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I. Introduction

"...as a mother in deep sorrow I'm anxious to ensure that this fate does not befall other mothers in future. This, I'm convinced can only come about by vigorously defending people's civil rights and by meting out exemplary punishment to the criminals involved".

(The mother of a 20-year-old victim of custodial death in Tamil Nadu, *Frontline*, 24 March 1995)

Despite positive statements and recommendations made by the government and judiciary over the past year the reality in India was that custodial violence remained endemic. Reports of torture by the Indian police, sometimes leading to death, continue to be brought to Amnesty International's attention from all over India. In 1994, Amnesty International recorded 68 deaths in police custody as a result of torture or medical neglect throughout India, excluding the state of Jammu and Kashmir¹

The number of deaths in custody reported to Amnesty International in 1994 (68) is a significant increase on the 36 cases brought to the organization's attention in 1993. This increase may be due to the fact that the level of public awareness of human rights violations has been raised over the past year with the functioning of the National Human Rights Commission and the various statements it and other institutions have made. Whether or not the increase is due to more deaths being reported by the public is of no great significance, since clearly the problem of custodial violence still exists in India. In fact most cases of custodial violence which come to Amnesty International's attention do so because the victim of torture has died, i.e. the method and extent of torture applied was so extreme it resulted in death. This indicates that torture by police remains routine throughout India.

In its report *India: deaths in custody in 1993*, published in June 1994, Amnesty International recorded 36 cases of deaths in custody in 1993. In its response to that report, sent to Amnesty International in January 1995, the Indian Government stated that "torture is

¹This report does not include the hundreds of reports of deaths in custody which Amnesty International has received from Jammu and Kashmir which have been and will continue to be addressed separately. The high incidence of such violations occurring in this state has been most recently described in Amnesty International's report *Torture and deaths in custody in Jammu and Kashmir*, January 1995, AI Index: ASA 20/01/95.

not a daily routine but an aberration. The fact that there were only 36 allegations (all of which were not true...) of custodial deaths in a country of 900 million people speaks for itself. No doubt some incidents of custodial deaths have taken place but these are few and far between". However, in August 1994, in a statement submitted to parliament in response to a question, the Government of India stated that there had been 76 deaths in custody reported from all over India in 1993. Amnesty International is concerned that such contradictory responses indicate a lack of commitment to monitoring human rights violations in India. Amnesty International believes that the government should have an adequate and effective system of monitoring custodial deaths and other human rights violations in India with a view to effectively investigating reported cases and preventing further violations from happening.

Independent and impartial inquiries into deaths in custody are rarely carried out. As a result prosecutions of those found to be responsible for deaths in custody are even more rare. Where prosecutions do occur they often take place many years after the event. Frequently the sentences fail to adequately reflect the seriousness of the crime committed, despite orders given by the central government in November 1994 that policemen found guilty of torturing suspects in custody should receive "exemplary punishment".

For example, in October 1994, three policemen were sentenced by an additional and district sessions judge to three months imprisonment for the torture and killing of Sheikh Zakir, a 16-year-old boy in their custody in August 1991. It was reported that the policemen were sentenced under section 323 of the Indian Penal Code -- which provides for "punishment for voluntarily causing hurt". Amnesty International is concerned that in this case the punishment does not adequately reflect the serious nature of the crime. The Government of India acknowledged in a reply to Amnesty International that *prima facie* evidence indicated that Sheikh Zakir was tortured by police and that medical reports found that his death was due to unnatural causes. Newspaper reports at the time of his death said that four policemen had been charged with "culpable homicide", which carries a minimum sentence of 10 years. "Punishment for voluntarily causing harm" does not reflect the seriousness of the offence perpetrated -- that a boy in custody was tortured to death. In November 1994, Amnesty International asked the government for clarification as to why the charge was apparently changed and also for copies of the post-mortem report, CID report and chargesheets against the accused. To date this information has not been forthcoming.

Amnesty International believes that the virtual impunity enjoyed by many of the perpetrators of torture and ill-treatment in custody is a key factor in the continuation of these practices.

As stated earlier, in January 1995, the Government of India responded to Amnesty International's report, *Deaths in custody in 1993* by sending factsheets relating to 28 of the 36 deaths in custody listed in that report. An analysis of the government's responses will be dealt with in a separate report. At the same time, the government also responded in some detail to Amnesty International's 10-point program for the prevention of torture published in 1992. Amnesty International will comment on the government's response to its 10-point program in detail at a future date.

II. Eight illustrative cases of deaths in custody reported in 1994

Described below are eight of the 68 deaths in custody reported to Amnesty International in 1994 which are illustrative of the nature of death resulting from torture in custody in India.

Most of these deaths in custody were reported in the Indian media. Amnesty International also received further reports from civil liberties groups in India.

ASSAM - Romancel Deep

Romancel Deep, son of Budhram Deep, resident of Jamuguri Tea Estate, Golaghat, Assam, was only 14 years old when he died in police custody.

He was allegedly arrested by police from Ghiladhari police station on 6 September 1994 in connection with a theft. He was detained with his uncle, who claims that they were both tortured by the police. His uncle claims that Romancel was beaten with sticks and that on 7 September 1994, his whole body was swollen. On 8 September 1994, police informed the secretary of the *Assam Char Majdoor Sanha*, a workers organization, that Romancel had committed suicide in custody and that his body was at the Golaghat civil hospital. The family were then taken to the hospital and informed of Romancel's death. Signatures/thumb prints were allegedly taken from them -- all of them on blank pieces of paper. A post-mortem was

conducted, the result of which is unknown to Amnesty International. The police reportedly refused to hand over the body to the family and took it away and cremated it later that day.

The Assam government has reportedly ordered a magisterial inquiry into Romancel's death. The nature, progress and results of this inquiry are unknown to Amnesty International.

BIHAR - Puroshottam Kumar and Manoj Kumar

Manoj Kumar, 20 years old, son of Nirghin Singh and Puroshottam Kumar alias Punnu, 21 years old, son of Gahnandan Singh, both residents of Chechaul village, Naubatpur, Bihar, were arrested on 13 June 1994 allegedly by armed police from Naubatpur. Eye-witnesses to their arrest claim that the two men were unarmed and were dragged from a hut by police and paraded around the village with placards around their necks reading "I am a killer". The witnesses claim that they were beaten until they fell on the ground, made to stand up and beaten further. They were then taken to the Naubatpur police station where a crowd gathered outside. The men were reportedly later taken away in a police jeep to the Dinapur hospital where they were both declared dead on arrival.

In a First Information Report the police claimed that the men were armed criminals who had been caught by villagers and were beaten before the police came and arrested them. They alleged that men were in a serious condition when arrested and so were taken to hospital. However the police gave a different version of events to the press stating that the men died of poisoning, caused by poison in soft drinks given to them by the villagers.

The villagers demanded a post-mortem and were reassured by the Inspector General of Police that one would be conducted. The villagers and family members of the deceased claim that the bodies of the young men bore many marks of torture. Press reports state that an inquiry into their deaths was being conducted by a Superintendent of Police.

Two policemen suspected of being responsible for the torture and deaths of the men have reportedly been transferred. To Amnesty International's knowledge, no charges have been brought against them.

MANIPUR - W. Deven Singh

W. Deven Singh, 25 years old, was arrested by police on 16 February 1994 on suspicion of sheltering members of an outlawed organization. He was taken to Nambol police station. His parents were informed of his death on 17 February. The police claimed that he had died of a heart attack, but local people allege that he died as a result of torture.

A magisterial inquiry concluded that he died of cardiac arrest. However following an appeal by the Civil Liberties and Human Rights Organization, a judicial inquiry was ordered on 28 June 1994 by the Imphal bench of the Guwahati High Court. The results are unknown.

NEW DELHI - Kuldip Singh

Kuldip Singh, 21-year-old son of Ajit Singh and a resident of Baljit Nagar, Delhi, was arrested by immigration authorities on arrival at Indira Gandhi International airport on 28 May 1994 after being deported from Germany where he had gone as an economic migrant. He was handed over to the airport police who took him home to Baljit Nagar. Whilst at Baljit Nagar, the sub-inspector reportedly demanded a Rupees 10,000 bribe from Kuldip Singh's father. He refused to pay.

Later that evening, Kuldip Singh and his father were taken back to the airport and as there were no lock up facilities at the airport, Kuldip Singh was moved to Palam police station. The following morning, he was taken before a duty magistrate and remanded to judicial custody. He was transferred to Tihar jail at 5pm that day.

On the evening of 29 May 1994, Kuldip was found to be seriously ill and was rushed to hospital but he died on the way. Police claim that he died of heat stroke, but his father claims that Kuldip told him that he had been beaten by the police.

An inquiry was held on 30 May 1994 by the sub-divisional magistrate (Punjabi-Bagh zone) which found that Kuldip Singh had died of heat stroke. His conclusions were based upon the findings of a board of doctors from different hospitals reportedly set up to ensure a fair post-mortem. The autopsy report allegedly spoke of 11 "external injuries" on his body. Photographs taken during the post-mortem reportedly show blood coming from his nose and mouth, black spots apparently resulting from electric shocks and a fractured, swollen arm. The doctors however concluded that Kuldip Singh died of heat stroke.

In September 1994, in response to a petition filed by Kuldip Singh's father, the Supreme Court ordered the Central Bureau of Investigation (CBI) to inquire into Kuldip

Singh's death saying that it was "*prima facie*" a case of custodial death. The court also ordered the Delhi government to pay the family Rs 10,000 interim compensation within three weeks. Amnesty International has no further information as to the progress of the CBI inquiry.

TAMIL NADU - Satish Kumar

Satish Kumar, the 13-year-old son of Kabali, resident of Kapali Thottam, allegedly died as a result of police torture in Mylapore police station on 11 June 1994. He was arrested from the shop where he worked on the night of 8 June in connection with a complaint of theft, along with four other boys. According to his mother he was missing for a night and they were only informed of his arrest and whereabouts on 9 June. His father went to the police station and was reportedly asked for Rs. 2000 for the release of his son. As his family was unable to pay this amount, Satish Kumar remained in detention. The four others in detention with Satish Kumar claim that they were all beaten by the police and that they saw Satish Kumar vomiting blood.

Satish Kumar's body was found dumped outside the family house on 11 June. A rickshaw driver claims that police made him transport Satish Kumar from the police station to his home. He and the police dumped Satish Kumar's body in an empty rickshaw near the home. A neighbour who witnessed this stated that she saw "three men carrying a small boy and laid him on a rickshaw nearby and walked off." The next morning his body was found and he was rushed to hospital where doctors said he had been dead for three hours.

Scores of people reportedly protested outside the police station at the death of Satish Kumar. A case under section 174 of the Code of Criminal Procedure (inquiry into death under suspicious circumstance) was registered. Three police personnel, including a sub-inspector, were arrested and a magisterial inquiry ordered. A post-mortem was reportedly held.

It was reported in August 1994 that one of the police officials had applied for bail to the Madras High Court, this was denied and he was sent to prison pending the results of the inquiry. Compensation was reportedly paid to the family. The results of the inquiry and the post-mortem are unknown.

UTTAR PRADESH - Bundu

Bundu was an 80-year-old man who died in the District Hospital on 6 August following four days in police custody. He was arrested by police on 2 August along with his son and taken to Janakpuri police station, Saharanpur, Uttar Pradesh. The two men were reportedly held in the police station for four days where they were subjected to torture. Bundu's son allegedly lost an ear as a result of the police torture. Bundu was admitted to the District hospital where he died from his injuries.

Hundreds of people demonstrated after his death. The authorities suspended the Station House Officer and stated they would proceed with charges against him. It was reported that an independent inquiry would be held into his death. Amnesty International has no further information about the results of any such inquiry.

WEST BENGAL - Hari Biswakarma

Hari Biswakarma, a young Nepali woman, resident of Matigara Patiram Jote, Darjeeling and wife of Bimal Biswakarma was killed in police custody on 23 November 1994. She was walking along National Highway 31 coming from Matigara to Mallguri on the night of 23 November with her husband and her aunt Munna Biswakarma, when a police jeep stopped them and, for a sum of money, offered them a lift.

It is alleged that soon after they entered the jeep they were asked their names and police caught hold of Bimal Biswakarma saying that he was wanted by the police. The police then caught hold of Hari Biswakarma and hit her and allegedly pushed her out of the jeep. The police jeep apparently did not stop to go back to help her until Bimal and Munna protested. The police then drove back to Hari's injured body, got out of the jeep and reportedly began beating her. Bimal and Munna again protested, the police stopped and Bimla and Munna lifted Hari into the jeep. After travelling a little distance the police realized that Hari had suffered serious injuries and forced the three to get out of the jeep. The police drove off in the direction of Siliguri. Bimal and Munna managed to get Hari to Siliguri Sub-Divisional hospital where she died in the early hours of the next day.

Matigara police reportedly refused to file a First Information Report and so Bimal and Munna informed the Superintendent of Darjeeling police. Police reportedly lodged a case under sections 304 (causing death by negligence) and 506 (criminal intimidation) of the Indian Penal Code. Although the district police have suspended one constable, nobody has been

arrested so far. A local trade union along with civil liberties groups have demanded that there be an independent and impartial inquiry into the incident.

III. International and domestic remedies

United Nations Special Rapporteurs

In their annual reports for 1994 delivered to the United Nations Commission for Human Rights in 1995, the Special Rapporteur on torture and the Special Rapporteur on extrajudicial, summary and arbitrary executions expressed concern at the number of victims of torture and deaths in custody reported from India and the lack of an effective system to prevent such violations and bring those responsible to justice. Both the reports pointed to the fact that despite requests, the government has not extended an invitation to the two Special Rapporteurs to visit India: the report on torture commented "The Special Rapporteur continues to believe that the situation would justify a visit by him"². These experts have examined complaints from victims of human rights violations and from non-governmental organizations and sought clarification from the Indian government.

The Special Rapporteur on extrajudicial, summary and arbitrary executions expressed concern over the length of investigative procedures and noted that in some cases inquiries opened more than two years ago are still said to be in progress. He continued by stressing the importance "of holding the authors of violations of the right to life accountable and complying with the obligation to conduct exhaustive and impartial investigations into all extrajudicial, summary or arbitrary executions."³ In conclusion, the Special Rapporteur expressed concern at contradictory information which he has received from the government and the sources of the allegations stating that he "finds himself in a position where it is virtually impossible to determine which of the contradicting versions corresponds to reality"⁴ and asked for the second year running for the government to consider inviting him to visit India.

The Special Rapporteur on torture stated that "...torture by the police, the paramilitary and the army was pervasive in each of the 25 states of India. A significant number of detained persons were said to have died as a result of police torture...information indicated that a high

² Report of the Special Rapporteur on torture, E/CN.4/1995/34, paragraph 380

³ Report of the Special Rapporteur on extrajudicial, summary and arbitrary executions, E/CN.4/1995/61, paragraph 171

⁴ *ibid*, paragraph 172

incidence of cover-ups with regard to torture cases involving senior police, state officials, magistrates and members of the medical profession." He continued by expressing concern at the lack of redress noting that "...few police officers were charged and even fewer were convicted for the torture of detainees... magisterial inquiries were frequently not held... and [if held] were forced to rely on evidence provided by the police."⁶

Both Special Rapporteurs also expressed concern that legal safeguards currently in force in India are not sufficient to protect detainees, and that those that exist are often disregarded.

The National Human Rights Commission

In its report, *Deaths in custody in 1993*⁶, Amnesty International commented on the establishment of the National Human Rights Commission (NHRC), expressing concern at the lack of its own independent investigative machinery and its limited powers to investigate alleged human rights violations by the army and paramilitary. The organization welcomed the interest which the Commission had shown in custodial violence in India, in particular by issuing a directive to District Magistrates and Superintendents of Police in the various states to report all cases of custodial deaths and rape involving the police to the Commission within 24 hours of their occurrence, or of the case having come to their knowledge. Although the Commission has not published information on the compliance of states with this directive⁷, Amnesty International is aware that it intervened in several cases of custodial death during 1994, its first full year of functioning. In three cases which were brought to the Commission's attention, its

⁵Report of the Special Rapporteur on torture, E/CN.4/1995/34, paragraph 339

⁶AI Index: ASA 20/02/94. See also *India, The Human Rights Commission Bill: Amnesty International's observations*, August 1993, AI Index: ASA 20/33/93, which included Basic Standards for National Human Rights Commissions recommended by Amnesty International.

⁷In an interview published in *The Asian Age* on 22 July 1995, the Chairman of the NHRC, Justice Ranganath Mishra, said that the Commission was "informed regularly" of custodial deaths and commented that "It is just a case of habit formation on the part of the authorities".

intervention led to either compensation for the victim's families⁸ or suspension of police officers.⁹

In October 1994 the Chairman of the NHRC stated at a commemoration ceremony organized by Delhi police that "police should not torture delinquents in the name of investigation"¹⁰.

Amnesty International welcomes the interventions the Commission has made over the past year, but remains concerned at its lack of independent investigative powers and ability only to make recommendations to the state authorities concerned. Despite assurances by the government that following the establishment of the NHRC, state Commissions would be set up, the only state human rights commission to be established in India to date is in West Bengal, although other states have indicated that they will be setting up commissions in the future. Amnesty International welcomes the creation of state human rights commissions and hopes that their existence will lead to greater awareness of human rights and ultimately fewer human rights violations in the states concerned. However, it reiterates its concern that although human rights commissions can be an important mechanism to strengthen human rights protection, they can never replace, nor should they in any way diminish, the safeguards inherent in comprehensive and effective legal structures enforced by an independent, impartial, adequately resourced and accessible judiciary. The setting up of such state commissions should be accompanied by a determined government policy aimed at holding the perpetrators of human rights violations fully accountable, thus ending the impunity enjoyed by many of those who violate human rights.

⁸Interim compensation was granted by state governments to the family of Raju Bhujel who died in Meghalaya in July 1993, listed as case 24 in the appendix to *India: deaths in custody in 1993* of June 1994 (AI Index: ASA 20/02/94) and the family of Madan Lal who died in Delhi in November 1993, listed as case 5 in the appendix to *India: deaths in custody in 1993*

⁹Police officials were suspended in the cases of Madan Lal, listed as cases 5 in the appendix to *India: Deaths in custody in 1993* and in the case of Chandrasekhar who died in Pondicherry in December 1993, listed as case 26 in the appendix to *India: Deaths in custody in 1993*.

¹⁰The Pioneer, 22 October 1994

Commissions of Inquiry

The 1952 Commission of Inquiry Act allows for the establishment of Commissions of Inquiry; state governments occasionally set up such commissions to investigate cases of deaths in custody. Such a commission is not a court of law but a fact-finding body often headed by a judge. Its composition does not offer the same guarantees of impartiality as a judicial inquiry as commission members are appointed by the state government. Whilst such commissions do have investigative powers, they can only produce a report with recommendations as a result of their work. In the past many of these commissions have taken years to complete their investigations and produce a report. Three Indian states regularly appoint commissions of inquiry: Andhra Pradesh, Tamil Nadu and West Bengal.

In the state of Tamil Nadu, there have been several commissions of inquiry into deaths in custody. One such commission investigated the case of one death in custody which had attracted widespread attention in many local and national papers and was listed by Amnesty International in its March 1992 report. The Commission reported on 3 June 1994, finding that the victim, Nandagopal, had died as a result of aggravated suicide in police custody on 3 June 1992. In its report which was made public, it recommended that five police officers be brought to trial for wrongful confinement and voluntarily causing hurt and granted Rs 100,000 compensation to the widow. Amnesty International has repeatedly questioned the government on this case without receiving a response. The organization welcomes the completion of this inquiry and also the compensation which was paid to the widow of the victim. However, Amnesty International remains concerned that over three years since the death of Nandagopal, a fully independent and impartial judicial investigation into the allegations has not been carried out.

This Commission and others which have been established in Tamil Nadu have made a number of suggestions in their reports to the state government intended to protect people detained in police custody. These recommendations include many of the measures listed in Amnesty International's 10-point program for the prevention of torture in India¹¹. However, these recommendations have not yet been implemented and Amnesty International fears that without a commitment from the central and state governments to make such provisions law, the problem of custodial violence will persist.

¹¹Published in March 1992

Commissions of Inquiry have also reportedly been set up in the state of West Bengal. Civil liberties groups claim that of the 20 commissions which have investigated cases of police excess, custodial deaths and police firings during the tenure of the Communist Party of India - Marxist government, the findings have been published in only nine cases. Despite police officers having been identified in the reports as responsible for violations, the government has reportedly taken no further action. Civil liberties groups also claim that deaths in custody are encouraged by statements such as that reportedly made by the Police Commissioner in Calcutta in an interview with *The Statesman* newspaper, Calcutta, on 29 May 1994 that "he had instructed police to resort in lock-ups to third degree methods (which are illegal) but within limits".

The Supreme Court

In May 1994 police chiefs in all states issued instructions to police officers about conditions to be fulfilled while making an arrest. This followed an order from the Supreme Court in an abduction case involving police in Uttar Pradesh. The court ordered that all arrested persons have the right to contact a friend or relative to inform them of the arrest, that police will have to inform the accused of this right and enter the name of the contact person in the daily diary. Magistrates are required to see that this procedure is followed. The arresting officer must also justify the arrest on "reasonable grounds" and show that it has been preceded by some investigation.

Amnesty International welcomes the issuing of such instructions and hopes they will prevent arbitrary arrests and lead to a decrease in custodial violence. However, effective measures must be taken by the authorities to ensure that these orders are complied with. For example, one of the recommendations Amnesty International made in its 1994 Memorandum to the Government of India¹² was that an independent inspection mechanism be established to scrutinize police behaviour. The task should be undertaken by persons of integrity respected in their local community for their independence of judgement and political impartiality. This task could be carried out by judicial but not executive magistrates¹³.

¹²*Memorandum to the Government of India arising from an Amnesty International visit to India 5-15 January 1994*, August 1994, AI Index: ASA 20/20/94.

¹³Executive magistrates are officials who belong to the civil service, judicial magistrates are judicial officers appointed by the High Courts and are subject only to judicial control.

The Supreme Court has also been routinely awarding compensation to victims of illegal detention and also to families of victims of custodial death and this practice has been followed by several state High Courts. Amnesty International welcomes this development.

State High Courts

In May 1994, the Rajasthan High Court ordered that families of all victims of custodial death in the state be paid Rs 50,000 compensation and that a member of the family be offered a job by the government. It further ordered that the government constitute a seven member committee to find out, within one month, the total number of detainees murdered in police custody. It specified that the committee should consist of the Home Secretary, the Director General of Police, a legislator, a head of a forensic medical college, a retired principle of a medical college or doctor equivalent to that post, an experienced social worker and the petitioner. Amnesty International welcomes this initiative and urges the state government to take immediate steps to implement such recommendations.

In August 1994 the Bombay High Court expressed concern at the large number of custodial deaths in the state and directed the government to set up a high powered committee within a fortnight to investigate all aspects of custodial violence and recommend comprehensive measures to check such violence. The court ordered that the committee be made up of the state Home Secretary, state Law Secretary and the Director General of Police. The committee was recommended to suggest suitable amendments to the police manual and submit a detailed scheme for police accountability in the context of human rights. It should submit its report within three months of being set up. The judges also directed the state government to ensure that instructions were issued to police officials to medically examine a person after his/her arrest and to make a detailed entry about the medical report in the police diary prior to his/her appearance before a magistrate.

These two initiatives by High Courts are in line with one of the recommendations Amnesty International made in its memorandum to the Government of India in August 1994 which states:

"The government should introduce a system of comprehensive police custody records (covering all aspects of the treatment of detainees, including time of arrest, when offered food, when brought before a magistrate, period of interrogation, signs of injury and in particular the

*use of safeguards such as information to third parties, access to legal advice and independent medical inspection) to which outsider monitoring groups and lawyers should have access. This obligation should be given the force of statute."*¹⁴

Other institutions

In July 1994, the Delhi City government asked the Delhi branch of the Indian Institute of Public Administration to produce a study on custodial deaths. It was reported that deaths over the past six years were analyzed and several recommendations were made which were apparently accepted by the city government. The report found that there were broadly three causes of custodial violence:

- inadequacy of the criminal justice system leading to police using methods not strictly within the law;
- informal [and illegal] detention of suspects for interrogation to circumvent legal limitation;
- unscrupulous pressures from various sources, i.e. problems of attitude, lack of resources and investigative expertise.

It recommended that in order to build public confidence in the uniformed force and restore police credibility, several administrative and systemic changes need to take place. Some of the most significant and important recommendations made were the need to promptly formalise arrests, for the investigation of all deaths to be immediately transferred to an independent agency and for such investigations to be timebound.

Amnesty International welcomes the initiatives taken by the courts and the Indian Institute of Public Administration but has no information as to whether any of these recommendations have been put into practise by the relevant state governments.

¹⁴*Memorandum to the Government of India arising from an Amnesty International visit to India, 5-15 January 1994, AI Index: ASA 20/20/94*

IV. RECOMMENDATIONS

Amnesty International is concerned about the continuing widespread use of custodial violence often leading to death in India. While welcoming many of the positive steps made in the past year by the central and state governments and various institutions, such as the judiciary and the National Human Rights Commission, the organization believes that unless concrete and effective legislative changes are introduced, the problem will continue to exist throughout India.

Amnesty International is also concerned that although it has raised many of these reports of deaths in custody with the central government and the state governments concerned during 1994, it has yet to receive any response.

È Amnesty International urges the government to ensure that inquiries held into deaths in custody are fully independent and impartial, that they are timebound and that the results of such inquiries are made available to the relatives of the victims and/or their legal representative in full. The government should also ensure that copies of post-mortem reports are made available in full to the relatives of victims.

È In order to address the problem of impunity which is described in this report, Amnesty International believes that the government should take steps to ensure that police and security forces allegedly involved in torture, ill-treatment and deaths in custody are suspended pending an inquiry and that if evidence is found against them, they are promptly arrested and brought to justice.

È Amnesty International urges the government to invite the United Nations Special Rapporteurs for torture and for extrajudicial, summary and arbitrary execution to visit India as soon as possible.

È Amnesty International urges the state governments to establish State Human Rights Commissions which could among other tasks be mandated to assist the monitoring of human rights violations. The setting up of such state commissions should be accompanied by a determined government policy aimed at holding the perpetrators of human rights violations fully accountable.

È Amnesty International urges the government to ensure that a full program of human rights training is made compulsory for all police and security forces personnel to ensure that they are made fully aware of the rights of detainees.