
INDIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2011

In 2010-2011, human rights defenders who denounced extrajudicial killings and other abuses committed by security forces, in particular in the context of the Naxalite (Maoist) insurgency and the volatile situation in Jammu, Manipur and Kashmir, and those who stood up against widespread impunity for such violations, continued to face judicial harassment. Those working to promote and protect the rights of marginalised groups also faced serious reprisals, including when protesting against development projects that threaten or destroy the land, natural resources and livelihood of their communities. Defenders of women's rights and of environmental rights were also targeted, and several activists who denounced corruption were assassinated.

Political context

In 2010-2011, the Government of India was forced to battle the consequences of an increased Naxalite (Maoist) insurgency in seven States, which was singled out by Prime Minister Manmohan Singh on April 21, 2010 as the biggest internal security threat, asserting that "no quarter can be given to those challenging the authority of the Indian State". Despite lengthy peace talks with Pakistan, the situation in Jammu and Kashmir also remained volatile. In the context of both conflicts, security forces frequently resorted to excessive use of force and were responsible for extrajudicial killings, torture, enforced disappearances and other forms of violence, often without being held accountable. Security laws, including the Public Safety Act and the Armed Forces Special Powers Act (AFSPA), which is at the origin of many acts of police violence in the State of Manipur, Jammu and Kashmir. Public Safety Act and the Unlawful Activities Prevention Act¹ also continued to be arbitrarily implemented and contributed to the climate of impunity surrounding the security and military operations in question.

Additionally, the reform of the police had still not been implemented neither by the Government of India nor by several State Governments as of April 2011, despite a 2006 ruling by the Supreme Court in that regard. The Government also faced a number of high-profile corruption scandals, including in connection with the 2010 Commonwealth Games, as corruption remained widespread and affected most segments of the public sector.

1/ This law was widely criticised for being extremely vague and subjective on what is deemed unlawful by the authorities. Moreover, it includes no provision for the granting of bail to detainees or for the right to appeal.

Furthermore, India continued to have the world's largest number of poor people in a single country. Of its nearly one billion inhabitants, an estimated 260.3 million are below the poverty line, of which 193.2 million are in the rural areas and 67.1 million are in urban areas. More than 75% of poor people reside in villages². The poorest and most marginalised groups, primarily the Dalits and Adivasis, continued to live in deep poverty and face discrimination despite the illegality of the caste system. Landless farmers and marginalised groups were also subjected to forced evictions in several States due to industrial and other business projects.

Following the official visit she carried out to India from January 10 to 21, 2011, the United Nations (UN) Special Rapporteur on the Situation of Human Rights Defenders, Ms. Margaret Sekaggya, noted that despite a number of laws aimed at promoting and protecting human rights, there were still widespread deficiencies in their implementation both at the central and State levels, adversely affecting the work and safety of human rights defenders. She further noted that human rights defenders were killed, tortured, ill-treated, disappeared, threatened, arbitrarily arrested and detained, falsely charged, put under surveillance, forcibly displaced, or had their offices raided and files stolen, in relation to their legitimate work in defending human rights and fundamental freedoms³.

Judicial harassment of defenders protesting against extrajudicial executions and other abuses committed by security forces

In 2010-2011, the cycle of violence in the areas affected by conflict had again serious repercussions on the environment human rights defenders operated in. Human rights defenders denouncing abuses committed by security forces, seeking justice for victims of such violations or who called for the repeal of the mentioned emergency laws indeed continued to be subjected to arbitrary arrests and detentions, judicial harassment and other obstacles to their legitimate human rights work against impunity. On December 24, 2010, Dr. **Binayak Sen**, National Vice-President of the Peoples' Union for Civil Liberties (PUCL) and Secretary General of the PUCL branch in the Chhattisgarh State, was sentenced to life imprisonment by the Chhattisgarh High Court, on charges of "sedition" and

2/ See Banglar Manabadhikar Suraksha Mancha (MASUM).

3/ In particular, Ms. Sekaggya called for the repeal of the AFSPA and the Public Safety Act, and stressed that the application of other security laws that adversely affect the work and safety of human rights defenders should also be reviewed. She also expressed concerns about the amendment to the Foreign Contribution Regulations Act, which provides that NGOs must reapply every five years for the review of their status by the Ministry of Home Affairs in order to receive foreign funding. See Human Rights Council, *Statement of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, as she concludes her visit to India*, January 21, 2011.

“conspiracy” under Sections 124(A) and 120(B) of the Criminal Code⁴. On February 10, 2011, the Chhattisgarh High Court refused to grant him bail on the grounds that he was closely associated with members of the Naxalite Maoist guerrilla, which made him guilty of sedition. On April 15, 2011, the Supreme Court of India overruled the decision and ordered the release on bail of Dr. Sen. Yet, as of the end of April 2011, the charges against Dr. Sen remained pending as the appeal was pending before the High Court of Chattisgarh. Moreover, as of April 2011, Ms. **Irom Chanu Sharmila**, a human rights defender on hunger strike since November 2, 2000 in protest against the AFSPA, continued to be detained for “attempting suicide” (Section 309 of the Criminal Code)⁵. Moreover, in the night of January 31, 2010, Mr. **Devi Singh Rawat**, a human rights lawyer in Ajmer district of the State of Rajasthan, was arrested and accused of “voluntarily causing hurt to deter public servant from his duty” and “assault or criminal force to deter public servant from discharge of his duty” (Sections 332 and 353 of the Criminal Code), as well as “mischief causing damage to public property” (Section 3 of the Public Property Damages Act). A dozen villagers were also arrested⁶. On January 5, 2010, Mr. Devi Singh Rawat had filed a case for torture in the court of Judicial Magistrate No. 4 against officials of the Adarsh Nagar police station, at the request of People’s Watch National Project on Prevention of Torture (NPPT). On January 30, 2010, the police officials tried to persuade Mr. Singh Rawat for a compromise, threatening him that otherwise he would have to face dire consequences. However, Mr. Singh Rawat refused to withdraw the case. On February 2, 2010, Mr. Devi Singh Rawat was released on bail from central prison in Ajmer, along with the fifteen other arrestees in this case. As of April 2011, charges against him remained pending. Members of the human rights NGO Banglar Manabdhikar Suraksha Mancha (MASUM), West Bengal, were also subjected to judicial harassment because of their activities, in particular for denouncing abuses committed by the Border Security Forces (BSF), including extrajudicial killings, smuggling and

4/ Dr. Sen, who had helped to organise fact-finding investigations on human rights violations in the State of Chhattisgarh, including abuses against detainees and also denounced the alleged involvement of the police into the unlawful killing of twelve Adivasis in 2007, had been arrested in 2007 for alleged links with the Naxalite Maoist guerrilla.

5/ According to the Criminal Code, the maximum sentence for the charge of “attempting suicide” is of one year in detention. Therefore, Ms. Sharmila is released every year and then placed in detention shortly afterwards again for the same reasons. As a consequence, the authorities have since then regularly resorted to forced nasal feeding.

6/ He was accused of allegedly participating in a fight between villagers and police personnel that occurred the same day during local elections in Palra village. However, at the time of the confrontation, Mr. Singh was not at the place of the incident. During their detention, Mr. Devi Singh Rawat and the other villagers who were arrested were forced by the police to remove their clothes, following which they were photographed. The pictures were then made available to the press.

trafficking, as illustrated by the proceedings against Messrs. **Kirity Roy**, Secretary of MASUM, **Gopen Chandra Sharma** and **Julfikar Ali**, both District Human Rights Monitors in Murshidabad district of MASUM⁷. As of April 2011, proceedings remained pending against Messrs. Kirity Roy and Gopen Chandra Sharma. Furthermore, on March 3, 2011, the Supreme Court of India reportedly issued an order stating that Ms. **Teesta Setalvad**, Head of the organisation Citizen for Justice and Peace (CJP), a human rights organisation involved in the legal support of victims of the Gulbar Society Massacre of February 2002, should not send any communication to the High Commissioner for Human Rights (OHCHR) in Geneva anymore concerning the investigation of the massacre⁸. No information could be obtained as to the reasons provided by the court to justify this restriction.

Reprisals against defenders of the rights of marginalised communities

In 2010–2011, human rights defenders working to promote and protect the rights of marginalised groups, including the Dalits and Adivasis (tribals), were subjected to reprisals when carrying out their activities. For instance, on August 15, 2010, Messrs. **Ghana Diraviam** and **Anandan**, and Ms. **Bharathi Pillai**, Ms. **Niharga Priya** and Ms. **Sudha**, members of the Dalit Foundation⁹, were arrested and detained at the Veeravanallur police station in the Tirunelveli district of the State of Tamil Nadu, which they had visited as part of a fact-finding team sent to inquire about the alleged case of torture inflicted on a Dalit youth from Veeravanallur by police officials at that station¹⁰. They were accused of “impersonating a public servant”, “assault or criminal force to deter public servant from discharge of his duty”, “cheating by personating” and “punishment for criminal intimidation”, under Sections 170, 353, 416 and 506(i) of the

7 / On April 7, 2010, Mr. Kirity Roy was arrested under sections 120(B) (“conspiracy”), 170 (“impersonating a public servant”) and 229 (“impersonation of a juror or assessor”) of the Criminal Code. Those charges were initiated following a People’s Tribunal on Torture (PTT) that had been conducted by MASUM under the NPPT in India in June 2008 in Kolkata. Mr. Kirity Roy was released on bail on the same day. Mr. **Henri Tiphagne**, Executive Director of People’s Watch and a member of the OMCT Executive Council, was also accused in the case which, as of April 2011, was at trial stage. Mr. Tiphagne obtained anticipatory bail and was yet to get bail from the High Court in Kolkata.

8 / This massacre, causing the death of 69 people, happened during the riots in the State of Gujarat in 2002. Ms. Teesta Setalvad has been actively involved into the investigation of the massacre through legal support to victims, including the documentation of several cases and their defence in hearing sessions at the Supreme Court. She also denounced the lack of protection given to witnesses and victims.

9 / The Dalit Foundation is committed to the eradication of caste discrimination and the empowerment of Dalits and other marginalised communities.

10 / The fact-finding team was one of the thirteen different teams that were sent in the field to gain experience on human rights fact-finding in the framework of a training programme co-organised by People’s Watch and the Dalit Foundation from August 11 to 20, 2010 in Madurai.

Criminal Code respectively. The remand report also referred to Mr. **Henri Tiphagne**, Executive Director of People's Watch and a member of the OMCT Executive Council, as the "absconding accused", which means that he could be arrested at any time claiming that he was involved in this case. Subsequently, Messrs. Ghana Diraviam and Anandan, and Ms. Bharathi Pillai, Ms. Niharga Priya and Ms. Sudha were all released on bail. As of April 2011, the National Human Rights Commission (NHRC) was investigating the case¹¹. On August 17, 2010, Mr. **Naba Dutta**, Head of "Nagarik Mancha", a civil society organisation focusing on environmental and labour rights, three other members of the organisation, the driver and a victim of the "Lodha" tribal people, were arrested by police officials in plain clothes who did not show them any warrant or inform them of the reason of their arrest. They were coming back from a sit-in organised in front of the Block Development Officers at Narayangarh, West Midnapur district, to protest against the lack of effective investigation into an attack against the Lodha tribe on May 5, 2010¹². Subsequently, all persons concerned were released except Mr. Naba Dutta, who was sent back to the Sadatpur Investigation Centre due to his alleged connection with a criminal dated December 18, 2009. Mr. Dutta remained detained incommunicado until August 18, 2010, when he was released on bail. Yet, he remained charged under seventeen sections of the Criminal Code and three sections of the Arms Act in connection to his alleged involvement in the burning of a factory in Paschim Medinipur district in December 2009. As of April 2011, the case against Mr. **Marimuthu Barathan**, President of the Human Rights Education and Protection Council, who has been working closely with Dalit communities in Tirunelveli and surrounding southern districts of Tamil Nadu State, was also still pending trial¹³.

Moreover, human rights defenders engaged in denouncing development projects that threaten or destroy the land, natural resources and livelihood of their communities were targeted by State agents and private actors. For instance, on April 2, 2011, Ms. **Ibempishak Takhellambam**,

11/ Subsequently, the NHRC observed that the police officers had committed a grave violation of the victims' human rights and sent a notice to the Government of Tamil Nadu on May 25, 2011, calling upon its Chief Secretary to provide compensation to the defenders.

12/ On May 5, 2010, eleven Lodha huts were ransacked and set on fire by hoodlums, allegedly supported by the ruling party. A complaint was filed before the competent authorities but no effective investigation was carried out.

13/ Mr. Marimuthu Barathan has been subjected to judicial harassment since May 27, 2009, when he was arrested by the police and accused of the murder of a man, as well as of being involved in the killing of twenty Dalit people. Following those killings, the Tirunelveli police arrested several Dalit people. The victims sought the assistance of Mr. Barathan in front of Government officials and the police. He was charged for various offences, including "rioting armed with deadly weapons" and "murder". He had been released on bail on June 27, 2009.

Ms. **Memcha Sagolsem**, Ms. **Anita Konjengbam** and Ms. **Momon Mayanglambam**, four indigenous Meitei human rights defenders, members of Manipur Chanura Leishem Marup (also known as “Macha Leima”), an organisation dedicated to the empowerment and the defence of the rights of indigenous women, received death threats by two unidentified men, who entered their homes and told their family members that they should stop their activities or otherwise would face dire consequences. These threats occurred following the refusal of the State Public Information Officer of the State of Manipur to inform them on steps taken by local authorities of Pallel Gram Panchayat to implement the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA)¹⁴. On April 6, 2011, Ms. Konjengbam and Ms. Takhellambam filed complaints at the police stations of Kakching and Pallel, but officers of the two police stations reportedly refused to file a First Information Report (FIR) on their case. Moreover, on February 9, 2011, Messrs. **Rabindra Kumar Majhi**, **Madhusudan Badra** and **Kandera Hebram**, members and activists of the Keonjhar Integrated Rural Development and Training Institute (KIRDTI), an organisation that advocates for the land rights of Adivasis, and for ecological protection from mining and illegal logging in Keonjhar district, in the State of Orissa¹⁵, who had been arrested in July 2008, were granted bail by Keonjhar Lower Court.

Killing of and death threats against defenders denouncing corruption

Several right to information activists who exposed corruption by relying on the Right to Information (RTI) Act were assassinated in 2010–2011. On January 13, 2010, Mr. **Satish Shetty**, an anti-corruption activist of Pune, Maharashtra, was killed by three or four masked men armed with swords. Mr. Shetty had exposed many land scams in and around Talegaon, involving local politicians, industrialists and some land registration department officials. On February 11, 2010, Mr. **Vishram Laxman Dodiya** of Ahmedabad, Gujarat, was found dead, shortly after meeting with officials from the company Torrent Power. He had filed an application under the RTI Act to obtain details about illegal electricity connection by Torrent Power. Three people were arrested in the case. On February 14, 2010, Mr. **Shashidhar Mishra** of Begusarai, Bihar, was killed after exposing the nexus between railway police and criminals at the Barauni railway station.

14 / MGNREGA is a job guarantee scheme that provides a legal guarantee for one hundred days of employment in every financial year to adult members of any rural household willing to do public work-related unskilled manual work at the statutory minimum wage of 2,22 US dollars (about 1,53 euros) per day in 2009 prices. This act was introduced with the aim of improving the purchasing power of the rural people, primarily semi or un-skilled work to people living in rural India.

15 / KIRDTI is also involved in working on development activities with the “Juang” tribal community.

On April 4, 2010, Mr. **Sola Ranga Rao**, an RTI activist in Krishna district, Andhra Pradesh, was found dead near his house. Although his death was initially reported as an accident, it is believed he was killed because of the RTI application he had filed with a district office regarding the misuse of funds sanctioned for the village's drainage system. On April 21, 2010, Mr. **Vitthal Gite** was seriously injured when a group led by the son of the educational society that runs Sainath Vidyalyaya at Waghbet village in Beed district, Maharashtra, attacked him. Mr. Gite had sought information under the RTI Act and exposed irregularities in the functioning of several schools in the village, which were published in a local newspaper. On May 22, 2010, Mr. **Datta Patil**, a RTI activist from Ichalkaranji, Kolhapur district, who exposed corruption amongst several politicians and bureaucrats, was found dead in Maharashtra. Through RTI, Mr. Patil had exposed black-marketing of foodgrains under the Public Distribution System, and how the sand mafia contractors were paying their way into silencing officials as they freeloaded on sand which belonged to the State. The Anti-Corruption Bureau (ACB) had also started investigations against certain local municipal contractors on the basis of complaints lodged by Mr. Patil. On July 20, 2010, Mr. **Amit Jethwa**, a RTI activist, was killed in Gujarat. Mr. Jethwa had filed several petitions in the Gujarat High Court against the Forest Department. On the day of his killing, he had been meeting with his lawyer in relation to a public interest litigation that he had filed in June about illegal mining in the Gir forests of Junagadh district (Western Gujarat). Mr. Jethwa had alleged that mining activities were being carried out in Una and Kodinar areas by family members of a local member of Parliament. He had furthermore alleged that the same politician was running illegal mines and stone crushing in another village bordering the Gir forest¹⁶.

Labour rights activists, in particular those who documented cases of corruption related to MGNREGA, or tried to receive information about it from public authorities, also faced dire consequences throughout 2010. On March 2, 2011, Mr. **Niyamat Ansari**, a human rights activist engaged in the defence of workers' rights in Manika Block, Latehar district, State of Jharkhand, was taken away from his home in the locality of Jerua, in the village of Kope by a group of unknown armed persons, brutally beaten and left unconscious. Mr. Niyamat Ansari died soon after he was taken to the hospital. His associate, Mr. **Bhukhan Singh**, also received death threats from the attackers but he was able to hide. The killing of Mr. Niyamat Ansari is believed to be related to his work in favour of workers

16 / See People's Watch as well as RTI Group, *Register of Attacks on Activists in 2010 & 2011*, February 1, 2011.

covered by the MGNREGA and his denunciation activities about corruption in relation to this employment scheme in the State of Jharkhand¹⁷. On March 3, 2011, the police of Latehar recorded a FIR against seven private local contractors or their associates and against Mr. Sudarshan, a local Maoist leader belonging to the Koel Sankh zone of Communist Party of India of Pratappur block in Chatra district, also believed to be involved in the murder. As of April 2011, only one of the private contractors had been arrested. On March 5, 2011, the local newspapers *Prabhat Khabar* and *Dainik Bhaskar* published a statement written by the South Latehar Sub-zonal Committee of the Communist Party of India, claiming responsibility for the murder, and warning Mr. Bhukhan Singh that if he remained under police protection, he would meet the same fate.

Acts of harassment against defenders of women's rights

In 2010–2011, defenders of women's rights continued to face harassment from non-State actors, and were frequently unable to receive the attention and support of law enforcement agencies to their plight. For instance, on March 25, 2010, a group of individuals entered the tuition centre run by Guria Swayam Sevi Sansthan (Guria)¹⁸ in Shivdaspur, verbally abused Mr. Ajeet Singh, President of Guria, who is also a member of the Advisory Committee on Combating Child Prostitution and Trafficking of Women and Children of the Government of India and the State Monitoring Committee for the abolition of child prostitution and the exploitation of women; and other staff members present at the premises and threatened to kill them. They also threatened Guria staff members that “they [would] break the arms and legs of anyone who attempt[ed] to continue teaching the children [t]here”. They also told staff members to warn Mr. Ajeet Singh not to enter the area otherwise he would face dire consequences. The assailants subsequently locked the premises of the tuition centre, making it inaccessible for evening classes. On March 29, 2010, staff members of Guria discovered that the door of the centre had been broken down, leaving it unprotected. On April 5, 2010, a group of individuals again entered the centre while the evening tuition was ongoing, and ransacked the premises, beat staff members and tore their clothes. The incidents were

17/ Since MGNREGA was launched in 2006, Mr. Niyamat Ansari and Mr. Bhukhan Singh have been working for the rights of workers subjected to the MGNREGA, particularly through the support of several cases of demands for unemployment allowance at the Latehar People's Court, which were accepted in February 2009. In the framework of their activities, they also collected information and investigated cases of corruption, especially by private contractors taking financial advantage of this employment system in Jharkhand.

18/ Guria is a NGO working on issues of forced prostitution and trafficking in Uttar Pradesh. Guria has been running a tuition centre for sixteen years in Shivdaspur.

reported to the Manduadih police station and to the Deputy Inspector General of the police in Varanasi.

Arbitrary arrest of defenders working on environmental issues

In 2010, ten human rights defenders who had peacefully protested against a nuclear power plant were arbitrarily arrested for a couple of hours. On October 6, 2010, Messrs. **Bankim Dutta, Mihir Bhonsle, Bidhan Chandra Dey, Achintya Pramanik, Nirbhik Mukherjee, Swapan Mallick, Subimal Chatterjee, Debashis Shyamal, Kaushik Haldar and Prasun Das**, members of the Science and Environment movement, a network of different organisations and individuals working against pollution of air, water and land, were arrested by the police in front of the Saha Institute for Nuclear Physics while peacefully protesting against a nuclear power plant on the eve of a scheduled visit of Dr. Srikumar Banerjee, the Chairman of the Atomic Energy Commission of India. The arrests occurred while the above-mentioned activists were distributing leaflets against the building of the nuclear power station at Haripur. They were transferred to the Bidhan Nagar police station without being provided any reason for their arrest. They were released later the same day without charge.

Urgent Interventions issued by The Observatory from January 2010 to April 2011

Names	Violations / Follow-up	Reference	Date of Issuance
Mr. Devi Singh Rawat	Arbitrary detention / Judicial harassment / Ill-treatments / Release on bail	Urgent Appeal IND 001/0210/OBS 014	February 3, 2010
Ms. Irom Chanu Sharmila	Arbitrary re-arrest / Ongoing detention / Judicial harassment	Urgent Appeal IND 002/0310/OBS 037	March 16, 2010
Mr. Gopen Chandra Sharma	Ongoing judicial harassment	Closed Letter to the authorities	March 26, 2010
Mr. Kirity Roy	Arbitrary arrest / Release on bail / Judicial harassment	Urgent Appeal IND 007/0608/OBS 0973	April 7, 2010
KIRDTI / Messrs. Rabindra Kumar Majhi, Madhusudan Badra and Kandra Hebram, Ms. Mamina Munda	Ongoing arbitrary detention / Judicial harassment	Urgent Appeal IND 002/0510/OBS 060	May 12, 2010
Ms. K. Saraswathy	Assault / Death threats / Ill-treatments / Judicial harassment	Urgent Appeal IND 003/0610/OBS 082	July 1, 2010
Messrs. Ghana Diraviam, Anandan and Henri Tiphagne, Ms. Bharathi Pillai, Ms. Niharga Priya and Ms. Sudha	Arbitrary detention / Judicial harassment	Urgent Appeal IND 004/0810/OBS 102	August 18, 2010
Mr. Naba Dutta	Arbitrary detention/ Release / Judicial harassment	Urgent Appeal IND 005/0810/OBS 104	August 24, 2010

Names	Violations / Follow-up	Reference	Date of Issuance
Messrs. Bankim Dutta, Mihir Bhonle, Bidhan Chandra Dey, Achintya Pramanik, Nirbhik Mukherjee, Swapan Mallick, Subimal Chatterjee, Debashis Shyamal, Kaushik Halder and Prasun Das	Arbitrary arrest / Release	Urgent Appeal IND 006/1010/OBS 121	October 7, 2010
Dr. Binayak Sen	Sentencing to life imprisonment	Urgent Appeal IND 004/0408/OBS 055.2	January 6, 2011
	Release on bail / Judicial harassment	Urgent Appeal IND 004/0408/OBS 055.3	April 18, 2011
Mr. Julfikar Ali	Judicial harassment	Urgent Appeal IND 001/0211/OBS 018	February 14, 2011
Ms. Teesta Setalvad	Restriction on communication with an international body	Urgent Appeal IND 002/0311/OBS 032	March 11, 2011
Messrs. Niyamat Ansari and Bhukhan Singh	Killing / Death threats	Urgent Appeal IND 003/0311/OBS 044	March 24, 2011
Ms. Ibempishak Takhellambam, Ms. Memcha Sagolsem, Ms. Anita Konjengbam and Ms. Momon Mayanglambam	Death threats	Urgent Appeal IND 004/0411/OBS 068	April 21, 2011