

HUMAN RIGHTS WATCH

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November 3, 2008.

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Shri Manmohan Singh
Prime Minister
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Via facsimile: +91.11.23019545/23016857

Re: NHRC Recommendations on Southern Chhattisgarh

Dear Prime Minister Singh,

I am writing on behalf of Human Rights Watch to urge your government to take immediate steps to implement the recommendations of the National Human Rights Commission (NHRC) resulting from its recent inquiry on human rights abuses by parties to the conflict in southern Chhattisgarh state. We are aware of your stated concern with the Naxalite issue as the “single biggest internal security challenge ever faced” by India.

Many of the NHRC recommendations are consistent with those Human Rights Watch made in our July 2008 report *“Being Neutral Is Our Biggest Crime: Government, Vigilante, and Naxalite Abuses in India’s Chhattisgarh State*. The report, the result of our independent investigation in southern Chhattisgarh and Andhra Pradesh states in late 2007 and early 2008, is based on detailed first-hand victim and eyewitness accounts of attacks by Naxalites, government security forces, and government-backed vigilante Salwa Judum members in southern Chhattisgarh. We also provided copies of our report to the NHRC, which was investigating allegations of human rights abuses in the region following the April 2008 order of the Supreme Court of India.

The NHRC submitted its findings and recommendations to the Supreme Court in August 2008. Its report underscores the need for the government’s law and order measures in Naxalite areas to be in accordance with international human rights law, and highlights the importance of combining principled security measures with effective steps to address the socio-economic problems faced by tribal communities in such regions.

Despite our reservations regarding the composition and methodology of the NHRC investigation team (a 16-member police team with 15 male officers, escorted by security forces) and the lack of victim and witness protection protocols that adversely affected the investigation, we would like to draw your attention to some crucial findings that point to the nature of human rights abuses in Chhattisgarh.

As in our investigation, the NHRC also found that all parties to the conflict have been responsible for serious abuses in the region. While the Naxalites were found to be responsible for extortion, killings, abduction, and forced recruitment, the NHRC found that Salwa Judum members were responsible for arson, looting villagers' property, killing, and rape. They also recorded that many villagers moved to Salwa Judum camps (also known as relief camps) "unwillingly."¹ In many cases the NHRC found evidence of involvement of security forces and special police officers in such violent acts.² It observed that many villagers are still missing.³ The NHRC has called for additional investigation in many cases.

These findings implicate the Chhattisgarh state government on three counts: first, for its failure to provide the population effective protections against the Naxalites; second, for its failure to prevent the Salwa Judum campaign from turning violent and taking measures to check the pattern of abuses; and third, for its failure to initiate thorough, independent, and impartial investigations to hold perpetrators accountable. The NHRC also found the Salwa Judum camps lacking in many basic facilities such as access to food, healthcare and sanitation, early childhood care and education, and employment opportunities for camp residents.⁴

In light of the above-mentioned findings by a government body of the stature of the NHRC, we urge you to take immediate steps to implement its recommendations without any delay. In particular, we would like to draw your attention to the following NHRC recommendations:

- *"The State Government should ensure that there is free registration of FIRs [First Information Reports] ... The State Government ought to encourage the villagers to report any grievances ... The investigation in all cases should be completed expeditiously. Any cases registered against police or security forces should be investigated by an independent agency like the CB/CID [Crime Branch/Criminal Investigation Department]..."⁵*

¹ National Human Rights Commission (Investigation Division), "Chhattisgarh Enquiry Report," 2008, paras. 6.09, 6.25, 6.32, 6.38.3, 6.40.2, 6.60.1, 6.63, 6.63.1, 6.63.2, 6.63.6, 6.65.3, 6.68.1-4, 6.71.1, 6.71.6, 6.12.

² Ibid., paras. 6.24, 6.44.7-8, 6.51.4, 6.51.6, 6.65.3, 6.65.6, 6.65.9, 6.73.4, 6.75.14,

³ Ibid., para. 6.27, 6.63.4.

⁴ Ibid., paras. 8.03-8.10.

⁵ Ibid., p. 108.

Consistent with its constitutional obligation to ensure state compliance with the Constitution, the Indian central government should call upon the Chhattisgarh state government to immediately investigate in an independent and impartial manner and prosecute individuals, including senior government officials, implicated in serious human rights abuses in Dantewada and Bijapur districts. We would in fact request that this responsibility be handed to an agency other than the state CB/CID. Being part of the state police machinery and controlled by the state director general of police, the CB/CID is not empowered to take independent action. The Indian central government should also express its willingness to conduct an independent and impartial investigation.

In particular, we would like to draw your attention to principles 11, 15, 16, and 17 of the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary, and Summary Executions, 1989. A fundamental requirement of an independent investigation is that “members of such a [independent] commission shall be chosen for their recognized impartiality, competence and independence as individuals. In particular, they shall be independent of any institution, agency or person that may be the subject of the inquiry...” (principle 11). Investigation into allegations of extrajudicial killings should include strong protocols for victim and witness protection. Such a protocol should not only protect victims, witnesses, and their families from violence, threats of violence, or any other form of intimidation, but should also remove from any position of power or control, whether direct or indirect, those potentially implicated in extra-legal, arbitrary, or summary executions (principle 15). Information of the investigation should be given to families of the deceased and their legal representatives so that they can present evidence to the investigating agency (principle 16). Reports of such independent investigating bodies should be made public and should detail the scope of inquiry, the methodology, the procedures used to gather and evaluate evidence, the findings, and recommendations (principle 17).

- *“The authorities should continue to provide them [displaced persons] with adequate security cover in the camps and, in the long run, create conditions for the safe return of all the displaced families, including those who have been forced to go out of Chhattisgarh. Efforts should also be made to commence the work of rehabilitation of all the displaced families under the accepted national and international norms.... Those who have lost their houses/belongings in arson/looting, should be given compensation, irrespective of perpetrators.”⁶*

Even three years since the onset of internal displacement in mid-2005, the Indian central, and Chhattisgarh and Andhra Pradesh state governments have yet to take

⁶ Ibid.

any comprehensive measures to protect the rights of the more than 100,000 displaced persons in the region. Human Rights Watch urges the Indian central government to immediately develop and implement a national policy and scheme for internally displaced persons in consultation with displaced persons, and governmental, nongovernmental, and intergovernmental organizations, and in accordance with the UN Guiding Principles on Internal Displacement (UN Guiding Principles). The policy should provide guarantees against arbitrary and unlawful displacement. It should also implement the rights of displaced persons to government assistance without discrimination, facilitate safe return where people are willing to return, ensure sustainable resettlement, and provide adequate compensation for loss of property during displacement.

In the interim, the central government should instruct the Chhattisgarh and Andhra Pradesh state governments to provide displaced persons all government services, including employment guarantees or other means of sustaining a living, access to food-for-work benefits, and free or subsidized food rations, and issue all documents required by them to benefit from these welfare programs.

- *“The state authorities should prepare a village-wise list of all those who have gone missing and the circumstances in which they have disappeared. Efforts should be made to gather credible evidence regarding their present status.”⁷*

The Indian central and Chhattisgarh state governments should immediately set up a task force to determine the fate of those who “disappeared,” including those forcibly taken to Salwa Judum camps, arbitrarily detained in police stations, or killed by Salwa Judum members, government security forces, or Naxalites. Information regarding such disappeared persons should be provided to family members. We also strongly urge that a district-level missing persons unit be established involving female staff, NGOs, and social workers, in which families and concerned parties may give information about missing family members without fear of retaliation.

- *“The state authorities should desist from housing the security forces in the school/Ashram buildings meant for the education of children.”⁸*

During our investigation, Human Rights Watch found that education was severely disrupted due to the conflict. Many schools stopped functioning, and many were destroyed by Naxalites after Salwa Judum and police began using some of them for their operations. The Indian central and Chhattisgarh state governments should take steps to ensure that government security forces avoid using school buildings, restore damaged schools, and provide adequate education to both displaced children as well as to children who have returned with their families to their home villages.

⁷ Ibid, p. 109.

⁸ Ibid.

- “The security force personnel who are deployed in the area, especially for the protection of Camps, should be sensitized about human rights in order to minimize the violations of these rights at their hands.”⁹

The Indian government should thoroughly revise the police training curriculum to include appropriate training on human rights issues including lawful interrogation techniques and best practices. All training should be consistent with international human rights standards, such as the UN Code of Conduct for Law Enforcement Officials and other relevant international human rights standards.

We hope that your office will take immediate steps to examine and implement the NHRC recommendations. We also hope that all further investigations into allegations of human rights abuses are conducted in an independent and impartial manner, assuring victim and witness protection according to international standards, and involving female investigators who are trained to investigate allegations of sexual violence.

Thank you for your consideration.

Sincerely,



Brad Adams
Executive Director
Asia Division

CC:

Smt. Pratibha Patil, President of India
Shri Sharad Pawar, Minister of Agriculture and Minister of Consumer Affairs, Food & Public Distribution
Shri Shivraj Patil, Minister of Home Affairs
Shri A. R. Antulay, Minister of Minority Affairs
Shri P. R. Kyndiah, Minister of Tribal Affairs
Shri H. R. Bharadwaj, Minister of Law & Justice
Shri Raghuvansh Prasad Singh, Minister of Rural Development
Smt. Meira Kumar, Minister of Social Justice & Empowerment
Dr. Anbumani Ramdoss, Minister of Health & Family Welfare
Shri Oscar Fernandes, Minister of State of the Ministry of Labour & Employment.

⁹ Ibid., at p. 110.

Smt. Renuka Chowdhury, Minister of State of the Ministry of Women & Child Development

Shri Namo Narain Meena, Minister of State in the Ministry of Environment and Forests

Shri Madhukar Gupta, Home Secretary, Ministry of Home Affairs

Shri G. B. Mukherji, Secretary, Ministry of Tribal Affairs

Shri T. K. Vishwanathan, Department of Legal Affairs, Ministry of Law and Justice

Dr. Rita Sharma, Secretary, Department of Rural Development, Ministry of Rural Development

Shri K.M. Acharya, Secretary, Ministry of Social Justice and Empowerment

Shri Naresh Dayal, Department of Health and Family Welfare, Ministry of Health and Family Welfare

Ms. Sudha Pillai, Secretary, Ministry of Labour and Employment

Shri Vijai Sharma, Secretary, Ministry of Environment and Forests

Justice Rajendra Babu, Chairperson, National Human Rights Commission

Dr. Girija Vyas, Chairperson, National Commission for Women

Dr. Shantha Sinha, Chairperson, National Commission for the Protection of Child Rights