu's case (Annexure VII). Police firing is done without notice. Homes, statues are demolished without providing any notice. Innocent people are regularly tortured and exterminated. The most shocking of these incidents being the killing of Mukundi Lal's son. Mukundi Lal's son was picked up unarmed by the police, and his disappearance was noted in a telegram to the authorities. A few hours later his death was announced as an 'Encounter Death' - deaths which police justify as the death of an armed criminal whom the police had to kill in order to defend their own lives.
- c) THE RIGHT TO VOTE DENIED: In the village of Belwa, the very right to vote was denied to the people for years. The evidence discloses that even when they did try to vote they were beaten up and the booth was repeatedly captured.
- d) PEOPLE CENTRIC LOCAL GOVERNANCE NON-EXISTANT: In spite of the Panchayati Raj provision and the powers of local governance given to the villages of India, the Gram Sabha either has no say in the local policies or a local upper caste goon who uses the funds and the powers to maintain his feudal base appears to have hijacked the power.

4) BASIC HUMAN RIGHTS ARE VIOLATED

1. We are not getting into the debate of how the State can or cannot control the use of arms for armed struggle. But, even in wars, human rights of the people are respected. During the visit, in the cases inquired into, the Tribunal found that the human rights of the people have been absolutely disregarded.
2. The people are paid no compensation for the loss they suffer due to the terrorist acts of the police.
3. The only association with the State is in the form of the police - the villagers used the word '*Prashashan*' when referring to the police. Their only encounter with the State has been in the form of violence and repression, not in the form of any manner of welfare or service. For these people (according to their statements before the Tribunal), the State does not mean a post office, a hospital or even a ration shop. The State represents itself to them in the form of police who invade their homes, rob their poultry and cattle, and destroy their resources.
4. No complaint mechanism for redress in cases of human rights violence. The state of U.P. does not have a State Human Rights Commission.

RECOMMENDATIONS OF THE TRIBUNAL

1. An immediate judicial inquiry needs to be conducted against the police officers involved in the various atrocities and police firings. Those involved must be punished.
2. The people who have been victims of these atrocities must be provided adequate compensation. This includes those who have lost a family member, those injured, as well as those whose property and household goods have been looted and destroyed. (List of items lost, people injured annexed in annexure I and V). Such payments are in tune with legal principles and judicial decisions.
3. It is only proper that the Government causes an impartial and independent inquiry to take place. A thorough investigation by a body like the Central Bureau of Investigation (CBI) needs to be conducted into the alleged collusion of the police with the local goons. Stringent punishment has to be meted out to the police as well as the upper caste mafia.
4. A State Human Rights Commission needs to be put into place immediately and provided with the necessary budgetary provisions and infrastructure if it is to function efficiently. It must have effective powers and those practices that have been set in place in states that do have such Commissions should be studied and followed.
5. The Guidelines provided by Justice D.K. Basu on arrest and detention must be strictly followed. (A summary of the guidelines have been annexed in annexure VII).
6. Under no circumstance should people be tortured. The practice of community punishment must be stopped immediately.
7. The powers of the Gram Sabha should be upheld when it comes to implementing local policies.
8. The Scheduled Tribe Commission should be notified about the fact that elsewhere in India, Kol, Mushar and Kharwar, are notified as Scheduled Tribes but here they are Scheduled Castes. This is important as Scheduled Tribes are entitled to special privileges which at the moment they are denied.
9. Basic amenities like land titles, irrigation, water, schools and health facilities must be provided to these people. A review of existing government schemes that provide such facilities with inspections by responsible officials should be conducted periodically, to ensure that these people are not denied access to these schemes.
10. The villagers should be made aware of their rights and judicial decisions. However, if the entire village is illiterate, this poses a massive problem. The Tribunal came across villages where there was not even a single literate person. In the village of Narketi for example, even the Pradhan and his father who was Pradhan before him were not literate. This emphasises the necessity for literacy measures to be taken ensuring total literacy among all sections of society.

It is important that these steps are followed and the government punishes those guilty of victimising the weak and the underprivileged if faith in the Rule of Law is to be restored. If not people will be pushed to become extremists and take up arms and the very fabric of the society will be threatened.

CONCLUSION

To be able to live under the rule of law is a citizen's basic human right. This right, which the citizens of a democracy take for granted, has been fought for, in the world, over a long period of time spanning many centuries. Even while acts of great and heinous illegality are committed in history, the candle of hope for the enactment of a just rule of law should never allowed to be completely extinguished.

One of the great indirect benefits of British rule was the spread and popularity of the idea of the rule of law among the people of India. This came about because, for a century before British power was established, the rule of law had collapsed in many parts of India. Slowly and steadily the British built up an infrastructure of a rule of law, which is neutral, and not subject to the capriciousness of individual rulers or favouritism and deference shown to men of status or wealth. At the end of British rule the founding fathers of the modern republic of India did not go back to the ancestral or religious laws of the Hindus and the Muslims. They put their trust in the rule of law as they had learnt from a Western power, the British. The impressive Constitution of India bears witness to this historic story.

India belongs to the community of democratic nations that honour the rule of law. There are, however, some dangerous developments that should not be overlooked. In some states like Bihar, Gujarat and Uttar Pradesh powerful landlords wilfully murder vulnerable lower caste villagers. Men of astounding wealth, that could only have been accumulated by ill-gotten means may be charged, but somehow avoid appropriate punishment. Ordinary humble people are still over-awed by the cold and distant majesty of the law. The forces of law and order are far too brutal in their dealings with the ordinary people and unscrupulous politicians are allowed to get away with organising a "rent a mob" crowd, equipped with guns, to intimidate their opponents.

A continuous monitoring of both the equity and efficacy of the process and procedures is vitally necessary for maintaining a civilized rule of law in India. On a small level it should begin with immediate restitution of property and provision of justice to the people of Narketi, Belwa, Babatpur and Piyari *gaon* as well as individuals like Mukundi Lal and Vijay Kumar Jaiswal who have suffered grievously at the hands of the police.

ANNEXURES

Annexure I

List of Belongings of People of Narketi, damaged /destroyed by the police on 18 May 2001

S. No.	Name	Father's Name	Caste	Livestock	Damaged / Destroyed articles	Value
1.	Punvassi	Ramvriksh	Kol		Cot - 1, Pitcher - 2 Axe - 1, Potatoes - 100kg	1080/-
2.	Bholanath	Devshankar	Kol	25 hens and cocks	Wheat 5 qtl, Rice 1qtl, Onions 4kg, Cots -5, Cycle - 1, Bucket - 1, Plates - 2, Purse - 1, Glass - 2, Ramma - 1, Axe - 1, Dolchi - 1, Box -1, Attachee -1,	92,950
3.	Ramkrit	Lalji	Kol	3 cocks	Doors -5, and entire house damaged with roof slabs, Pitcher -3, Axe - 1, Attachee -1	645/-
4.	Bateshwar	Bachau	Kol	15 cocks	Mango -1qtl, Axe -1, Rickshaw license certificate	2350/-
5.	Purrushottam	Sampat	Kol		Axe -1, Tiles - 1000	550/-
6.	Arjun	Dev Shankar	Kol	3 cocks and 8 hens	Rice -1qtl, flour 10kg Wheat -2 qtl, Dalda - 2kg, Mahua oil -10kg Mustard Oil - 2kg, Mahua -150 kg, Potatoes -1 qtl, Cot -4, Plates -2, Purse -1, Glass - 5, Tiles (new) - 2000, House with tiles destroyed	88300/
7.	Ramvarat	Kallu	Kol		Axe -1, Pitcher -3	95/-
8.	Shyama	Laxmi	Kol		Axe -2, Torch -1	300/-
9.	Ram Shakal	Ramji	Kol		Mahua -2qtl, Pitcher -2, Bucket -1, Mustard oil - 1kg, Salt 10kg, Surti (Snuff) -1kg Jeera 500 gm Pepper 500 gm And other grocery items.	2025/-
10.	Dhanukdhari	Ramnarain	Kol		Rice 2 qtl, Wheat 1qtl, Plates -5, Bucket -1, Pitcher -5, Table -1, Cycle -1, Box -1, Tiles (new) - 2000, Sarees -4, Four Houses destroyed/demolished	71,060
					Total	2,59,355

Annexure II

Agreement arrived at regarding acquisition of land for extension of Runway at Babatpur airport between SKSS and District Collector.

The discussions were held today, the 30 April, 2002 at 12:00 noon at Rifle Club with the farmers affected in the case of acquisition of land for extension of the Runway of Babatpur Airport. The following officers were present in the discussion:

- | | | |
|----|------------------------|---|
| 1. | Sh. Alok Kumar | - Dist. Collector, Varanasi |
| 2. | Sh A. K. Shahi | - Addl. DC (Admn), Varanasi |
| 3. | Sh Rakesh Kumar Mishra | - Sub Div Officer, Pindra, Varanasi |
| 4. | Sh Matapher Saroj | - Settlement Officer (Consolidation) Varanasi |
| 5. | Sh M. R. Dhiman | - Special Land Acquisition Officer |
| 6. | Sh O. P. Tripathi | - Tehsildar, Pindra, Varanasi |

On behalf of the farmers, the following members of Sanyukat Kissan Sangarsh Samiti (SKSS) were present:-

- | | | |
|-----|---------------------------|-------------------|
| 1. | Sh. Shashi Kant Pandey | - President |
| 2. | Sh. Ram Nath Pal | - Vice-President |
| 3. | Sh. Ram Naresh Badebabu - | General Secretary |
| 4. | Sh. Hem Raj Singh | Village Karmi |
| 5. | Sh. Saravjit Pradhan | - Village Karmi |
| 6. | Sh Udaishankar Patel | - Village Mangari |
| 7. | Smt. Shanti Devi | - Village Karmi |
| 8. | Sh. Ashrad Ali | - Village Mangari |
| 9. | Sh. Kailash Nath Sharma | - Village Mangari |
| 10. | Sh Santosh Singh | - Village Mangari |
| 11. | Sh Radhey Shyam Pal | - Village Mangari |
| 12. | Sh. Jai Prakash | - Village Mangari |

After discussions the following was unanimously decided upon:

1. The work would be started immediately on the land acquired, but the following would be settled by the Administration:
 - a) The existing approach road will not be closed till commencement of construction work of alternative approach road.
 - b) Action will be taken by the Dist. Administration with the cooperation of rural people for connecting the alternative approach road at a more convenient place at the spot with the railway route.
 - c) The necessary change in the alignment of alternative road will be carried out keeping in view the local circumstances after consultation with cultivators in such a manner that the remaining land of the cultivators remains useful as far as possible.
 - d) After discussion on all the problems, the affected farmers and Dist. Administration agreed that the compensation under the scheme is paid at Rs. 7,00,000/- (Rs. Seven lakhs) per acre to the cultivators of village Mangari and at Rs. 6,00,000/- (Rs. Six lakhs) per acre to the cultivators of Village Baikunthpur, Karmi. Taking sanction from the Government on this the amount of compensation be disbursed after getting the award passed through negotiation.
 - e) As per Government orders, action will be taken to provide employment to one member of the affected displaced families.

Sd/- Illeg. (Alok Kumar)
Dist. Collector, Varanasi

Annexure III

Police response to the complaint of Vijay Kumar Jaiswal.

Office of Sr. Superintendent of Police, Varanasi
No. CST / RTP - 280/2001

Dated April 13, 2001

To,
The Asst. Director (Law)
Human Rights Commission
Sardar Patel Bhawan, Sansad Marg
New Delhi.

Please refer to your letter No. 37989/24/2000-2001-U, dated nil regarding conducting an inquiry into the complaint of Shri Vijay Kumar S/o late Shiv Nath Prasad R/o A-31/130, Nayapura, Hanuman Phatak, P.S. Adampur, Varanasi, annexed with letter of Dr. Lenin, People's Vigilance Committee on Human Rights. In connection with the above reference this is to make available the report of the said inquiry.

2- The inquiry into the case in question was conducted by Shri Rajiv Naraina Mishra, Circle Officer Kotwali, Varanasi. A copy of the report submitted by the Inquiry Officer alongwith complaint is forwarded for your kind perusal.

3- As per the report submitted by the Inquiry Officer, the applicant had a dispute with his brothers over the house over which both the parties were fighting with each other on 1-2-2001, whereupon both the parties were arrested by SI Shri Kamleshwar Singh U/S 151/107/116 Cr. P.C. but he had not mentioned anything in the Daily Diary regarding the injuries of the applicant and nor did the SHO pay any attention to this aspect with regard to which strong warning has been given to him in his personal file. In the inquiry, misbehaviour with the applicant by the police could not be confirmed. There appears no need to take any action.

Sd/-
(G.L.Meena)
Sr. Superintendent of Police, Varanasi.

Excerpts from the Inquiry Report submitted by the SSP of Varanasi to NHRC

Please refer to your letter No. ST/City-E-2-47/2001 dated February 2, 2001 vide which inquiry report into the complaint of Shri Vijay Kumar Jaiswal (Kallu) R/o A-31/130, Nayapura, Hanuman Phatak, PS Adampur, Varanasi has been sought for.

Allegations:

The applicant has alleged that in the dispute between the brothers, the police of PS Adampur arrested and put in the lock up and at night the SHO took him out of the lock up and beat him badly. The SHO has been threatening to kill him.

Findings of the Inquiry:

Shri Vijay Kumar Jaiswal S/o late Shiv Nath Prasad Jaiswal stated there is a dispute regarding the partition of the house amongst us brothers. Chote Lal has Dilip and Pradip in his favour. After 15 days Pradip again brought material (this was after it was agreed among the brothers that Pradip would not unload anymore material at the house). *This was at 5:00 p.m. on 31-1-2001 (emphasis ours)*. All the brothers were not home. When Satyaprakash saw the material being unloaded with gunny bags after it had been agreed that there would be no unloading, he questioned Pradip. At this, there arose an argument, which led to abusing and fighting between Pradip and Satyaprakash. At this point the constables from the police post came and arrested both of them and put them in the lock up at the police station. Thereafter, the wife of Satyaprakash and his own wife came and questioned the wife of Pradip as to why they were unloading material. At this the other brothers Chote Lal and Dilip began beating his wife and the wife of his brother. His wife telephoned him and called him from Medagin. He drives a tempo. On getting the information over the phone, he returned home and enquired from his wife what the situation was. Pradip's wife went to the police station and then three policemen came and took him to the police post beating him along the way. The SI sent him to the Police Station and on arriving there he found his brothers Satyaprakash and Pradip in the lock up. This was around 7:30 p.m.

Satyaprakash S/o late Shiv Nath Prasad informedThe next day again cement stock arrived. Then they stopped it and there broke out a fight and quarrel with a lot of abusing. In the meanwhile the police arrived and took him and Pradip to the Police Station. Later on the wife of his younger brother telephoned Vijay. Vijay came home and when he was talking to his wife and sister-in-law, four-five constables came and took him to the police post and then to the police station beating him along the way.

Pradip Kumar S/o late Shiv Nath stated.....On 31-1-2001 when he was getting the material unloaded and stocked in the shop, Bhola Nath, Satya Prakash, Vijay Kumar and the four sons of Bhola Nath and one son of Satyaprakash stopped him from doing this. When he reported this to the Police Post Hanuman Phatak, the SI sent the constable and called all of them there and after getting them to resolve the matter amicably, peacefully sent them back. SI / Incharge of Police Post told them at that time that they should settle the matter of partition amicably amongst themselves and if the matter cannot be settled in an amicable manner then they should get the partition settled through the courts. They agreed to this and then he stored the material in his shop. On the morning of 1-2-2001, he was again getting his material stocked in the shop when his brother Bhola Nath, Satyaprakash, Vijay and sons of Bhola Nath and one son of Satyaprakash came and started to stop the unloading of

the material. They said that when an agreement was reached yesterday then why has it been broken today. Vijay started quarreling and abusing him. A fight broke out amongst them and a crowd gathered. In the mean time the Incharge of Police Post Hanuman Phatak arrived and arrested persons from both parties. He was arrested from one party and Vijay and Satyaprakash from the other. *He and Vijay received minor scratches on their person during the fight (emphasis ours)*. The police did not misbehave with them at all.

Shri Kamlesh Singh, SI / Incharge of Police Post Hanuman Phatak, P.S. Adampur, Varanasi, stated that on 1-2-2001, he and HC 58 Shiv Pujan Singh were present at the police post Hanuman Phatak, when they received information of a fight taking place between two parties behind the Hanuman Phatak Police Post. On receiving this information, he along with the HC arrived at the spot and found that two parties, Satyaprakash and others from the first and Pradip Kumar and others from the second were engaged in a serious fight and quarrel. Both the parties were separated and he along with those present tried to make both parties come to an understanding, but they refused to agree and commenced fighting again. Hence finding no other way out, informing them about the reason for arrest U/s 151 Cr.P.C. Satyaprakash and Vijay Kumar from one party and Pradip Kumar from the second party were taken into police custody. Thereafter they were taken to the Police Station and put in the lock up. The accused complained of body aches. *No external injury was visible (emphasis ours)* nor did the accused express a desire for a medical check-up. As such there appeared no necessity for medical examination.

HC 58, Shiv Pujan Singh, Police Post Hanuman Phatak, P.S. Adampur, Varanasi stated that on 1-2-2001 he along with SI Shri Kamlesh Singh, Incharge of Hanuman Phatak Police post was present at the post when they received information that a fight is going on between two parties behind Hanuman Phatak Police Post. On receiving this information he and the SI arrived on the scene and saw that Satyaprakash and others from one party and Pradip Kumar and others from the other party were quarreling and fighting. Both the parties were separated and he and other people present tried bringing both parties to an understanding, but they refused to listen and started quarreling again. Finding no other way out, they issued the reason for arrest U/s 151 Cr. P.C. Satyaprakash, Vijay Kumar from one party and Pradip Kumar from the second party were taken into police custody. Thereafter they were brought to the police station and put in the lock up. The accused complained of body pain, *but did not show any external injury (emphasis ours)*, nor expressed desire for medical examination, hence there appeared no necessity for medical examination.

Shri Bhopali S/o Panna Lal Gupta informed.....On 1-2-2001, while out for a walk at 6:00 a.m. went to his brother's house Shri Deep Chand Gupta to ask his opinion on some business matter. There he saw that his brother's neighbors, Vijay Jaiswal and his brothers Pradip Jaiswal and Chote Lal Jaiswal and 5-6 other persons were fighting and quarreling among themselves. Chote Lal was holding a stick in his hand. Some people of the locality were trying to intervene, but they all continued fighting and quarreling. In the meantime SI and HC from Police Post Hanuman Phatak came and arrested Pradip Jaiswal, Vijay Jaiswal and Satyaprakash.

Shri Shashi Bhushan Singh S/o Gobardhan Singh stated..... On 1-2-2001 as is his daily practice he went for a walk and saw Pradip Kumar, Vijay Kumar, Satyaprakash and other residents of the locality fighting quarreling and abusing each other. *There was blood on the hip of Vijay Kumar Jaiswal (emphasis ours)*. Chote Lal was holding a stick in his hand. Others were intervening, but they continued to fight. In the meanwhile, SI and HC of police post Hanuman Phatak arrived on the scene and arrested Vijay Jaiswal, Pradip Jaiswal and Satyaprakash Jaiswal, while the others fled from the spot. On enquiring it was found that Vijay Jaiswal had an abscess on his hip and it burst during the fight resulting in blood oozing out from it.

Constable 503 Surya Nath Rai, P.S. Adampur, Varanasi stated that he is working as constable in P.S. Adampur. His residence is situated within the building of the police station. On 1-2-2001 he took charge of police station at 6:30 a.m. from Constable Babu Lal Yadav. He was on duty when vide report No. 11, time 6:40 a.m. SI Shri Kamleshwar Singh, Police Post Incharge, Hanuman Phatak police post and HC Shiv Pujan Singh came with three accused Satya Prakash, Vijay alias Kallu and Pradip Kumar Jaiswal residents of Nyayapura P.S. Adampur, Varanasi, arrested U/s 151/107/116 Cr. P.C. On the order of the SI, he recorded in his own handwriting the arrival of SI along with the accused. The accused did not complain about any misbehaviour whatsoever. The accused were sent to the Court the same day vide report No 26, time 12:25 hours.

Constable 2066 Inderjit Pandey, P.S. Adampur, Varanasi stated that on 31-1-2001 he was performing second shift guard duty, He was on guard duty in Police Station, Adampur from 21 to 24 hours and on 1-2-2001 from 6:00 to 9:00 hours and from 15 to 18 hours. On 1-2-2001, Shri Kamleshwar Singh, SI and HC Shri Shiv Pujan Singh arrived and with the three arrested accused, Satyaprakash, Vijay *alias* Kallu and Pradip Kumar who were arrested U/s 151 Cr. P.C. *Blood was visible on the hip of Vijay Kumar and it was said that during the fight, the abscess burst (emphasis ours)*. There was no accused in the police station prior to their arrival. During his duty timing, no misbehaviour was done to any one.

Constable Babu Lal, P.S. Adampur, Varanasi stated that on 31-1-2001 he was on duty from 20:15 hours to 6:30 hours on 1-2-2001. During his duty timing, no person was brought to the police station and neither was any one beaten up.

Constable 537 Jai Ram Pandey, P.S. Adampur, Varanasi stated that on 31-1-2001 from 18:00 to 21:00 hours and on 1-2-2001 from 3:00 to 6:00 hours and from 12:00 hours to 15:00 hours, he was performing sentry duty. There was no one in the police station during the first duty. During the second duty, the three accused were in the lock up arrested U/s 151 Cr. P.C. who were sent to the jail. During his duty timings no one was beaten up.

The statements of the above two constables (Babu Lal and Jai Ram Pandey) contradict each other

Shri Anil Kumar Rai, SHO, Adampur, Varanasi stated that he has been working at this post of SHO, Adampur since 8-7-2000. The dispute over the partition of a house has been going on among the sons of Shiv Nath Jaiswal of locality Hanuman Phatak, Nayapura, which falls under the jurisdiction of his police station. On 1-2-2001, after checking on the patrolling picket duty, and maintaining law and order to apprehend suspected persons, returned to the police station in the vehicle which has been recorded vide report No. 12, time 6:50. He found in the lock up three arrested accused Satyaprakash, Vijay alias Kallu and Pradip, all sons of late Shiv Nath Jaiswal R/o A-31/131,

Nayapura, Hanuman Phatak, Adampur who were put in the lock up by Kamleshwar Singh, SI Incharge of Police Post Hanuman Phatak U/s 151/107/116 Cr. P.C. After freshening himself , when he was attending to his mail in his office, Shri Syed Naim of Nayapura who is the councilor along with another councilor colleague Mohd Rafiq Ansari R/o Baluavir P.S. Adampur came to meet him. Shri Syed Naim said that Satyaprakash and the others are his neighbours and they have been fighting among themselves and they should be released. The SHO expressed his inability to do this as everything had been recorded in writing. Only a Magistrate has the authority to release them U/s 151 Cr. P.C. They said that they were people with political standing and that their prestige was at stake. They had assured the people that they would have them released and it would be an insult to them if they were not released. The SHO explained his helplessness and sent them back empty-handed.

The SHO believes that the above two councilors are trying to make an issue, as their prestige was hurt. They have got the medical examination of the injuries sustained by Vijay Jaiswal during the fighting and are making a false application against him. Neither did he beat anyone, nor did he misbehave with anyone.

Shri Syed Naim S/o Mohammed Moinuddin R/o A-31/47 Nayapura, Hanuman Phatak, P.S. Adampur, Varanasi stated that he is councillor of ward No. 30 Salempura. There is a dispute over the partition of the house among the children of Shiv Nath Prasad Jaiswal of his locality. They would often quarrel among themselves. The Police have also intervened to resolve the dispute, but the matter could not be settled. On the morning of 1-2-2001, the sons of Shiv Nath Prasad Jaiswal started fighting and quarreling. Then the SI of police post Hanuman Phatak arrived on the scene and arrested Satyaprakash, Vijay alias Kallu and Pradip Kumar Jaiswal, the sons of Shiv Nath Jaiswal and took them to the Police Station. The other sons fled from the spot. Vijay Jaiswal had an abscess on his hip. Chote Lal hit Vijay Jaiswal with a stick and as a result the abscess burst and blood started oozing. He remained at the scene when the police arrived, but said nothing to the SI in charge of the Police Post. After some time, with his other councilor colleagues, Shri Mohammed Rafiq Ansari R/o Baluavir, he went to the Police Station and told the SHO that Vijay Jaiswal and the others are his neighbours. He is the councilor of ward No 30 and since this is a dispute among brothers, asked that they be released and he would get the dispute resolved amongst them. However the SHO did not pay any attention to them.

The Register dated 1-2-2001 of P.S. Adampur was perused and it was found that vide report No. 11 time 6:40 hours, report of arrest and challan of three accused v/z. Satyaprakash, Vijay alias Kallu of one party and Pradip Kumar of the other party U/s 151/107/116 Cr. P.C. by SI Shri Kamleshwar Singh, Police Post Incharge of Police Post Hanuman Phatak has been entered. The fact of the accused having injuries has been recorded, but the details of the injuries have not been recorded nor has it been recorded that the injuries were sustained in the fight between them. On 1-2-2001, vide report No. 26 time 12:35 hours, the accused have been sent to the Court. Before that the departure of the SHO has been shown vide report No. 19 time 10:10 hours for maintaining law and order in the area.

Findings

From the inquiry and perusal of records, the conclusion arrived at is that there is a dispute among the applicant and his brothers over the partition of the house. On this issue the brothers are divided into two groups. The Applicant, Satyaprakash and Bhola are of one view and Pradip, Dilip and Chote Lal are of a different view. On 1-2-2001 both the parties were fighting and quarreling with each other when Police Post Incharge SI Shri Kamleshwar Singh and HC Shiv Pujan Singh of Police Post Hanuman Phatak arrested Satya Prakash, Vijay alias Kallu and Pradip Kumar U/s 151/107/116 Cr. P.C. As far as the question of torture / misbehaviour by the police is concerned, the applicant and his brother Satyaprakash have stated the fact of police misbehaviour in their statements, but on the other hand their brother Pradip Kumar has refuted that fact. Also, the officials on sentry and office duty in the police station have not confirmed torture / misbehaviour by SHO in their respective statements. In the Register, SI has not recorded the details of injuries whereas on perusal of photocopy of injury report filed by the applicant, the fact of swelling of four areas of injury and pain over the eyes has been stated. The fact of beatings / fighting / quarreling / inflicting injuries at the spot have been stated by the witnesses. When the applicant had injuries on his person then the complete details of the same should have been recorded in the register and medical examination / treatment of the same should have been carried out. However, neither was a medical examination or treatment done by the SI nor a medical examination ordered by the SHO. Whereas the SHO vide report No. 12 time 6:50 hours, had returned to the station from checking on the patrolling duty at picket, to maintain law and order and to apprehend suspicious persons and vehicles. It was also the duty of SHO to see the condition of the accused and if there was any injury on their person or there was any complaint, he should have taken necessary action accordingly. Had a medical examination been done, the question of such allegations would not have arisen. It appears that both the Councilors have submitted the application after getting the medical examination done. The SI Shri Kamleshwar Singh and Shri Anil Rai SHO, Adampur have been negligent in their duties by not getting a medical examination / treatment of accused done. Hence, it is recommended that Shri Anil Kumar Rai, SHO and SI Shri Kamleshwar Singh may be given strict warning in their personal file to be careful in future. The inquiry report is submitted.

No. Reader /CO-Inquiry/2001

Sd/-

Dated: March 31, 2001

(Rajiv Narain Mishra)
Circle Officer, Kotwali, Varanasi

Annexure IV

Police version of incidents at Piyari *gaon* as understood from the F.I.R. registered by the SHO of Chaubepur, Varanasi after the incident.

In Police Station Chaubepur, on March 26, 2000 at 23:45 hours, F.I.R. No. 57/2000 is registered under Section 395, 397, 336, 435, 342, 333, 353 and 307 of I.P.C. and 7 of C.L. Act. The description of the same is as follows:

Petitioner: Shri Pramod Kumar Tripathi, S.H.O. Chaubepur, Varanasi.

Respondents: Ramsurat Pradhan, Jaynath son of Jittu, Mewalal son of Jittu, Guddar son of Mathur, Kashi son of Moti, Moti son of Mangar, Baudari son of Tufani, Raju son of Gaddar, Baijnath son of Salik, Subhesh son of Siri, Guddu son of Lalman, Onkar son of Baliram, Cheddi son of Banshi, Bahadur son of Tufani...

Today on 25-03-2000 S.H.O. Pramod Kumar Tripathi, Lady constable Pushpa Yadav No. 2723..... and Ganesh Prasad Upa, went to Piyari village in compliance of the orders dated 24-03-2000 of the Subdivision Officer of Sadar Varanasi, to remove the statue of Dr. Bhimrao Ambedkar which had been erected illegally on village society land of village Piyari, Police Station Chabepur. Along with the police force I had the statue of Dr. Ambedkar removed and ready to be taken away. In the mean time around 200 persons of village Piyari began to protest. I tried to explain things to the people, but they were agitated and disturbed. According to the order of the Subdivision officer, Sadar Varanasi, the statue was to be removed. If further orders were given, anything could have happened. Seeing the agitation of the villagers, I quietly informed Constable 343, Bhishma Narayan to locate a nearby telephone and inform the police station of the situation and ask for an extra force. The villagers were not ready to accept anything and said that they would not let the statue be taken away. They said that it would have to be placed there itself and only then would we be able to leave. Around 20:30 hours S.H.O. Sholapur, Anil Kumar Mishra came on a routine visit in Government jeep No. UP 65 K 1302 along with Constable driver Lal Saheb Singh, Constable 2696, Harendra Kumar Singh, Constable 2031 Meghnath Betha, Constable No. 420 Radheshyam Yadav and Constable No. 2695 Suresh Kumar Yadav. As soon as the S.H.O. of Sholapur arrived the crowd got more agitated. Under the leadership of Ramsurat Pradhan, Jaynath son of Jittu, Mewalal son of Jittu, Guddar son of Mathur and Kashi son of Moti, began commenting on the growing police force. They said that they would not let us accomplish the purpose for which we had come and that they would not spare us. Saying this, the above-mentioned people together with the other villagers surrounded the jeep and police force of the S.H.O. of Sholapur and began stoning them. We tried to reason with the people, but they got more agitated and began stoning us from all sides. They pulled out Shri Anil Kumar Mishra, S.H.O. Sholapur from his jeep and began hitting him with sticks. At this point about 10-15 Upper Caste people arrived and tried to reason with Ramsurat and his companions. At this, Ramsurat and the others began stoning these people as well and they overturned the jeep of S.H.O. Sholapur. Ramsurat, in order to spread terror took a match and set the jeep on fire. Then, in order to terrorise the people from the village who had come to pacify them, they stoned these people as well. In terror and fear these people began to run. At this, some of the companions of Ramsurat chased these people right into the village saying that they would set fire to the whole village and telling us not to interfere with them. One of the interveners, Krishna Kumar Singh son of Rajeshwar, the tractor driver Diwakar Pandey sustained injuries from stoning and beating with sticks. In the stoning Smt. Kanta Devi, W/o Ambikar Singh and Smt. Jagrani W/o Ramesh Singh and Guddu Singh also sustained injuries. Due to the beatings, S.H.O. Sholapur, Anil Kumar Mishra, went into a coma. Believing him to be dead, Ramsurat Singh and others threw him into a nearby well. Due to the brick-batting, stone throwing and beating by Ramsurat and others, I and Constable Bhishma Narayan Singh and Constables Rajbinda Mishra, Kailash Yadav, Ramadhar Yadav, Lady Constable Pushpa Yadav and Harendra and Meghnath of Sholapur sustained injuries. Ramsurat and others beat up Meghnath of Police Station Sholapur and snatched the government musket No. 386-17 from him. And one person took it and ran away. Seeing the situation out of control and the attack on the police force and to save the life of SHO Sholapur and to bring the public to their senses, I fired five shots into the air from my government revolver. The crowd dispersed and not caring for the safety of our lives we drove the crowd back and arrested 24 people from the site.

At this juncture the SHO of Badagaon, Rakesh Shukla and SHO Phulpur, Dayashankar Yadav, arrived with their force in a jeep. Upon asking the name of the arrested, the accused said his name was Guddur, son of Mathura or Suresh Prasad resident of village Piyari, Varanasi. At this there was silence at the place of occurrence and the other people in the village from other classes shut their doors and remained inside out of fear. The Police force then summoned Shri Krishna Kumar Singh S/o late Sh. Rajeshwar Singh, Smt. Kamla Devi W/o Ambika Singh, Smt Jagrani W/o Ramesh alias Guddu and Tractor Driver Diwakar Pandey S/o Laxmi Shankar from the village. They somehow managed to arrange for a rope and pulled SHO Sholapur, Shr. Anil Kumar Mishra, who was semiconscious from the well and sent him to Chirigaon along with Rakesh Shukla of Police Station Badagaon and Dayashankar Yadav from Police Station Phulpur. Some of the other accused were also sent along with them for a medical check-up. The Government jeep from Police Station Sholapur had been badly burnt at that place. We all went by a private jeep No. U P 57-0299 which had been damaged as well. The SHO of Sholapur too had been badly injured. Due to the incident other villagers and policemen too had been injured. The musket of Sh. Meghnath was also looted. Ramsurat Pradhan and his companions had given rise to terror in the area. Due to this all the people of the area had been terrorized. On receiving the information, another police force, P.A.C. and higher officials arrived at the place where the incident occurred. A report was prepared with the light of a torch and the light from the jeep.

Annexure V

List of property looted from village Piyari

Sr. No.	Name & Father's name	Description of items Looted	Approximate value
1.	Nath Ram S/o Ramu	Weaving Machines - 3, Sarees -2	20,000/-
2.	Moti Lal S/o Mangal	Weaving Machine - 1, Jewelry -5 <i>than</i>	12,000/-
3.	Banarsi S/o Moti Lal	Stationery Shop, Cloth, Luna Moped, T.V.	20,000/-
4.	Jai Karan S/o Jagarnath	Silver Jewelry - 5 <i>than</i> , Rs 2000/-	10,000/-
5.	Bulai S/o Tufani	Weaving Machine -1, Bicycle -1	5,000/-
6.	Gulab S/o Dusran	Silver Jewelry	8,000/-
7.	Ram Naresh S/o Puddar	T.V. -1, Deg -1, Wall Clock -1, Clothes torn.	5,000/-
8.	Rama S/o Sarju	Weaving machines -4, Deg -1	20,000/-
9.	Ramsawak S/o Shivnath	Fan -1, Cycle -1, Rs 1,000/-	4,000/-
10.	Rajkumar S/o Shivnath	Weaving machines -2, Deg -1, Rs 5000/-	15,000/-
11.	Jittu S/o Mangal	T.V. -1, Fan -1, Deg -1, wristwatch -3, broken gate, Rs 5000/-	13,000/-
12.	Dukkhu S/o Mannu	Weaving machines -3, Box wire -2, Banana	17,000/-
13.	Ramvriksha S/o Shivnath	Weaving machines -2, Clothes - 2 boxes, Jewelry -3 <i>than</i>	14,000/-
14.	Partavi Devi W/o late Balkaran	Weaving machines -2, Deg - 1	12,000/-
15.	Sahadur S/o Sewan	Weaving machines -2	10,000/-
16.	Mankar S/o Nakchad	Weaving machine - 1, Fan -1, Jewelry -2 <i>than</i> , Rs 1000/-	9,000/-
17.	Jhinguri S/o Kushhar	House broken, Jewelry -5 <i>than</i> , Rs 1900 Generator destroyed	18,000/-
18.	Bhairam S/o Ramdhari	Weaving machines -2, Transistor - 1, watch - 1, Fan -3	14,000/-
19.	Maya Ram S/o Ramdhari	Door, Drama & Music Band items, Casio Harmonium, Microphone set, Rs 2000/-	25,000/-
20.	Daya Ram S/o Ramdhari	Silver Jewelry - 5 <i>than</i>	8,000/-
21.	Tara Devi W/o late Bachau Ram	T.V. -1, Fan -1, Jewelry -5 <i>than</i> , Rs 5000	15,000/-
22.	Mahendra S/o late Kanshi	Jewelry - 3 <i>than</i>	5,000/-
23.	Shankar S/o Nackched	Jewelry -3 <i>than</i> , Rs 2000/-	7,000/-
24.	Kashinath S/o Moti Lal	T.V. - 1, Jewelry -5 <i>than</i> , Rs 5000	15,000/-
25.	Babu Lal S/o Sewan	Weaving machine -1	5,000/-
26.	Chedi S/o Bansi	T.V. - 1, Box -1, Jewelry 5 <i>than</i> , Rs 15000	26,000/-
27.	Lalman S/o Kunjan	Deg -1, Weaving machine -1	6,000/-
28.	Bhaggu S/o Baliram	Brass net weaving machine -1, Jewelry - 5 <i>than</i>	10,000/-
29.	Govind S/o Kunjan	Colour T.V. -1, Rs 2000	12,000/-
30.	Suresh S/o Chingi	T.V. -1, Fan -1, Stabilizer -1, Jewelry -8 <i>than</i> , Rs 4000	15,000/-
31.	Mahender S/o Dukkhu	Weaving machines -2, Jewelry -5 <i>than</i> Rs 4000	22,000/-
32.	Basantlal S/o Juhri	Weaving machine -1, material from General Store looted	15,000/-
33.	Tufani S/o Tanjari	Jewelry -5 <i>than</i> Rs 5000	13,000/-
34.	Bulaki S/o Durjan	Door -1, Jewelry -3 <i>than</i> , Rs 1000	7,000/-
35.	Gaddur Ram S/o Mathura	Door -1, Jewelry -5 <i>than</i> , Rs 5000	15,000/-
36.	Lalbahadur S/o Jagarnath	Jewelry -5 <i>than</i> , Rs 3000	11,000/-
37.	Jaynaryana S/o late Bachanu	Door -1, Jewelry -2 <i>than</i> , Rs 1000	4,000/-
38.	Sewa Lal	Banarasi Saree -1, Rs 1000	3,000/-
		TOTAL	4,84,000/-

Annexure VI

Police version of the circumstances leading to the death of Satyendra Ram S/o Mukundi Ram

As per SR file, the brief note on FIR No. 110 and 111/01 of P.S. Ram Nagar under Section 307 IPC and 25 Arms Act.

Name and address of complainant : Sh Pradip Singh Chandel, SHO Ram Nagar, Varanasi.

Name and address of accused: Name and address of deceased not known and one criminal, name and address not known absconding.

During Panchayatnama, name and address known from the identification of deceased criminal:

Satyendra Ram S/o Mukundi Ram R/o Narsinghpur, P.S. Sahabganj, Dist Chandauli.

Date of Occurrence: 7-9-2001 time 15:30 hours

Date when Reported: 7-9-2001 time 15:35 hours

Place of occurrence: Within the area of village Bhatti, 3 km on East South

IO: Sh. Shyam Shankar Pandey, Inspector Incharge Dashashvamegh, Varanasi.

The brief details of the Incident:

As per the report of the complainant, the complainant of the case Sh. Pradip Chandel along with the police force was checking vehicles at Ali Nagar-Mohan Sarai, by-pass bridge. On 7-9-2001 at about 15:30 hours, two persons on a black Hero Honda motorcycle were seen coming from the direction of Chandauli and on seeing the checking going on by the police, turned back. Becoming suspicious, the SHO of Ram Nagar along with the accompanying police force and Sh. Abdulla and Raj Narain Yadav alias Bulli, the public witnesses, chased the motor-cycle in a Government jeep. The message was flashed from a transmitter set available in the jeep about the flight of the suspected persons on a motorcycle. The persons on the motorcycle drove down the by-pass bridge and crossing Mirzapur Road through the side road of the bypass fled towards the Lanka ground parallel to the Highway. While crossing the Tempo stand located on Mirzapur Road, the person sitting at the back of the motorcycle, raised his arm and taking aim at the police party following them started firing indiscriminately. However due to heavy traffic and chaos due to the firing by the criminals, the police party did not fire any shots. The SHO instructed all the personnel present in the jeep not to fire without his orders and gave top priority for their safety. The criminals after some distance turned towards the left and crossing Lanka Ground fled towards Panchvati. All the while the criminal sitting at the back of the motorcycle continued firing at intervals at the police party with the intention to kill them. In view of the safety of the people, shots were also fired under compulsion by the police party in self-defense whenever the opportunity was there. However due to the speed at which they were moving they were not successful in aiming the target. On reaching Panchvati, they lost sight of the motorcycle, as the road was circular. From Panchvati crossing, the SHO of Ram Nagar took the road leading toward Kasba Ram Nagar.

On hearing the message flashed by SHO Ram Nagar, the SHO of Adampur, Bhullan Yadav with his police force while checking for the suspected vehicle and persons was coming in a Government jeep towards Panchvati via Parav Katesar, Durga Mandir. The criminals going from Panchvati crossing towards Durga Temple after seeing the police jeep coming from the front again turned and fled back towards Panchvati crossing. On seeing the firearm in the hand of the pillion rider of the motorcycle, the SHO Adampur informed the SHO of Ram Nagar of the criminals over the transmitter and started chasing the criminals himself. On receiving the information from the SHO of Adampur, the SHO, Ram Nagar turned his jeep around back towards Panchavati crossing, but on arriving at the crossing found that the criminals had moved towards Lanka Maidan after passing through the crossing. SHO Adampur was in pursuit of the criminals and the SHO Ram Nagar also followed in the chase. There was the sound of gunfire at intervals.

The motorcycle turned towards the road leading to Bhatti moving by the side of Lanka Maidan. SHO Ram Nagar and SHO Adampur continued chasing the motorcycle. Near the graveyard located just before the *abadi* of Bhatti Village, the motor cycle of the criminals suddenly went out of control and fell. Seeing the police jeeps coming close both the criminals ran away on foot, climbing the hillock in the graveyard leaving behind their motorcycle. The police party also reached the hillock and alighting from the jeep they made an attempt to surround both the criminals and ordered them to surrender. Whereupon one of the criminals, hurling filthy abuse took shelter of a slope and started firing shots at the police party with the intention to kill. The other criminal taking advantage of bushes and firing shots ran towards the south west. The criminal firing shots was repeatedly asked to surrender and he was surrounded and encircled. Finding himself surrounded by the police he got furious and standing up began firing shots aiming at the police party. The firing continued from both sides and then the criminal fell and the firing from his side stopped. The police carefully moved to the spot and found the criminal lying dead. A country made revolver of 38" bore, 5 live cartridges and 4 empty cartridges were recovered from the vicinity of the deceased. On the report of the SHO, Ram Nagar, a case was registered against the unknown. During the *panchayatnama* proceedings by the Magistrate, the deceased criminal was identified as Satyender Ram S/o Mukundi Ram R/o Narsinghpur, P.S. Shahabganj, Dist Chandauli.

Shri Shyam Shankar Pandey Inspector Incharge is conducting an investigation into the charges registered in this incident and Magisterial inquiry into the incident is being conducted by the Sub Divisional Officer, Sadar Varanasi.

Criminal History of the Deceased Criminal

1. FIR No. 31/90 U/s 396/120B IPC, P.S. Sahabganj, Chandauli.
2. FIR No. 33/98 U/s 364/364A, IPC, P.S. Chakia Chandauli.
3. FIR No. 77/98 U/s 307 IPC, P.S. Chakia, Chandauli.

4. FIR No. 81/98 U/s 3(1) of U.P. Gangster Act, P.S. Chakia Chandauli.
5. FIR No. 36/93 U/s 395/397 IPC, P.S. Sahabganj, Chandauli.
6. FIR No. 31/91 U/s 364A/302/120B, IPC, P.S. Chand Kemur, Bihar.
7. FIR No. 57/90 U/s 4/25 Arms Act, P.S. Sahabganj, Chandauli.
8. FIR No. 59/2000 U/s 110, Cr. P.C., P.S. Sahabganj, Chandauli.
9. FIR No. 97/2001 U/s 395/397, IPC, P.S. Adalhaat, Mirzapur
10. FIR No. 110/2001 U/s 307 IPC, P.S. Ramnagar, Varanasi.
11. FIR No. 111/2001 U/s 25 Arms Act, P.S. Ramnagar, Varanasi.

Annexure VII

Procedures to be followed in all cases of arrest.

(This extract is taken from *D.K. Basu v. State of W.B.*, (1997) 1 SCC 416, at page 435)

35. We, therefore, consider it appropriate to issue the following *requirements* to be followed in all cases of arrest or detention till legal provisions are made in that behalf as *preventive measures*:

(1) The police personnel carrying out the arrest and handling the interrogation of the arrestee should bear accurate, visible and clear identification and name tags with their designations. The particulars of all such police personnel who handle interrogation of the arrestee must be recorded in a register.

(2) That the police officer carrying out the arrest of the arrestee shall prepare a memo of arrest at the time of arrest and such memo shall be attested by at least one witness, who may either be a member of the family of the arrestee or a respectable person of the locality from where the arrest is made. It shall also be countersigned by the arrestee and shall contain the time and date of arrest.

(3) A person who has been arrested or detained and is being held in custody in a police station or interrogation centre or other lock-up, shall be entitled to have one friend or relative or other person known to him or having interest in his welfare being informed, as soon as practicable, that he has been arrested and is being detained at the particular place, unless the attesting witness of the memo of arrest is himself such a friend or a relative of the arrestee.

(4) The time, place of arrest and venue of custody of an arrestee must be notified by the police where the next friend or relative of the arrestee lives outside the district or town through the Legal Aid Organisation in the District and the police station of the area concerned telegraphically within a period of 8 to 12 hours after the arrest.

(5) The person arrested must be made aware of this right to have someone informed of his arrest or detention as soon as he is put under arrest or is detained.

(6) An entry must be made in the diary at the place of detention regarding the arrest of the person which shall also disclose the name of the next friend of the person who has been informed of the arrest and the names and particulars of the police officials in whose custody the arrestee is.

(7) The arrestee should, where he so requests, be also examined at the time of his arrest and major and minor injuries, if any present on his/her body, must be recorded at that time. The "Inspection Memo" must be signed both by the arrestee and the police officer effecting the arrest and its copy provided to the arrestee.

(8) The arrestee should be subjected to medical examination by a trained doctor every 48 hours during his detention in custody by a doctor on the panel of approved doctors appointed by Director, Health Services of the State or Union Territory concerned. Director, Health Services should prepare such a panel for all tehsils and districts as well.

(9) Copies of all the documents including the memo of arrest, referred to above, should be sent to the Illaqa Magistrate for his record.

(10) The arrestee may be permitted to meet his lawyer during interrogation, though not throughout the interrogation.

(11) A police control room should be provided at all district and State headquarters, where information regarding the arrest and the place of custody of the arrestee shall be communicated by the officer causing the arrest, within 12 hours of effecting the arrest and at the police control room it should be displayed on a conspicuous notice board.

36. Failure to comply with the requirements hereinabove mentioned shall apart from rendering the official concerned liable for departmental action, also render him liable to be punished for contempt of court and the proceedings for contempt of court may be instituted in any High Court of the country, having territorial jurisdiction over the matter.

37. The requirements, referred to above flow from Articles 21 and 22(1) of the Constitution and need to be strictly followed.

Annexure VIII

List of Governemnt Officials invited to depose before the Tribunal

Mr. Rajnath Singh
Chief Minister
Vidhan Sabha, Lucknow
U.P.

Mr. Ab Verma
The Chief Secretary
Sachivalaya, Lucknow
U.P.

Director General Of Police
Police Head Quarters,
Lucknow
U.P.

Mr A Satish Ganesh,
Superintendent Of Police, Chandoli
District Chandoli
U.P.

Mr Ashok Kumar Misra
Station House Officer
Naugarh Police Station
District Chandoli
U.P.

Mr.Ramanooj Yadav
Station House Officer
Sahabganj Police Station
District Chandoli
U.P.

Mr.Alok Tandon
District Magistrate,
Varanasi
U.P.

Mr.Bikram Singh
Inspector General,
District Varanasi
U.P.

Mr.Surya Kumar Shukla
DIG, District Varanasi
U.P.

Mr.Anil Kumar Agrawal
SSP, District Varanasi
Mr.D.K.Rai
S.P. Varanasi City, District Varanasi
U.P.

Mr.Sunil Kumar Vajpayee
Superintendent Of Police(Gramin)
Varanasi

Mr.Mangla Prasad Tiwari
Station House Officer
Phulpur Police Station
District Varanasi
U.P.

Mr.V.S.Rathod
Station House Officer
Badagaon Police Station
District Varanasi
U.P.

Mr.R.P.Singh
Station House Officer
Chaubeypur Police Station
District Varanasi
U.P.

Mr.R.P.Rai
Station House Officer
Cholapur Police Station
District Varanasi
U.P.

Mr.Pradeep Singh Chandel
Station House Officer
Ramnagar Police Station
District Varanasi
U.P.

Mr.Bullan Yadav
Station House Officer
Adampur Police Station
District Varanasi

