

'ACCESS TO JUSTICE FELLOWSHIP' PROGRAMME

**FINAL INTERVENTION REPORT
March 2016- May 2017**



**SCHOOL OF LAW, RIGHTS AND CONSTITUTIONAL GOVERNANCE
TISS**

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I. INTRODUCTION

‘ACCESS TO JUSTICE’ FELLOWSHIP PROGRAMME

In tune with TISS vision of promoting access to justice for the vulnerable and marginalised people, this Programme is aimed at making 'Access to Justice' interventions with socio- legal approach in a meaningful and effective manner. The concept of 'Access to Justice' entails fair treatment and equal protection of law to all individuals and groups as well as having an effective mechanism for appropriate redress in case of any unfair treatment. In the legal framework, Access to Justice is recognised as a basic human right as well as an indispensable means to combat poverty, prevent and resolve conflicts and further injustices. The international principles and minimum rules for the administration of justice are set out in various international instruments. The current justice delivery system is perceived as expensive, time-consuming, procedure-ridden, technical and difficult to comprehend, which prevents the poor and vulnerable groups from approaching the legal system to redress their grievances. To add to the situation, the crisis of delays that has engulfed the Indian judicial process adds to the challenges in delivering justice. Thus, the problem of Access to Justice remains deep and pervasive in India thereby affecting the ability of the legal system and judicial process to respond to injustices. Consequently, there is reluctance among the poor, to become entangled with the courts and other quasi-judicial authorities. In view of the above, it was felt that a focused intervention on the barriers to Access to Justice faced by the poor and marginalised groups should be carried out suggesting reforms in the existing system, so as to remove/neutralize the identified barriers and make the system more responsive to the needs of all citizens, particularly the poor, vulnerable and marginalized through this A2J fellows interventions.

Therefore the A2J Fellowship was introduced with the aim to make practical interventions with socio-legal approach for marginalised people.

The fellowship envisaged redefining the conceptual premise of engaging with human rights work at all levels. The A2J Fellowship had been running since 2015 till May 2017 with two cohorts of fellows. The last batch of fellows has successfully completed their tenure and in the subsequent pages are their detailed intervention reports of the work they had implemented. The final batch of fellows were as follows:

1. Salil Srivastava: The fellow was located in Guhawati, Assam and was working on issues of D-voters in the state.
2. Tushar Somkuwar: The fellow was located in Mumbai and was working on issue of custodial deaths in the state.
3. Jagriti Choudhary: The fellow was located in Ranchi, Jharkhand and was working on issues of Trafficking.
4. Nilesh Gaikwad: The fellow is located in Nagpur, Maharashtra and was working on spreading legal awareness of Domestic Violence Act and allied issues.
5. Rakesh Jamgade: The fellow is located in Harda, Madhya Pradesh and was working on spreading legal awareness on atrocities against the SC/ST community in the area.
6. Niwrutti Meshram: The fellow is located in Nagpur, Maharashtra and was working on issues related to access to justice vis-à-vis de-notified tribes and undertrials in Nagpur Jail.

II. MAINSTREAMING ACCESS TO JUSTICE IN NORTH EAST

BY
SALIL SRIVASTAVA

As an Access to Justice Program Officer in Guwahati, Assam since November, 2014, I along with my Access to Justice (A2J) team, have been working on and preparing the project proposal, 'Mainstreaming Access to Justice in the North-eastern States'. We were informed by our Coordinator, Ms. Kalpana Sarathy, that Mr. Amikar Parmar from the Ministry of Law and Justice had contacted and visited them with respect to this project and had suggested some changes in the proposal. So we started with the aforementioned changes and elaborated on each and every activity proposed in the project proposal, where we justified each activity, explained the objective and the scope of the proposal and justified the rationale behind it. This proposal was sent to the Ministry in December 2014. Meanwhile, we met Mr. Amikar in January, who had visited the Guwahati campus. He discussed the proposal at length and our role in the project. We received a confirmation letter from the Ministry of Law and Justice in February stating that, they have sanctioned our proposal although they wanted us to limit the scope of our proposal.

The sanctioned proposal expected us to have twin objectives i.e. first, to set up a TISS Guwahati campus based Legal Services Clinic (LSC) and secondly, research on social justice issues. Thereby, we divided our team into two groups namely, the LSC group and the Research group. Each group prepared the proposal limiting its scope to the pre-agreed activities. We had several team meetings as well as meetings with our coordinator with regard to this proposal. It is imperative here to mention that, the final proposal that has been sent to the Ministry was revamped to include the setting up of campus based LSC and research on constraints in accessing justice in communal, ethnic and domestic violence in the states of Assam and Nagaland. The proposal was fully prepared including the budget and submitted to our coordinator, Ms. Kalpana in April. It was sent to the Ministry on 2nd June, 2015 by Ms. Kalpana. Meanwhile this program have shifted to the school of law rights and constitutional governance and our post have redesigned as a Access to Justice fellow.

During A2J review workshop we have a meeting with director sir along with Mr. krishana. Director Sir had introduced us with Mr. krishana and directed us to work

under his guidance for the north-eastern project. We have started worked according his direction. During the visit of parivelan sir in the month of November I have discussed with him regarding my interest in the Issue of Citizenship and had take permission to work on the issue. I started to work on the issue of Citizenship and D Voter in the month of January 2016. Below is a snapshot of my work as an Access to Justice Fellow during my tenure from November 2014 to June 2017.



People from north-east are unable to access their rights and entitlements. This is aggravated by the geographical inaccessibility of many parts of the region, causing

it to be cut off from the rest of India, this coupled with its long history of low-intensity conflict caused by a number of insurgency movements, has raised numerous human rights issues. This has affected large sections of population, notably women, children, Bengali Muslim community. Therefore mainstreaming access to justice in the north-eastern state is an essential need.

1. Tripura Status Report

a. Agenda

To understand the situation of access to justice in Tripura.

b. Content Prepared State status report of Tripura. Report was based on the secondary data available in different websites of the government and non-governmental institutions. In this report we have analysis the present socio-legal condition of the state and existence criminal Justice systems, Access to Justice Delivery mechanism and their efficiency in the state, and identification of the vulnerable groups in the particular state.



2. Field Visits in NECTAR Project:

Level of my Engagement:

Assist in field work as an Access to Justice Professional, in North East Centre for Technology Application and Reach (NECTAR) Project.

About the Project:

Title of Project- **Local Skills, Technologies and Folklore of North Eastern States: A Compilation and Case for Rejuvenation**
Objectives and Scope of Project:

1. To identify indigenous technology



of different regions of north eastern states.

2. To assess the role of socio-economic factors responsible in down-swinging of these technologies.
3. To review the cultural heritage, folk traditions and folk culture in the context of changed socio-economic-legal environment and new policy regime.
4. To know the people's perception of culture and their intervention for preservation, promotion and documentation of cultural heritage.
5. To examine the role of Government, non-government and local organizations engaged in promoting and protecting these technologies and folklore of the region.
6. To suggest suitable measures for rejuvenation of the traditional and indigenous technologies.

3. Proposal on Kokrajaar Incident

Access to Justice Intervention in Violence Occurred Areas on 23rd December 2014 in Assam.

The violence resulted the death of 85 people out of which 73 are Adivasis including many women and children and 3 Adivasis were killed in police firing upon the protestors. On retaliation by adivasis at least 8 Bodo civilians were killed. Since 23rd December, the entire BTAD and adjoining areas like Sonitpur district have been extremely volatile and under curfew. Being Access to Justice located in Tata Institute of Social Sciences, Guwahati we were planned a visit in affected areas to access the current situation and possible socio-legal intervention.

Major area of concern of our visit was:

- 1- To understand the current situation of the affected communities.
- 2- To visit the relief camps.
- 3- To meet the affected people of both the communities.
- 4- To meet the organization working for the affected people.
- 5- To know about the actual implementation of the Govt monetary relief
- 6- Mood of any intervention.

Not approved by the TISS Guwahati due to budgetary constrain and security Issue.

4. Consultation on “Children and Women affected by violence in Assam”, 8th April, 2015, Guwahati

a. Agenda

The focus of the consultation was to develop a basic conceptual understanding between different forms of violence and conflict and their diverse manifestations in Assam. The consultation focused on violence in Assam and the far reaching consequences on the overall development. It encompassed many dimensions such as physical, mental, emotional, social, economic, political and cultural besides human rights and child rights. Within this context, the participants addressed violence and the intersection between various dimensions

of individual needs across lifespans. They did so in order to highlight the role of social norms and community engagement along with law enforcement authorities and justice system in order to prevent and find remedies for intervention in the state.



Evidence from existing research showed that children and women are more vulnerable during times of conflict resulting in a wide range of serious negative outcomes in terms of abuse such as physical, mental, sexual and many more at the family, community and societal levels.

The consultation was convened by TISS in partnership with UNICEF to develop a roadmap to understand the situation of children and women affected by violence in Assam and also to suggest a comprehensive violence prevention mechanism in the State.

I was asked to rapporteur for the workshop. I prepared and submitted the minutes of the meeting. I was later asked to also prepare a report of the workshop. I have submitted the same to Mr. Sanjay Barbora.

5. Tribal Justice Workshop

a. Agenda

The IBA-CLE Chair of National Law School, Bangalore, MILAT, Trivandrum and TISS (Guwahati campus) organized a four day continuing legal education workshop for capacity development of lawyers involved in delivery of justice to tribal people.

The A2J team had helped in organizing the workshop.

6. Training Workshop on

“Laws & Legal Procedures on Access to Justice Perspective”

Civil society plays significant role to sensitise people about their rights and aware them regarding redressal mechanism available to get justice. If the members of civil society are equipped with basic knowledge of law and legal procedure then they will effectively proficient to perform their duty towards society. To attain this goal Team A2J Guwahati



organise a two day training workshop for SSTEP and Street vendor association Guwahati with in TISS Guwahati.

The two days Training program for the staff members of the Society for Social Transformation & Environment Protection (SSTEP), and Street Vendor Association was the first workshop conducted by the Access to Justice Guwahati Team. SSTEP is non-governmental organization based in Guwahati working for the urban poor and Street Vendor Association is formed by the street vender's with the help of SSTEP. The two days training program was divided into six parts or sessions.

7. Workshop on Sexual Harassment:

The Access to Justice (A2J) Projects provides for the establishment of campus based Legal Services Clinic(LSC). One of the components of the LSC is to provide legal literacy. The Committee Against Sexual Harassment(CASH), TISS, Guwahati is an anti-harassment initiative

organised a Sexual Harassment orientation to the students of TISS, Guwahati Campus. Thereby, CASH in collaboration with the A2J team Conducted a workshop for the students to understands the legal aspects of sexual harassment. The focuses of the workshop were to have a basic understanding of the sexual



harassment laws, the legal repercussions to be faced at the occurrence of harassment and thereby sensitize the students that sexual harassment forms a major part of discrimination against women. The workshop encompassed many dimensions of sexual harassment such as the international perspective, the evaluation of harassment in the

Indian laws through the Vishaka Judgement, the Sexual Harassment Act of 2013, and forms of sexual harassment and its consequences.

A2J Model Intervention:- On Citizenship Issue and Need for further involvement as a TISS Field Action Project(FAP)

Background of the Problem:

The arbitrary classification of Indian citizens in Assam into the 'D voter' category has resulted into severe human rights violations over the years. This has hampered their access to several fundamental rights and government schemes. *Illegal immigration* is a peculiar problem in the state of Assam. It has severely affected the social fabric of the state and bred hostility for decades now. The socio-political problem has its roots in the aftermath of the Indian Independence struggle when 'British India' was divided into, initially, India and Pakistan. The inflow of people from the erstwhile East Pakistan and later from Bangladesh has always created ruptures in Assam on the lines of ethno-nationalism, religion or race rather than human rights.

The migration of people between the regions however started during the colonial era when the British encouraged, and sometimes forced, people to migrate in order to supply the growing need of manpower for agriculture in the Tea gardens of Assam in the early 1900s. The British administration encouraged this immigration of peasants, mostly Muslims, hoping to garner more land revenue by settling them in the fallow and wasteland areas of the Brahmaputra valley.¹ The partition of the country on the grounds of religion (and in Sylhet through a plebiscite) triggered another wave of people, both Hindus and Muslims, who shifted to Assam.

In 1997, during the intense revision of the electoral rolls, the Election Commission of India ordered that the letter 'D' be written against the names of those who failed to provide proof of their citizenship and these cases be referred to the Foreigners' tribunal.² These 'D voters' have been denied the right to cast votes in elections ever

¹ Chandan Kumar Sharma (2012): The immigration issue in Assam and conflicts around it, Asian Ethnicity, 13:3, 287-309

² White Paper on Foreigners Retrieve from <http://online.assam.gov.in/web/homepol/whitepaper> Dated 10/08/2015

since and subsequently other rights have also been withdrawn on the grounds that they are *likely* 'illegal immigrants' in India.

This A2J model intervention aims at identifying the collating narratives of constitutional rights' violations and to help them with the direct intervention. Suggest relief measures to rectify the process so we can prevent further injustices.

DIFFERENT INTERVENTION SO FAR

Identification and Networking with Key Stakeholders:

- I. SSTEP Guwahati (NGO)
- II. Jaahi Foundation, Guwahati (NGO)
- III. Professor Munirul Hussain, (Visiting Professor, Political Science& Former Head, Pol. Sc. Dept.,Gauhati University)
- IV. Sahajan Ali ahmad, (Social Activist)Barpeta
- V. All Assam Muslim Student Union(AAMSU), Barpeta
- VI. Panchayat Presidents (Damalajar, Kumalipara, Kujar Peth, Raumari Gaon, Bandali Reserve, Barbala, Narsingbari)
- VII. Gaon Burahs (Same Villages)
- VIII. Local MLA
- IX. Mr. Saiful Islam Advocate
- X. Street Wander Association, Guwahati
- XI. HRLN

ON National Register for Citizenship (NRC):

As defined by the Citizenship Rules, 2003, the National Register of Indian Citizens is the registration of Indian Citizens living in India and outside India. The National Register of Citizens was prepared in 1951 after the census that year. The Register included particulars of all the persons enumerated during that census. The NRC updation is the process of enlisting the names of citizens based on Electoral Rolls up to 1971 and 1951 NRC or admissible documents in case of unavailability of such Electoral Rolls or 1951 NRC. In 2015, the present NRC updation process started in Assam.

There was a political consensus in the State that the updating of the NRC by taking 1971 rolls as the basis was the only solution to the vexed foreigners issue in the

State and the updated NRC would be an effective means to protect genuine Indian citizens from harassment in the name of detection and expulsion of foreigners.

The State Government of Assam also informed the Legislative Assembly House that as on January 6, there were 1,43,227 'D' voters in Assam. Sonitpur district accounted for the highest number with 24,909 'D' voters followed by Barpeta with 22,814 'D' voters, Nagaon with 15,642 and Dhubri with 13,303. Assam has total 1,87,22,435 voters including 96,94,051 male voters and 90,283,84 female voters, according to final photo-electoral roll of 2014 published on January 3, 2014.³

These, over 1.43 lakh 'D' (doubtful/disputed) voters in Assam, would possibly be able to apply for inclusion of their names in the updated NRC. However, their names would be included only when the foreigners' tribunals declare them as non-foreigners and hence, bonafide Indian citizens. This was one of the modalities for updating the NRC 1951 which were mutually agreed upon by the Centre and the Assam government.

The delay in sorting out the discrepancies in the D voter list is a clear and grave violation of the fundamental rights Article 14 and Article 21 of the Indian Constitution. Provision of 'Doubtful Voters' provides for double standards regarding the democratic rights in the world's largest Democracy. There is no compensatory provision either to the genuine India citizens who have been subjected to harassment and torture due to administrative foul play by the state machinery by branding as the 'Doubtful Citizens'.

National Register for Citizenship (NRC) is very important for the people of Assam to prove their citizenship and it is more important for the Bengali Muslim and Bengali Hindu Communities to adopt a proper procedure to fill the NRC form and submit their documents failing which their names will not be included in the ongoing NRC process and will be treated as *illegal immigrants* henceforth. It is very difficult for the poor and illiterate people to understand the legal requirements of the documents and the process to submit the adequate documents with their respective departments. We have initiated the awareness drive amongst people residing in remote villages of Barpeta and Baksa districts about NRC and the process of filling NRC form along with other required

³ Retrieve from <http://www.thehindu.com/news/national/other-states/assams-doubtful-voters-await-clearance-by-foreigners-tribunals/article5694660.ece> dated 10/08/2015

documents. This awareness program has helped thousands of people to fill the NRC form correctly.

ON D(Doubtful) Voter:

The 'D Voter' problem is one of the main issues confronting the Assamese society at present. Though the word 'D' stood for 'defaulter', in present parlance it is being used as 'disputed'. This problem appeared for the first time in the voter's list in Assam published on 1st January 1997. Those who couldn't submit their valid documents within the given time to the Local Verification Officer were marked as 'D'. This classification was confined to the Muslims of Bengal origin and Bengali-speaking Hindus of Assam. In recent times, first-hand reports suggest that it has been extended to some other castes as well. However, whether this has had similar impact on these communities is not yet known. Though the classification and the resulting problem started only in 1997, the hostilities and animosity towards generations of people who are of Bangladeshi origin is much older and deeper problem in Assam

An action research has been initiated, which included scrutiny of photographic and documentary evidences related to the injustice caused with the Indian citizens in the state of Assam, over the contentious issue of their citizenship. The rationale behind dropping the idea of taking the Bengali Hindus community for study is the decision of the central government in which The central government has decided, on humanitarian considerations, to exempt Bangladeshi and Pakistani nationals belonging to minority communities who have entered India on or before December 31, 2014, in respect of their entry and stay in India without proper documents or after the expiry of relevant documents, a statement issued by the Home Ministry said. The decision was taken under Passport (Entry into India) Act, 1920 and Foreigners Act, 1946. The notification issued by the government on 7th September 2015.

Area identified for action research from two districts namely Barpeta and Baksa from the state. Before the data collection, the baseline survey and trust-building had been done for the project and to break the stigma which people had due to transmuted identities.

Analysis shows that lots of injustice has been faced by the poor of the Bengali Muslim community. Many such people who even had the proper documents with them were still

labeled as D voters. Moreover, many of them did not even get the chance to represent their case for years.

If we analyze these D voters legally, then we will find there are many different categories of D voters.

- Those who possess all relevant documents even then they are marked as a D voter.

Under this we have three different categories-

- Those who are fighting their cases in the Foreigners' Tribunal
 - Those awaiting Legal notice to represent their case
 - Those who are not fighting their case due to some other difficulty
- People who do not have all the required documents due to different reasons.
 - But are still fighting their case
 - Not fighting their case and living in continuous fear,
 - People who do not possess any document.
 - Declared Foreigner
 - Detainees
 - Un-traced Foreigner : Under this category many cases are Ex-Party.

Some of the major reasons for the non-solving of these cases even after nineteen years, even though the Foreigners' Tribunals are specially created to deal these cases, are given below -

1. Political misconception propagated that a victim does not need to present in front of FT's because of being an Indian citizen.
2. Lawyers fooling people for their own benefit and taking advantage of the inability of the victims to fight the cases.
3. Lack of financial capacity.
4. Lack of experience in dealing with formal justice institutions.
5. Limited legal awareness and knowledge of the law and the rights.
6. Economic dependency prevents the poor and weak from enforcing the rights.
7. Negative perceptions of legal institutions and litigation and social stigma incurred from turning to the law to seek justice.

8. Distrust of legal institutions and the law which often coincides with perceptions that getting justice from the legal system is difficult or impossible.

Partnership with Human Rights Law Network (HRLN):

Being a TISS A2J Fellow, I discussed the situation with HRLN and with HRLN we started ***Free Legal Representation*** to the poor Litigant. We have already won six cases successfully and filing of 15 more cases is under process.

After the victims receive their citizenship rights, they can get back to accessing public services like before and to their entitlements under various government schemes. This is very crucial to their holistic development and to seek opportunities ahead in life.

We have discussed the situation with the HRLN, and HRLN seems quite interested to represent the case of the victims in the Foreigners' Tribunal. It is proposed that TISS A2J (Guwahati) and HRLN should collaborate to fight for the victims. TISS A2J Legal Services Cell, after scrutiny, will forward the cases to HRLN lawyers who, then, will put up the case before Foreigners' Tribunal. TISS A2J will follow up the cases and will monitor its progress on a regular basis. Also, once a month, A2J and HRLN lawyers will have a meeting wherein the month's proceedings, on case-to case basis, will be discussed and plans and further strategies will be formulated.

Achievements:-

NGO's SSTEP and Street Vender Association have been more effectively working on the socio legal issues.

A Good number of Population benefited of the awareness camps organised by the A2J LSC.

A good number of populations have able to fill their NRC form correctly.

After the legal awareness and counseling many people are willing to fight their cases in FTs. We win ten cases related to D voters and have helped many others to file cases properly.

Towards the solution of D Voter Problem:

During our action research we have found despite having proper documents so many persons have D Voters. Since last 20 years they are waiting to prove their Citizenship. An advocacy drive is needed for inclusion of D Voters in the NRC. D voter who poses proper documents and ready to shown their document in the document verification process involved in NRC should given the chance under the principal of natural justice and also to reduce the burden of foreigners Tribunal. This document verification process is doing by the persons appoint by the NRC authorities having Quasi-Judicial power. So with NRC verification process we can solve so many D voter cases in first step only, they are waiting to receive notices from foreigners Tribunal because without notice they cannot stand in front of foreigners Tribunal, ones notices will serve to these people again our Legal Process will take so many years to solve the cases. If government follow above recommendation, it will reduce the burden of foreigners Tribunals and tribunals can hear actual cases of dispute related to citizenship not for those who illegally marked D during 1997.

Way Forward and Next Strategic Plan:-

As explained above the nature of Problems of D voters is very ambiguous, therefore, in order to resolve those, multi-dimensional strategies will have to adopt. Below is a quick glance over such strategies-

- (i) Further deep field based Research with legal and sociopolitical-economic angle.

- (ii) To support D voter victims for collecting documents with government departments with the help of CBLV (Community base legal Volunteer).
- (iii) Preparation of cases and handing it over to HRLN for legal representation.
- (iv) Advocacy for the rights of Victims.
- (v) Forming a starting committee.
- (vi) Provide Administrative Justice i.e. Government Schemes and other facilities to the families of the D Voters and other villagers.
- (vii) Help the declared foreigners locked in detention camps.
- (viii) Advocacy for preparing proper deportation policy.

(ix) ***To deal with the problem of Statelessness:***

According to reports available 489⁴ detenus currently lodged in the detention camps. In which 147 hindu detunes and 19 children locked in six detonation camps. Only 179 detected foreigners, which also include some Myanmarese nationals caught in Assam have know their address on origin country.

Out of these 489 Detenus, *310 have failed to prove their Indian citizenship but they don't know about their places of origin.* According to official sources, as media reports states "there are detenus who entered india at a very tender age along with their family members. But now that their parents have expired, they have no clue whatsoever about their native places." So these 310 persons don't know their legal status and what about their families living in India, their children, wife, and other dependents. We have to work on these critical situations, to secure their human rights.

For the Implementation of FAP (Minimum Resources Needed):

⁴ <http://www.assamtribune.com/scripts/detailsnew.asp?id=apr1716/at054> dated 17/04/2016

➤ **Infrastructure:**

As TISS have its Campus in Guwahati, so we believe that will get the office space here within TISS.

➤ **Human Resources:**

1. One Project Officer(@50,000PM)	6,00,000
2. One Project Associate(@30,000PM)	3,60,000
3. One CBLV(@15,000PM)	1,80,000

➤ **Conferences:**

Two Regional conferences (@1,00,000 per conf.)	2,00,000
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➤ **Office Expenditure:**

1. Two Laptops with one Printer	1,00,000
2. Office Expenses(@5,000PM)	60,000
3. Travel Expense(@5,000PM)	60,000

Total **15,60,000**

III. ACCESS TO JUSTICE AMONG SURVIVORS OF TRAFFICKING IN JHARKHAND

BY
JAGRITI CHOUDHARY

Work Carried out with Key Points And Explanations-

Various activities were carried out in the span of 2 years. A summarization of the activities are presented here as follows. **My work can be divided into 2 parts. 1st part includes the collaboration with the various civil society organizations and the awareness building programs and the other part includes participating directly with the court and be involved in the process of dispensation of justice.**

- ***Meeting the first contact person on the field*** - One of the major concerns has been the issue of meeting the first contact person on the field. Through college we had been given field mentors which included the organization HRLN and had the chance to meet Mr Ahmed Raza the coordinator in Ranchi. On discussions with him it became clear that he was not involved with the trafficking work so Mr. Raza of HRLN had mentioned his sister organization called Diya Sewa Sansthan which is involved in the actual rescue operations in trafficking cases. Mr Baidyanathan is the director of the organization who was contacted for a meeting but he was away from the city to attend a conference in Orissa on trafficking issues. Meeting with him was done at his office in Ratu Road where he put forth that he carried this operations of rescue as a movement and put forth that there has been no help from the Govt but he carries this work in spite of the paucity of funds. He has agreed that he would collaborate in the best possible ways to take this journey forward. The collaboration with this organization was very meaningful and we carried out various activities together and it was very meaningful. The various activities included the following-
- ***Legal Assistance for the pending cases for the Organization Diya Sewa Sansthan*** - As has been discussed in the earlier reports the above organization provides an important connection in order to get an alternative perspective which is at times different from what the functionaries in the Govt want us to believe. There are many cases which have been filed by Mr Baidyanathan and Mrs Sita Swansi where they have appeared as complainants. They have been appearing for trials in the court but they are in many cases not aware of the developments in these cases nor are they informed as to why hearings in certain case are not being done by the trial courts. A list of a number of cases has been provided to me which includes the case of Pannalal Mahto against whom various FIRS are lodged in various police stations and one includes even in Ranchi but as has been informed by Mr Baidyanathan in the above case is not being done and he doesn't know the

reason for the same therefore even if any counter affidavit has to be filed it can be done so. Another case is that of State Vs Shyam Babu, which is the case in which a small child was rescued by the above organization from the streets . the child was a minor who had been trafficked for domestic labor but was ill-treated by her employers therefore had somehow run away from the house and was found crying on the streets . the local newspapers also contained reports about the above incident but the development trial in the above case is also not known to the organization . Along with the above mentioned cases there is also a list of other cases which have been given by the NGO and I will make it a point to extend all the necessary legal help that will be required in the above cases.

- ***Assisting Mr. Baidyanath For Preparing Recommendations For The New Private Placement Agencies Regulation Act Which Is Being Brought by the Jharkhand Government*** - Diya Sewa Sansthan is one of the organizations which is on the panel appointed by the Government to give recommendations for the drafting of the Private Placement Agencies Regulation Act. It was in this regard that the recommendatory proposals were prepared. Mr. Baidyanathan mentioned that they were forcing for a more stronger Private Placement Regulation Act as he told that the Chhattisgarh Placement Regulation Act on which they were planning to frame the Act had left a lot of gaps and the process entailed in the Act was very difficult to implement as the process entailed was very cumbersome. He also suggested that the bringing of the Act was a mere eye wash by the Government as we already had other legislations like the Inter State Migrant Worker Registration Act which also provided for compulsory registration of workers going out of the state for work and also effective monitoring. He also said that the Government could not implement it properly. He also suggested that in the coming days he had a meeting with all the stakeholders which will be people from the administrative as well as the labor department and details of the discussion will be shared with me so that not only am I aware of the drafting process going on as well as add on through my suggestions through Mr. Baidyanathan. this act has come into force a Worker Registration Act which also provided for compulsory registration of workers going out of the state for work and also effective monitoring. He also said that the Government could not implement it properly. He also suggested that in the coming days he had a meeting with all the stakeholders which will be people from the administrative as well as the labor department and details of the discussion will be shared with me so that not only am I aware of the drafting process going on. the Jharkhand government has recently passed the Act called as the **Jharkhand Nizi Niyozan Ahikaran and Gharelu Kamgar Vinyam 2016** . the salient features of this act include compulsory license , a proof certificate, is required for placement agencies within 90 days of the notification of the act. On functioning as a private agency without license the person would serve 2years

of jail as well as those flouting the rules would have to serve 1 year jail and 2000 fine.

- ***Follow Up in the Jamuni Devi Case through HRLN-*** The writ petition in the Jamuni Devi case as discussed in the earlier reports has been followed up .Mr Raza told that the concerned SHO appeared before the court to explain the developments in the recovery of the missing minor girl Renu Kumari . The police which is the special team from CID has still not been able to trace the girl and have asked sufficient time from the Hon'ble Court to trace the girl which has been granted by the court. The police are still trying to quiz the three accused who are in police custody to release vital links which would help in nabbing the accused and rescuing the girl. This is the first case which was followed by me on a day to day basis ad I also witnessed how a botched up investigation can lead to denial of justice. The first rush with the functioning of the various stakeholders was through this case.
- ***Worked with NGO'S for the implementation of the Bal Maitri Project -***As has been discussed earlier in the detailed intervention plan that I have been working with various NGO's who are carrying out work in the area of trafficking. Chetna Vikas along with Plan India is implementing a project named Bal Maitri- towards Child Friendly Jharkhand on child protection issues. It's working in 4 districts of Jharkhand and presently one panchayat from each district was taken into consideration namely Sankari Panchayat from Deoghar , Karnpura Panchayat from Giridih , Topchanchi Panchayat from Dhanbad and Barawah from Sahebganj. The successful implementation of the integrated child protection scheme (ICPS) in each of these districts has lead to similar initiatives for the execution fothe program in the other 20 districts of the state. The primary objective is the development of community based child protection mechanism(CBCPM) ,district level system strengthening and state level advocacy. It is basically strengthening the Integrated Child Protection Scheme of Government of India in Jharkhand in collaboration with the state child protection society, department of women and child development. Around 42,000 girls are trafficked each year from Jharkhand to other cities and are engaged in domestic work. The rate of child labour is high in Dhanbad District where children between 12-16 are engaged in child labor and also sexually abused . some of them are taken to different states like Maharashtra, Bengal, and Bangalore. Sahebganj is one of the districts where girls are trafficked to Bangladesh. The scope of the program aims at training child protection members, and peer educators through various training programs. The various child protection information centers has strengthened the community based child protection mechanism to protect the children from exploitation, violence abuse, and neglect. The primary objective is to provide children a protective environment and help them to develop and live a better life , by conducting meetings, creating awareness on child rights

and protection it ensures that no child falls out of the safety net of the society. among other functions it aims at capacity building of women , Panchayat level functionaries are initiated regarding their role and responsibilities in sync with child rights and protection. There is also a need to work on child protection issues at Panchayat level, District Need Assessment. It also has collaborated with the ATSEC Jharkhand which have through their Assessment and survey revealed that 70% of the total migrant women and girls were forced to join the flesh trade. The findings of the study also indicate that most of the girls trafficked are below 20 years of age and were children. Many of them undergo slave like conditions and earn way below minimum wages and the national capital region is the most favored destination of the traffickers.

- ***One of the major success after various recommendatory proposals is the Operationalization of the first help desk for trafficked victims in Delhi and a chance to work with people involved in the running of the same-*** There are various help desks which are set up in the state of Jharkhand to provide aid and help to the victims of trafficking but this is a new step where a help desk will be set up at a destination area Delhi. About 33,000 minor girls and boys are trafficked from Jharkhand every year. Of the total minors rescued from households across the country 50% are from Jharkhand. One of the major issue identified during my work was the delay in the trial of the cases due to the reason that the victims were rescued and dropped at the source center and the witnesses and the officials are still at the destination center and then happens a lot of tampering of evidences, non- availability of witnesses as they are unwilling to travel to such huge distances. Moreover once the victims reach their own cities they are threatened and consequently in most of the cases the cases are withdrawn. Moreover there has always been lack of proper co-ordination between the NGO'S of the various states and the police departments thereby resulting in weak charge-sheets and consequent acquittal of the accused. However these were the many concerns which were raised time and again and the setting of the help desk will be a step in that direction. Moreover what is important that the victims will have a one –point stop where they will be provided all the immediate requirements. The state government also wants that the related all the legal cases to be heard in Delhi courts since back in Jharkhand the traffickers pressure the victim families to withdraw the case.
- ***Visits To Various Residential Schools In Various Districts And Recommendations Given to Ranchi Secretariat***
- ***Visit to the KGBV(Kasturba Gandhi Balika Vidyalaya) Bharno, District Gumla:*** - One of the major concerns has been the issue of unsafe migration. Abject poverty, illiteracy, ignorance, difficult access areas, shrinking land holding by the local populace, network of placement agencies through, living

groups were cited as main reasons for large-scale migration from Jharkhand to other cities. The functioning of KGBV was lauded, the State Government has enhanced the classes up to the +2 level thereby imparting education up to 12th Std. It was unanimously opined that strengthening of KGBVs and increasing the number of KGBV to two per block will definitely act as a deterrent in child trafficking as more girl students will be taken into the fold of education. The KGBV is housed in a pucca house with proper boundary wall and houses approximately 168 girls against the sanctioned strength of 240. The visit is on the assessing of the situation of KGBVS which have become a better alternative than the shelter homes which not only provide minimal facilities but also lacks a proper rehabilitation programs for the minor children. Most of the tribal girls who have been able to take benefits of this scheme and have been able to access proper education. Various NGO'S have been focusing on reinforcing this scheme and ensuring it's effective disposal for the young kids. The school does not have proper electricity connection and a generator set is available which operates only up to 9.00 p.m. only. The electric pole has come in front of the school building and is not connected as there is no transformer. Most of the young girls were staying in the first floor. Staircase to the first floor is without a railing and the girls sleep on the first floor during the night. For the last 2 and half years has not been given its completion certificate. The children are forced to stay in a large dormitory with uncovered windows, without doors, without proper electricity connection, without railing on the staircases. When asked how a girl child will relieve herself in the middle of the night in absence of electricity as the toilet block with just 4 WCs on the ground floor, the teacher responded that in such a condition the torch is being used. However, the torches are not being provided by the school. While interacting with the girls, all acknowledged that staying on the first floor in extreme weather condition is risky. . However, all the girls interacted with, were strongly determined to pursue their dreams. the purpose of visit and attempting to combat the issue of migration which is distinguished by a very thin line with trafficking of the young minors from centers like Gumla to Metro centers like Delhi, etc. The District administration shared their shortcomings in preventing the trafficking. Sub-optimal coordination with other State Governments, NGOs and general public at large were cited as one of the main reasons. It was strongly felt that empowering of the Village Chowkidar (the village chowkidar is a public servant on the rolls of the District administration), Gram Panchayat, the Gram Pramukh and the Block Pramukh will be of great help in sorting out the issue. The need was felt to make the village Chowkidar responsible for informing the Gram Pramukh on any missing child from the village, who in turn can further take it up with the Block Pramukh, the concerned NGO working in the area, the Police and even the District level AHTU. However, the need for public display of child help line number and other important numbers was stressed upon and it was agreed by the District officials that it will soon be carried out. It was also impressed

that to avoid re-trafficking of the girls, the details of already acknowledged traffickers of the children will be circulated among the various pramukhs in the block by the police personnel. The issue of child trafficking should be discussed among VHNDs and other Panchayat meetings.

- **Visit to “Children Home” run by Bhartiya Kisan Sangh @ Bijupara, Distt Ranchi** (45 kms from Ranchi): Along with the group of NGO people our Team had prior information that 9 minors (8 girls and one boy) rescued from Delhi were presented before the Child Welfare Committee (CWC) Ranchi, Jharkhand and were currently put up at this particular Home. The children already admitted to **KGBV School, Gumla (for girls) and Indradhanush School (for Boys)** were seen in well clad school uniforms and apparently quite happy on their being in their home environs. There has been a recent surge in the rescue in trafficking cases where recently 8 more girls were rescued by the police which included 4 Minor and 4 Major Girls. Their parents were already informed of their return to Gumla and some of them had already come and met the children. Personal interaction in a friendly environment conducted with all the children. Salient general findings which emerged from the interaction are: Majority of the girls were instigated to leave the village by one of the neighbour or relative only, who had already worked in such metro centers. The children had accompanied these known persons to their destinations, mostly Delhi; In majority of cases parents had not consented for their migration; Prospects of a better life style, dream of earning good money were the main factors on which these girls were lured to leave their village. Some of the children were handed over to the unknown persons and few had exchanged hands for 3-4 times before reaching Delhi, thus raising suspicions of a full fledged organized trafficking racket. In Delhi all of them were made to stay at “OFFICE” where there were other children also (most probably referring to the placement agency. After varying time interval (1 day-1 month) they were placed in some homes as domestic help; They were neither informed about their emoluments, the nature of duties, or even the hours of work; They all denied that their parent received any money on their migration to Delhi; All of them accepted that they were ill-treated at their homes by the “Uncles & Aunties ” and even by their children also; Insufficient food, long working hours and abuse in varying forms and degrees was reported by all; 5 girls interacted, informed that being unable to handle the ill treatment/torture any further, finally ran away from their “NEW HOMES in DELHI” and tried to board either the auto rickshaw, rickshaw or buses for New Delhi Railway Station; It is at this juncture that one of the good Samaritans took note of them and handed them over to the police/ childline and finally through CWC to Children Home Ranchi; Regarding the girl locked up in the Dwarka home, she admitted physical abuse by her employers; All the girls were wearing neat, tidy school uniforms and were seemed to be satisfied with the type of

facilities provided to them; All the girls interacted with were ambitious and wished to pursue their dream through education & hard work.

- ***Visit to the Government Residential School For Tribal Boys In Baridih managed by the Ministry Of Tribal Affairs*** : Some other schools and government run institutions will be visited and review will be presented to the government authorities. A conglomeration of NGO's are taking this effort in the coming days. This school has been started by the ministry of tribal affairs and has been started as a measure to provide equal opportunities to the tribal boys. It is a kind of government run boarding school providing education to the tribal boys. The school is housed in a well spread complex with a section of building in a dilapidated condition which has been declared 'unfit for use', but stands there, part of which is being as open kitchen. Approximately 248 children are staying in the hostel. Practically 3- 4 children are sharing one room. Food was being distributed at the time of visit and the quality and quantity of food did not appear satisfactory. One of the major issues which emerged during the interaction with the children was that school does not have functional toilet complex and irrespective of the season the children have to go to river side which is approximately 1 and a ½ km from the school for bathing and other utilities. Restructuring of the toilet complex, repairs to the new building yet to be handed over to the school but not fit to be used. It was also noted that in the residential school the children are not getting vaccination and as such medical facilities are either not available or very poorly available to them. When a group of children were asked to name their immediate requirements, it was astonishing to know what they wanted was too basic and shocking that the State could not provide for them. On the interactions with the kids what came to the fore were the following immediate requirements which needed to be addressed immediately. Separate broom for each room so that they could keep their rooms clean. Regular replacements for fused bulbs in the rooms to ensure that they could study. "***Khataka***"-(Electric switch) for switching on or off the bulb as they were scared to connect loose live wires (causing electric shocks) for turning on or off the bulb. Even a switchboard could help them in avoiding the frequent electric shocks while connecting the live wires. Ceiling fan as the temperatures go up to 48 degrees in summers and the heat is unbearable. Some play material for the physical activity and entertainment. Also kerosene and lamps while there is no electricity, particularly examination time. In spite of hardships faced and gaps in the services provided, the students seemed to be quite contented and satisfied being in the schools and determined to study further. We also had a chance to meet a number of children who have been rescued by various rescue teams and have been put in this government run residential boy's school. The immediate need is also to provide the necessary facilities in the school as it is modeled on the structure of the Kasturba Gandhi Balika Vidyalaya. Therefore there is an urgent need to strengthen this initiative by the government but not

properly maintained and also to increase the number of such schools wherein each block should have a similar school. The immediate problems of the school were brought to the notice of the officials in a meeting with them.

- ***Met the District Officials as well as members of Child Welfare Committee In Gumla District and brought the immediate problems to their notice so that effective measures could be taken*** : Along with the group of NGO people we had a chance of interaction with the district officials and the members of the child welfare committees. The meeting began with an address on the purpose of visit and attempting to combat the issue of trafficking. One of the major issues is migration which is distinguished reason for the trafficking of the young minors from centers like Gumla to Metro centers like Delhi, etc..The District administration shared their shortcomings in preventing the trafficking. Sub-optimal coordination with other State Governments, NGOs and general public at large were cited as one of the main reasons. It was strongly felt that empowering of the Village Chowkidar (the village chowkidar is a public servant on the rolls of the District administration), Gram Panchayat, the Gram Pramukh and the Block Pramukh will be of great help in sorting out the issue. The need was felt to make the village Chowkidar responsible for informing the Gram Pramukh on any missing child from the village, who in turn can further take it up with the Block Pramukh, the concerned NGO working in the area, the Police and even the District level AHTU (anti- human trafficking unit). However, the need for public display of child help line number and other important numbers was stressed upon and it was agreed by the District officials that it will soon be carried out. It was also impressed that to avoid re-trafficking of the girls, the details of already acknowledged traffickers of the children will be circulated among the various pramukhs in the block by the police personnel. The issue of child trafficking should be discussed among Panchayat meetings. The need on various preventive measures like augmentation of vocational training, increasing employability, expansion of SHGs(self help groups) and greater utilization of schemes like Rashtriya Mahila Kosh was emphasized. Non-availability of children home and observations home at Gumla was also cited as a bottleneck in the functioning of CWCs. However, the District administration was advised to immediately enroll the existing NGOs-run homes and children homes under the ‘Umbrella of JJ Act’, by registering them u/s 34(3). The issue of foster care also arose during the meeting and CWC members present informed that they have received more than 200 applications from the prospective foster parents as Gumla is one of the 3 Districts listed in the foster care scheme launched by the State Government. However, the visiting team felt that proper and adequate action should be taken for identifying the suitable foster parents and adequate subsequent monitoring mechanisms are put in place. Lack of basic infrastructure facilities was big hindrance for the smooth functioning of the CWC. The Team recommended to

the Deputy Commissioner to extend full cooperation to in providing adequate support including the infrastructure support to the conditions of the schools and children homes visited by the team. The District administration admitted that they will be publicizing the important numbers and issue of child trafficking in general public through posters, pamphlets, *Nukkad Nataks*, weekly markets and other related cultural activities. The Team emphasized the need to make the NGOs and other Civil Society to work in close coordination with the administration in an earnest attempt to put an end to this social malaise of trafficking of children.

- ***Met with the State Government officials at the State Secretariat, Ranchi and submitted the recommendations gathered from the field*** : The visiting team which included members of the NGO and other stakeholders first collated the details and observations made at the visit and subsequently decided to share their observations with the State Government based on their visit to the field areas in the districts of Gumla and Ranchi, which included visits to the Children Home run by Bhartiya Kisan Sangh at Bijupara, , the Tribal Residential High School run under the auspices of Ministry of Tribal Affairs, KGBV School under SSM. The observations of the Team also included interactions with the children rescued and restored to their home town, the students studying at the Tribal High School and their teachers, the children studying at the KGBV School and their teachers, various stakeholders including the NGOs working in the areas of child rights. The team pointed out various gaps and anomalies observed in the delivery system, which could have been addressed easily only by having a proper monitoring mechanism in place. They expressed their concern over the delay in constituting the State Commission for Protection of Child Rights, non-utilisation of ICPS funds in previous year and delay in grounding of the DCPS, lack of Children Homes and Observation Homes in the State (Jharkhand has 10 Observation Homes and just two Children Homes in Jamshedpur and Deogarh districts out of 24 Districts of the State) delay in imparting of training to SJPU, delay in providing infrastructure support to AHTUs like provision of Jeeps, delay in providing adequate support to CWCs etc. They urged all the departments present there to ensure inter-departmental coordination and cooperation while dealing with the issues of according various entitlements to children. With regard to establishment of Children Homes in the State in general and at Ranchi and Gumla in particular, the Department assured that this would be expedited and presented before the PAB. The visiting team was assured of strengthening of the Child Welfare Committee (CWCs) and District Child Protection Units (DCPUs)at the earliest possible. The department asked for three months' time to initiate actions on orientation of CWCs, accelerating the recruitment of the personnel required for implementation of ICPS and registration of all the child care intuitions in the State under JJ Act [as required under Section 34(3) of JJ Act, 2000]. The

Department of Social Welfare assured that it will evolve the mechanism to work in coordination with the Anti-Human Trafficking Units (AHTUs) and NGOs on the issue of trafficking and missing children. It was also agreed upon that the routine survey undertaken by the Sarv Siksha Abhiyan (SSA) to include a separate column on the missing children. The State Government felt that the process of migration cannot be checked as everyone looks forward to better opportunities and ensuring better livelihood option. However, to check the illegal migration of children, the IGP (CID) heading AHTU agreed to issue ID cards to those NGO personnel who visit Railway Stations/Bus Stands, so as to ensure protection of such children being carried by unsuspecting traffickers to places like Delhi, Mumbai etc. Such IDs will help the NGOs by not being harassed by the GRP and CISF at the Railway Station and Bus Stands. State Government also stressed the need to plug the “Pull Factor” by working on the control by some kind of legislation on registration of placement agencies and their monitoring and due regulation. In this context it was informed that already some efforts are being put in place by the Delhi Government and in fact the member of the SCW of Jharkhand was called to attend a consultation by the Delhi Government recently, who could brief the State on the deliberations. Meantime, it was felt that an officer of the Jharkhand Government could be designated as a Nodal Officer and be placed at the Resident Commissioner’s Office in Jharkhand Bhawan in Delhi and a provision of short stay home in every metro city could be thought of. The Development Commissioner suggested the agencies working on rescue of children in Delhi could cross verify the name of the parents/guardians of the rescued children from the voters’ list of the State Election Commission, which the representative of Shakti Vahini one of the NGOs engaged in rescue of children from Jharkhand informed could not be practical on account of various reasons including the list not being updated and the errors normally encountered in data entry of the Voters List. It was emphasized that the role of NGO as handholding could be vital in spreading the awareness among parents and community, undertake preventive rescue, rescue from the railway station, destination point and ensure implementation of schemes like SABLA for their rehabilitation to prevent re-trafficking.

- **Participated In Various Capacity Building Programs and Workshops On Trafficking held By Various Stakeholders-**
- ***Participated In national convention on trafficking organized by Jharkhand State Legal Services Authority (JHALSA) and Association For Social And Human Awareness (ASHA)-*** It was an enriching experience to attend the national convention on trafficking organized by Jharkhand State Legal Services Authority (JHALSA) and Association For Social

And Human Awareness (ASHA) . A group of 150 youth took an oath to fight human trafficking at a national convention against human trafficking in Ranchi. The youth who belongs to major trafficking hubs of the state including Ranchi, Khunti, Gumla, Lohardaga, and Saraikela and they have been coined the name of ‘changemakers’. The youth which also includes young men and women have been entrusted with the task of going back to their respective villages to spread awareness about laws against trafficking as well as safe migration. Of the 150 change-makers, a sizeable number of them have themselves have been victims of trafficking and bonded labor in the past. Shanti Kumari a trafficking survivor and one of the change-makers has said that she was taken to Delhi by her aunt when she was 15. The aunt told her that she would earn a lot of money in the home where she worked as a domestic help . the reality was quite different where she was not given food and beaten regularly and not even paid. Shanti managed to flee and returned home with the help of few NGO’S. She says that it took her a little while to recover from the trauma but she has decided that she would fight against the system to get her sisters freed from the clutches of the traffickers and saving them from meeting the same fates. She further said she would work with ASHA to bring a change in the society. **This organization ASHA conducted a survey in 2 panchayats each of Khunti and Ranchi Districts and found that at least 55 children were missing from that area. These girls were taken out of the state on the pretext of work and were missing for the past 3-4 years. the four panchayats surveyed were Lalkhatanga and Maguban in Ranchi as well as Bakuli and Chikor in Khunti.**

- Participated in the 3 day residential program called **Jagek Bera organized by India Suraksha** – India Suraksha with support from the from the United Nations Women implemented in Jharkhand the Suraksha Profram to prevent trafficking at source areas by working with adolescent girls and women and building local accountability to promote safe migration. This program is working tirelessly to prevent trafficking at source areas by organizing village level meetings at regular intervals to sensitize the local community about migration and the implications of trafficking. One such 3 day residential Workshop was organized in Ranchi. I also happen to attend the above program and it was an experience to see the actual implementation of mass awareness campaigns involving members from the community. the team works closely with the elected representatives to check migration by initiating a system to record migration data at the Panchayat level. **Adult Girls Groups** are formed at village levels whoa re working as vigilant members of the village. **Currently there are 374 adolescents who are acting as change agents in the numerous villages of the Namkum Block In Ranchi out of which some are school goers and some are daily wage workers.** The organizational support from the Suraksha Program have helped these girls from groups called as Sakhi , Komal, Chanchal, Tara, Beli, that help them address issues like anti- trafficking and migration as well as sensitize other*

people.during their meetings they are also made aware about the various core health issues as well as they have collaborated with the various village level committees.

- ***Participated In Day Long Symposium On ‘ Trafficking And Lodging of Few Fir’s’ Organized in XISS*** – At a time when there is a claim by the government of Jharkhand of a seemingly more vigilant era to curb trafficking , a Hazaribagh NGO, Jan Vikas Kendra organized a day long symposium on women and child trafficking in XISS Ranchi. One of the major facts discussed was the few number of FIR’S which have been lodged in the cases of missing women and children . as I have been mentioning in my earlier reports that there were a lot many reports from the paralegal volunteers who had been telling us that the situation on the ground level was worse as the so called AHTU’S were not registering FIR’S in the missing children and trafficked victims cases as were being reported by the paralegal volunteers. The NGO organizing a symposium of this kind gives an opportunity to the people at the various policy levels to come and interact and devise a way forward in the cases of missing children and women who are being trafficked. Mr Rajiv Kumar of Jan Vikas Kendra said that for the missing children FIRs are rarely lodged. **He also quoted a survey which was carried out across 2400 households and showed how for the 44 missing children who went missing between April 2015 to March 2016 only two FIRS were lodged and 4 minor girls were traced. This seems to be a very small survey of a particular district and these figures can be alarming in many other districts which are prone to trafficking**
- ***Worked with the JSCLC (Jharkhand State Child Labor Commission) in the organization of the ‘MUKTI CARAVAN’*** – There has been a recent surge in the rescue in trafficking cases where recently 8 more girls were rescued by the police which included 4 Minor and 4 Major Girls . It holds immense importance that the state and the its machinery has swiftly turned to action with the JSCLC (Jharkhand State Child Labor Commission) and the association of Action Against Trafficking And Sexual Exploitation Of Children And Women (ASTEAC). The JSCLC has planned a training caravan called the Mukti Caravan which aims at spreading awareness about trafficking in the remotest parts of the state . it would include various NGO as well as legal awareness groups which will provide the necessary steps taken to achieve the goal of this mission is to grant Mukti to all the villages from the menace of trafficking. There will be Various NGO’S who will also be collaborating with the legal teams to spread the awareness about trafficking. The JHALSA has been also been asked to involve itself in this program and the members of JHALSA in my personal interactions with them revealed that they saw this as an important gateway for gaining access to places where the scope is limited. The JHASLA Chairman Justice D.N. Patel has said that this is an important concern in which all the

stakeholders should come forth and fight against the menace of trafficking and the legal team should not leave any stone unturned in order to effectively collaborate with the other teams. The flagship program will begin from the 30th September and aims at covering every panchayat in every district. The awareness vehicle will go through every village in every district and spread awareness through short films, jingles and nukkad natak. The whole aspect of the trafficking from its inception to prevention to legal resorts was explained to the people.

- ***Attended the workshop organized on the visit of the US Consul General Craig Hall as part of the gender based violence program organized in 3 states*** – US General Consul General Craig Hall visited Ranchi as a part of the concluding workshop on gender based violence organized by the US Consulate Kolkata. The consul praised the state government for its contribution to curb trafficking. He further said that they had organized a Conclave to curb trafficking in 2014 and had received immense support of the government. He further also praised the state government and said that the government had played an important role in curbing trafficking. Introduction of the Private Placement Regulation Act is one such step. Talking about the workshop which was held in the city he said that the program witnessed the participation of young people from the state and was organized to raise awareness about gender based violence. This is the 3rd and last workshop of the series, the previous 2 workshops were held in Kolkata and Guwahati, the students from various colleges and universities including Ranchi university, XLRI, St. Xavier's College, were among others who participated in the program. The students also got a chance to share their views and experience with students from Texas through video conferencing. The workshop was basically to train and inform the students as to how to use the social media and theatres to spread awareness in the campuses. The Consul General also announced the launch of the Anti-Trafficking In Persons (TIP) Caravan which will begin from Kolkata and arrive in Ranchi. The Consul General also announced the launch of the Anti-Trafficking In Persons (TIP) Caravan which will begin from Kolkata and arrive in Ranchi. This caravan will visit various districts such as Lohardaga, Gumla, Simdega, Khunti, and Chaibasa to spread awareness about trafficking. Various NGO'S and other organizations collaborated in this effort.
- ***Attended the workshop by NHRC on elimination of Bonded Labor Child Labor And Human Trafficking in Judicial Academy Ranchi*** – The National Human Rights Commission organized a day long workshop on elimination of Bonded labor, child labor and Human Trafficking in collaboration with the government of Jharkhand at Judicial Academy Jharkhand near Dhurwa Dam, Dhurwa Ranchi. The workshop was chaired by Mr Justice D. Murugsen, member NHRC. The participants of the workshop were senior officers of the government of Jharkhand, representatives of the State Human Rights

Commission Of Jharkhand , NGOs and representatives of brick kilns ,stone crushing and other related industries. Academic , research scholars and final year law students and research scholars(PhD) from Central University Of Jharkhand, Ranchi University and National University of Study And Research In Law attended the workshop. The objective of the workshop was to sensitize and familiarize the District Magistrates, Sub Divisional Magistrates, State Labor and members of Vigilance Committees , brick kilns , stone crushing and other related industries etc in the process of identification, release, and rehabilitation of bonded laborers with the provisions of Bonded Labor System (Abolition) Act , 1976 and other related legislations. The National Human Rights Commission was asked by the Supreme Court in 1997 to get involved in the monitoring of the implementation of the Bonded Labor System (Abolition) Act , 1976. The court's direction had come while hearing the **Writ petition (No 3922/1985) People's Union For Civil Liberties Vs State Of Tamil Nadu & Others**. Since the NHRC has been overseeing the implementation of the Bonded Labor System (Abolition) Act , 1976 in different parts of the country. Therefore the commission in its endeavor to raise the concerns on the continuance of bonded labor and other forms of trafficking has been organizing workshops to sensitize official machinery to work for its abolition in different parts of the country. It has organized 37 workshops on elimination of bonded labor so far.

- ***Attended the programs for the launch various initiatives by the state government like that of PANKH & BAL SANGAM*** – The Jharkhand Education Project Council (JEPC) had issued directives to department officials in every district to organize various events at the school, district and state level for skill development of teachers and students in December and January. And in pursuance of the above directive the various schools in the entire state organized BalSangam. **Pankh**, an initiative to link child labors and street children, will begin soon which was followed by the Bal Sangam program. **Project Pankh** commenced from a slum in Hatia Ranchi where uneducated children will be enrolled in the nearest government school. The drive will be organized across the state to ensure 100% enrolment," JEPC director Mukesh Kumar said. Around 4,000 children will get a chance to interact with chief minister Raghubar Das and share their experiences a state level conference of child cabinet. Under this scheme, Every school will be given Rs 1,000 to organize each fair. This fair will help develop the interest of students in subjects which are usually considered quite tough for them. Samagam, a fest for the students of government schools was held at district level and will be held in August at the state level, while Kasturba Sangam for the students of 203 Kasturba Gandhi Balika Vidyalayas was also organized. For the teachers, Shikshak Samagam will also be organized on December 10 at the block level and state level. This programme will be a motivational exercise not only provide a break to the teachers, but will also motivate them to develop and showcase their skills.

- Attended the program 'Surakshit Bachpan, Surakshit Bharat' program organized by the state Assembly and attended by Nobel laureate Kailash Satyarthi,-* Towards the end of this fellowship I had the honor of meeting the great Kailash Satyarthi in the program organized by the state assembly called Surakshit Bachpan Surakshit Bharat. Jharkhand Chief Minister Raghubar Das said that his government had vowed to eradicate child labor, migration and unemployment and very soon a bill will be introduced in the Assembly to stop human trafficking. Das recalled how he rescued several child laborers when he was the state labor minister and a bill will be soon introduced in the state Assembly to prevent human trafficking. Stating that there are 18,000 orphans in Jharkhand, the chief minister said the state government will take care of their education and boys and girls in age group of 14-15 years will be imparted skill training and employment will be given and two centers being set up in Ranchi and Gumla. Appreciating Satyarthi's work, Das said Madhya Pradesh may be his birth place, but Jharkhand is his work place and called upon everyone to learn from Satyarthi's life struggle. Stating that Jharkhand has abundance of human resources, mineral resources, forests and land, Das said yet the people are poor in the state. Stating that even now children from different districts are migrating, the chief minister said the state is unearthing individual talents through 'Bal Samagam', 'Bal Sansad' and 'Tejaswini schemes. Satyarthi also addressed the importance of a collective effort to bring a radical change in the lives of the trafficked children and he also expressed the hope to continue further in his efforts for the eradication of trafficking of children and the government agreed to give its full support in this regard to the organization.
- Workshop On Checking Human Trafficking conducted in Ranchi.* – A One day legal workshop on discussing ways and means of checking human trafficking as well as creating awareness was conducted in the **Shri Krishna Institute Of Public Administration** on 20th June. This workshop was organized by the Women And Child Development Department of the Jharkhand Government. Addressing the workshop Principal **District And Sessions Judge B.K.Gowswami** said apart from the state Government it is also the responsibility of the people to check the crime against women and children. He advocated for the policy and an urgent need to protect the children who have been hit by trafficking so that they can join the mainstream of the society. He also said that people should come forward to stop the mental and physical exploitation of children. **Director of the Social Welfare Department Ravinder Kumar** said it was important for people to be made aware about the laws related to human trafficking. He also said that the purpose of the workshop was to is to make officials common people aware about the laws related to human trafficking. He also said that the purpose of the workshop was to make the officials attuned with

the laws on trafficking. Padamshri Ashok Bhagat also called for making collaborative efforts to eradicate the menace of human trafficking.

- *Attended the function for the launch of campaign to end trafficking and sexual abuse and trafficking in children by the Governor Draupadi Murmu in collaboration with the World Vision India*—Jharkhand governor Draupadi Murmu launched the nation-wide campaign of a humanitarian organization to end child sexual abuse. The campaign titled "It Takes Every Indian to End Child Sexual Abuse And Trafficking" by World Vision India (WVI) was launched by Murmu. The governor said, "Responsibility for prevention of child sexual abuse and trafficking is shared by parents, schools, communities, alike and the broader society alike. Governor said, It is important to sensitize children on sexual abuse so that they can be vigilant through age appropriate messages. Children should also be guided to contact the child help line 1098 during crisis. This campaign launched by World Vision India will reach across the rural and urban India and help in ensuring safe environment for our children," the release said quoting the governor. Mikhael Pradhan, head, advocacy, World Vision India said, "The magnitude of sexual violence against children subsequently resulting in trafficking is unknown. Yet there is not enough conversation and action taken on this issue. Through this campaign, we aim to encourage every Indian to provide a safe environment for children. The program also had participants from the various child welfare committees and the members of the child protection committees as well as the members of the various representative NGO'S involved in the rescue and rehabilitation of the children. The members of the women and child welfare department of the state were also present. Representatives from the district legal services authority were also present It was also suggested by the governor that the various department s should work together to ensure that any form of violence against children within the confines of the home in the form of child sexual abuse or trafficking from strangers lurking in villages plagued by poverty and lack of proper state machinery by the states and its entities result in missing children who remain untraceable for years to be thrown into the dirty trade of trafficking.
- *Working With AHTU(Anti- Human Trafficking Unit) and IG Sampat Meena and the Police Machinery*
- *Attended the function organized by CID in release of its figures on trafficking of the past few years* – The CID recently released its report on trafficking issues in Ranchi at a gathering of all the stakeholders where they primarily put forth **that there has been a rise in awareness about trafficking**. This meeting was presided over by IG CID Sampat Meena, members of civil society, members of judiciary as well as

representative from child welfare as well as members from labor department. Awareness about human trafficking has been a major concern in Jharkhand, which seems to have risen over the last five years, This is what the CID figures have to say. The report which was released states that **the number of FIRS registered against human trafficking across the state in 2009 was 9, and which had increased to 45 in 2013, 122 in 2014 and 171 in 2015. This year till July 2016, a total number of 66 FIR'S have been registered. Likewise the rescue cases in 2012 which was only 18 which went up to 68 in 2013, 93 in 2014, and 116 in 2015, the number of rescues made till July 2016 was 57. As far as the arrest of traffickers is concerned , a total of 181 traffickers (123 male and 58 female) have been arrested by the state police from 2012 till date. Around 18 traffickers were arrested in 2012 , 32 in 2013 , 58 in 2014 , 53 in 2015 and 20 this year till date.** IG Sampat Meena said that the number of arrests increased in 2014 after the two kingpins of trafficking Baba Bamdev and Pannalal Mahato were arrested in 2014. She further said that “ Once the kingpins were arrested the gang weakened and our officials were able to nab more traffickers who were working under the two”. She went on to say that the increase in awareness among public and police is a major reason for increase in the registration of FIR'S, number of arrests and number of rescues. She went on to say that earlier people did not know that human trafficking.

- ***Attended the program for the inauguration of Child Friendly Police Stations*** -.One of the major steps taken by the Jharkhand Police in addition to Program Muskaan has been the idea of launching Child Friendly Police Stations. However the first of its kind was launched in the city of Ranchi. It has been something which was launched and did not report if their children went missing or were lured away. She further said that even the police did not take these cases seriously but now all the concerned parties have become serious about the issue. **The CID figures further put forth that since December 2013, 20 state level workshops were organized by CID, in which over 2,000 have been trained about the Juvenile Justice Act, Protection Of Children Against Sexual Offences Act and other related acts.** Also they have been trained in dealing with such cases. In the last month district level workshops have been organized in 12 districts in which policemen right from inspector to constable have been trained. She further said that they have trained 4,000 policemen at the state and district level. The result is different as explained by the IG as she says the situation has now changed as she does' not get complaints about police officers not registering complaints. Personally after attending the meeting what came to the fore is that it was a routine release by the state police. The claims made by the police department appeared quite out of sync with the reality on the ground and though there has been a significant increase in the number of reported cases but the claims that the attitude of the police officers registering the FIR'S still

remains more or less the same and reports from the field clearly suggest that there a vast number of cases which go unreported or mechanisms of AHTUS are being used by the police officers to forgo non- registration of FIR'S by the IG of police AHTUS Sampat Meena. The main idea behind the clinic is the launch of atmosphere so conducive for the child so that he can report the case to police stations. Especially this has been launched due to the increasing number of missing children reports coming before the courts and thereby also reducing the chances of trafficking of these kids. The police officers in these stations are trained counselors who understand the child psychology and can adequately deal with the demand of the situation. This has been considered to be one of the effective ways of dealing with trafficking. Moreover the trained police officers will be well aware of the laws and sections under which help can be rendered out to these children which includes the laws under which the offender has to be booked and the next immediate help that needs to be extended to the child victim. All the precautions from production of the child to the Juvenile Justice Board to the transfer of the child to the proper rescue homes will be effectively monitored and adequate attention will be paid so that the child before being united to its parents doesn't suffer any mental physical as well as psychological harm and the issue of child trafficking can be controlled to a great extent by these efforts as these clinics can be used even by children where they can come without fear and address their issues.

- ***Functioning of the AHTUS (Anti –Human Trafficking Units) through interactions with Paralegal Volunteers and other stakeholders, Meeting with one of the celebrated AHTU IG officer Anurag Gupta*** - As had been discussed in the earlier reports and with detailed discussion about the function of the police machinery what generally comes to the fore that there are several lacunae existing in the way there is handling of the trafficking cases. As has been discussed in the earlier reports that FIR has been called as the most sacred document that determines whether an accused will be behind the bars or not. As the FIR carries so much evidentiary value that it determines whether an accused will be behind the bars or not. Police being one of the most important wings of the executive and a mechanism which should be easily accessible to every individual to register his cases. However in my group discussion with the stakeholders what comes to the fore is that the mechanisms which are to be used for the benefit of the people are being used against their interests. There have been increasing reports on the number of reported cases for trafficking. The police personnel and other Govt authorities are interpreting it as a result of their efforts but the situation as on the ground but it has been through interactions with the paralegal volunteers as well as members of NGO that the situation on the ground is otherwise. One of the main aims of setting of the AHTUS was that these cases of trafficking are dealt on an urgent need basis rather and a better handling of these cases can be ensured. There have been increasing cases where informants of various

trafficking cases have been turned away by the police. The reasons cited by one of the volunteers was that the police told them they were not authorized to take their report as the case was of Khunti district (one of the most dangerous areas hit by the Maoist Insurgency and one of the most prominent source areas of trafficking). The case was not filed on the grounds that the victim was from Khunti therefore the case could not be registered at Ranchi AHTU. There have been various cases which are turned down by the police and there has been a subsequent decrease in the number of cases filed in the AHTU. This proposition at present cannot be substantiated by figures but there are gaping holes in the version of the police reports before the courts which has also attracted the eyeballs of legal luminaries. If for e.g. the issue of operation Muskaan which is considered as the flagship program undertaken by the Ranchi Police in which rescue operations to rescue children was undertaken. This was in response to the Supreme Court Judgment in Prajwala Vs Union Of India where the police authorities were asked to carry out rescue operations for the rescue of children trafficked and employed in brick kilns and other trades. This has been a flagship program as the Ranchi police has claimed to rescue as many as 2000 children but I was amazed to hear when the Chief Justice in a recent function sarcastically applauded the police for the rescue but raised an important question that there was not even a single new FIR registered in the courts. It seems to be a travesty of justice as the perpetrators are still roaming free as not a single new FIR was registered for the rescue operations. This raises eyebrows on the veracity of the numbers supplied by the police. Several NGO'S have been contesting the claims of the police that these operations were staged and the police was on a wild spree picking up children playing on the roads and claiming them as rescued trafficked victims. But these can be mere allegations but the bigger question which looms large is the inefficiency of the police machinery and its subsequent effect on the trial of the case as the judiciary can never function without the arm of the police.

- ***Field Visits to the Ranchi And Hatia Railway Stations To See The Effectiveness of the Police Mitra Scheme Launched by Ranchi Police to curb Trafficking and the same was conveyed to the officials*** .- It now seems to be an old maxim that certain schemes which are launched by the Government are never implemented properly. There seems to be an overwhelming prevailing idea that the police as a machinery has generally failed in its duties be it effectively and timely filling of charge sheets or compulsory lodging of FIRS or be it torture in police custody etc. The same situation here has been in the case of trafficking schemes. Here **the Jharkhand Police along with the railways authorities collaborated together with the Railways for the launch of the Police Mitra Scheme which per se seems to be a paradox as the police in recent decades has earned the repute of being anti- people. The increasing crimes of trafficking were being carried out through the railways which turned out**

to be a modus operandi for taking girls from tribal areas to urban cities for work. The modus operandi the trains bound to Delhi serve as a major resource for the traffickers where scores of trafficked girls are packed in the Jharkhand Sampark Kranti, Muri Express, and Jharkhand Swarna Jayanti Express to be taken to Delhi. The railways in collaboration with the Jharkhand police launched a helpline no. to control this transit through the trains. This scheme has been launched at the 2 stations of Ranchi and Hatia which are the 2 stations in the city. However first and foremost as an outsider inquiring about the Helpline in the railway station was a major ordeal as no one knew that such an inquiry center had been set up by the police. Therefore there was an outright failure of the police machinery that if there was no proper awareness of the schemes than the schemes had failed as if the people did not know about such a facility launched by the police how would they report any suspicious activity which they would see around themselves. Secondly after lot of inquiring I reached the place where the people employed were initially not convinced about the idea to interact about it functioning but after settling down for a certain time what came to the fore was that there was not a single complaint which they had received about any such illegal activity in and around the station area. For the police officers settled at the booth trafficking was a thing of the past and it was only the media and certain civil society groups who were trying to get money out of the issue were keeping this issue alive. This very well shows the mindset with which these people work and how discouraging it is for a common man to report such crimes to the police. Under the same scheme the police had asked the NGOS to come to the police stations and get themselves registered as this would help in better co- ordination among the police as well as the NGOS and they would help the NGOS in effective rescue operations. The NGOS on the other hand are saying that in most of the cases the police are unaware of the cases of rescue operations as they are solely carried out by the NGOS and the police have been written in bad light by the press so therefore in order to avoid such situations and remain completely informed about the rescue operations the police have launched this scheme. Thus what appears on the face of it the police the NGOS lack proper co ordination and there appears to be conflicting interests as a result of which it is minor children who fall prey to the traffickers.

- **2nd Part of the Intervention Included working with the judiciary And Ensuring Effective Strategies for Access To Justice for the Survivors Of Trafficking-** The strategy in the field was 2 fold. First was of visiting the court premises and seeing the functioning of the day to day trials of the various cases of trafficking and understanding the nature and duration the trial and the other was to engage with the judicial system in its awareness and capacity building programs . the

focus was on looking at the punitive as well as the rehabilitatory aspect of dealing with the menace of trafficking. Various cases on trafficking as well as cases under the Immoral Trafficking Prevention Act(ITPA) were also collected during this period.

- ***Case study of PANNALAL MAHTO Case*** – This case as had been discussed in the earlier reports can be a path breaking study on the on how the provisions of **The Prevention Of Money Laundering Act** needs to be incorporated with respect to trafficking offences. This is an exhaustive study as the accused Pannalal is a kingpin of trafficking arrested from Delhi and has amassed wealth running in crores. This case study is important as it is one of the rare cases where provisions of the Money Laundering Act needs to be effectively implemented and this case and it also raises questions as the scope an extent to which the crime of trafficking has spread its nets. **There are 9 FIRS registered at AHTUS Khunti against the accused, a kingpin of trafficking** under Secs 363, 370, 371, 372, 323, and 34 as well as Secs 418, 420 ,467, 468, 471 and POCSO Act 2012. In respect of the cases as mentioned above and on further investigation it was found that from Jharkhand, Orissa, Bengal, Chhattisgarh and other interior village areas simple innocent villagers plagued by poverty and helplessness were being coerced into giving away their minor girls and boys vulnerable adolescents, where fake evidences and identity cards were being used to procure the kids to Delhi, Gurgaon, Haryana, Punjab etc where they were harassed mentally and physically. They were being bounded for household work as well as working in Hazardous Industries. It is **important to know that Pannalal Mahto, Sunita Devi, as well as Gayatri Devi for the last 15 years have from areas in and around Khunti have taken close to 10,000 girls.** These girls were brought to Delhi and through their Placement Agency they have been illegally involved in Human Trafficking and have taken minor girls and boys bonded them and put them to household work , or bonded labor working in factories, prostitution, and in the last 12- 14 years they have amassed a lot of immovable property which is presently situated in Delhi, Jharkhand, and other areas. There has been serious considerations raised that whether through illegal human trafficking one has amassed in an illegal manner a lot of Movable and Immovable property and therefore various support groups are demanding that action against him should be taken against him under the provisions of the Prevention Of Money Laundering Act.
- ***Other cases names are being mentioned here and the details of the same can be read through the monthly reports. - Immoral Traffic Prevention Act through Case study of State Vs Nisha Devi &Ors G.R. 3393/10 , Case study of STATE OF JHARKHAND VS RAHUL SHUKLA AND ORS S.T.156/15, ETWA ORAON VS STATE OF JHARKHAND S.T. 386/ 2015, STATE VS GOLU LOHRA , RAHUL MAHLI AND ORS ST -382/15,***

STATE VS LODRO BADIEK ,SANGEETA BADIEK AND MAHESH SAHU S.T.86/15, Navin Kumar Singh, Umesh Mishra, Munna Mishra Vs State Of Jharkhand G.R. 3247/15, Kot (PO) 539/15, Trafficking Case Of STATE VS ANNU DEVI, BABU RAM &ORS S.T. 467/15, the Trafficking Case Of State Vs Phoolmani Kumari S.T. 345/15 AJC XVII In the court of Ranjani Pathak , Case Of SUSHIL KACHAP @ SUSHIL NAYAK Vs STATE OF JHARKHAND A.B.P.1464 Of 2015, case of the ITPA case State VS. Deepa Devi and Others G.R. 3078/09, NAVIN KUMAR SINGH , MUNNA MISRA VS STATE OF JHARKHAND G.R. 3247/13, ANUPA MINZ VS SUMIT BENJAMIN FRANKLIN, A.B.P – 580 Of 2015, P.S. 1/2015, G.R. NO- 1394/2015, Trafficking case dealing with ITPA provisions GUDIA, MUSTARI BEGUM VS STATE OF JHARKHAND S.T. 176/ 15. JAMUNI DEVI Vs STATE OF JHARKHAND WP. H.B.(Cr)No:-268/2014

- ***Resource Person On Trafficking*** –There was a welcome news where the chief judicial commissioner told me that they would like to involve me in the process of dispensation of the 7 schemes as one of them specifically dealt with trafficking. The Chief Justice had consented to my services being used as a resource person on trafficking. Therefore the entire framework for training of Para volunteers, NGO Personnel etc had to be chalked out and taking the program even at village level as well as the district level. My role would be to impart training on various aspects of trafficking involving the Bare Acts, as well as landmark judgments as well as the role of the various stakeholders and their duties as well as responsibilities. This would also involve working closely with the DLSA at the district and village level for awareness as well as working closely to effectively use legal strategies for the benefit of even the last man standing in the row.
- ***Conducted the 2 Day Training Campaign for JHALSA As A Resource Person On Trafficking Meeting With The Chief Justice Of Jharkhand High Court Justice Vijender Singh*** - As part of the ensuing 2 day program on training of Para Legal Volunteers, NGO personnel and the other stakeholders there was a training program which was conducted in hotel Holiday Home Kanke Road Ranchi on the 17 th of December. It was my privilege that I had the chance of acting as the resource person on trafficking .The available guests for the occasion included Justice D.N. Patel, Chairman JHALSA,Padamshri Ashok Bhagat, Chairperson of State Human Rights Commission Mrs Mahua Manjhi, Inspector General Of Police (Handling AHTUS) Sampat Meena, Chief Judicial Commissioner Mr AV Singh. There was a formal inauguration by the secretary of DLSA Mr Pathak post which the dignitaries presented their speeches . the most notable was by the Padma Awardee Ashok Bhagat who spoke on the importance of the tribal land as well as the Tana Bhagat Movement which had laid the foundation of

Jal, Jungle and Zammen which was the main focal points of present times tussles. It was Justice Patel who emphasized the importance of the role of the Para Legal Volunteers as they were the bridging point between law on paper and law in practice even at the most grass root level functioning. The IG specifically spoke on trafficking and explained in detail about the functioning of its flagship program OPERATION MUSKAAN in which thousands of children who were trafficked were rescued by the police and sent back to their families. These included children employed in forced labor, bonded labor as well as other forms of trafficking. This was an operation which was carried out by all the state Govts on the direction of he Supreme Court due to the growing number of reported assess off missing children coming to the fore. She also further laid down that there are plans to establish CHILDREN FRIENDLY POLICE STATIONS which would be established keeping in mind the needs of the children and so as to grant easy access to them. The Chairperson of the State Human Rights Commission Mrs Mahua Manjhi entailed that there were a lot of problems that plagued the women of Jharkhand chiefly which included that of trafficking where girls of Jharkhand were employed as domestic workers in big cities like Delhi, where they were subsequently tortured. She referred to various situations in which she had taken prompt actions when such issue was brought to her notice, she also entailed that other problems which plagued the state included that of witch hunting, child marriage etc and effective measures need to be taken to control the same. The Chief Judicial Commissioner Mr A.V. Singh traced the developments in the judicial system since independence and laid down that the Five Year Plans which were formulated for inclusive growth failed and that the gap between the rich and the poor grew too wide and couldn't be kept within control. I was asked to discuss in detail the provisions of the ITPA (Immoral Traffic Prevention Act) as well as the Apne Aap Women World Wide Trust Vs State Of Bihar. This being a comprehensive judgment discusses in detail the comprehensive steps the various steps that the various machineries of the Govt has to take into consideration for proper control on issues of trafficking. It was an amazing experience as I explained the entire judgment through a power point presentation and also discussed the relevant sections of the ITPA. I also shared with the audience my experiences on the state of cases pending in the district courts. The response from the crowd was very welcoming as most of the people post the session came up to me and told me that he presentation was nice and they got to know a lot about the legal aspect of trafficking. Many NGO volunteers also came up to me sharing their experiences about working in the field of trafficking. Thus the entire experience was very informative.

- ***Effective Collaboration With the then Ranchi Chief Judicial Commissioner*** – The principal judge of Ranchi Civil Court Mr A.V. Singh who also occupies the position of the Sessions Judge has been

approached with the intervention plan of working with close collaboration with the DLSA. He is also the chairman of the District Legal Services Authority Ranchi. The Hon'ble Judge has been very proactive in my initiative and has arranged an effective ground for carrying out my intervention plan. In my initial discussions with him certain key factors emerged as the focal point of the discussion. He made a reference to the Aapne Aap Women World Wide Trust Judgment which lays down the guidelines for an effective operational model to curb trafficking. The learned Judge has also been one of the drafters of the judgment therefore there is a deeper understanding on how to collaborate various machineries of the state to curb the menace. On discussing the issue in great detail with him he entailed that the prosecution model for trying cases in the lower courts is very poor. He according to his experience has laid down that there is migration for work which inevitably ends up in trafficking. On quizzing about the new Act which comes in picture is the Private Placement Agencies Act. He said that there is an existing Act called the **Inter State Migration Workmen (Regulation Of Employment And Condition Of Services) Act, 1979** which is enough to curb migration and book placement agencies but instead of making the present Act work smoothly the Govt is more focussed on just bringing new acts in place instead of ensuring its proper implementation. Major outcomes of the discussions with him has focussed on proper streamlining of the Victim Compensation to extend even to trafficking victims On the release of new guidelines by the Centre for Victim Compensation A.V. Singh has formed a corpus of funds and is streamlining the cases in which victim compensation need to be awarded. A study of all the pending cases before the sessions judge A.V. Singh, as well as Associate Sessions Judge, trying various cases under Sec 370, 370 (A) is being collated.

Visit to the various rescue homes and observations made in the process

- *Visit to the Shelter Home Premashray Chutia and Balashray Ranchi* - My visit to this shelter home was in consonance with my earlier visits to the other shelter homes in the past month. Even though the state government may have managed to table the Jharkhand Private Placement Agencies And Domestic Workers Regulation Bill (2016) in the tumultuous winter session to tighten the noose around the menace of trafficking but what needs to look closely at something more like basic amenities like funds for shelters where rescued girls are brought in. the situation when the nation was reeling under the effects of demonetization, Premashray in Chutia in Ranchi, Jharkhand's first official shelter home for girls was set up in 2012 and is also facing severe money shortage and has suffered the inaction of the government. Another important issue is **that the**

government disburses to Premashray is also about half the sum prescribed under 2014 guidelines of Juvenile Justice (JJ) Act. As per the Act, 1400 should be given as cost of the child. But the bills are calculated according to the old slab of 750 rupees per day and even that is delayed. Ranchi has 10 shelter homes but only 2 shelter homes Premashray for girls and Balashray for boys are registered under the juvenile justice board. For Balashray which was launched in February of former year has not faced the funds crunch because of the sole reason that it is still using the money from its initial allotment.

- ***Visit to the Rescue Home Kishori Niketan In Bijupura In Chanho Block, Ranchi-*** My visit to this shelter home comes in the wake of a launch of a major program **Aaghaaz (Beginning)** to empower trafficking survivors. This program will be launched by the The state social welfare department, in collaboration with 84 NGOs under Action against Trafficking and Sexual Exploitation of Children (Atsec), Jharkhand will launch this program. As a part of an interaction session most of the members of the Ngo's and other stakeholders from the government visited this shelter home. This is a sustained initiative where the focus will be going beyond the regular skill- set up which was being provided to the rescued trafficked survivors . this becomes increasingly important as the survivors I met during my visit were young girls who had been rescued by the police either under the ITPA Act (Immoral Trafficking Prevention Act) ,or had been rescued under Sec 370 of the IPC. To further put it forward I had visited this place a number of times, one with the regular members o the NGO when it was a formal interaction about the launch of the Aaghaaz, and later on personally to understand the real condition of the victims. Coming on the details of **Aaghaaz** , it is a pilot project under which these women will be trained in interpersonal and technical skills in fields of hospitality, information technology and security management followed by job placements. A social welfare department official said the project would be launched at Kishori Niketan in Bijupara on a pilot basis for two months. **The training module has been prepared keeping in view the educational background and interest of the selected 200 women in the age group of 16-35 years, most of whom are school dropouts. In Jharkhand, Lohardaga, Ranchi, Latehar, Simdega, Khunti, Deoghar, Palamau and Pakur are considered vulnerable trafficking hubs.**
- ***Working Closely With the JHALSA(Jharkhand Legal Services Authority)***
 - ***Participated in the formulation and the launch by the JHALSA of 9 Point Strategic Management For Effective***

Implementation Of the Victim Compensation Schemes – In the recent times my collaboration with the Sessions Judge had reduced because of transfer of the earlier sessions judge. Therefore I had been trying to make efforts to increase co-operation with the new Sessions judge B.K. Gowswami. I was recently called by the DLSA and the sessions judge to formulate the 9 point strategic management for implementation of the victim compensation scheme. I had earlier even been involved in the awareness program for the training of judicial officers for the implementation of victim compensation schemes. There had been felt an urgent need to streamline this entire process so that effective results can be achieved and the various DLSA'S can effectively implement the program. The deliberations were carried over a period of time and various judicial officers and others were also involved in the same. The 9 point strategic management for effective implementation of the above scheme was submitted to the JHALSA and subsequently the chairman of JHALSA Justice D.N. Patel also overviewed the same and subsequently it will be sent to the various DLSA'S in the various districts of the state for implementation. The strategy as envisioned above

- Jharkhand State Legal Services Authority shall open a dedicated One Stop Desk at each DLSA/SDLSC of the State for rendering help to the Victims or their family members in the matter of getting the compensation.
- JHALSA shall establish a dedicated pool of panel lawyers and para-legal volunteers for effective legal aid in the matter of compensation to the victims of the offences.
- Legal Aid Clinics at the Jails shall be instructed to render all kinds of help to victim of the offences or the successors of the victim of the offence in preparing application form in the prescribed format for getting compensation under the Jharkhand Victim Welfare Fund Rules, 2014.
- Extensive Legal Awareness activities shall be organized by the Legal Services Authorities across the State of Jharkhand for creating awareness regarding various schemes for compensation to victims of the offence. The Legal Awareness Programme “Kanoon ki Baat” on Doordarshan and Radio shall include the topic of compensation to victims.
- Justice on Wheels shall also be utilized for propagation of Victim Compensation Schemes through Mobile Vans.

- Training and Sensitisation Programme shall be organized for, Deputy Commissioner, Superintendent of Police, Jail Superintendent, Chairman and Secretary, DLSA and Principal Probation Officers once in every six month and Advance Training Programme shall be organized in collaboration with the Home Department, Govt. of Jharkhand once in every year by JHALSA.
- Application for compensation from Victim Welfare Fund in prescribed format shall be made available at all the legal services institutions across the state of Jharkhand including the Legal Aid Centers at village level by JHALSA.
- Periodical Report shall be submitted to Jharkhand State Legal Services Authority by the DLSAs/SDLSCs in respect of progress made in implementation of Victim Compensation Schemes including the no. of beneficiaries and JHALSA in turn, after analyzing the report shall take appropriate steps to make more productive.
- Retainer Lawyer and Para Legal Volunteers shall be available during the working hour on every working day at the one Stop Desk to be established at each DLSA/SDLSC for effective legal aid and advice to the victims or family member of victims of offence. These are the set of measures which are applicable to all the offences which fall under the ambit of sec 357 A of the CrPc and the victim compensation scheme of Jharkhand. Therefore this is a positive step and will help victims of crime of trafficking as well as other offences to avail the benefit of the above scheme.

Working With The DLSA(District Legal Services Authority)

- ***Participated in the Conducting of the Workshop Organized by DLSA Ranchi For the Paralegal Volunteers to train them on the recent changes in law in the state.*** The importance of the Paralegal Volunteers on the field is no disputed fact . they act like the eyes and ears of all the machineries of the state when it comes to the actual interface between the people situate in far flung areas of the state. As has been mentioned in my earlier reports there has been passing of recent law ,Jharkhand Nizi Niyozan Abhikaran and Gharelu Kamgar (Viniyam) Vidheyak, 2016. This is a major development in the area of trafficking and it is necessary that he training modules for the paralegal volunteers had to begin so that the provisions of the law would be made clear to them. Moreover there are various provisions in the current law where they have provided certain mechanisms where the concerned district magistrate and the labor office has to make a record of the number of people who are migrating from the state for the jobs and special mechanisms have been put to t race the records of people who go out of the

city for work . there are provisions in the law where there will be intra state linking with the major destination states such as Delhi etc. moreover Under the new act, licence or proof certificate is required for placement agencies, and they should take licence within 90 days of the notification of the act, including those existing before the notification, On functioning as a placement agency without registration or licence or involved in illegal human trafficking, the offender would be sentenced to two years to jail or fined Rs 1 lakh or both, the release said. Those who violate rules under the act or flout conditions of registration proof certificate would attract one year jail and Rs 20,000 fine or both,.

Under the new act, the placement agency could not take any money from the domestic workers and make available employment details and employment registration certificate within a week. The placement agencies cannot employ people below 18 years of age and should keep details of every employee along with regulation of minimum wage, eight hours duty and double the wage on doing overtime and leave as per the rule. The placement agency should also ensure the wages are deposited in the bank account of the employee.

- ***Certain Effective intervention is the inclusion of trafficked victims for eligibility of the victim compensation scheme in the state as well as Rolling Out Of The Victim Compensation Scheme by DLSA Ranchi Including Trafficked Survivors and Family Profiling To Be Done –***
As has been discussed earlier the major important intervention that had been the scope of the project identified in the beginning has been the inclusion of all the survivors of trafficking within the ambit of the victim compensation scheme. It is riveting to bring to the forth that the constant efforts of mine as well as many other people involved in awareness and generating public opinion have really worked in its advantage. First as has been entailed earlier the victim compensation scheme in the state involves 2 victim compensation scheme . one which has to formed under the mandate of sec 357A of the CrPc and also notified by the center which makes it incumbent upon every state to devise its own victim compensation scheme as well as the other which is unique to the state of Jharkhand and has been formed under the state to provide benefits to the prisoners accused of heinous crimes and lodged in the jails of the state. The former is the major scope of our discussion and has been the focal point around which all the energies were directed. It has to be understood that there has been a disparity in the victim compensation schemes for the various state and supreme court in many cases has pointed at the disparities in the compensation of the various states and recommended them to alter the scheme so that it brings some benefit in the lives of people who have suffered irreparable harm due to the criminal acts of others. Government has also recently strengthened when the Central Government allocated 600 crores to the central victim compensation scheme However as had been reported earlier trafficked victims were not even seen earlier as

potential beneficiaries of this scheme but the situation is drastically changing where now they are being regarded as survivors who require rehabilitation so as to avoid instances of re-trafficking . I can even remember the first time when I talked about inclusion of trafficked victims within the scope of this scheme the immediate first reaction of the DLSA secretary was they go out to work themselves in Delhi, and it is not a heinous crime warranting compensation to the victims . However a welcome step has been that the authorities are including trafficked survivors as beneficiaries of the scheme even though the amount of compensation meted out is meager. It has been a harrowing task working with the DLSA as they seem to have completely deflected from the basic ideas of access to justice on which they were framed. As one of the officials had strikingly told me that these schemes were formed only not to be implemented. However in these absolutely opposite situations what seems to be a glory that finally the rolling out of the victim compensation scheme is being done after several reminders by the supreme court and the center opening the flood gates of money towards the states through the Nirbhaya fund being directed to the central victim compensation scheme and rolling down to the states to strengthen their states victim compensation schemes. However the disparities were very wide where the government of Goa paid 10 lacs as victim compensation to the survivors of rape states such as Jharkhand paid only 50,000 as notified in their victim compensation scheme. Therefore the present list which has been prepared by the DLSA is based on the model of the old act and the amount of compensation which will be received by the survivors

- ***Attended a workshop in the DLSA OFFICE on deliberations for a Witness Protection Program*** – It was the DLSA in collaboration with other stakeholders which hosted a program on Witness Protection. This assumes greater significance in cases of trafficking where the victims are threatened and they turn hostile. This point was also raised in the case of **Prajwala Vs Union Of India** and it was a wonderful opportunity to interact with the Legal luminaries as well as the civil society organizations and a meaningful discussion could be materialized because of the involvement of the various stakeholders. Witness Protection has been one of the key areas in which our legal system has considerably failed and it aims at reducing the cases where witnesses or the complainant turn hostile. However what is most important that the cases fall apart if the crucial witnesses turn hostile. This is a malaise which affects our judiciary and to add on that the point which was adequately pointed out was that judiciary is crucially dependent on the police machinery for its effective functioning. The inordinate delay in investigation as well as the shoddy investigation where the evidences are either made weak or the delay is so inordinate that the accused gets enough time to influence the witnesses either by using coercive force or by the use of money power. However the unanimity was that the timely bound investigation was the need

of the hour and the police should avoid delays in completing the investigation and filing timely charge sheet and it was the judiciary's role to ensure that the witnesses are not threatened by any coercive forces the case is tried in a just and fair manner.

- ***Attended the Function of Meet of The Paralegal Volunteers from All The Districts Of Jharkhand*** – It was an enriching experience to attend the meeting organized by the State Legal Services Authority in order to meet all the PLVS (para legal volunteers from all the districts for review of their work in the year gone by. What can be termed as the basic purpose of the visit is that the people who were employed as Para legal volunteers from the various districts should come together and share the experiences which they had in the preceding year along with the review of the work that was assigned to them. In this light it becomes increasingly necessary to analyze the works which were carried out by these people with the help of their respective DLSA and also there was a scope of bringing to the fore the best practices which were being followed by a particular DLSA which could also be shared with the other DLSA'S. However the experience was mixed response as the scope of the program allowed only. . However it appeared more of a routinely kind of exercise rather than being a fruitful exchange. The sad truth is that in my interactions with the DLSA it appears as if this organization is more of a formality with the functionaries of the DLSA and they carry on the work merely as a procedural formality. This is the prevalent attitude amongst the public functionaries and has often be detrimental in carrying out law reforms but here the challenge lies in molding the existing machineries for the poor and the marginalized. However certain best practices were shared during this interaction which included setting up of PSLV help desk in the Chatra District. One of the major achievements was in one of the villages in Khunti distirct the Head Sarpanch was a lady who in her capacity as a sarpanch had sent a large number of women as Para -legal volunteers and within their own village at every meeting she would appoint these Para Legal Volunteers to speak on various legal rights of an individual as well as the specific rights of the tribal population who are at the receiving end with respect to their land rights as well as forest rights as well as their susceptibility to trafficking related issues. Therefore at this day this village presently boasts of existence of a large number of Paralegal Volunteers who keep a constant check on the activities of trafficking and other related groups in the villages and resultantly the village has shown a steep decline in the reported cases of trafficking not because the are not reported but because of the main reason that there are checks and balances to keep the activities of the nefarious elements in control.
- ***Way Forward*** – I have been working on the inclusion of survivors of trafficked survivors as para legal volunteers which

will take shape in the upcoming days. The rolling out of victim compensation to the victims of the trafficking also has been a major achievement. I would continue to work as a resource person on trafficking with the Jharkhand High Court, and continue to work in the field of trafficking in the state by coordinating with the various stakeholders.

IV. ACCESS TO JUSTICE IN SOCIO-LEGAL INTERVENTIONS ON ATROCITIES AGAINST TRIBALS IN MADHYA PRADESH

BY
RAKESH JAMGADE

BRIEF NOTE ABOUT THEME AND FIELD AREA.

I was working in 3 District, Betul, Harda and Khandwa. In this area Samajwadi Janparishad and Shramik adiwasi sanghtan working for tribal rights and atrocity from so many years, so with the help of this party member and head of party Anurag Modi and Shamim Modi, I was work in legal social issues of Tribal and Dalit member and other people of same district, because in this area tribal people are harass by forest department and police officials, they were filed so many cases on tribal people. Samajwadi Janparishad and Shramik adiwasi sanghtan stands for Adivasi therefore both officials filed cases on members of this organization under IPC and IFA, My work is see all the cases in Betul, Harda and Khandwa as advocate.

I was working in legal and social issues of tribal people in court and outside of court, attended so many time meeting in various places of

tribal and party member. Appear in court and doing hearing in cases and many other working in court as a advocate.

KEY INTERVENTIONS CARRIED OUT.

I was working in Harda, Betul and khandwa district court as advocate, assisting to senior advocate to see all the cases of tribal people who are members of mass tribal organization. Filed cases in court and authority appointed by supreme court in Betul, Harda and khandwa district for tribalrights. Attending meeting in various places, in three district to understand the tribal issues.

Participated in local level programs at villages, block and district level. Deliberating with judicial officers , police and other officials on the issues of tribal forest and state interface.

PRESENT STATUS OF WORK.

I started work in harda with **13 cases** in different courts. All were criminal and forest offences. Each case having more than **20 accused**, all accused are member of organization, but on time I filed cases on requirement. We got positive judgment in various cases, and some cases are pending in court.

CASES

Cases of court in which I appeared and did court work, this is the list of cases.

- 1) Case no. 1184/09 State Vs subedar + 24 Sec 147, 427,353,332 IPC,
- 2) Case no. 1185/09 State Vs subedar + 22 sec 147,353,427,332,IPC,

(in appeal supreme court)

- 3) Case no. 1186/09 state Vs subedar + 24 sec 147, 148, 353, 332, 186, 336, 506 342 IPC
- 4) Case no. 1543/07 state Vs brijlal sec 26 IFA
- 5) Case no. 1545/07 state Vs brijlal+5 sec 26 IFA
- 6) Case no. 1449/07 state Vs brijlal +4 sec 26 IFA
- 7) Case no. 36/12 state Vs shamim modi+24 sec 341,364,294,397,329,332, 353,184, 506, 342, 216, 109 IPC.
- 8) Case no. 100/7 state Vs shamim modi +53 sec 552,353,147 IPC.
- 9) Case no. 6/10 state Vs shamim modi+1 sec 353, 341,364,34 IPC.
- 10) Case no 1542/07 state Vs gangaram +4 sec 26 IFA ,
- 11) Case no 90/07 munnibai Vs state. 323, 325 IPC.
- 12) State Vs shamim modi.
- 13) State Vs shamim modi. Sec 552, 353 IPC,
- 14) case no. 94/07 state Vs brijlal.
- 15) Case no. 97/07 state vs gangaram.
- 16) Case no. 96/07 state vs brijlal.
- 17) Rukmanibai Vs Raghunath and collector of harda.
- 18) Sadaram Vs state bank of india.
- 19) Kuvarsigh + 11 Vs sahakari bank roshani.
- 20) Shramik adivasi sanghatan Vs state of M P.

DETAIL OF INTERVENTIONS COMPLETED

The above given cases are in which I personally did intervention between tribal, court and judicial machinery, detail of above case is as given below,

Case no.

- 1) 1184/09 State Vs subedar + 24 Sec 147, 427,353,332 IPC,
- 2) Case no. 1185/09 State Vs subedar + 22 sec 147,353,427,332,IPC,
(in appeal supreme court)
- 3) Case no. 1186/09 state Vs subedar + 24 sec 147, 148, 353, 332,
186, 336,

In this case we can see the three cases filed one by one, each case having more than 20 accused and all accused were member of shramik adivasi sanghatan, in this case the forest ranger illegally destroy the cultivated land even he with more than 60 forest member beaten the tribal people and filed cases but in same incidence when tribal tried to file case then police deny to file cases and when they filed case after filing charge sheet police filed khatma report on which the police demande khatma of cases.

In this case I appeared in court so many time on behalf of local advocate I did not filed vakalatnama in case therefore I had limitation regarding cases but even with the help of judge, I did work in the court.

When I appointed in respected area that time this cases running from 8 to 9 years but even there was no charges frame in court record but after discussion with the judge he took efforts in this case and frame the charges but due to so many accused he wrote one charges form and he gave to me and I feel all the accused charges and charges form.

This court having method to sing the order sheet after all court proceeding in this cases having so many accused therefore the court employee demand money always for sign of accused so that I personally

took sign of all the accused and filed on record, from starting of the day till the granting next date I did work in court.

In this case we got positive judgment and all accused are now free from court proceeding.

Case no 1543/07 state Vs brijlal sec 26 IFA

Case no. 1545/07 state Vs brijlal+5 sec 26 IFA

Case no. 1449/07 state Vs brijlal +4 sec 26 IFA

Above given cases is registered under Indian forest act sec 26, on the same land but in different time case was registered and this cases running from so many days but not even charges were frame in 9 years but in last 2 years the not even charges were frame but we got judgment.

Forest officials intentionally harass to tribal, in this case with the help of local advocate I appeared in court and did work in court like finding judgments for cases and doing hearing in court. Making exemption application taking bail in court and furnishing the bail in court like this kind of work I did in court, making application of certified copy and try to get as early as possible from record section.

Case no. 36/12 state Vs shamim modi+24 sec 341,364,294,397,329,332,

The above case is pending in court (sc st special court) in this case police file so many charges against the tribal people and same is pending in court, on the date of this case I mark personally attendance of all the accused, so many time did hearing in court. Tried to become

100/7 state Vs shamim modi +53 sec 552,353,147 IPC

In this case we got judgment positively, in this case did hearing in court, took bail of accused in court and did discussion with the judge in court.

Case no. 6/10 state Vs shamim modi+1 sec 353, 341,364,34 IPC.

In this case accused intentionally engage and even after the victim evidence which say act under which charges frame that was not happened even then court was interested to run the case, in this case with the help of local advocate appear in court and did hearing in court made so many time the exemption application in court for accused, assisted to local advocate in evidence and did bail of accused and furnish the bail also. We got positive judgment in case.

In the same case when victim try to file complaint against the police who harass the victim her name is munnibai then police file khatma in the same case and they were not interested to file complain against the police. The accused who was two but they were helping to victim from police and forest department because police and forest department officials beaten to victim and they were not ready to take them in hospital in such condition accused were help to get them in hospital but police filed a case against them.

In behalf of local advocate I did all the work as an advocate in court for accused.

Case no 1542/07 state Vs gangaram +4 sec 26 IFA ,

In this case the forest official file case under Indian forest act, sec 26 this person faced more than 10 cases under Indian forest act and even forest official filing cases against in under the same act he is harass by forest department because every time the officials came to home destroy everything.

When the forest official file the case they never see the land where the tribal is living and they never file record of land or map of land so that the court understand the land where the tribal is living come under

cultivating land or forest land.

Case no 90/07 munnibai Vs state. 323, 325 IPC.

This is the case filed by police when munnibai made complaint against O P Patel because forest ranger O P Patel illegally went to forest village area and without notice or prior intimation he demolish all the cultivated land even when tribal try to oppose the illegal act he beaten so many people at that time munnibai, her husband and rambharos and fulwati they filed a complaint because they were seriously injured.

This is the case is pending in court and in this case the evidence of victim is done and now the case is fixed for hearing of party then court will pass the order in this case then after the case will run against O P Patel in court.

Rukmanibai Vs Raghunath and Tahasildar of harda.

This is the case filed in GRA court in harda, in this case government officials sells one land twice to two persons therefore the case were filed in GRA Raghunath and Tahasildar of harda.

The case is pending case is fixed for hearing of party but due to some reason GRA is not doing sitting planning. I made all the application in this application and filed in court.

Sadaram Vs state bank of india.

This case is pending in court GRA, in this case bank did fraud with

sadaram him loan amount is send back without giving any information to applicant.

I made all application and hearing in court.

Kuvarsigh + 11 Vs sahakari bank roshani.

This case is pending in Khandwa GRA, in this case bank officials given bank loan to village people. Bank officials fraudulently took sing or thump of villagers more than the amount of loan which they took and the bank continually sending notice to them because most of them said they paid loan back and most of them said they did not took the loan which bank said, because of that I filed the application in GRA and this application is pending before GRA.

The mater is fixed for evidence of applicant, and pending before court.

Shramik adivasi sanghatan Vs state of M P.

This is one of the case where did more work in GRA for three months. GRA need to send report to supreme court within three months therefore I was work in this forum for months after sending the report to supreme court, filed RTI application in district court for report of GRA.

NEED OF LAW STUDENT IN THREE DISTRICT FOR LEGAL WORK

I was working in Harda, betul and khandwa district, with the help of

shramik adivasi sanghatan, I personally do social legal intervention in court and out of the court in three district.

Tribal cases in court:

Shramik adivasi sanghatan working in three district for tribal because of that so many cases going to file against the specific tribal people and they do not having sufficient knowledge of money to run the cases in court so there is need of legal person who can run their cases in court.

Forest department in three district file cases on tribal and in such condition there is need of law student of legal person who can see the cases of tribal in court.

Forest department without any intimation demolish the house or construction of tribal in forest area so there is need of legal person who can see of made application for this tribal in court or other institute.

Legal awareness:

Tribal people are not educated and they do not know about the legal proceeding or legal issues so there is need of student who can work with them and can go to their village or forest area where they live and work with them for legal awareness.

Every month need to take meeting in forest area for them so they can understand the legal issues and government strategy against them.

Grievance Redressal Authority:

As per the order given by supreme court of India the Grievance redressal authority established in three district in M P. this authority working in three district so there is need of legal student who can make an application and file case in GRA, also run the case in court.

It is difficult for one student work in three district, searching cases in forest area, go to forest area see the condition and make an application.

So there is need of two student who can search the cases in forest area and one who can make an application in court.

GRA is one of forum made for tribal people and if there is no student who can run the cases for tribal in court so it will not use of GRA establishment.

It is humble request please appoint one student in these three district so that this tribal people will get the legal aid.

फैसला आते-आते पति की हो गई मौत, बेटी मानसिक बीमार

11 साल पुराने राज्य शासन विरुद्ध अन्य के तीनों मामलों में 30 आदिवासी बरी

हरदा। नवदुनिया प्रतिनिधि

श्रमिक आदिवासी संगठन एवं समाजवादी जनपरिषद से जुड़े 30 आदिवासी लोगों के खिलाफ राज्य शासन ने अलग - अलग मामले दर्ज किए थे। करीब 11 साल इस पुराने प्रकरण में सभी आदिवासी बरी हो गए हैं। वनग्राम देगा, ऊंचाबरारी और रवांग के आदिवासियों पर आरोप था, कि उन्होंने वन भूमि से अतिक्रमण हटाने के सरकारी काम से वनकर्मियों को रोका, उन्हें चोट पहुंचाई और उनका अपहरण किया।

न्यायिक मजिस्ट्रेट, प्रथम श्रेणी ठाकुर प्रसाद मालवीय की अदालत ने अपने फैसले में बताया कि अभियोजन आदिवासियों पर लगे आरोपों को संदेह के परे सिद्ध नहीं कर पाया। आदिवासियों की ओर से पेरवी अधिवक्ता रमेशचंद्र शर्मा ने की। उन्हें टाटा समाजिक विज्ञान संस्थान के फेलो राकेश जामगाड़े ने असिस्ट किया। वहीं इस मामले में अपने पति और लड़की के साथ आरोपी बनी संगठन की फूलवती ने बताया कि इस प्रकरण के चलते उनके पति रामभरोस की कैंसर से मृत्यु हो गई। बेटी सुनीता 8वीं में प्रथम श्रेणी में पास होने के बावजूद आगे नहीं पढ़ पाई और मानसिक बीमारी का शिकार हो गई। इसके साथ ही मामले में पेशी पर आते आते वे इतने कर्जदार हो गए, कि अपने जेवर साहुकार के यहां गिरवी पटकना पड़ा। लेकिन अब सभी आदिवासी इन आरोपों से मुक्त हो गए। **मृतक रामभरोस पर दर्ज किए गए थे 10 प्रकरण:** मृतक रामभरोस के



दबंग के खिलाफ अवाज उठाने के

कारण दर्ज किए थे झूठे प्रकरण जारी प्रेस विज्ञप्ति में सजप की शमीम मोदी ने कहा असल में वन विभाग ने यह सारे मामले इन गांवों के आदिवासियों पर इसलिए लगाए थे क्योंकि जब जिले का एक कद्दावर नेता सत्ता में था, तब इन गांवों के आदिवासियों ने जंगल में दबंग नेता से जुड़े ठेकेदारों के द्वारा किए जा रहे अवैध उत्खनन का मुद्दा उठाया था, जिसमें जनहित याचिका के तहत हाईकोर्ट ने जांच भी की थी और शिकायत को सही पाया था। यह सभी मामले उसी दौर के पिछले 10 से 11 साल पुराने मामले हैं।

अधिवक्ता रमेशचंद्र शर्मा ने बताया कि आदिवासियों के ऊपर करीब 10 प्रकरण थे। प्रत्येक प्रकरण में 15 से 18 आदिवासी आरोपी थे। श्री शर्मा ने बताया कि कुछ छोटे प्रकरण गवाह नहीं होने के कारण प्रशासन ने स्वयं विडॉल कर लिए। वहीं तीन में कोर्ट ने हाल ही में आदिवासियों को दोषमुक्त

V. CUSTODIAL DEATHS IN SELECT PRISONS OF MAHARASHTRA

BY TUSHAR SOMKUWAR

The word “custody” indicates guardianship and it also indicates arrest or confinement. The death of a person in custody will amount to custodial death. The constitution of India gives for a prisoner, all fundamental rights enforceable by law, though restricted by the fact of imprisonment. Prisoners have human rights inside the prisons and no civilized law allows human rights violation i.e. custodial torture, violence custodial deaths inside the prisons. It is one of the worst crime in the civilized society.

The police plays vital role in safeguarding life, liberty of the people. But the police, must act properly, showing due respect to human rights of the people, remembering that they are also below the law, not above it and can be held liable for the violation of the human rights. Often in prisons the authorities exercised arbitrary power over the prisoners lives. The charge of brutal custodial violence by the police often resulting to death of prisoners. The National Crime Record Bureau's reports on crimes in India in Maharashtra indicate that there has been dramatic increase in the Number of custodial deaths in Prisons. In 2012 the prisons in Maharashtra has recorded 78 custodial deaths. In 2013 the prisons in Maharashtra has recorded 89 deaths. In 2014 it has recorded as 102 deaths in judicial custody alone. There is no need to say that, a large number of custodial death cases termed as natural death cases. The victims of custodial deaths are from poor and socio-religious minority and backward communities. Several of them hauled in on no formal charges at all. Even in the case of persons who were arrested, in an overwhelmingly large number of cases they were all accused of petty offences.

Persons held in custody, by police or by prison authorities, retain their basic constitutional right except for their right to liberty. The Magistrate inquest is mandatory for any death of a person in custody to ensure examination of the circumstances leading to death. Beyond Magistrate's inquest and in recent years information to Human Right Commission, however, there is no formal public scrutiny of in-prison deaths and under such situations many avoidable factors leading to death remains unexplored. Furthermore, lack of evaluation and scientific analysis prevents the formation of strategy for better improvement. When the state takes away a person's liberty, it assumes full responsibility for protecting their human rights. The most fundamental of these is the right to life. Each year, however, many people die in custody. This report examines the causes of deaths in custody, and considers what may be done to prevent these deaths, and to better protect the right to life, and other human rights, of vulnerable people held in the custody of the state. Custodial deaths are perhaps one of the worst crimes in a civilized society governed by the Rule of Law. There are numerous cases where the police officers have misused their powers on the people and toyed with their lives. The police officers, who are regarded as the custodian and guardian of law, have acted in just the contrary manner and have failed to protect the very basic right to life guaranteed by

article 21 of the Constitution. Custodial violence is a matter of concern. It is aggravated by the fact that it is committed by persons who are supposed to be the protectors of the citizen. It is committed under the a shield of uniform and within four walls of a police station or lock-up, the victim being totally helpless.

Whenever human dignity is wounded, civilization takes a step backward. It is a calculated assault on human dignity. Custodial violence and abuse of police power is not only peculiar to this country but it is also widespread. However in our country it is considered second to none. It has been a concern of the international community because the problem is universal and the challenge is almost global. Custodial violence including torture and death in lock-ups strike a blow at the rule of law, which demands that the powers of the executive should not only be derived from law but also that the same should be limited by law. It is therefore, for the government and the legislature to give a serious thought to their commendation of the Law Commission and National Human Rights Commission and bring about appropriate change in the law both to curb custodial crimes & also to ensure that the guilty are punished.

Law has always discouraged the acts or omissions which in general can affect right in rem and violators have always been punished with strict sanctions but the crime rate is not falling and State is in regular quest to preserve social solidarity and peace in society. Whenever death occurs in custody, it raises the public interest and attracts media attention. Not that at each time the death is due to violent causes but at times may be due to natural causes or due to inadequate medical facilities or medical attention and diagnosis, or negligent behaviour of authorities or may be due to physical abuse and torture. Since time immemorial man has been attempting to subjugate his fellow human beings. Those in power are used to twisting and turning the people through violence and torture, and torture under custody has become a global phenomenon. Men, women and even children are subjected to torture in many of the world's countries, even though in most of these countries, the use of torture is prohibited by law and by the international declarations signed by their respective representatives. A problem of increasing occurrence and repugnance had been the methods of interrogation and torture perpetrated upon prisoners and detainees. Persons held in custody, by police or by prison authorities, retain their basic constitutional right except for their right to liberty and a qualified right to privacy. The Magistrate inquest is mandatory for any death of a person in custody to ensure examination of the circumstances leading to death. Beyond Magistrate's inquest and in recent year's information to Human Right Commission, however, there is no formal public scrutiny of in-prison deaths and under such situations many avoidable factors leading to death remains unexplored. However, in spite of the constitutional and statutory provisions aimed at safeguard the personal liberty and life of a citizen growing incidents of torture and death in police custody have been a disturbing factor. In the post-Maneka era, in a cantina of cases, the Supreme Court has exposed the cruelty of the system of Prison Administration in India and has sought to humanize it. The Court has taken an active interest in seeking to improve a system which is cruel and insensitive to human pain and suffering. Time and again , the Supreme court has emphasized that Art14, 19 and 21 " are available to prisoners as well as freeman. And Prisoners wall do not keep out fundamental Right" Article 21

of the Constitution guarantees the right of personal liberty and thereby prohibits any inhuman, cruel or degrading treatment to any person whether he is a national or a foreigner. Any violation of this right attracts Article 14, which enshrines right to equality and equal protection of laws. Such rights are discussed in the International Covenant on Civil and Political Rights as well. The Constitution recognizes it to be fundamental in the governance of the country that the State shall direct its policy to secure conditions of freedom and dignity and insulates against all forms of tyranny against mind and body and their freedom to grow fearlessly. All custodial safeguards in the constitutional and other laws are meant to protect human dignity and shun barbaric approaches. This is why no person accused of any offence shall be compelled to be a witness against himself Art.20(3), a person is entitled to know why he is arrested for being detained in custody and to consult a legal practitioner of his choice . The right to live with human dignity enshrined in Art. 21 derives its life and breath from the directive principles of State policy particularly clauses (e) and (f) of Article 39 and Articles 41 and 42 as held by the Supreme Court in *Bandhua Mukti Morcha* case. Art. 142 empower the Supreme Court to make such order as is necessary for doing complete justice in any cause or matter pending before it. The power of the Supreme Court under this provision is meant to supplement the existing legal framework in order to do complete justice between the parties and not to supplant it. It is intended to prevent any obstruction in the stream of justice. The innovations made by the Supreme Court is not only reducing the multiplicity of litigation but also helping the courts to render speedy justice to victims of the infringement of right to life and personal liberty.

In *Nilabati behera vs. State of Orissa*, Where , the Supreme Court awarded damages against the state to the mother of a young man beaten to death in police custody In tune with the constitutional guarantee a number of statutory provisions also seek to protect personal liberty, dignity and basic human rights of the citizens. Chapter V of the Criminal Procedure Code 1973 deals with the powers of arrest of a person and the safeguards which are required to be followed by the police to protect the interest of the arrested person. Section 41, Cr. PC, confers powers on and police officer to arrest a person under the circumstances specified therein without any order or a warrant of arrest from a Magistrate. Section 46 provides the method and manner of arrest. Under this section no formality is necessary while arresting a person. Under Section 49, the police is not permitted to use more restraint than is necessary to prevent the escape of the person. Section 50 enjoins every police officer arresting any person without warrant to communicate to him the full particulars of the offence for which he is arrested and the grounds for such arrest .The police officer is further enjoined to inform the person arrested that he is entitled to be released on bail and he may arrange for sureties in his arrest for a non-bailable offend. Section 56 contains a mandatory provision requiring the police officer making an arrest without warrant to produce the arrested person before a Magistrate without unnecessary delay and Section 57 echoes clause (2) of Article 22 of the Constitution of India. There are some provisions also like Sections 53, 54 and 167 which are aimed at affording procedural safeguards to a person arrested by the police. In *Francis Coralline Mullin vs. Union Territory of Delhi*, The Supreme court has condemned cruelty or torture as being violative of art 21 in following words ” any form of torture and cruelty or degrading treatment would be offensive of human

dignity and it would on its view, be prohibited by article 21. It would be seen that there is implicit in article 21 the right to protection against torture or cruel, inhuman which is enunciated in Article 5 of Universal Declaration of Human right and guaranteed by Article 7 of International Covenant on Civil and Political Rights”.

One of the worst crimes in civilized society governed by the Rule of Law is custodial deaths. This Rule of Law is particularly prevalent in India whereby the entire foundation is based on the edifice of law. The number of custodial deaths worldwide shows an increase when the law enforcing agencies use harsh methods to control militancy and the problem with custodial deaths is that there is very little evidence left behind to prove criminality in a court of law. The right to life and liberty is one of the most important fundamental rights enshrined in basic human rights. However, instances of excessive force by Police far exceeding their lawful authority are attributed to the rise in custodial deaths. Torture of any kind whilst in Police custody is a crime and a heinous one at that. Sadly, when Police who are supposed to protect the life and liberty of a citizen behave inhumanely with scant regard for the rule of law, this encourages further lawlessness and breeds contempt for the law within society. With little evidence left behind it is extremely hard for a family to bring the police to court and attain justice. Only a very few cases of families whose relation was killed whilst in custody actually bring the case to the courts. There should be zero tolerance for any form of custodial deaths. Faced with the resistance of the Police, lack of evidence, and the current court systems I believe that any family who does take the route of a court case has an extreme mountain to climb. Having said this, any form of custodial death, particularly by beatings, should be taken very seriously in any judicial system. Custodial deaths are like a cancer in the blood of society and servants of citizens, the Police, should be half responsible for any such injustice. Let the law send a clear message to law enforcing agencies that zero tolerance is the new rule of thumb. So many times we have seen clear and horrific pictures on the news where a person is abused by our current legal system whether it be racial, drugs related or just a personal vendetta. Our society needs to ensure that every single citizen is protected by our laws, send out clear pictures to law enforcing agencies that any form of death whilst in custody will be fully investigated by an independent body not related to the Government nor the Police and finally, remove the nemesis of the atrocious act of custodial deaths from our “civilized” society.

Article 21 of the Constitution of India includes a guarantee against torture and assault even by the State and its functionaries to a person who is taken in custody and no sovereign immunity can be pleaded against the liability of the State arising due to such criminal use of force over the captive person. The right to interrogate the detainees, culprits or arrestees in the interest of the nation, must take precedence over an individual’s right to personal liberty. The Latin maxim *salus populi est suprema lex* (the safety of the people is the supreme law) and *salusrepublicae est suprema lex* (safety of the State is the Supreme law) co-exist and are not only important and relevant but lie at the heart of the doctrine that the welfare of an individual must yield to that of the community. The action of the State, however, must be “right, just and fair”. As held by the Supreme Court in a case that “custodial torture” is a naked violation of human dignity and a degradation which

destroys to a very large extent human personality. Here the SC had prohibited the use of third degree methods on suspects and framed various guidelines for protecting their human rights.

Judicial conscience recognized human rights of prisoners because of its reformist approach and the belief that convicts is also human beings and that the purpose of imprisonment is to reform them rather than to make them hardened criminals. The Universal Declaration of Human Rights 1948, adopted and proclaimed by the General Assembly Resolution 217A(III) of 10th December, 1948 declared in the preamble that recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world. The expression-“Human Rights” has not been specifically defined in any Declaration or Covenant of the United Nations.- Human Rights are generally defined as “those rights which are inherent in our nature and without which we cannot live as human beings” recognition of these natural rights of human beings is as ancient as the human civilization. India was one of the signatories of the Universal Declaration of Human Rights, and acceded to the two International Covenants by depositing the Instrument of Accession of April 10, 1979. The Vienna Declaration and Programme of Action adopted on June 25, 1993, by the World Conference on Human Rights declared that “Human Rights and fundamental freedom are the birth right of all human beings” .The Human Rights are now recognized as the limits to the exercise of power by the State over individuals.

Human rights commission-The official machinery for the protection of human rights in this country was set in motion by the then President’s assent to the Protection of Human Rights Act came in to force on September 28 , 1993. Section 3 of the Act provides for the setting up of the National Human Rights Commission (NHRC) and Section 21 for the setting up of the various State Commissions (SHRC). The National Human Rights Commission in its Annual Report of 1997-98 records that during the year 1996-97, 188 deaths in Police Custody were reported and during the year 1997-98, 193 deaths in Police Custody, and 700 deaths and 819 deaths respectively in judicial custody were reported to the Commission. In the context of addressing the issue of custodial torture, the Commission has reiterated its earlier recommendations by soliciting early action on the suggestion of the Indian Law Commission to the effect that proposed Section 114(B) be inserted in the Indian Evidence Act to introduce a rebuttable presumption that injuries sustained by a person in police custody may be presumed to have been caused by a Police Officer, as well as the suggestion for amendment in Sec. 197 of the Cr. P.C. to obviate the necessity for governmental sanction for the prosecution of a police officer where a prima-facie case has been established in an inquiry conducted by a Sessions judge in the commission of a custodial offence, as also the suggestion by the National Police Commission that there should be a mandatory inquiry by a Sessions Judge in each case of custodial death, rape or grievous hurt. The law commission recommended in its 113th Report that in prosecution of a police officer for an alleged offence of having caused bodily injury to a person, if there was evidence that the injury was caused during the period when the person was in the custody of the police officer, the court may presume that the injury was caused by the police officer having the custody of that person during that period. In Shyamsunder Trivedi’s case the

Supreme Court also expressed that hope that the government and legislature would give serious thought to the recommendation of law commission. Unfortunately, the suggested amendment has not been incorporated in the statute so far. The need of amendment requires no emphasis, sharp rise in custodial violence, torture and death in custody, justifies the urgency for the amendment and the court invites Parliament attention to it.

Supreme court on custodial death- These requirements ensure, the record of the police personnel arresting and handling the arrestee, the record of arrest, the record of his whereabouts during detention, giving of information to his relative or acquaintance having interest in his welfare, periodic medical examination of the arrestee to ascertain whether any force is used and the state of his health which in custody, preparation of "Inspection memo" recording injuries if any on the arrestee so that the events of custodial violence can be easily detected and the perpetrations are duly dealt with. These requirements which flow from Art. 21 and 22(1) of the Constitution are ordered to be strictly followed not only by the Police agencies but also by the other governmental agencies. The Apex Court through judicial activism evolved a right to compensation in cases of established unconstitutional deprivation of personal liberty or life. The *μBhagalpur blinding case* was the first case where the question of monetary compensation was considered by the Hon'ble Supreme Court. In *Nilabati behera vs. State of Orissa* it was held," Adverting to the grant of relief to the heirs of victim of custodial death for the infraction or invasion of rights guaranteed under Article 21 of the Constitution of India, it is not always enough to relegate him to the ordinary remedy of in civil suit to claim damages for the tortuous act of the State ,is that remedy in private law indeed is available to the aggrieved party". The citizen complaining of the infringement of the indefeasible right under Article 21 of the Constitution cannot be told that for the established violation of the fundamental right to life, he cannot get any relief under the public law by the Courts exercising writ jurisdiction. The primary source of the public law proceedings stems from the prerogative writ and the Courts have , therefore, to evolve 'new tools' to give relief in public law by moulding it according to the situation with a view to preserve and protect the Rule of Law. Here the Supreme Court awarded damages against the State to the mother of a young man beaten to death in police custody. The Court held that its power of enforcement imposed a duty to 'forge new tools', of which compensation was an appropriate one where that was the only mode of redress available. It was said that if death in police custody the deceased is entitled for monetary compensation under article 32 and 226 of constitution of India. This was not a remedy in tort, but one in public law based on strict liability for the contravention of fundamental rights to which the principle of sovereign immunity does not apply.

The Supreme court in *Sebastian M Hongrey v. Union of India* by a writ to herbs corpus required the Government of India to produce two persons and Government eventually failed to produce them expressing its inability to do so and the assertion of the Government that the person left certain camp near which a certain army regiment was stationed alive was untenable and incorrect, the Government would be guilty of civil contempt because of the willful disobedience to the writ. The Apex Court keeping in view the torture, agony and mental oppression of the family

members of such persons, directed payment of cost of Rs. 1lakh each.

In *Smt J Nilabati behera Lalita bahera vs. State of Orissa*, the Supreme Court held that violation of human rights by the State should be compensated and writ of compensation is maintainable. It further held that sovereign immunity is not applicable in case of violation of fundamental rights. In a decision of the Supreme Court in *People's Union for Liberties v. Union of India* which was case from Manipur, a disturbed area, in which case there was a fake encounter and two persons alleged to be terrorist- were seized by police, taken to a distant place and shot at causing their death it was held that such administrative liquidation cannot be permitted and interference of the Court is called for. The Apex Court awarded a compensation of rupees 1 lakh to families of each of the deceased.

The Supreme court in *Raghubir Singh v. State of Haryana* held that the society was deeply disturbed by the diabolical recurrence of police torture resulting in a terrible scare in the minds of common citizens that their lives and liberty are under a new peril, when the guardians of law gore human rights, to death. This development is disastrous our human right awareness and humanistic constitutional order.

Supreme Court comes down heavily on custodial violence Warning that custodial deaths if left unchecked would lead to anarchy and barbarism, the Supreme Court has called for stern measures to combat the menace as otherwise the people's confidence in the country's criminal justice system will be destroyed. "Unless stern measures are taken to check the malady of the very fence eating the crops, the foundations of the criminal justice delivery system would be shaken and civilization itself would risk the consequence of heading towards total decay resulting in anarchy and authoritarianism reminiscent of barbarism," a bench of Justices Arijit Pasayat and Asok Kumar Ganguly observed. The apex court passed the observation while dealing with the plea for compensation filed by Dalbir Singh, an agriculturist whose 17-year old son was allegedly killed in police custody in Noida in Uttar Pradesh. "Police excesses and the maltreatment of detainees/ under trial prisoners or suspects tarnishes the image of any civilised nation and encourages the men in 'Khaki' to consider themselves to be above the law and sometimes even to become a law unto themselves," the bench said. According to the apex court custodial deaths violated Article 21 of the Constitution which provides for "Right to Life and Liberty."

Torture in custody is an affront to human dignity: Supreme Court-The Supreme Court has expressed serious concern over the increasing number of custodial deaths and called upon the law-enforcing agency to take immediate remedial measures. The Supreme court said, "Custodial violence, torture and abuse of police power are not peculiar to this country, but it is widespread... The Universal Declaration of Human Rights in 1948 which marked the emergence of a worldwide trend of protection and guarantee of certain basic human rights stipulates in Article 5 that 'No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment'." The court said: "Despite this pious declaration, the crime continues unabated, though every civilised nation shows its concern and makes efforts for its eradication. If it is assuming alarming proportions, nowadays all around, it is merely on account of the devilish devices adopted by those at the helm of affairs who proclaim from roof tops to be the defenders of democracy and protectors of people's rights and yet

do not hesitate to condescend behind the screen to let loose their men in uniform to settle personal scores, feigning ignorance of what happens and pretending to be peace-loving puritans and saviours of citizens' rights." The Bench said, "Torture in custody flouts the basic rights of the citizens recognised by the Indian Constitution and is an affront to human dignity. Police excesses and the maltreatment of detainees/under trial prisoners or suspects tarnish the image of any civilised nation and encourage the men in 'khaki' to consider themselves to be above the law and sometimes even to become law unto themselves. "The courts must, therefore, deal with such cases in a realistic manner and with the sensitivity which they deserve, otherwise the common man may tend to gradually lose faith in the efficacy of the system of judiciary itself, which, if it happens, will be a sad for anyone to reckon with." In the instant case, petitioner Dalbir Singh was aggrieved over the death of his son in Noida police custody. Instead of filing a case of murder under Section 302 IPC against the police a case of 306 IPC (suicide) was filed as if the victim had committed suicide, he said (The hindu)

Observation of law NHRC- "even if the police record the arrest and custody of the victim, a death in the police station is made to look like a suicide or accident the body is disposed of quickly, with the connivance of a doctor. Records are manipulated to shield the police personals responsibilities. The local politician and warlords join the conspiracy. The relatives and friends of the victim are unable to seek justice because of fear, poverty and ignorance. Police atrocities and custodial violence have become so much part of our lives that films and novels have recently made them staple themes. "

National human rights commission : Guidelines-

- A. When the police officer in charge of a Police Station receives information about the deaths in an encounter between the Police party and others, he shall enter that information in the appropriate register.
- B. Where the police officers belonging to the same Police Station are members of the encounter party, whose action resulted in deaths, it is desirable that such cases are made over for investigation to some other independent investigating agency, such as State CBCID.
- C. Whenever a specific complaint is made against the police alleging commission of a criminal act on their part, which makes out a cognizable case of culpable homicide, an FIR to this effect must be registered under appropriate sections of the I.P.C. Such case shall invariably be investigated by State CBCID.
- D. A Magisterial Inquiry must invariably be held in all cases of death which occur in the course of police action. The next of kin of the deceased must invariably be associated in such inquiry.
- E. Prompt prosecution and disciplinary action must be initiated against all delinquent officers found guilty in the magisterial enquiry/ police investigation.
- F. Question of granting of compensation to the dependents of the deceased would depend upon the facts and circumstances of each case.

G. No out-of-turn promotion or instant gallantry rewards shall be bestowed on the concerned officers soon after the occurrence. It must be ensured at all costs that such rewards are given/ recommended only when the gallantry of the concerned officer is established beyond doubt.

H. A six monthly statement of all cases of deaths in police action in the State shall be sent by the Director General of Police to the Commission, so as to reach its office by the 15th day of January and July respectively. The statement may be sent in the following format

along with post-mortem reports and inquest reports, wherever available and also the inquiry reports:-

Date and place of occurrence

Police Station, District.

Cases on custodial death

D.K. Basu vs. State of West Bengal

The executive chairman legal Aid Service, West Bengal, a non political organization register under the societies registration Act, on 26th August 1986 address a letter to the Chief Justice of India drawing his attention to certain news items published in the telegraph dated 20,21 and 22 of July 1986 and in the statesman and Indian Express dated 17th August, 1986 regarding death in police lock-ups and custody. The executive chairman after reproducing the news items submitted that it was imperative to examine the issue in death and to develop Custody Jurisprudence' and formulate modalities for awarding compensation to the victim and /or family members of the victim for atrocities and death caused in police custody and provide for accountability of the officer concerned it was also stated in the letter that efforts are often made to hush up the matter of lock-up deaths and thus the crime goes unpunished and flourishes'. It was requested that the letter along with the news items be treated as a writ petition Public interest Litigation' category. Considering the importance of the issue rose in the letter and being concerned by frequent complaints regarding custodial violence and death in police lock-up, the letter was treated as a writ petition and notice was issued on 9/2/1987 to the respondent In response to the notice the State of West Bengal filed a counter. It was maintain that the policewas not hushing up any matter of lock-up death and that wherever police personnel were found to be responsible for such death, action was being initiated against them. The respondent characterizes the writ petition as miss conceived misleading and untenable law. After hearing the parties Supreme Court held custodial death is perhaps one of the worst crime ina civilized society Governed by the rules of law. The rights inherent in Article 21 and 22 (1) of the Constitution require to be jealousy and scrupulously protected. Court cannot wish away the problem. Any form of torture or cruel inhuman or degrading treatment would fall within the inhibition of Article 21 of the Constitution, whether it occurs during investigation interrogation or otherwise if the functionary of the Government become law breakers, it is bound to be contempt for law and would encourage lawlessness and everyman would have the tendency to become a law unto himself

there why leading to anarchism. No civilized nation can permit that to happen thus a citizen said of this fundamental right to life, the moment a police men arrest him? Can the right to life of a citizen we put abeyance on his arrest? These questions touch the spinal cord of human rights jurisprudence. The answer, indeed, has to be an emphatic **no**¶ the precious right guaranteed by Article 21 of Constitution of India cannot be denied to on with unreal detents and other prisoner in custody expect according to the procedure established by law by placing such reasonable restriction as are permitted by law. The Supreme Court also issued the following requirement to be followed in all cases of arrest or detention till legal provision is made in that behalf as preventive measures.

1. The police personal carry out the arrest and handling the interrogation of the arrestee should bear accurate, visible and clear identification and named tags with their designation. The particular of all such police personnel who handle interrogation of the arrested must be recorded in a register.

2. That the police officer carrying out arrest of the arrestee self prepare a memo of arrest at the time of arrest and such memo shall be attested by at least one witness. Who may be either 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 counter signed by the arrested and shall contain the time and the 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 me entitled who 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 his 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 head organization in the district and the police station of the area concerned telegraphy within a period of 8-12 after the arrest.

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

6. An entry must we made in the diary at the place of detention regarding the arrest of the person which shall also disclosed 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 request, be also examined at the time of his arrest and major and minor injuries, if any person on his/her body, must be recorded at that time. The inspection memo must be signed by both the arrestee and the police officers effective the arrest and its copy provided to the arrestee.

8. The arrestee should be subjected to medical examination by a trained Doctor every 48 Hrs during his detention by a doctor on the panel of approved Doctor appointed by Director, health service of the concerned State or Union Territory Director, Heal service should prepare such a panel for all Tehsil and District.

9. Copies of all the documents including the memo of arrest, referred to our, should be sent to the illqa Magistrate for his record.

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

11. A police central room should be provided at all District and State Headquarters, where information regarding the arrest and the place of custody shall be communicated by the officer causing the arrest, with in 12 Hrs of effecting the arrest and the police central room should be displayed on a conspicuous notice board Failure to comply with the said requirement shall apart from rendering the concerned official liable for departmental action, also render him liable to be punished for contempt of court and the proceeding of court may be instituted in any High Court of Country having territorial Jurisdiction matter.

State of M.P. vs. Shyamsunder Trivedi and others- This was an appeal filed by the State of M.P. against acquittal of the police officials by the trial court and the High Court. As per prosecution case one Nathu Banjara of village Dhabala Deval, brought to police station Rampura for interrogation as a suspect in murder case was tortured by the police with the intension of extracting a confession and died consequently on 13/10/1981. The allegations were denied by the accused as his dead body was found unclaimed at a distant place. Three of the respondents, head constables Ram Naresh Shukla and Raja Ram Mishra and constable Ganniuddin, while reversing the acquittal of the courts below, were convicted under Section 304 part II/34, 201 and 342 IPC and were fine Rs 20,000 each. Whereas respondent number 1 was convicted 304 part II/34 and sentenced for two years with a fine of Rs 50,000. The analysis made by the court was that if there was evidence that the injury to any person was caused when he was in police custody the court may presume that it was caused by the police officer having that custody unless the officer proves the contrary. Further the post mortem report also pointed out towards anti mortem torture.

Praful Kumar Sinha vs. State of Bihar and others- In this case compensation was sought in Tort Law by the family of three persons who had died in police custody due to atrocities committed by the police. The apex court directed under Articles 32 and 21 of the Constitution of India the State Government to make ex gratia payment of Rs 25,000 to family of each deceased. The settled principles of Law of Tort were invoked and the direction was also issued that the State Government may recover this amount from the tort feasors, that is, the police officials. The reason for reaching the decision in this criminal writ petition was to compensate the family members the loss to some extent

Smt Nilabati Behera vs. State of Orissa- This writ petition was entertained by the Supreme Court under Article 32 of the Constitution on a letter dated 14/09/1988 sent to the court by the petitioner for determining the claim of compensation consequent upon the death of her son On 01/12/1987 at about 8:00 AM the petitioner's son, Suman Behera, 22, was taken from his home by the police in connection with the investigation of an offence of theft and was detained at the police out post. On 02/12/1987 at about 2.00 PM his dead body was found at some distance on the railway track. Since no action was taken by the police, the apex court was contacted through the letter. The defense of the police was that the allegations

made against the police were false as the deceased had managed to escapes from police custody at about 3.00 AM and could not be apprehended thereafter in spite of a search were Taking consideration of the multiple serious anti mortem injuries on the body of the deceased, the court observed that the death was obviously unnatural and he had died as a result of the multiple injuries inflicted upon him while he was in police custody and there after his dead body was thrown on the railway track. The court observed that it was clear violation of human rights and fundamental freedoms by the state and its agencies and in such type of cases compensation is an acknowledged remedy. Further, defense of sovereign immunity was not available in case of violation of fundamental rights was not available in defense and the court has obligation to grant the relief of compensation. The court awarded Rs 150,000 as compensation

Mani Kumar Thapa vs. State of Sikkim- This was second appeal to the apex court after two successive convictions by the Sessions court and the High Court respectively. On 12/02/1988 the accused police officials contacted the deceased near his house who was taken by them in the jeep and there after his body was not found. No action was taken by the police on complaint of his wife but later on the FIR was registered against the police officials. The Sessions court convicted all the accused and High Court maintained the conviction on the ground that there was cogent evidence of the prosecution that the deceased was taken by the police on 12/02/1988 and thereafter he was not only killed by the police but also his dead body was disappeared. The apex court treating it a case of circumstantial evidence relied upon the successful proof of last scene theory and other links of the chain , dismissed the appeal. It also observed that as per evidence of the prosecution witnesses, the accused one, a police sub ± inspector, was inimical to the deceased and, therefore, there was sufficient motive for him to kill the deceased.

Suggestion-

1. The police should be trained to use new scientific and parallel and psychological subjective techniques instead of using torture.
2. The working conditions of the police personnel should be improved and they should be provided with more promotional avenues on seniority basis.
3. The control of the Police should be brought under the Governor of the concerned State so that the police could work in a clean atmosphere free from political pressures.

A separate offence provision should be made by amending Section 302 of the Indian Penal Code regarding treatment of custodial death as murder.

5. The adequate medical facilities should be provided in jails so that in case of emergency proper and timely medical help could be provided to the persons in the jail custody.
6. A counsel should be allowed to be present during interrogation to check the custodial violence by investigating officer.
7. The scientific facilities/techniques to police personnel should be provided to use

during interrogation. It will be more useful in stopping this heinous crime.

8. The arrest of accused during interrogation may be considered justified in case of grave offences like murder, dacoity, robbery, rape etc., or when accused is likely to abscond and evade the process of law or when the accused is a habitual offender.

9. Section 114-B in the Indian Evidence Act, 1872 as recommended by the Law Commission in its 113th report, should be inserted to introduce a rebuttable presumption that injuries sustained by a person in police custody were caused by the police officer.

10. The compensation in case of custodial deaths should be a State responsibility. The State Government in turn can recover the amount of compensation from the offenders. For implementing this, a separate Tribunal/Board should be set up at the District level.

11. The Government should provide medical facilities in Government hospitals free of cost to the dependants of the victim of the custodial death.

12. The Government should provide free education up to graduation level to the dependants of the victim of the custodial death.

13. The Government should reserve a quota of one percent in Government jobs for at least one of the dependants of the victims.

14. The Government should reserve a quota of one percent in educational institutions for higher education for the dependants of the victims.

15. The most important requirement is to sanction a monthly pension to the dependants of the victim of custodial death because Government is liable for their miseries and sufferings.

Cases of Custodial deaths in Arthur road central prison, Thane Central Prison and Nagpur central Prison of Maharashtra-

Case no. 1-

A) NAME OF THE VICTIM: Arvind Ramesh Shimpi

B) NAME OF THE RESPONDENT: Rehana Sheikh(Sister)

C) AGE: 34

D) GENDER: Male

E) RELIGION: Hindu, Nomadic tribe

F) Education: 2'nd standard

G) Marital status: Married

H) ADDRESS: Church gate station footpath, Mumbai.

I) The deceased was lodge in Arthur road jail, Mumbai.

On 8-03-2016 FIR was filed under section 379 and 34 of IPC, on deceased Arvind Shimpi by Aazad maidan police station. As per it's record the alleged offence was occurred on 08-03-2016 during midnight. On 8-3-2016 itself police received information of offence and registered the FIR at 9.20 AM. Deceased accused two more his accomplices namely Suresh Goregaonkar age 66 and Altaf Raja age 14 a

minor were brought to the Azad maidan police station by police. The complainant Mr. Balaji Nirmal, age 25 had made the complaint that on 8-3-2016 during 1.00-1.30 am he reached at Church gate railway station but trains were closed so he stay backed at station and got asleep near platform. At 3.30 am police in civil uniform came and asked to him whether he has lost anything. Immediately the complainant has checked his pockets and he came to know that he don't have his mobile phone. Then police has brought him to police chowki where four people were already present. When police had searched them, then complainant has found his mobile. Then police handover the accused to Azad maidan police in which jurisdiction the offence has occurred. The minor Altaf Raja has been sent to remand to Bal Nyay mandal, dongari. Thereafter the accused has been remanded to the judicial custody. The post mortem report of deceased mentioned the date of death is 11-3-2016. The body brought by a PSI of N.M Joshi marg police station. The post mortem examination of deceased's body was conducted by Grant government medical hospital, Byculla, Mumbai on 13-3-2016. The cause of death mentioned in PM report is subgaleal contusions subdural subarachnoid hemorrhage with fatly liver, however final opinion reserved, histopathology and chemical analysis report. As per the hospital's record the body of deceased prisoner was brought dead in hospital and on arrival of the body deceased was declared dead on 11-03-2016 at J.J. hospital, Mumbai. Deceased was a married person having a wife, two small daughters and one son. When I interviewed his sister and his younger brother they said that at the age of 10 Arvind has started the work of boot polishing. He was the main breadwinner of family. The family of deceased has denied the charge of theft leveled by the police. On the other hand family has alleged that police Azad maidan police station had forced to receive the dead body of deceased. On the very next day Arvind died i.e. 12 March 2016, the wife and sister were called at police station and were keep seated for two hours in a small room. Sister of deceased also alleged that a police came to them and offered house, shop, money and told the family of victim to think about the small children of deceased for not filing the case against police. Police also threatened them that they will be drive away from their existing place of residence, their hut will be removed, Arvind's younger brother would be implicated in any false case if they go against the will of police and they are not doing good thing by filing complaint against police. Sister of deceased further said that police also offered five lakh rupees to Mr. Ganesh Ayyar, a previous lawyer employed by her. When police came to know that SHRC has taken the cognizance of Arvind's custodial death they again called deceased's family to police station and a DCP-Manojkumar Sharma has offered bribe to family and said that if we were found guilty then anyhow we have to give you compensation instead it will be better to offer the same right now. The family told him that one of your police officer- Mr. Borate had already offered them such kind of bribe but they refused to do that. He immediately felt embarrassed by hearing this. So naturally the doubts on death of deceased lies on police from Azad maidan police station who are ready to offer money. The family of deceased are strongly believe that the deceased must have been beaten inside the police lock up. Even the co-workers of deceased believe that whatever happened has happened only inside the lockup. Dr. Jawalekar and Dr Rajiv who conducted post mortem also said that deceased had internal injury in body and probably due to police torture. Also deceased didn't died in hospital, he was brought

dead in hospital according to doctors of J.J. hospital. According to post mortem report the liver of deceased was broken. The behavior of police towards the family members of deceased was completely indifferent. Not a single document relating to the death of deceased was given to his family by police. FIR copy is given after 25 days of death and post mortem report is given on 5th April 2016 through High court. Police didn't inform the family about the hospitalization, when asked about same reason police said that they didn't have deceased prisoners address. But police informed the news of death of deceased to his address on 12-3-2016. When asked about the police regarding it police said that they have got the address of deceased from a co-accused. But co-accused didn't know the family of deceased and vice versa so how he can give the address of deceased to police. Address must have been given by deceased himself to police and had it with them but they didn't inform the family about the arrest or hospitalization of deceased Arvind Shimpi.

Case no 2-

A) NAME OF THE VICTIM: Suresh Rangari

B) NAME OF THE RESPONDENT: Ratan Devaji Rangari.

C) AGE: 30

D) GENDER: Male

E) RELIGION: Buddhist, Scheduled caste community

F) ADDRESS: Ramanagar, Kamptee, Nagpur.

G) The deceased was lodge in Nagpur Central jail.

H) Date of death: 23-10-2013

I) Place of death: GMC, Nagpur, Ward no. 19, under Ajani police station.

Deceased prisoner, Suresh Rangari was an accused under section 379, 34 in Mouda police station and under section 380, 457 in Kalamana police station of Indian Penal code. On 20-08-2012 he was sent to judicial custody in Nagpur central jail by the order of Judicial Magistrate. While admitting in prison the medical examination was done of deceased and it was found that he was suffering from oral cancer. From 23-03-2013 to 29-09-2013 several treatments were done upon deceased prisoner and on 29-9-2013, 18-10-2013 and on 20-10-2013 when his health got deteriorated he was referred to GMCH, Nagpur for further treatment and during the course of treatment deceased was died on 23-10-2013.

The post mortem has been conducted by GMCH, Nagpur and body has been handover to deceased's brother Ratan Devaji Rangari. The final cause of death by the post mortem report given was Septicemia with secondary's in lungs and neck due to carcinoma of hard palate. The CID inquiry has been conducted and it has found that deceased had habit of chewing tobacco, Kharra etc due to which he was suffering from oral cancer and he died from cancer. In the statement given to police by deceased's mother Mrs. Indu Rangari age 60, said that her son already had habit of chewing tobacco, Kharra etc and sometimes he had omitted blood at that time deceased was involved in crimes like small thefts. Then police has arrested him and lodge in jail. When deceased was in jail the medical officer has told the mother of deceased that her son is suffering from cancer. Hence the mother believes that her son must have been died due to cancer. The statements given by other persons to

police are as it is as above. Police had taken the statements of deceased prisoner's brothers, sister in law, etc who said believed that deceased must been died due to cancer because he had habit of chewing tobacco and kharra. The medical officer at Central jail Nagpur also said in his statement that during medical examination, when deceased prisoner was admitted in jail it has been found that he had trouble to open his mouth. The deceased had himself told to medical officer that he has habit of chewing tobacco and kharra. When medical examination was completed it has been concluded that prisoner is suffering from cancer.

Case no 3-

A) NAME OF THE VICTIM: Ramkrushna Jambhutkar

B) NAME OF THE RESPONDENT: CID officer, D.M Kumbhare PSI.

C) AGE: 60

D) GENDER: Male

E) RELIGION: -

F) ADDRESS: Kandri, Parshioni, nagpur.

G) The deceased was lodge in Nagpur Central jail.

H) Date of death: 27-8-2013

I) Place of death: GMC, Nagpur, T.B Ward no. 42, under Ajani police station

J) Cause of death: Bilateral pulmonary tuberculosis (natural death)

Deceased prisoner Ramkrushna Jambhutkar who murdered his wife on on 3-11-2003 was convicted under section 307 of IPC. He was lodge in Nagpur central jail on 4-7-2005 and was going through life imprisonment. On 26-8-2013 his health deteriorated and he was referred to GMCH for further medicinal treatment, where he was admitted in T.B ward no 42. On next day i.e 27-8-2013 the prisoner died in hospital. The body was handover to deceased's son Mr. Mukesh Jambhutkar. This case is also investigated by CID on the basis of of report given by medical officers who has conducted the post mortem of deceased and on the basis of CID's own inquiry and it was concluded that deceased prisoner has died a natural death due to T.B. The statement of deceased's sister, brother, cousin, son has been taken. All of them had stated that deceased was a habitual drinker and could have died his natural death. They had no allegations or suspicion on his death.

Case no 4-

A) NAME OF THE VICTIM: Sheikh Umar Sheikh Nabi, Under trial prisoner

B) NAME OF THE RESPONDENT: Sheikh Nabi, Age 66.

C) AGE: 25

D) Education: 9th standard

E) Marital status: Unmarried

F) Occupation: labourer at chicken shop

G) GENDER: Male

H) RELIGION: - Pinjari Muslim

- I) ADDRESS: Tajbaug, Nagpur.
- J) The deceased was lodge in Nagpur Central jail.
- K) Date of death: 4-9-2014
- L) Place of death: GMCH, Nagpur.
- M) Cause of death:

Under trail prisoner Sheikh Umar Sheikh Nabi was arrested on 2-9-2012 by Sakkardara police station for offences under section 307, 326, 323, 504 of IPC he has committed on 31-8-2012. He was in police custody for five days. He was admitted in Nagpur central prison on 7-9-2012 by remand warrant of JMFC Nagpur. On 30-8-2014 deceased was referred to Government medical college, Nagpur on the advice of medical officer of prison for CT scan. Because deceased prisoner was fell in toilet and received internal head injury, started bleeding from ear etc and became unconscious. Police referred him to prison hospital and thereafter he was admitted for further medical treatment in Government hospital as an indoor patient from 30-8-2014 to 4-9-2014 the day on which he died. The death has been informed to the mother of deceased by prison department. According to prison officials the deceased had history of marijuana addiction, being faint and bleeding from ear. It has also been stated by prison officials that deceased had chest pain, itching, addiction of chewing tobacco, sleep disturbance, anxiety, sneezing, cough, pain in abdomen, toothaches, etc and he was given treatment on above issues according to jail superintendent. The District Magistrate ordered to conduct an inquiry on 19-09-2014 and submitted its report on 31-8-2015. However no one has appeared in response of public notices for inquiry before DM. Hence no adverse statements have been given about the death of deceased. However the father had alleged that his son was beaten to death by prison police. He denied the version of prison officials that his son had a history of consuming marijuana, being faint and bleeding from ear. He further said that prison department has not informed them about the hospitalization of their son. Deceased was in hospital for four days but the family was totally unaware about this fact and they came to know about it by other informers and by prison or police department. Police has taken the signature of deceased's father without explaining to him the contents of statement. The day deceased was admitted in hospital his family went to see him and they saw that their son was completely unconscious, his ear was bleeding, his heart beat was very slow and a nasal cannula was used to deliver oxygen to him. The parents of deceased firmly believe that their son has not been provided treatment by doctors. They believe that there are very less chances to be alive for patients in government's hospitals. Still there is no conformity that when deceased prisoner was fell if he was actually fell as per the opinion of prison officials. When I interviewed some ex prisoners of Nagpur central jail and parents of deceased I have found that doctors in central prison were very much careless. They never used good language while speaking with the family parents of deceased. Prison hospital has no proper medicines so for all kind of patients they provide the same medicine, whichever is available.

Case no 5-

- A) NAME OF THE VICTIM: Sagar Singh Thakur, Judicial prisoner

B) NAME OF THE RESPONDENT: Mr. Zable a co-accused

C) AGE: 44

D) Education:

E) Marital status: Unmarried

F) Occupation:

G) GENDER: Male

I) RELIGION: -

J) ADDRESS:

K) The deceased was lodge in Thane central prison.

L) Date of death: 4-9-2014

M) Place of death:

N) Cause of death:

Deceased prisoner was arrested by Thane nagar police station on 19-1-2015, under section 420, 34 of IPC and section 3, 13 of FEMA 1999. On 27-1-2015 deceased was sent to judicial custody in Thane central prison. On 4-2-2015 he fell unconscious and died at Government hospital, Thane. After the death of deceased a notice has been served to carry away his dead body but nobody has appeared to receive the body. On 13-2-2015 the permission was given by District magistrate to dispose the body of deceased and it was done on 16-2-2015 at Worali, Mumbai. On 20-5-2015 District magistrate of Thane had given its order to hold magisterial inquiry under section 176 (1)of CrPC. On 5-2-2015 post mortem was conducted at JJ hospital's autopsy centre. The Chemical analysis report has not been received hence final cause of death not been given. According to police and prison officials deceased was suffering from high blood pressure and treatment for that was going on since last four years.

Case no 6-

A) NAME OF THE VICTIM: Amit Choudhary, Undertrial prisoner

B) NAME OF THE RESPONDENT:

C) AGE: 40

D) GENDER: Male

E) OCCUPATION: Labourer

F) Education: Uneducated

G) Marital status: Married

H) ADDRESS: Ganarajay apartment, room no.203, Second floor, Diva west, Thane.

And Rajrajeshwari apartment, room no. 5, second floor, Titwala east.

I) Date of death: 19-1-2014

J) Place of death: J.J. Hospital, Mumbai

K) The deceased was lodge in Aurther road jail, Mumbai.

On 20-4-2013, Amit Choudhary was arrested by the CST railway police for the charges of child abused, molesting small children under section 363, 366(B), 373, 376(D), 323, 34 of IPC and section 4, 5(G), 6, 10, 17 of Immoral traffic prevention Act, 1956. As per the remand warrant of metropolitan magistrate prisoner was on 4-5-2013 admitted in Arthur road central prison and the case was sub judice. His wife Maya Amit Choudhary was co-accused and currently lodge in Byculla district jail. He was suffering from Asthama and he was also the patient of HIV. He was taking the medical treatment of A.R.T. Prior to the death deceased had exhibit his medical problems like at the time of admission at the Arthur road prison hospital he had been vomiting the blood. The medical officer of Arthur road prison had examined the deceased. On 19-1-2014, he had been referred to JJ hospital and on same day he died while going under the medical treatment. Since wife was in prison, nobody was there to accept the body. Even no relatives of deceased had come to claim the body. On 11-4-2014 the body was cremated by police. The post mortem has conducted on 20-1-2014. The final cause of death given in post mortem report was, lobar pneumonia with cerebral evevra with fatty liver with portal triaditis.

Case no 7-

A) NAME OF THE VICTIM: Krushnamurthy Kandaswami Wellai, Undertrial prisoner

B) NAME OF THE RESPONDENT:

C) AGE: 43

D) GENDER: Male

E) RELIGION: Hindu

F) Education:

G) Marital status:

H) ADDRESS: .

I) Date of death: 13-12-2015

J) Place of death: Death in prison, J J hospital.

K) The deceased was lodge in Thane Central jail.

L) Cause of death: Miliary Tuberculosis of lungs and spleen with tubercular peritonitis in a diagnosed case of retroviral diseased. (Natural death)

Deceased prisoner Krushnamurthy Wellai was an undertrial prisoner, arrested by Mulund police station and FIR was registered against him under section 420, 34, 379, of Indian penal code. By the order of metropolitan magistrate the prisoner was awarded 6 month judicial custody and was admitted in Thane central jail on 26-5-2015. The prisoner has stomach pain, weakness, TB and HIV positive and he was in Indoor patients department in prison hospital. On 7-12-2015 he was referred in government TB hospital, Shivdi for further treatment. On same day he was referred to JJ hospital. From 7-12-2015 to 13-12-2015 he was admitted in Indoor-patient ward and died on 13-12-2015. On 14-2-2015 post mortem of deceased's body was conducted and the cause of death given in its report was "Miliary tuberculosis of

lungs and spleen with tubercular peritonitis in a diagnosed case of retroviral diseased.”

Case no 8-

A) NAME OF THE VICTIM: Purushottam Sondawale, Convict prisoner

B) NAME OF THE RESPONDENT: Prabha Purushottam Sondawale

C) AGE: 48

D) GENDER: Male

E) RELIGION:

F) Education:

G) Marital status: Married

H) ADDRESS: Khedmakhala, Brahmapuri, Chandrapur.

I) Date of death: 23-8-2015

J) Place of death: Death in prison, J J hospital.

K) The deceased was lodge originally in Nagpur Central jail.

L) Cause of death: Septicemia (Natural death)

Deceased was arrested by Brahmapuri police station under section 304 Of IPC in 2005. On 25-5-2015 he was convicted and punishment of 10 years imprisonment and 500 rupees fine was awarded to him by Sessions court Chandrapur. On 31-5-2015 deceased prisoner was admitted in Nagpur central prison. He was examined by medical officer at prison hospital, he was a known case of Bilateral stag horn calculi with bilateral PCN in situ (mange conservatively). The prisoner was also referred to URO surgeon and general surgeon at government medical hospital, and super specialty hospital Nagpur on 6-6-2015. He was examined by experts at several times and on 22-6-2015 he was referred to general surgeon and physician for follow up, where he was advised immediate hospitalization. From 22-6-2015 to 16-7-2015 and again from 23-7-2015 to 31-7-2015 he was admitted to surgery department of Government medical college Nagpur, for the complaint of pain in abdomen and was examined by experts and surgeons. The expert referred the prisoner to the higher medical centre for further management of his ailment as the requisite C-ARM facility was not available at Government edical college, Nagpur. On 22-8-2015 he was transferred at Arthur road Mumbai central prison. On 23-8-2015 he was admitted at JJ hospital for treatment at 1.50 pm and died on 4.40 pm. So, the deceased prisoner was lodge in Nagpur central Prison but he died in the custody of Mumbai central prison. His body was handed over to his father Mr. Gendlala Khare. The post mortem of the body has been conducted on 24-8-15 and it has been stated in it's report that death caused due to Septicemia. In this case the magisterial inquiry has been conducted by District collector of Mumbai city. Because section 176 of Criminal procedure code 1973 says that where a person dies the DM in that jurisdiction should hold magisterial inquiry.

Case no 9-

A) NAME OF THE VICTIM: Sheikh Mohammad Issak Mohammad, Convict prisoner

B) NAME OF THE RESPONDENT:

C) AGE: 66

D) GENDER: Male

E) RELIGION:

F) Education:

G) Marital status: Married

H) ADDRESS: Binda Park, building no. 2, room no. 202, Naya nagar, Mira road Thane.

I) Date of death: 21-12-2010

J) Place of death: Death in prison, J J hospital.

K) The deceased was lodge in Nasik road central jail.

L) Cause of death: Myocardial infarction associated with coronary artery disease associated with pulmonary edema (Natural death)

Deceased prisoner was convicted on 9-3-2004 by sessions court for greater Bombay for the offence under section 302 of IPC and he was sentenced two years rigorous imprisonment. On 13-3-2004 he has been transferred from Mumbai central prison to Nasik road central prison. On 21-12-2010 the deceased prisoner came in the prison hospital with complaint of chest pain, restlessness, giddiness. According to prison department he has history of diabetes, mellitus, O/R blood pressure. Immediately after necessary examination, the medical officer of Nasik road prison hospital referred him to civil hospital Nasik for further treatment. The deceased prisoner was sent to the civil hospital at 10.32 where he died at 11.45 am. On same day, Superintendent of Nasik road prison had communicated deceased's wife about the death and informed her to take the possession of dead body. In the medical case history of civil hospital, it is mentioned that the deceased was known case of diabetic mellitus and brought to the hospital on the complaint of breathlessness, chest pain on the left side and with profuse perspiration. By 11.35 am his blood pressure became non recordable and by 11.45 he declared dead. Autopsy carried out revealed evidence of atherosclerosis. His pleural cavity was found filled with fluid. Lungs had hard nodules and thickened pleura. Based on the post mortem and histopathology report it was concluded that the death was due to myocardial infarction associated with coronary artery disease associated with pulmonary edema. The magisterial inquiry report concluded that the death was in natural course. The family has no complaint regarding the death of prisoner.

Case no 10-

A) NAME OF THE VICTIM: Sachin Waghdhare

B) NAME OF THE RESPONDENT:

C) AGE: 30

D) GENDER: Male

E) RELIGION: Buddhist, Scheduled caste community

F) ADDRESS:

G) The deceased was lodge in Nagpur Central jail.

H) Date of death:

I) Place of death: GMC, Nagpur, Ward no. 19, under Ajani police station

Case no11-

A) NAME OF THE VICTIM: Bhaurao Ambadare

B) NAME OF THE RESPONDENT:

C) AGE:

D) GENDER: Male

E) RELIGION:

F) ADDRESS: .

G) The deceased was lodge in Nagpur Central jail.

H) Date of death:

I) Place of death: GMC, Nagpur, Ward no. 19, under Ajani police station

Case no 12-

A) NAME OF THE VICTIM: Kamal Kori

B) NAME OF THE RESPONDENT:

C) AGE:

D) GENDER: Male

E) RELIGION:

F) ADDRESS:

G) The deceased was lodge in Nagpur Central jail.

H) Date of death:

I) Place of death: GMC, Nagpur, Ward no. 19, under Ajani police station

Case no 13-

A) NAME OF THE VICTIM: Sagar Nattikar, Undertrial prisoner

B) NAME OF THE RESPONDENT:

C) AGE: 24

D) GENDER: Male

E) RELIGION:

F) Education:

G) Marital status:

H) ADDRESS: Kundal, Tah Palus, Dist Sangali.

I) Date of death: 26-5-2014

J) Place of death: Death in prison, civil hospital Sangali.

K) The deceased was lodge in Aurther road jail, Mumbai

