

# **Human Rights in India**

## **POLICE KILLINGS AND RURAL VIOLENCE IN ANDHRA PRADESH**

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*Human Rights Watch/Asia (formerly Asia Watch)*

Human Rights Watch/Asia was established in 1985 to monitor and promote the observance of internationally recognized human rights in Asia. Sidney Jones is the executive director; Mike Jendrzeczyk is the Washington director; Robin Munro is the Hong Kong director; Therese Caouette, Patricia Gossman and Jeannine Guthrie are research associates; Cathy Yai-Wen Lee and Grace Obama-Layat are associates; Mickey Spiegel is a research consultant. Jack Greenberg is the chair of the advisory committee and Orville Schell is vice chair.

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## *Addresses for Human Rights Watch*

485 Fifth Avenue  
New York, NY 10017-6104  
Tel: (212) 972-8400  
Fax: (212) 972-0905  
email: [hrwatchnyc@igc.apc.org](mailto:hrwatchnyc@igc.apc.org)

10951 West Pico Blvd., #203  
Los Angeles, CA 90064  
Tel: (310) 475-3070  
Fax: (310) 475-5613  
email: [hrwatchla@igc.apc.org](mailto:hrwatchla@igc.apc.org)

1522 K Street, N.W., #910  
Washington, DC 20005  
Tel: (202) 371-6592  
Fax: (202) 371-0124  
email: [hrwatchdc@igc.apc.org](mailto:hrwatchdc@igc.apc.org)

90 Borough High Street  
London, UK SE1 1LL  
Tel: (071) 378-8008  
Fax: (071) 378-8029  
email: [hrwatchuk@gn.apc.org](mailto:hrwatchuk@gn.apc.org)



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## I. Introduction

The history of the conflict in Andhra Pradesh over land ownership and land reform describes a pattern of systematic human rights violations that is among the worst anywhere in India. Since 1968, these abuses have been part of a government<sup>1</sup> campaign which has used the threat of a radical guerrilla movement, popularly known as the Naxalites, to justify the resort to state violence against all forms of peasant resistance and against other critics of state policy. The stated objectives of the campaign have been to eliminate Naxalite guerrilla groups and their supporters. In carrying out this campaign, the security forces have murdered hundreds of peasants and tribal villagers, as well as sympathizers with the guerrilla groups and suspected militants. In collusion with powerful landlords, they have also attempted to crush organized efforts by peasant and tribal<sup>2</sup> groups to secure their rights to land and fair labor practices. Police and government officials have sought to silence their critics through murder and intimidation: More human rights monitors have been killed because of their work in Andhra Pradesh than anywhere else in the country.

The rural violence that has plagued Andhra Pradesh is endemic to many parts of India where the government has been unwilling or unable to follow through with land reforms, redistribution and other measures to protect tenants and laborers. Andhra Pradesh has seen decades of internal conflict over agrarian issues, and the majority of the population subsists in desperate poverty. Throughout Andhra Pradesh's history, the dependence of state politicians on the support of powerful landowners has virtually guaranteed that no reforms will be enacted that might threaten their privileged position. Moreover influential landlords are ensured impunity for illegal activities that range from eviction to murder.

But behind the crisis of rural violence in Andhra Pradesh lies the government's failure to enforce its own laws and operate within them. The police collude in landlord abuses against tribals and other vulnerable groups by refusing to register or investigate cases. Politically influential landlords have been assured of the connivance, if not the outright assistance, of police in abuses against landless laborers, *dalits*<sup>3</sup> and other peasant communities who have either resisted eviction or have otherwise organized to protect their rights. Moreover, the police, who often operate as virtual private armies for the landlords, engage in rampant abuses against peasants and tribals who have organized to resist illegal attempts by landlords to seize their lands.

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<sup>1</sup> The abuses have not been characteristic of any single political party's administration; Congress (I) and Telugu Desam party governments have been responsible for abuses. For more on the history and politics of the political parties, see chapter two.

<sup>2</sup> The ethnic groups making up India's tribal population are traditionally assumed to be the descendants of the original inhabitants of the subcontinent. The Hindi word *adivasi* used for them means "original dwellers." The "scheduled" tribes are considered economically disadvantaged, along with other so-called backward classes (including the "scheduled" castes, "*harijans*" or "*dalits*" and other low-caste groups). The largest tribal populations are found in the northeastern states of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, and Tripura. Other states with large tribal populations are Madhya Pradesh, Orissa and Rajasthan. The tribal population of Andhra Pradesh is approximately 1.3 million, or about 3.7 percent of the state's total population. The districts of Srikakulam, Visakhapatnam, East and West Godavari, Khammam, Warangal, Adilabad, and Mahboobnagar have large tribal populations.

<sup>3</sup> In much of India, *dalit*, which means "the oppressed", has come to replace "untouchables" or "*harijans*" to refer to social groups at the bottom of the caste hierarchy. *Dalit* may also refer to some tribal groups.



In Andhra Pradesh, traditional problems of rural violence and impunity are inextricably linked in a bloody conflict between radical armed opposition groups and the forces of the state. That conflict has its origins in a peasant uprising that occurred twenty-five years ago in a village in the state of West Bengal, called Naxalbari, from which the rebel leaders took the name "Naxalite." As similar rebellions broke out in other states, including Andhra Pradesh, government forces launched a brutal crackdown in which hundreds of peasant and tribal activists were killed. From the outset, the government resorted to illegal measures -- extrajudicial executions, torture and disappearances -- to deal with the threat.

The legacy of that crackdown is apparent in Andhra Pradesh today, where the police continue to engage in widespread abuses against peasant and tribal communities in an effort to eliminate suspected militants and terrorize civilian sympathizers. Other peasant and tribal activists, journalists, academics and others who have criticized this policy of state-sanctioned abuses have also been targeted. In the current climate of rural violence and impunity, radical militant groups which have mobilized peasants and laborers and have pursued violent means to effect land redistribution have gained strength.

The abuses committed by the security forces in Andhra Pradesh are similar to human rights violations in counter-insurgency campaigns in more well-known conflicts like the separatist fighting in the Indian states of Punjab and Kashmir. As in those states, the Andhra Pradesh security forces have tortured and summarily executed countless suspected militants and civilians and have subjected whole villages to assault and intimidation. But there is an additional dimension to the conflict in Andhra Pradesh in that the state's war on the Naxalites has become privatized to such an extent that the police operate as much under the authority of powerful landlords as under the state. In this climate, attacks on rural activists and striking laborers by landlords or police acting on their behalf are also excused as part of fighting "Naxalite terrorism."

Police abuses in Andhra Pradesh are not the result of any particular political party's policies. Nor do they represent the aberrations of individual police officials. Over the past twenty-five years, the rise or fall in extrajudicial killings and disappearances in Andhra Pradesh have been directly attributable to the "law and order" policies of senior officials in the state government. That such abuses are sanctioned is clear from the fact that senior police officers with a record of "killing Naxalites" receive promotions, cash rewards and favored postings.

The principal security forces in Andhra Pradesh responsible for human rights violations are the Andhra Pradesh police, which are accountable to the state government. The federal paramilitary forces of the Central Reserve Police and the Border Security Force, which are under the authority of the central government and have been deployed to supplement the state police in counter-insurgency operations, have also been responsible for abuses. In addition, the police have permitted or encouraged criminal behavior by politically influential groups, primarily high-caste landowners, against peasants and tribals.

Most of the victims of police abuses are peasants and laborers, particularly those who are members and organizers of peasant unions and who because of that association are labeled "Naxalite." Tribal, low caste and *dalit* villagers have been singled out because they are assumed to be likely sympathizers with peasant organizations or Naxalite groups. Villagers in Naxalite-influenced areas have been subjected to police raids in which suspected sympathizers have been beaten and detained, or killed. Militants associated with Naxalite guerrilla groups have been the victims of summary executions, disappearances and torture.

Tribal and *dalit* villagers have also been assaulted and killed by landowners over land disputes. Upper caste groups have launched armed attacks in which *dalit* and tribal villagers have been murdered, assaulted

and raped. Such attacks have been carried out in order to terrorize the villagers and prevent them from asserting claims to land and other social and political rights. Police, who sometimes assist in the attacks, seldom investigate the crimes and almost never prosecute those responsible.

While the state's remoteness has helped to insulate it from international scrutiny, the government has also used violence to silence its domestic critics. Human rights monitors have been assaulted and murdered because of their work in defending and obtaining bail for detainees, investigating disappearances and deaths in custody and publicizing abuses. Members of human rights organizations have received death threats from police and have been accused of being "Naxalites."

Journalists are frequently threatened and attacked because of their reporting. Those working at the village level are particularly vulnerable to intimidation and attacks by police who suspect them of supporting Naxalite groups and of "making heroes" of the Naxalites. A number of journalists in Andhra Pradesh have been arrested under security laws. Ghulam Rasool, a journalist with the Hyderabad-based Telugu newspaper *Udayam*, was killed by police in December 1991, apparently because he had exposed police involvement in a land scandal.

The widespread practice of "encounter" killings represents the most egregious of the abuses committed by the security forces. The consistency of the testimony of witnesses and the sheer number of killings involved confirm that government forces operating in Andhra Pradesh have systematically violated international human rights law in carrying out these killings. In the vast majority of these executions, the victims have first been detained in police custody and then subsequently reported by the authorities as having been killed in an encounter with the security forces. In almost all such reported "encounters", the detainees have actually been murdered by the police. Security legislation has increased the likelihood of such abuses by authorizing the security forces to shoot to kill and by protecting them from prosecution for human rights violations.

In searching for suspected militants and civilian sympathizers, the police routinely subject entire villages to raids during which men and women suspected of guerrilla involvement and villagers who are suspected of providing militants with food or shelter have been beaten and detained and in some cases, murdered. Persons taken into custody have also "disappeared" and in most cases are believed to be the victims of extrajudicial executions. Detainees have been tortured, in some cases resulting in death. Women have been raped and others have been threatened with murder, assault and rape.

The Naxalite groups have also engaged in widespread abuses. Intent on achieving immediate land redistribution through force, the guerrilla groups have pursued a campaign of violence that has targeted police and other security forces, political figures, civil servants, landlords and other civilians. The abuses include targeted assassinations and kidnappings of political figures and police officials who have been held as hostages to secure the release of detained Naxalite leaders. The militants have also carried out bombings and arson in areas where they are likely to cause civilian casualties, including bus depots, government offices, buses, trains and railway crossings.

Naxalite groups have also summarily executed, and in some cases tortured to death, suspected police informers. Summary justice is dispensed by Naxalite leaders in "citizens' courts", and those who have disobeyed directives have been punished by beatings or in more serious cases, physical mutilation and executions. These are crimes which must be condemned.

The deteriorating human rights situation in Andhra Pradesh, and in particular, the rise in violence against human rights activists and journalists prompted Asia Watch to send a mission to Andhra Pradesh in January 1992. During that visit, Asia Watch interviewed lawyers, human rights activists, journalists and other residents of the state, including relatives of victims of human rights abuses. While this report focuses primarily on the findings of investigations into some of the most recent incidents of serious human rights violations, we also examine the patterns of violence and abuse over the past several years, particularly since attacks on human rights groups began in earnest in 1985, that have given rise to the current crisis.

The Naxalite movement constitutes a serious threat to security in many districts in Andhra Pradesh. But in trying to crush the militants, the government has actually encouraged wanton lawlessness by the security forces. Some of the victims were killed while peacefully campaigning for election or exercising their rights of free expression. As the *Times of India* has noted,

While it comes as no surprise that gun-toting bands have no use for democracy, it does not at all follow that a government responding to the challenge posed by them can overlook its obligation to maintain the rule of law.<sup>4</sup>

Indeed, by relying on illegal means such as torture and murder to crush the rebels, the central and state government authorities have only increased the likelihood that more villagers may feel compelled to support the militants as a way of defending themselves against police repression. In recent years, an increasing number of attacks by Naxalite groups have been carried out in retaliation for police abuses. Unstopped, this pattern of retaliation will only continue to escalate, and civilians to be terrorized by both sides.

In order to curb widespread police murders, torture, and other forms of brutality, the state government must end its policy of impunity. It must publicly state that such abuses will not be tolerated, and follow that up immediately by taking action against police implicated in such abuses. Disciplinary action against those responsible is not enough. The government must initiate criminal prosecutions against police responsible for murder and other grave abuses and punish those responsible. The government must also initiate full investigations into cases of murder and assault by private agents, particularly politically influential land owners.

This is the fourth major report that Asia Watch has published on human rights in India.<sup>5</sup> We are publishing it at a time when the Indian government under Prime Minister Narasimha Rao, who is himself from Andhra Pradesh, has vowed to establish a national human rights commission to investigate human rights abuses. The violations that we and other groups have documented deserve serious investigation by such a commission, and should be among its priorities when it is established.

It is highly unlikely that the state government will proceed against its own police without pressure from the central government. Thus, it is crucial that Prime Minister Narasimha Rao press the state's Chief Minister to punish those who engage in human rights abuses. Federal paramilitary forces, who are also involved in the abuses, are answerable to federal Home Minister. The central government is also obligated

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<sup>4</sup> From the editorial "Laboured Case," *Times of India*, March 2, 1992.

<sup>5</sup> The other three are *Punjab in Crisis* (August 1991); *Kashmir Under Siege* (May 1991); and *Prison Conditions in India* (March 1991). In addition to these, Asia Watch has published two short reports: "Encounter in Pilibhit" (September 1991) and "Before the Deluge: Human Rights at India's Narmada Dam" (June 1992).

to investigate abuses by these forces and punish those responsible. In the concluding chapter to this report, we have included other recommendations that the central and state government must follow to address the crisis of rural violence and official complicity in police terror in Andhra Pradesh.

## II. Historical Background and the Politics of Rural Violence

Andhra Pradesh includes some of the poorest and least developed areas anywhere in India,<sup>6</sup> and the struggle over land ownership and agrarian reform lies at the core of the state's often violent political history. Most of Andhra Pradesh lies in the Deccan, a semi-arid and drought-prone plateau in south central India flanked by the low mountains of the Eastern Ghats. The state's eastern borders follow the Coromandal coast of the Bay of Bengal. Forested areas to the north-east border the Jharkhand, a largely tribal belt that cuts through the states of Bihar, Madhya Pradesh and Orissa. After India gained independence in 1947, Andhra Pradesh, like other states, was reconstituted along linguistic lines and assumed its present borders in 1956.<sup>7</sup> The principal language of Andhra Pradesh is Telugu.

The present borders of Andhra Pradesh encompass most of the former princely state of Hyderabad, which was ruled by the Nizams from the end of the Mughal empire until 1948.<sup>8</sup> Over the years, the land tenure system developed under the Nizams encouraged the growth of a wealthy landlord class and an impoverished population of tenant farmers who had little legal protection against excessive taxes, bonded labor, rack-renting and eviction.<sup>9</sup> By the early twentieth century, as pressure on land grew, the system became increasingly exploitative for the smallest cultivators, many of whom were driven to become share-croppers or landless laborers.<sup>10</sup>

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<sup>6</sup> The Telangana districts are by far the poorest in the state and among the poorest in the country. Other districts in the state are more developed.

<sup>7</sup> The state takes its name from the Andhra dynasty, which flourished in the first century B.C. in the region between the Godavari and Krishna rivers.

<sup>8</sup> The word *nizam* means premier in Persian. Nizam-ul-Mulk, prime minister under the last Mughal emperor, Mohammad Shah, established his own rule in Hyderabad in 1723. His descendants ruled Hyderabad until 1948. When British rule was formally established in India in 1857, Hyderabad, like other princely states, remained nominally independent under the suzerainty of the British government, which retained all powers relating to defense and foreign affairs.

<sup>9</sup> There were basically two classifications for land revenue collection in the princely state of Hyderabad. Under the *diwani* system, landholders sublet to tenants who cultivated the land but had no rights of tenure. This system was in place in about 60 percent of the state. Under the *jagirdari* system, in place in 30 percent of the state, the Nizam provided land grants to officers entrusted to maintain troops for the palace. The remaining 10 percent of the land belonged outright to the Nizam. Though there were regional variations, the quasi-feudal *zamindari* system, characterized by dependence on a landlord class of revenue collectors to act as intermediaries between the cultivator and the state, was similar throughout India. The word *zamindari* derives from the Persian *zamin*, meaning "land". See D.N. Dhanagare, "Social Origins of the Peasant Insurrection in Telangana (1946-51)," in A. R. Desai, ed. *Peasant Struggles in India* (New Delhi: Oxford University Press, 1979), pp. 488-490.

<sup>10</sup> Andhra Pradesh has a larger population of landless laborers than any other state except Bihar.

Struggles over land rights were also particularly acute in the tribal districts,<sup>11</sup> where during British rule, a number of revolts erupted over the usurpation of tribal land and the exploitation of laborers by construction contractors and mine owners.<sup>12</sup> The depression of 1910-1940 swelled the ranks of the landless as landlords engaged in large-scale evictions of tenants and impoverished tribal communities sold off vast tracts to urban land owners.<sup>13</sup>

## The Telangana Uprising

Agrarian reform was central to the demands of the parties leading India's independence movement, and the issue was especially critical to their efforts to mobilize mass support among peasants in Hyderabad state. Because the Nizam permitted no political parties to form, independence activists operated through two cultural organizations, the Andhra Conference and the Mahasabha. By the early 1940s, however, the more radical platform of the Communist Party of India (CPI) had gained influence over the other groups among peasants, students and workers.<sup>14</sup> In some districts, local CPI organizers launched agitations to seize land and resist bonded labor and landlord levies.<sup>15</sup> In response, in 1945, the state government passed the Tenancy Act, which promised sweeping reforms to guarantee security of tenure, regulate revenue increases and abolish arbitrary levies on cultivators. However, the reforms were not implemented and the agitations continued.

Tension increased in 1946 when near famine conditions developed in many parts of the state. In that year, the Indian National Congress<sup>16</sup> adopted a platform calling for the abolition of the *zamindari/jagirdari* system. The CPI meanwhile launched a mass campaign in the Telangana<sup>17</sup> districts of Andhra Pradesh to demand immediate reforms in the land tenure system. In districts where the CPI had a strong base,

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<sup>11</sup> The tribal districts were not part of the Nizam's dominions, but were under British rule. After independence, they were included in the new boundaries of the state of Andhra Pradesh.

<sup>12</sup> See D.N. Dhanagare, p. 490. One of the most serious of such rebellions under British rule occurred in 1879-80 when Muttadari tribal leaders refused to pay increased rent and taxes on the production of *toddy* (locally distilled liquor). In protest, the Muttadaris attacked police stations, prompting the British authorities to deploy troops to subdue the revolt. See V. Raghavaiah, "Unrest in Andhra Pradesh," in *ibid*, pp. 177-178.

<sup>13</sup> Dhanagare, p. 491-2.

<sup>14</sup> *Ibid*, pp. 494-5.

<sup>15</sup> *Ibid*, pp. 498-9.

<sup>16</sup> The Indian National Congress has dominated Indian politics since its founding in 1885 and provided the organization and leadership behind India's independence movement. Since 1969, the party has suffered a number of schisms; however, the Congress party (I), for Indira Gandhi, dominated all rival parties. The Congress Party (and the Congress party (I) after 1969) has won every national election since independence except two. After Indira Gandhi's assassination in 1984, the party was led by her son, Rajiv Gandhi, who was prime minister from 1984-1989. His assassination on May 21, 1991, ended the Nehru-Gandhi family's control of the party.

<sup>17</sup> Telangana refers to the Telugu-speaking districts of the former princely state of Hyderabad. Presently it is divided into the districts of Karimnagar, Warangal, Adilabad, Nizamabad, Medak, Nalgonda, Mahboobnagar, Khammam, Ranga Reddy and Hyderabad city. The concentration of land ownership in these districts has been particularly pronounced. See Dhanagare, pp. 489-90.

particularly Nalgonda, Warangal and Khammam, the agitation took on the character of a general insurrection. Armed battles broke out between organized peasant forces on one side and police and landlords' hired troops on the other.

On the eve of independence in 1947, the Nizam made a bid to retain Hyderabad's sovereignty within the Indian state. The new Indian government granted him one year to formally decide on accession.<sup>18</sup> By mid-1948, the CPI had joined the Congress in a civil disobedience campaign to force the Nizam to agree to Hyderabad's accession to India. During this period, conflict between the *Ittehad ul-Muslimeen*, a Muslim organization supporting the Nizam and opposed to the state's accession to India, and the Mahasabha, which wanted to oust the Nizam, sparked communal riots in Hyderabad.

With the Nizam's attention diverted to the political crisis in the city, the CPI expanded its organization in the countryside. Armed clashes broke out between the Razakars, a radical paramilitary group associated with the *Ittehad*, and CPI peasant organizers in the villages. By late August 1948 the state had reached the point of civil war. On September 13, the Indian army seized Hyderabad and ended the Nizam's rule. The army then turned to crush the Telangana rebellion. In the brutal crackdown that followed, as many as 2,500 peasant leaders were arrested or killed. Within a few months the revolt was ended.<sup>19</sup>

Soon after independence, India's new government under the Congress party took steps to enact land reform legislation. In Andhra Pradesh, *jagirdari* was abolished in 1949 and an Agrarian Enquiry Committee established to recommend other reforms.<sup>20</sup> In 1951, Acharya Vinoba Bhave, a follower of Mahatma Gandhi, launched the Bhoodan ("gift of land") movement in Andhra Pradesh to appeal to landlords to relinquish a portion of their property to be given to the landless. Walking from village to village, Bhave accumulated more than one million acres. While the movement gained national acclaim and inspired other social reform efforts throughout the country,<sup>21</sup> it did not change the basis structure of land ownership in Andhra Pradesh or anywhere else.

By the early 1950s, *zamindari* and *jagirdari* had been officially abolished throughout India, and other legislation enacted with the intent of establishing ceilings on land holdings and protecting the rights of tenants. Although the reforms benefitted some mid-sized cultivators in a number of states, most small and marginal peasants, tenants and laborers gained little from the reforms. Many landlords got around the new restrictions by evicting tenants before they could claim tenure and then subdividing their land to evade the

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<sup>18</sup> At the time of partition, Britain's suzerainty was allowed to lapse, and the states were officially free to accede to either Pakistan or India. Although the terms of the agreement also offered the possibility of independence, it was never considered a viable option by the either state. The status of Kashmir, which straddles the boundary between Pakistan and India, remains disputed. For more on the Kashmir problem, see Asia Watch, *Kashmir Under Siege*, (May 1991).

<sup>19</sup> Interviews in Hyderabad. See also Dhanagare, pp. 501-505.

<sup>20</sup> Ibid, p. 506.

<sup>21</sup> One of Bhave's followers, Jaya Prakash Narayan, together with a former Chief Justice of the Bombay High Court, V.M. Tarkunde, later founded the civil liberties organization, Citizens for Democracy, in 1972. See Smitu Kothari, "An Interview with V.M. Tarkunde," in Smitu Kothari and Harsh Sethi, eds., *Rethinking Human Rights* (New Delhi: Lokayan, 1989), p. 142.

land ceiling.<sup>22</sup> In many parts of the country, landholding patterns remained virtually unchanged.

### **The Naxalbari and Srikakulam Movements**

The conflict over land reform sharpened in 1966-67, after the failure of the 1965 monsoon and several years of drought left India with a critical shortfall in basic food grains. By 1967, there was famine in many areas of the country. In March of that year, a breakaway Maoist group in West Bengal split from the Communist Party (Marxist) -- CPI (M) -- because of differences between the two groups over the choice between the parliamentary path to change versus the path of armed struggle.<sup>23</sup> The group initiated a series of peasant uprisings, beginning in the district of Naxalbari in West Bengal, from which the party was given the name Naxalite. Over the next few months, peasant committees in Naxalbari seized land, burned property records, and assassinated oppressive landlords and others identified as "class enemies." The uprising was crushed in July, but over the next two years, similar revolts broke out in other villages in West Bengal and across the country.<sup>24</sup>

One of the most important of these occurred in Srikakulam, a tribal district in the forest regions of northeastern Andhra Pradesh. Confrontations between local landlords and tribal activists demanding better wages and land rights escalated in the area after the Naxalbari uprising. The police killing of two tribal leaders in October 1967 marked a turning point in the conflict. As in Naxalbari, tribal villagers organized into armed committees seized land and crops from landlords. As the rebellion spread to tribal areas of Orissa and other villages in Andhra Pradesh over the next few months, the police responded by imposing restrictions on public gatherings,<sup>25</sup> raiding tribal villages and arresting and killing hundreds of villagers. Many of those killed were summarily executed in what the police later claimed were armed "encounters." After the Srikakulam crackdown, the term "encounter killing" came to refer generally to the murder by the police of captured militants and other detainees.<sup>26</sup> In reprisal, some Naxalite groups accelerated campaigns to "annihilate class enemies," including landlords, moneylenders and police.

On August 2, 1969, parts of Srikakulam district were declared "disturbed areas" under the 1948

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<sup>22</sup> See Dhanagare, p. 512. As the Rudolphs have noted, "Mao's prediction, that abolition of landlords without other measures, such as collectivization, will deter later land reform, was amply borne out. Landlord abolition simultaneously deprived agrarian reform politics of its most conspicuous target and resulted in the embourgeoisement of the beneficiaries." See Lloyd I. Rudolph and Susanne Hoeber Rudolph, *In Pursuit of Lakshmi: The Political Economy of the Indian State* (Chicago: University of Chicago Press, 1987), pp. 314-15.

<sup>23</sup> The CPI (M) had earlier split from the CPI in 1964. On May 1, 1969 Naxalite leader Kanu Sanyal officially inaugurated the Communist Party of India (Marxist-Leninist), or CPI (M-L), as an antiparliamentary party which advocated a Maoist social revolution. The ideologue of the schism was Charu Mazumdar, who was disillusioned with what he saw as CPI (M) compromises. For more on the origins and impact of the Naxalbari uprising see Sumanta Bannerjee, *In the Wake of Naxalbari*, (Calcutta: Subarnarekha, 1980). See also Marcus F. Franda, *Political Development and Political Decay in Bengal*, (Calcutta: Firma K. L. Mukhopadhyay, 1971), chapter V.

<sup>24</sup> Ibid.

<sup>25</sup> Section 144 of the Code of Criminal Procedure empowers a magistrate to prohibit public assemblies, generally of five persons or more.

<sup>26</sup> For more on the practice of "encounter killings", see chapter four.

"Suppression of Disturbances Act" which gave the police sweeping powers of arrest and granted them license to shoot to kill. Within another year, parts of six districts in Andhra Pradesh had been declared "disturbed areas."<sup>27</sup> By 1970, Naxalite groups had expanded their influence in large areas of the countryside stretching from West Bengal to Kerala. Land grabs and other demonstrations of peasant resistance forced landlords to flee their lands in a number of cases.

Within the next two years, the insurgency was brought to an end in most areas of the country by a brutal police crackdown designed to eliminate the militants and their supporters. Investigations conducted by human rights groups following this period documented widespread abuses by the police and paramilitary forces<sup>28</sup> including the summary executions of perhaps thousands of suspected militants or sympathizers, systematic torture, sexual abuse and deaths in custody of Naxalite detainees. Many were jailed for years under charges of conspiracy.<sup>29</sup> As late as 1992, some Naxalite prisoners remained in custody without trial in Calcutta.<sup>30</sup>

The movement did not die out entirely, however. Some splits and regroupings took place, but in rural areas of West Bengal, Orissa and Andhra Pradesh, groups subscribing to some form of "Naxalite" ideology survived the crackdown and continued to operate. Over the next few years, left parties carried out "land grab" operations in rural areas to appropriate land that was designated to be redistributed under landholding ceiling laws.<sup>31</sup>

### **The Emergency and the Tarkunde Commission**

Amid rising protests against corruption, inflation and failed government policies by a wide spectrum of opposition parties, on June 26, 1975, Prime Minister Indira Gandhi declared a state of emergency throughout the country. During the next nineteen months, tens of thousands of political leaders, journalists, writers and other opponents of government policy were jailed. Censorship was enforced on the domestic and foreign press and the rights of free expression and assembly and *habeas corpus* were suspended. Two dozen political organizations were banned. In Andhra Pradesh, the government invoked the threat of "extremists" as a pretext to arrest members of human rights groups, student organizations, and labor and peasant unions.

With the lifting of the Emergency in 1977, and the election of the Janata Party government in New Delhi, the Andhra Pradesh government came under pressure from human rights groups to establish an

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<sup>27</sup> For more on the provisions of the legislation, see pp.25

<sup>28</sup> The federal paramilitary forces of the Central Reserve Police Force (CRPF) and the Border Security Force (BSF) supplemented the state police. In Bihar, private armed groups of landlords also assisted the police in the suppression of the uprising, and engaged in widespread abuses.

<sup>29</sup> One case, known as the Secunderabad conspiracy trial, lasted fifteen years before ending in acquittal.

<sup>30</sup> Some have remained in prison for more than twelve years without trial. A number of the defendants have refused to exercise their right to a trial because they considered all institutions of the state illegitimate.

<sup>31</sup> See Rudolph and Rudolph, p. 238.



independent commission to investigate human rights abuses, particularly "encounter killings" that had occurred over the previous months. An independent commission, headed by former High Court Justice V.M. Tarkunde, conducted an investigation into the killings of 33 persons by the police in 1975-76 in alleged "encounters." The Tarkunde commission concluded that nineteen of the men had been murdered by the police.

Publicity about the findings of the Tarkunde commission forced the government to establish its own judicial commission under Justice Bhargava, a retired justice of the Supreme Court. Shortly after it began its work in April 1977, the Bhargava Commission came under criticism because its limited terms of reference excluded it from establishing responsibility for the killings. It functioned for one year, during which time it investigated encounter killings in Giraipally in which S. Janardhan Rao, Murali M. Reddi, Ananda Rao and Sudhakar were killed in a staged encounter in July 1975. All the witnesses were examined by both sides, except for a police officer, Kaneswaran Rao, whose private conversation with a journalist in which he admitted committing murder was taped and produced before the Commission. The Commission also investigated the murders of Neelam Rama Chandraiah, a member of the legislative council, and Jampala Chandrasekhar Prasad, a university student.

After one witness, K. Lalitha, testified that she had been tortured under the supervision of the Director General of Police of Andhra Pradesh, Prabhakara Rao, the police mounted pressure on the Commission and witnesses to prevent further evidence from coming to light. Witnesses who testified complained of police intimidation. The state refused to supply some relevant documents; others were destroyed. When the state government ordered the commission to conduct its proceedings *in camera* in April 1978, human rights groups and several political parties withdrew their participation in protest.<sup>32</sup> Afterwards, the Organization for the Protection of Democratic Rights (OPDR), a human rights group, submitted two memoranda to the state government listing 350 persons killed in alleged encounters between 1968 and 1976, and another 42 who had died in police custody as a result of torture and ill treatment.<sup>33</sup>

In June of 1978 the Bhargava Commission completed its investigation into the Giraipally killings, but its findings were never published and no action was taken against any police or government officials responsible for the abuses. There were no other official investigations into the abuses, and reports of similar abuses continued.

### **The Struggle for Land and Rights, 1977-1992**

In the years following the Emergency, land struggles continued to result in human rights abuses. In the late 1970s, student activists associated with CPI (Marxist-Leninist (M-L) parties and peasant activists began to organize Rythu Coolie Sanghams (Peasant-Worker Unions) in the Telangana region of Andhra Pradesh to demand better wages for laborers, an end to bonded labor and the return of land illegally occupied by landlords. When the landlords refused to concede the demands, the RCSs organized boycotts and strikes against the landlords, and in response, the landlords hired local thugs to attack the RCSs and enlisted the police to arrest the villagers and file charges against them. In March 1980, the Committee for the Protection of Democratic Rights, a human rights group, published a report which documented nine incidents between

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<sup>32</sup> The OPDR had walked out at the first hearing of the commission, citing lack of confidence in the proceedings.

<sup>33</sup> OPDR, "Srikakulam Movement -- A Report to the Nation," October 28, 1977, p. 90.

June and October 1979 in three districts of Telangana in which RCS workers were murdered by landlords' armed troops or by police. The report also documented widespread arrests of RCS members and their torture in police custody.

In midterm state elections in Andhra Pradesh in January 1983, the Congress (I) party was defeated by a regional party that campaigned to promote agrarian interests and the autonomy of the Telugu-speaking people.<sup>34</sup> A local charismatic film star, N. T. Rama Rao, became chief minister. A year later his government was dismissed.<sup>35</sup> However, the Telugu Desam won both the parliamentary elections in Andhra Pradesh in 1984 and the state assembly in 1985 and N. T. Rama Rao was returned to power as chief minister.

Under Rama Rao, the state's campaign against suspected Naxalites escalated amid mounting human rights abuses, including encounter killings of peasant and tribal activists and alleged Naxalites. Human rights activists increasingly came under attack. In 1985 and 1986 two senior APCLC activists were killed by the police and several more were jailed.<sup>36</sup>

Human rights abuses reached a new record in 1988. At least 61 persons were the victims of "encounter killings" of whom human rights activists identified 13 as CPI (M-L) militants and the rest as tribal peasants and students.<sup>37</sup> On April 6, 1989, Daggubati Chenchuramaiah, the father of one of N.T. Rama Rao's sons-in-law, was shot and killed at his home by unidentified armed gunmen. A *dalit* organization immediately claimed responsibility, saying that the assassination was in retaliation for a murderous attack on *dalits* in Karamchedu<sup>38</sup> in July 1985 for which Chenchuramaiah was believed responsible. The next day, a Naxalite group, the People's War Group (PWG), also claimed responsibility for the attack. The murder apparently provided the Rama Rao government with the pretext to launch a new attack on "Naxalite" groups.<sup>39</sup>

Shortly after the crackdown began, TDP leaders, especially those in the rural districts where Naxalite groups commanded influence, pressured the Rama Rao government to end it after Malhar Rao, a TDP member and president of the Mahamutharam Mandal Praja Parishad in Karimnagar district, was abducted by the PWG in June 1989. The PWG refused to release him until either the police revealed the whereabouts of two PWG activists, Ilaiah and Rajamallu, who had "disappeared" after being taken into custody on December 25, 1988, or the government ordered a judicial inquiry into the disappearances. When the demands were not met, the PWG killed Malhar Rao. In the uproar that followed, the government appointed Justice T.L.N. Reddy to head up a commission of inquiry into the disappearance of Ilaiah and Rajamallu. The commission's terms were later extended to include 45 other disappearances.

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<sup>34</sup> See Rudolph and Rudolph, p. 156; 360; 490 fns. 73-74.

<sup>35</sup> Under article 356 of the Indian constitution, an elected state legislature may be dismissed if the governor, a federal appointee, determines that "governance of the state cannot be carried out in accordance with the provisions of the constitution." The arbitrary manner in which this provision is invoked has led critics to observe that it has become a tool for purely partisan purposes. See Rudolph and Rudolph, p. 101.

<sup>36</sup> See pp. 30

<sup>37</sup> K. Balagopal, "A Year of 'Encounters,'" *Economic and Political Weekly*, January 14, 1989, p.68.

<sup>38</sup> For more on the incident see discussion on p. 19

<sup>39</sup> K. Balagopal, "'Law and Order' on Lease," *Economic and Political Weekly*, June 17, 1989, pp. 1322-23.

Concern among some TDP leaders that the state's repressive policy towards the Naxalites would hurt their chances for re-election in the state assembly elections scheduled for December 1989 led them to pressure N.T. Rama Rao to initiate a "thaw" with the Naxalite groups. The government promised that it would institute checks on "police excesses" and ensure that all cases against "Naxalites" were brought to the courts. These initiatives did not significantly reduce human rights abuses, however.<sup>40</sup>

In November 1989, national parliamentary and state assembly elections were held in India and Andhra Pradesh and M. Chenna Reddy of the Congress (I) became chief minister of Andhra Pradesh. Shortly after taking office he also attempted to initiate a thaw in relations with the Naxalite groups. A number of suspected militants awaiting trial were granted bail and rallies by the groups were permitted for the first time. These measures were in large part the result of discussions between government officials and the APCLC on human rights issues which had begun in the last year of Rama Rao's administration.

During this period, the Naxalite groups began to operate more openly, appropriating forest and private land and establishing summary *praja* ("people's") courts to resolve local disputes and dispense justice. At the same time, killings by the groups also continued, and by the end of the year, some 200 murders were attributed to the PWG and other Naxalite groups.<sup>41</sup> The PWG also organized series of strikes though the year, including one on June 20, 1990, which nearly paralyzed the entire state. Chief Minister Chenna Reddy came under increased pressure from Congress (I) land owners whose lands had been seized by Naxalite groups. By late June, the thaw was over and the government had launched a new offensive against the Naxalites.<sup>42</sup>

Amid rising communal tension across India in late 1990 surrounding the attempts by the Bharatiya Janata Party (BJP) -- a Hindu nationalist party -- to erect a temple on the site of a sixteenth century mosque in the northern Indian state of Uttar Pradesh, riots erupted in several cities across India, leaving more than 1,000 dead. In Hyderabad, 134 people were killed in ten days of riots. Analysts blamed the riots on a number of factors, including attempts by political parties, among them dissident Congress (I) leaders, to discredit the government and the failure of the police to act swiftly to stem the violence.<sup>43</sup> The nationwide violence contributed to the collapse in November 1990 of Prime Minister V.P. Singh's government. It was replaced by that of Prime Minister Chandra Shekhar. In January 1991, a dissident faction of the Congress (I) in Andhra Pradesh succeeded in ousting Chenna Reddy's government. Congress (I) chief minister Janardhan Reddy replaced Chenna Reddy and, almost immediately upon taking office, publicly vowed to crush the Naxalite groups. At his request, the paramilitary forces of the Central Reserve Police were deployed in a number of districts to supplement the regular state police.

After the June 1991 national parliamentary elections, veteran Andhra Pradesh Congress (I) leader Narasimha Rao became Prime Minister of India. Rao, who was then required to win his own seat in

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<sup>40</sup> M. Shatrugna, "NTR and the Naxalites," *Economic and Political Weekly*, July 15, 1989, p. 1570.

<sup>41</sup> Amarnath K. Menon, "Riot Ravaged," *India Today*, December 31, 1990, p. 22.

<sup>42</sup> Amarnath K. Menon, "Striking Back," *India Today*, July 15, 1990, p. 26.

<sup>43</sup> For one analysis, see Asghar Ali Engineer, "Making of the Hyderabad Riots," *Economic and Political Weekly*, February 9, 1991, p.271.

Parliament, contested by-elections and won a seat from the Rayalaseema constituency in Andhra Pradesh in November 1991. Despite the fact that Rao was favored to win, Congress (I) agents reportedly assaulted rival candidates and prevented some from filing candidacy papers.

In late 1991, the state government again publicly announced a campaign to crush all Naxalite groups. The statement was followed on December 6 by the assassination of a former Congress (I) member of the legislative assembly and former minister, T. Hayagrivachary, for which the PWG claimed responsibility. Hayagrivachary's murder was followed by the killing on December 7 of a human rights lawyer, Narra Prabhakara Reddy who had previously received threats from police.<sup>44</sup> The December 29 killing by police of a well-known journalist, Ghulam Rasool, in Hyderabad provoked widespread protests throughout India.<sup>45</sup> The offensive against Naxalites continued, and on May 21, 1992, the PWG was banned.<sup>46</sup> As of August 1992, 275 persons had been reported killed in "encounters" in the months since Janardhan Reddy had taken office.

### III. The Pattern of Abuse

The abuses that have occurred in the course of the conflict in Andhra Pradesh are inseparable from the struggle for land reform and human rights. The Telengana districts are among the poorest in India, with a high concentration of land ownership and a large population of marginal peasants and landless laborers. Many of the poor are tribals, *dalits* or other low-caste groups and efforts on their part to secure land tenure, fair labor practices and other social or political rights have been met with attacks by high-caste land owners. Landlords have assaulted and murdered *dalits*, tribals and other villagers and have employed private armies to evict peasants and tribals from the land and forests. In the vast majority of cases, they have committed these crimes with impunity. Politicians and police have also acted in collusion with landowners to prevent peasant unions and other groups from organizing to protect their rights. The police, who depend on bribes from the landowners, or who act in the interest of politicians who depend on the landlords' support, fail to intervene and seldom bring charges against those responsible. If inquiries are ordered, the police frequently obstruct the investigations. In some cases, the police have even participated in the attacks.

It is in this context of widespread poverty, violence and impunity that the Naxalite movement has emerged and gained strength in the rural districts of Andhra Pradesh. The militant groups, many of whom endorse a policy of assassination and sabotage to bring about land redistribution and other social reforms, have also committed grave abuses. Among the victims of Naxalite abuses have been civil servants, land owners and other civilians killed or assaulted because they are suspected of being police informers.

While the actions of the Naxalite groups constitute a serious threat to security, in their efforts to crush the Naxalites, the police have committed egregious human rights violations primarily against *dalit* and tribal villagers who are assumed to belong to peasant unions or to sympathize with Naxalite groups. The

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<sup>44</sup> The case is discussed in detail on pp. 32

<sup>45</sup> The case is discussed on p. 36

<sup>46</sup> For more on the implications of the banning order, see pp. 40

organizers and members of peasant unions and other rural organizations that work for the rights of landless laborers are frequently the target of attack by landlords and by police who label the groups as "Naxalites."

The crackdown on the Srikakulam peasant uprising in the early 1970s was the first major incident of its kind to be systematically documented by human rights groups in Andhra Pradesh. The record of abuses that have occurred in connection with land conflicts in the state since then reveals a pattern that has been replicated in counter-insurgency operations undertaken in subsequent years in other parts of the country, particularly in Assam, Kashmir and Punjab. In each case, the state's response to violence by militant groups has been to suspend the rule of law and grant the security forces sweeping powers to commit abuses with impunity. Rather than end the conflict, these repressive measures have resulted only in escalating human rights violations and violence. This has clearly been the case in Andhra Pradesh where, increasingly, attacks by Naxalite groups are carried out in retaliation for police abuses.

However, while the human rights violations that have occurred in Andhra Pradesh share many of the characteristics of conflicts in other parts of India, they differ in important ways. At the heart of the conflict in Andhra Pradesh is a struggle for agrarian reform that has pitted marginal peasants and landless laborers -- who are almost exclusively of the lower castes, *dalits*, or tribals -- against wealthy middle and upper caste landowners. Many of these landlords are themselves politicians or the patrons of political parties, and thus have significant influence over the police. As a result, the police turn a blind eye to crimes perpetrated by landowners and politicians against peasant activists, *dalits*, and tribals, and themselves engage in widespread abuses against these same groups in the name of fighting Naxalite terrorism.

Violations by state forces have included arbitrary arrest of suspected Naxalite sympathizers, prolonged detention without trial, torture and extrajudicial executions of detainees. The practice of encounter killings, in particular, which were first documented by human rights groups in Andhra Pradesh, have become a trademark of police abuses in other conflict-torn states, notably Punjab. Andhra Pradesh was also one of the first states to have some of its districts declared "disturbed areas," and the anti-terrorism laws which were first invoked in other troubled states have been expanded to apply to Andhra Pradesh.

The principal state forces engaged in the conflict are the regular Andhra Pradesh state police, including its intelligence wings; the District Armed Reserve, which is ordinarily used for riot control and state security escorts and bodyguards; the Andhra Pradesh Special Police, a paramilitary force; and two anti-Naxalite forces: the Special Security Force (SSF), which is trained in guerrilla combat and the Special Task Force (STF), a police commando unit deployed for counter-insurgency operations. The SSF and STF travel in unmarked vehicles, and conduct interrogations in private detention centers rather than the regular police stations. They are heavily armed.

All of the state forces are accountable to the Home Ministry of the state government which has been under Congress (I) Chief Minister Janardhan Reddy since December 1990. In 1983, at the request of the state government, the central government first deployed the Central Reserve Police Force (CRPF), a federal paramilitary security force accountable to the Home Ministry of the central government, to assist the Andhra Pradesh police in anti-Naxalite operations. The CRPF forces were soon withdrawn, and were not deployed again until 1991, along with units of the Indo-Tibetan Police Force (ITBF), another federal paramilitary force. In December 1991, troops from the federal paramilitary Border Security Force (BSF) were also deployed. All of the federal forces operate primarily in the districts of Warangal, Karimnagar, Adilabad, Nizamabad, Khammam, Medak and Mahaboobnagar. About four or five battalions have been deployed in all,

or roughly about 2500-3500 men.<sup>47</sup> They are all under the authority of the Home Ministry of the central government.

The police and paramilitary forces routinely conduct search operations in Naxalite dominated areas, during which suspected militants and sympathizers are detained, beaten and, in some cases, summarily executed. Villagers suspected of harboring militants or of providing them with food are also frequently assaulted and detained. Guerrillas of the PWG and other militant groups have been detained and tortured, or "disappear" after being taken into custody. many have been the victims of encounter killings.

These abuses occur in the context of a low-intensity conflict characterized by militant ambushes and hit-and-run attacks on state security personnel, sabotage and bombings of government property and kidnappings and targeted assassinations of prominent police personnel, landlords and other political figures. The Naxalite groups, of which there are perhaps a dozen or more, organize guerrilla squads into groups of about six, called *dalams*. They are armed with AK-47s and other small arms and explosives. The largest and most powerful of the Naxalite groups is the Peoples War Group (PWG). The other two major Naxalite groups active in Andhra Pradesh are the CPI (M-L) (C.P. Reddy group) and the CPI (M-L) (Praja Pandha group). These latter two have generally been far less violent than the PWG, and also participate in elections at the village, state and national levels. The smallest Naxalite group is the CPI (M-L) (Phani Bagchi) group. Finally there are a number of local armed gangs, made up mostly of rural youth, which are not a part of the organized parties.

The Naxalite groups, all of whom differ to some extent on questions of ideology and tactics, have also attacked one another. As one observer has noted:

[O]ne recent development in naxalite politics ... is the murderous assaults the naxalite groups have been making upon each other. While all of them are killing and getting killed, the biggest aggressor has been the People's War Group, and the principal sufferer the C P Reddy group. In total they have killed about 30 of each other's cadre in the period January to May [1990.]<sup>48</sup>

The Naxalite groups do not technically control territory, but command considerable influence in a number of districts where they have forcibly redistributed land to poor peasants and tribals. In some villages, particularly in the forested tribal areas, they operate as nearly a parallel government, running *praja* courts and other village organizations.

In carrying out their land redistributions and other actions, guerrillas associated with the PWG and other factions have engaged in attacks against both security forces and civilians. The groups have targeted not only police and paramilitary forces but also landlords, civil servants and other civilians. According to police sources, the victims of such killings by Naxalite groups, particularly the PWG, numbered 110 in 1989; 194

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<sup>47</sup> Created in 1939, the Central Reserve Police Force is the largest of the paramilitary forces, with 130,000 personnel stationed nationwide in 108 battalions. The Border Security Force, created in 1962, operates in Punjab, Kashmir, West Bengal and the entire northeastern border of India, including the states of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura. See Manoj Mitta, "A Mini-India Protecting India," *Times of India*, December 23, 1990.

<sup>48</sup> K. Balagopal, "The End of Spring?" *Economic and Political Weekly*, August 25, 1990, p.1884.

in 1990; and 268 in 1991.

Other civilians suspected of being police informers have also been killed. The victims, most of whom have been poor peasants, have reportedly included persons who have been critical of the PWG and are then labeled "informers." On one recent case, on February 17, 1991, militants of the PWG shot and killed Pocham Goud, president of the Vempalli Mandal Praja Parishad (council), in Adilabad district, reportedly because he refused to redistribute his land among landless villagers and because he was suspected of being a police informant.<sup>49</sup> On September 4, 1991, Mundrathi Ramnaiah, a laborer in Pulkurti, was beheaded by a local militant group which had accused him of buying land from the village *sarpanch* (headman).<sup>50</sup>

The groups have also engaged in frequent kidnappings of civilians and police and held them as hostages in order to either gain the release of detained colleagues or to have those held in secret detention produced before the court. Other kidnappings have been carried out as a way of pressing the authorities to enact reforms, or to protest police abuses. In one incident, on January 16, 1992, the PWG kidnapped four officials of the state *Wakf* (Muslim religious trust) Board in Bodhan, Nizamabad district, to protest against the board's failure to use donated funds to provide appropriate facilities for poor pilgrims attending an annual *urs* festival.<sup>51</sup> The four officials, including *Wakf* Board secretary Faruq Qureshi and accounts superintendent Gaffar Khan, were released on January 18. They alleged that they had been beaten during their detention.<sup>52</sup>

The militants, especially the PWG, have also detonated bombs and set fires in government buildings, trains, bus depots and other public facilities. Although in many cases the militants have taken steps to avoid civilian casualties, for instance by ordering passengers to disembark before setting a bus on fire, in other cases the PWG has staged attacks likely to injure or kill civilians. Eight passengers have been killed in train derailments which resulted from PWG sabotage, even though the group claimed to have warned railway staff in advance in order to avoid the accidents. In the most brutal of these attacks, in October 1990, a railway compartment was set on fire on a train traveling from Hyderabad to Warangal. Forty-five passengers burned to death in the blaze. The guerrillas who set the fire were heard shouting PWG slogans. While the group subsequently denied responsibility, observers believe that militants belonging to the PWG did set the fire. Former PWG members have also stated that their group was responsible.

The guerrillas have also created "*praja* courts" in the villages to settle disputes and dispense summary justice. The courts have been established as an alternative not only to the police and courts, but to more informal means of arbitration traditionally controlled by caste or landowners' *panchayats* (councils).<sup>53</sup>

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<sup>49</sup> "AP Killing," *Telegraph*, February 19, 1991; "Mandal Chief Shot by Naxals," *Telegraph*, February 20, 1991.

<sup>50</sup> Vijay Joshi, "'Justice' from Guerrilla Guns and Axes in South India," Associated Press, February 23, 1992.

<sup>51</sup> An *urs* commemorates the death day of a Muslim *pir* (saint).

<sup>52</sup> "Naxalites Free Wakf Officials," *Deccan Chronicle* (Hyderabad), January 19, 1992.

<sup>53</sup> While there is no question that the *praja* courts have resulted in abuses, government officials often object to them for different reasons: "Most political leaders at the local level maintain their hold on the villages by appropriating to themselves the sole authority of arbitration, and the loss of this authority is a loss of political power. Finally, for the policemen, the activity of the People's Courts means that no disputes come to them, and that deprives them too of power, influence and opportunity for graft." K. Balagopal, "The End of Spring?" *Economic and Political Weekly*, August 25, 1990, p. 1985.

Persons transgressing the ruling of the *praja* court may be punished by beatings, amputations of the hand or foot, or executions.

Villagers have been required to provide the guerrillas with food and money, frequently under duress. Most Naxalite groups ban the consumption of liquor, and the sabotage of local distilleries and marketing operations for the liquor represent a show of strength by these groups. On December 14, 1991, PWG guerrillas reportedly detonated a bomb at a government-owned *arrack* (locally distilled liquor) warehouse in Atchampet, Mahbubnagar district. On December 15, another *arrack* warehouse was bombed by PWG activists in Mahbubnagar town. According to press reports, the PWG left a note at the site claiming responsibility and stating that the blast was to protest police involvement in the sale of *arrack* in areas where the PWG had called for a boycott of liquor consumption.<sup>54</sup>

The PWG and other groups have also attempted to enforce election boycotts by killing candidates and threatening voters. On May 7, 1991, S. Chenna Reddy, a Congress (I) member of the Andhra Pradesh legislative assembly, was shot dead in his home in Penugonda. The People's War Group reportedly claimed responsibility for the assassination. According to press reports, S. Chenna Reddy had been on a PWG hit list since 1990. The killing occurred during a campaign for the assembly elections which took place in June 1991. The PWG had called for a boycott of the polls, and threatened to kill candidates for election. At the time of S. Chenna Reddy's killing, two other Congress (I) candidates had already been killed.<sup>55</sup>

In the last several years, militants have also staged attacks in retaliation for police abuses. For example, on December 8, 1991, militants of the PWG stopped a state transport bus near Narsampet in Warangal district, forced the passengers to disembark and then set the bus on fire. The militants used the bus conductor's record book to state that the action was in protest for an "encounter" killing that had occurred earlier that day near the village of Muttajiet. Villagers told a reporter that the men killed in the "encounter" had been murdered by the police.<sup>56</sup> On January 17, 1992, the PWG reportedly detonated a bomb at the Devarauppala police station, killing one detainee, Narasimha, a truck driver who had been detained in connection with a road accident. A subinspector, Yadagiri, was injured in the blast. A head constable from the police station, Sarraiah, was kidnapped by the group before the explosion. The kidnapping and bomb attack were apparently in retaliation for "encounter" killings and police raids.<sup>57</sup>

### **Impunity and Rural Violence**

In Andhra Pradesh, rural violence takes a number of forms: conflict over land rights, including the illegal seizure of land and eviction of tribals and peasants from farmland and forests; murder and assault of peasant activists by landlords and police; and violence against low-caste, *dalit* and tribal groups by armed upper caste groups. Behind all of these is a policy of official tolerance for, or connivance in, abuses by police and by politically influential groups, particularly upper caste land owners who count local and state

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<sup>54</sup> "Four Naxalites Killed in 'Encounter'," *Indian Express* (Hyderabad), December 16, 1991.

<sup>55</sup> See "Cong MLA in Andhra Shot Dead by Naxals," *Telegraph*, May 8, 1991.

<sup>56</sup> "3 PWG Naxals Killed," *Indian Express* (Hyderabad), December 13, 1991.

<sup>57</sup> "Naxals Blast Police Station: One Killed," *Deccan Chronicle* (Hyderabad), January 18, 1992; "Naxalites Free Wakf Officials," *Deccan Chronicle* (Hyderabad), January 18, 1992.



political leaders among their ranks and who wield considerable control over the police.

The phenomenon of caste violence, which is not limited to Andhra Pradesh,<sup>58</sup> is not new but it has grown as political mobilization among traditionally disadvantaged and oppressed groups has increased, leading to demands for more equitable distribution of land, jobs and access to education.

As much as caste violence has become part of the politics of some states, the effort by politicians to exploit such incidents to discredit their opponents has further politicized the police, making it even more unlikely that genuine investigations of the crimes will ever take place.

Ordinary politicization has made considerable inroads on the standing and professionalism of the police. Perhaps more important has been the "higher politicization" associated with exploiting atrocities against the poor and oppressed to gain political advantage in national and state politics. ... Publicizing police failures at the center or state level has become a way of incriminating ones opponents.<sup>59</sup>

The practice is well established in Andhra Pradesh. When the Congress (I) contested the state assembly elections in November 1989, it highlighted recent attacks on *dalits* in its campaign against the ruling Telugu Desam party and vowed to take action against those responsible. But the attacks continued after the Congress (I) came to power. Shortly after Chenna Reddy took office, there was an assault on a tribal village in Badaigadda Tanda in Nalgonda district.<sup>60</sup> Three months later, in February 1990, a mob led by a Congress (I) *sarpanch* (headman) burned down 150 tribal houses in Pulivendula, Cuddapah district.<sup>61</sup>

The extent to which politicians and bureaucrats are dependent on powerful local elites is apparent from the fact that these politically motivated attacks on low-caste communities are carried out with impunity. In a report published in August 1991, the Andhra Pradesh Civil Liberties Committee (APCLC) listed 27 incidents of massacres and murders of *dalits* in Andhra Pradesh which had occurred between July 1985 and August 1991 in which a total of 46 persons were murdered. In nine of the incidents, those responsible were linked to politicians of the Telugu Desam party or the Congress (I), including elected members of the state assembly. As of July 1992, no one had been arrested or tried in 12 of the 27 incidents, and no one had been convicted in eight cases which had investigated and tried. Due to the sustained pressure of the Andhra Pradesh Dalit Mahasabha, a *dalit* rights organization, and other civil liberties groups, investigations

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<sup>58</sup> While such attacks have occurred in many states, Bihar, Uttar Pradesh and Andhra Pradesh are all notorious in this regard. Attacks on *dalits*, tribals or low caste groups have become endemic to Bihar's politics in particular, where elections are routinely manipulated through such violence. For example, in November 1989, 23 *dalits* were massacred in Bhojpur, Bihar, for defying a landlord's order not to vote in the national elections. In the same district, following the May 1991 elections, a *dalit* village in Vishnupur-Bhagnagri was burned to the ground, killing two children, and in Bhojpur, armed men stole ballot boxes from poll booths in a Harijan village. Weeks after the June 1991 national elections, 14 *dalits* from the same district were murdered by gunmen reportedly hired by local landlords. See Farzand Ahmed, "A Macabre Ritual," *India Today*, July 31, 1991, pp. 84-85.

<sup>59</sup> *Ibid*, p. 93.

<sup>60</sup> APCLC, "State of Civil Liberties in A.P.: An Open Letter to the Chief Minister," January 1990, pp. 12-13.

<sup>61</sup> APCLC, "The Chundur Carnage, August 6, 1991," p.15.

conducted in seven of the cases had resulted in criminal prosecutions. To date, two of these have resulted in convictions. In one case, in which four *dalit* men were beaten and stabbed to death by a group of upper-caste men in Bandilapalli on November 27, 1987, four men were convicted. One was given a life sentence and three others were sentenced to seven years rigorous imprisonment.<sup>62</sup>

One of the largest such incidents in recent years took place in Karamchedu where on July 17, 1985, six young *dalit* men were killed and three *dalit* women raped by a gang of armed men from the Kamma caste, the predominant land-owning caste in the district. At that time, the Kamma caste enjoyed a disproportionately high number of cabinet positions in the government of then chief minister N. T. Rama Rao. An investigation into the incident was ordered, but in August 1987, Alisamma, a principal witness in the case, was murdered and the culprits never apprehended. The trial against those accused in the massacre finally began in 1992, again largely because of pressure by the Andhra Pradesh Dalit Mahasabha.<sup>63</sup>

Tension between *dalits* and upper caste groups increased in the late 1980s, as *dalits* made gains in education and began to challenge discriminatory social practices. In late 1990, violent clashes broke out in Andhra Pradesh and across the country over the central government's proposed plan to grant increased economic and educational opportunities to the lowest caste groups.<sup>64</sup> Afterwards, upper caste groups in Andhra Pradesh formed the *Sarva Janabyudaya Porata Samiti* (Struggle Committee for the Betterment of All People) to counter the demands of *dalit* organizations. According to human rights monitors in Andhra Pradesh, the new political militancy among upper caste groups

resulted in an assault by forward caste students on a predominantly scheduled caste college in Guntur in which they set fire to books, certificates and clothes of the *dalit* students in the presence of the district superintendent of police. In the Regional Engineering College in Warangal the police and the authorities were happy spectators to the bonfire lit by anti-Mandal agitators in the rooms belonging to backward-class students.<sup>65</sup>

## **The Chundur Massacre**

It was in this political climate that the August 1991 massacre of at least eight *dalit* men occurred in the

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<sup>62</sup> APCLC, "State of Civil Liberties in A.P.," p. 13.

<sup>63</sup> APCLC, "The Chundur Carnage, August 6, 1991," p. 2 and 14.

<sup>64</sup> In October 1990 the government of then Prime Minister V.P. Singh announced its intention to implement the recommendations of the Mandal Commission to benefit the most disadvantaged caste groups. The Mandal Commission had been appointed during the Janata Dal government of 1977-79 to look into the conditions of the "backward" classes, including tribals, "*harijans*" and low caste groups. The commission issued its report in 1980, but implementation of the recommendations was delayed. The announcement by V.P. Singh's government provoked violent clashes throughout the country, fueled in part by opposition politicians of the Congress (I) and Bharatiya Janata Party (BJP). The violence contributed to the downfall of the V.P. Singh government in November 1990.

<sup>65</sup> APCLC, "The Chundur Carnage, August 6, 1991," p.4.

village of Chundur, Guntur district, Andhra Pradesh. Human rights monitors<sup>66</sup> who investigated the attacks discovered that the August 6 massacre had its origins in an incident on July 7, 1991, in which a young *dalit* man, Ravi, a post-graduate student in Nagpur, placed his foot on a seat occupied by Srinivasa Reddy, a young, upper-caste man at a local movie theater. The two quarrelled, using casteist epithets. Days later, after Ravi went into hiding out of fear, his father was abducted and assaulted by a group of youths from the Reddy caste who demanded to know Ravi's whereabouts. He told them that Ravi would return by train that night. Ravi, who had been warned by friends, hid in a neighboring village but the youths found him, beat him and, after alleging that he had stolen some jewelry, had him locked up in a local government office. The next day he was admitted to a local hospital for his injuries, and the police charged him with theft.

On July 9, local members of the Reddy caste along with some other upper-caste landlords, imposed a boycott forbidding all lower caste workers from cultivating their fields or even entering the area. The police immediately imposed section 144 of the Criminal Procedure Code on the area, prohibiting the assembly of more than five persons. On July 13, the chief inspector of police arrested 18 persons from both the upper caste group and the *dalits*, then subsequently arrested eight more Reddys and two more *dalits*. All were released on bail. Section 144 was withdrawn on July 29.

On August 4, a young *dalit* man, Rajababu, was assaulted by a group of Reddy youths, who later alleged that Rajababu had harassed some upper caste women. The police filed charges against Rajababu for harassment, but did not file charges against those who had assaulted him. The next day, a *dalit* shopowner was stabbed by Reddy youths and taken to the hospital by the police subinspector. Section 144 was again imposed on the area.

At around 11:00 a.m. on the morning of August 6, Inspector Saibabu and Subinspector Shaikh Madarvali came to the *dalit* area and advised all the men to leave because the CRPF was planning to raid the village. As the men fled, upper caste villagers, who were waiting in the fields and forests, beat and stabbed the fleeing *dalit* men. Some of the men's bodies were later found in an irrigation canal. Some of the *dalit* women told human rights activists that policemen were present in tractors and trucks that transported the upper caste villagers to the fields where the *dalit* men were hiding. When one woman protested to the police about the attack, she was told that the police were supporting the Reddys because "they could pay more." In all at least eight *dalit* men were stabbed or beaten to death, and seven others whom have never been traced are believed dead. One *dalit* man who had fled the area after the killings, died of a heart attack upon learning that one of the victims was his brother.

The police made no effort to recover the bodies of those killed. Although more than 100 persons were eventually apprehended in connection with the assault, the principal assailants were never arrested. Those killed were Jaladi Mathaiah (40); Jalsi Imanul (38); Mallela Subba Rao (35); Jaladi Isaac (25); Angalakuduru Rajamohan (25); Sunkuru Samson (28); Devarapalli Jayaraj (30); and Mandru Ramesh (21). Those missing whose bodies have never been found were Jaladi Madhusudhan (35); Jaladi Prakash Rao (30); Tappeta Babu (24); Perikala Devadas (30); Kalahasti Chinna (22); Aluri Dinbaiah (35); Chatragadda Basavaiah (30) and two others.

## **The Failure to Prosecute**

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<sup>66</sup> The details which follow are from *ibid*.

The problem of impunity in Andhra Pradesh is not limited to abuses by landowners and armed upper caste groups. The police and paramilitary forces in Andhra Pradesh routinely engage in human rights violations ranging from arbitrary arrest and torture to murder, for which they are almost never punished. Despite the fact the torture and deaths in custody are frequently reported -- and condemned -- in the press, police responsible for torture and murder are almost never prosecuted. In a report published in January 1990, the APCLC listed 111 deaths in custody it had investigated in Andhra Pradesh between January 10, 1984 and September 24, 1989. In almost every case the victim was beaten to death by the police. The group commented that

[D]uring the last three years, there has been a welcome upsurge of protests against custodial torture and lock-up deaths ... The previous government reacted to this protest and made repeated promises to the effect that in all cases of lock-up deaths, a case of murder would be registered against the policemen involved and that judicial inquiries would be conducted into all such incidents in order to elicit facts.<sup>67</sup>

However, the first promise was never kept. No police officers have been charged with murder in cases of deaths in custody, and even when judicial inquiries have been ordered to investigate the cases, action is rarely taken against the police. In fact, these inquiries generally mark the end, and not the beginning of any investigation and action on the case.

[J]udicial inquiries have been ordered fitfully into incidents of lock-up deaths since September 1986. About 20 such inquiries have been ordered til now, and about 15 reports have been submitted. Unfortunately, instead of proceeding against the policemen for the crimes revealed prima facie in the inquiry reports, the previous government made it a habit to forward the report to the Director General of Police with a direction to inquire further into the matter and take appropriate action. The appropriate action has usually meant a promotion or at least a lucrative posting for the concerned policemen and not criminal prosecution.<sup>68</sup>

Since that report was published, torture and custodial deaths have continued. Indeed, almost every political or criminal detainee in police custody in Andhra Pradesh is subjected to torture or mistreatment. The most common forms of torture used include severe and sustained beatings, often with a blunt instrument such as the policeman's cane (*lathi*), and rolling a heavy wooden log over the legs -- a practice known as the "roller treatment" which is used by police throughout India. In some cases of alleged "encounters" killings, the victims have actually died as a result of torture, and the staged "encounter" and subsequent cremation of the body are used to cover up the murder.

Detainees have also "disappeared" in police custody. In Andhra Pradesh, most disappearance cases -- that is, cases in which persons have been detained by security forces who subsequently deny that the detainee was ever in custody -- are actually cases of staged "encounter" killings of persons whose bodies have been illegally cremated as "unidentified Naxalites." The fact that police frequently move about out of uniform and in unmarked vehicles facilitates illegal detentions and killings. Although Indian law requires

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<sup>67</sup> APCLC, "State of Civil Liberties in A.P.," January 1990, pp. 3-4.

<sup>68</sup> Ibid.

that every unnatural death be investigated by a magistrate and that a post-mortem be performed, in fact, the police who carry out disappearances and "encounter" killing generally dispose of the body in secret. As human rights monitors point out, "the secrecy surrounding 'disappearances' has served to hide the scale of extra-judicial executions."<sup>69</sup>

Disappearances are a relatively new phenomenon in Andhra Pradesh. The first documented case dates from 1984. Then in 1989, the killing of a leading member of the TDP in retaliation for the "disappearance" of two PWG activists led the state administration under M. Chenna Reddy to appoint a commission on "disappearances" under Justice T. N. L. Reddy. As of August 1992, the Commission had received information on 45 disappearance cases, but not completed its investigations. Human rights monitors in Andhra Pradesh have stated that after the commission was formed, there was a decline in the number of disappearances, but that in 1991, the number of reported cases rose again. In its submission to the Commission on Disappearances, the APCLC documented 34 cases of disappearances which had taken place between 1984 and 1989. At this writing, no action has been taken against any of the police officers implicated in the disappearances.

### **Police Raids in the Villages: Arbitrary Arrests and Assault**

The security forces in Andhra Pradesh also conduct search operations in villages in districts considered to be Naxalite strongholds in order to capture suspected guerrillas and sympathizers. During raids on villages during search operations, the police routinely beat residents suspected of providing food to the militants or of sympathizing with them. As a journalist in Andhra Pradesh told Asia Watch: "If the police come on a raid, they just beat everyone." One journalist who has covered such operations described a typical operation to Asia Watch:

They first select a cluster of villages. Then a village is surrounded and a systematic search is carried out. First, all the villagers are brought to the village center. Then they are separated into three groups: young men aged 15 to 30; old men; and women and children. Then the police read out names from a prepared list and detain anyone they suspect of rebel activity. Any others that they suspect of being Naxalite supporters or of harboring Naxalites, they beat. Then they tell the village elders, "if we learn that the Naxals have returned, we will come back and kill you and rape your women." They call their these the "3-S operations": Sealing, Searching, Separation.

The raids reportedly increased in the districts of Karimnagar, Warangal and Adilabad following the deployment of BSF troops in late 1991. According to one journalist who accompanied police on a raid, the villagers were warned by police officials that when they returned they would bring the BSF. "'They won't understand your language and will shoot you down,' the police told the villagers." During these raids, which may occur nightly in some districts, the security forces have also burned down houses and destroyed residents' property.

Those detained may be held without charge under the preventive detention provisions of section 151 of the Criminal Procedure Code (CPC) or the sweeping provisions of the Terrorist and Disruptive Activities Act (TADA). Section 151 provides for preventive detention without warrant when "a police officer knowing

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<sup>69</sup> APCLC, Submission to the Commission on Disappearances, p. 1.

of a design to commit any cognizable offense "believes that "the commission of the offense cannot be otherwise prevented." The law is frequently abused by police to detain persons involved in lawful assemblies or other activities. Under section 151 a person may not be detained for a period longer than 24 hours. In fact, persons detained initially under section 151 are often held for longer periods. TADA has been widely used in Andhra Pradesh. According to human rights monitors, as of February 1992, more than 10,000 persons had been charged under TADA since the law was enacted in the state.<sup>70</sup> Others detained have been charged with criminal offenses, regardless of whether they have engaged in illegal activities.

Detainees are also frequently held under no formal law and interrogated and tortured simply because they are believed to have information about suspected Naxalite guerrillas, or because they have participated in peasants' rights organizations. In many other cases, persons have been detained illegally under no laws and held for periods ranging from several hours to several days or longer. In most cases, detainees are held for interrogation about suspected Naxalites; in other cases they may be detained and beaten because their village participated in election boycotts called by the militants, or voted for candidates supported by the militants, or because they possess literature or music cassettes of revolutionary songs.<sup>71</sup> The security forces have also detained people as hostages to secure the release of police kidnapped by the PWG.<sup>72</sup> In such cases, the police have routinely disregarded requirements in Indian law designed to safeguard the rights of detainees, including ensuring that all detainees are produced before a magistrate within 24 hours of arrest, and that they have access to lawyers and relatives. The security forces have also violated international laws guaranteeing the medical neutrality of hospitals.

#### **IV. Extrajudicial Executions in Rural Andhra Pradesh**

As noted above, the summary executions of suspected militants and militant sympathizers in staged "encounters" have become a trademark of counter-insurgency operations throughout India. The extent to which these killings had become an integral part of police operations in Andhra Pradesh was first documented after the Emergency of 1975-77. Since then, similar patterns of extrajudicial killings by security forces have been documented by international human rights organizations and civil liberties groups and journalists throughout India.<sup>73</sup>

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<sup>70</sup> See APCLC and OPDR, "Suppression of Naxalism: What it Really Means," February, 1992, p. 4. For more on the provisions of TADA, see Appendix A.

<sup>71</sup> APCLC, "Political Militancy and Civil Liberties," p. 10.

<sup>72</sup> This was apparently the motivation for the kidnapping of Dr. K. Balagopal of the APCLC in 1989. See discussion on p. 31

<sup>73</sup> One human rights group has explained the origin of the term: "The encounter: A unique contribution of the police in India to the vocabulary of human rights ... it represents in most cases the taking into custody of an individual or a group, torture and subsequent murder. The death generally occurs as a result of brutal torture or a stage-managed extermination in an appropriate area. An official press release then elaborately outlines a confrontation, an encounter where the police claim to have fired in 'self-defence.'" People's Union for Civil Liberties, "Murder by Encounter," [no date], in A.R.Desai, ed., *Violation of Democratic Rights in India*, (Bombay: Popular Prakashan, 1986), p. 457. See also Andhra Pradesh Civil Liberties Committee, "'Encounter' Killings in Andhra Pradesh -- The Post Emergency Period," [no date], in same publication; and Amnesty International, *Political Killings by Governments*, (AI Index: ACT 03/26/82), 1983.

In all such cases of alleged "encounters", the authorities claim that the victims were killed only after they opened fire on the security forces. Rarely is anyone from the security forces ever killed in these alleged shoot-outs. Even though the victims are usually called "unidentified" in police reports, they are nonetheless labeled "Naxalites." The practice is condemned by human rights monitors who note that,

This trend has increased alarmingly during the last two years, with a lot of so called "unidentified naxalites" getting killed in "encounters." Since it is absurd to suppose that if a person is unidentified it is possible to know that he is a Naxalite, these are nothing but cases of unarmed peasants and tribals being murdered by the police.<sup>74</sup>

Investigations into these claims have shown that in most cases, those killed in such reported encounters are simply murdered. In most cases of alleged "encounter" killings, the victims are already in the custody of the security forces when they are killed. In some cases, detainees are held for a period of interrogation before being killed. In others, detainees who die under torture are later claimed to have been killed in an encounter. The Andhra Pradesh police and other security forces routinely disregard safeguards against arbitrary and illegal detention, thereby increasing the likelihood of torture and facilitating the practice of encounter killings. In other cases the victims are taken away during search operations and killed. The murders are then reported by the authorities as having occurred in an armed encounter.

As is the case elsewhere in India, the police and other authorities in Andhra Pradesh feel little need to disguise the fact that most encounters are police murders. During a search operation in the village of Kanukulagidde in Karimnagar district in December 1991, for example, police officers threatened village residents,

If you allow Naxalites and underground (UG) party men to come to your village, we will take some of you, shoot you dead and proclaim it an encounter.<sup>75</sup>

In the course of the parliamentary election campaign in Karimnagar district, police warned villagers not to vote for the CPI (M-L) candidate, N. V. Krishnaiah, threatening that "encounters" would take place in any village where he received many votes.<sup>76</sup> As one journalist told Asia Watch, "When we use the term "encounter" in Andhra Pradesh, it means only one thing: killing in cold blood."

Extrajudicial killings of this kind in Andhra Pradesh number at least in the hundreds. In a report published in January 1990, the APCLC listed 203 cases of "encounter" killings which took place between September 18, 1980 and November 25, 1989. Since then, reports of encounter killings have increased, with some 227 reported killed in the twelve month period between August 1991 and August 1992.

The increase or decrease in killings is attributable to the changing policies of state government and the abuses are not merely condoned but sanctioned by senior police and government officials. As one journalist told Asia Watch, "Crackdown orders come from the Chief Minister." When, in 1987-89 the N.T. Rama Rao

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<sup>74</sup> See APCLC, "State of Civil Liberties in A.P.," p. 6. Similarly, in Punjab, those killed in "encounters" are routinely labeled "unidentified militants."

<sup>75</sup> "Villagers Sandwiched Between Police & Naxals," *Indian Express* (Hyderabad), December 19, 1991.

<sup>76</sup> APCLC, "Political Militancy and Civil Liberties: A Report on A.P.," September 1, 1991, p. 10.

government announced that it was going to "finish off the Naxalites within six months," encounter killings increased to a record 134. When the Chenna Reddy government offered an unofficial truce to the PWG and other groups shortly after taking office in late 1989, the killings dropped but police reportedly maintained surveillance on suspect groups in anticipation of the next crackdown. According to human rights advocates, no encounter killings were reported from December 1989 through May 1990. When the Janardhan Reddy administration launched its campaign to "deal firmly" and use "tough measures" against the Naxalites, encounter killings again increased to a record of 52 between January and September, 1991.<sup>77</sup> Following the government's announcement in December 1991 to "wipe out the Naxalites" and the subsequent murder by the PWG of T. Hayagrivachary, 60 encounter killings were reported in the next 45 days.

In some cases, the abuses are even rewarded. Senior police officers with a reputation for brutality and for encounter killings have been promoted, given cash rewards or favored posts. As observers have noted,

Since the policy of 'encounters' is a political decision, only a firm political decision can put an end to it.<sup>78</sup>

Security legislation has facilitated abuses like these by authorizing the security forces to shoot to kill and by subsequently protecting them from prosecution. The Andhra Pradesh Suppression of Disturbances Act (1948) authorizes the governor or the central government to declare the whole or any part of the state to be a "disturbed area" if it is found that disturbances in the area are such that "the use of the armed forces in aid of the civil power" is necessary to prevent "terrorist acts" or separatist activities. The act provides, "No suit, prosecution, or other legal proceedings shall be instituted except with the previous sanction of the State Government against any person in respect of anything done or purporting to be done in exercise of the powers conferred [by the Act]." Similarly, section 197 of the Code of Criminal Procedure provides,

No Court shall take cognizance of any offense alleged to have been committed by any member of the Armed Forces of the Union while acting or purporting to act in the discharge of his official duty, except with the previous sanction of the Central Government.

Such provisions contravene the International Covenant's guarantee of a non-derogable right to life. The Andhra Pradesh Suppression of Disturbances Act grants extraordinary power to officers in the security forces to shoot and kill unarmed civilians. By encouraging the use of lethal force and protecting the police from accountability for their actions, these laws effectively grant the security forces a license to kill.

However, human rights monitors in Andhra Pradesh point out that although the act facilitates the abuses by authorizing police to shoot to kill, "encounter" killings have taken place in all areas affected by Naxalite activity, whether or not the area has been declared "disturbed". Of the 203 "encounter" killings which took place between September 1980 and November 1989, a period in which the largest extent of the state had been declared "disturbed", only 78 of the killings took place in "disturbed" areas. Since the Chenna Reddy government revoked the "disturbed areas" proclamation from all areas of the state in December 1989, 279 "encounter" killings have taken place.

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<sup>77</sup> APCLC, "Political Militancy and Civil Liberties: A report on A.P.," September 1, 1991, pp. 4-5.

<sup>78</sup> Ibid.



The government of India, like other governments, is obliged to respect internationally recognized human rights and is responsible for violations of those rights committed by and attributable to its armed forces and paramilitary forces. The government of India is obliged to comply with the International Covenant on Civil and Political Rights (ICCPR) to which it is a party. The ICCPR expressly prohibits derogation from the right to life under any circumstance. Even during time of emergency, "[n]o one shall be arbitrarily deprived of his life."<sup>79</sup> Thus, the summary execution of civilians and captured combatants, whether by government or guerrilla forces, constitutes a grave violation of international human rights law.

The victims of extra-judicial executions include not only suspected members of militant groups, but also CPI (M-L) activists who have participated in non-violent organizing activities, including campaigning for their candidates. On May 28, 1991, during the 1991 state assembly election campaign, four village leaders -- Chinta Lakshmi, the vice-president of the Tekulapalli Mandal, Nomula Parasuramulu, vice-president of Tekulapalli village, Namburi Sitaramarao, joint secretary of the district Rythu Coolie Sangham, and Susenakumari, the head of a local women's organization -- arrived in the village of Kachinapalli for a meeting to discuss the campaign of a CPI (M-L) group, which was contesting the elections. The night before the meeting the police raided the village. At 6:00 a.m. on May 29 the four leaders were arrested and taken away in a van. Later that day their bodies were found with multiple bullet wounds.<sup>80</sup>

Peasant and labor activists, particularly those associated with Rythu Coolie Sanghams (Peasant-Worker Unions), and others who have tried to mobilize peasant and tribal villagers against landlords have also been attacked. These Sanghams, which have organized to demand rights for landless and tribal groups, some of which are associated with CPI (M-L) groups, have organized workers and peasants around such demands as the implementation of the Minimum Wages Act and other laws governing labor and land reform. To do this, the Sanghams generally

call for a strike of wage-labourers and farm-labourers to press for an increase in their wages; since the wages are invariably two to three rupees less than the legal minimum wage (and much more in the case of women) ... Or the Sangham may call for occupation of public land ...; this again is other than a demand for the implementation of the government's declared policy.<sup>81</sup>

Landlords have attempted to stop the Sanghams by hiring their own private forces to attack the villagers, murder leading activists and destroy the villagers' property. Such crimes are almost never prosecuted by the police. Indeed, the police frequently assist in the attacks or provide protection to the landlords. In one typical case, on March 18, 1991, Kondaneni Mallesh and Mohammed Naseeruddin, both members of the Rythu Coolie Sangham in Laxmipuram in Karimnagar district, were arrested and taken to the Sircilla police station. Their bodies were later discovered with bullet wounds and the police claimed that they had been killed in an encounter. The post mortem revealed that Mallesh had a broken leg and that all the skin on

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<sup>79</sup> Under Article 4 of the International Covenant on Civil and Political Rights (ICCPR), the government of India has the right to derogate from certain articles of the ICCPR only if it first files a notification with the United Nations. However, the Indian government has not filed any such notification, making any derogation illegal. Article 6, International Covenant on Civil and Political Rights.

<sup>80</sup> APCLC, "Political Militancy and Civil Liberties," September 1, 1991, p. 15-16.

<sup>81</sup> APCLC, "Repression on the Rural Poor in A.P.," in A. R. Desai, ed., *Repression and Resistance in India*, (Bombay: Popular Prakashan Private Ltd., 1990), p.129.

Naseeruddin's left arm had been scraped off. After the killing all the residents of Laxmipuram were detained in the Sircilla police station for four days.<sup>82</sup>

On April 11, 1991, armed police of the Indo-Tibetan Border Police entered Mandamarri Mancherial in Adilabad district, apparently for a search operation. Upon seeing the police, Barigala Lingaiah, Bachanna and Mallanna, all members of the Rythu Coolie Sangham, tried to flee the village out of fear. The police ordered them to stop, and they did so. The police questioned them for a few minutes and then shot all three dead.<sup>83</sup>

On April 21, 1991, a Naxalite squad in Almaspur, which had called for a boycott on the sale and consumption of *arrack* (a locally distilled liquor), beat a villager, Devaiah, who had reportedly consumed some *arrack*. That night, police threatened the village *sarpanch* that unless *arrack* was permitted to be sold in the village, they would arrest local members of the Rythu Coolie Sangham. After that, the police arrested Ramreddy, a member of the Sangham, from the house of a farmer named Ramaiah. Ramaiah's son and daughter-in-law witnessed the arrest. The next day, the police announced that Ramreddy had been killed in an "encounter" in the neighboring village of Tangellapalli.<sup>84</sup>

Villagers who happen to reside in districts in which the PWG and other groups have influence are routinely subjected to search operations by police and paramilitary forces. Human rights advocates have argued that these abuses are part of a deliberate policy to terrorize villagers likely to benefit from agitations led by activist groups: tribals, agricultural laborers, mine workers and poor peasants.<sup>85</sup>

Villagers suspected of being supporters or sympathizers of the PWG or other groups are frequently arrested and in some cases, shot in staged "encounters." On June 10, 1991, Meghvath Dakya, a resident of Gokulatanda in Sadasivanagar, who had occasionally provided Naxalite groups with food, was arrested at his home and taken to a local school. When his father tried to intervene, a policeman beat him. Dakya's hands were tied behind his back and he was made to walk with the police into the forest. Local villagers who tried to follow were beaten back by police. That evening the villagers heard gunshots from the forest. The next morning women from the village asked about Dakya at the Sadasivanagar police station, but the police denied any knowledge of him. Later that day, the family and neighbors learned that there had been an "encounter." A reporter from *Eenadu* showed the villagers a photograph of the man who had been killed and they identified it as Dakya.

On August 23, 1991, police entered the village of Pilli Budarsingi in Srikakulam to conduct a search. They went to the house of a man named Jagabandhu, who was believed to have given food to Naxalites. When Jagabandhu tried to run out the back door, the police opened fire from behind and killed him. The police later claimed that Jagabandhu had been killed during crossfire between police and Naxalites.

Encounter killings also involve persons already identified by police as trouble-makers, or against whom

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<sup>82</sup> Ibid, p. 9.

<sup>83</sup> Ibid, p. 11.

<sup>84</sup> Ibid, pp.12-13.

<sup>85</sup> Ibid, p. 25.

the police may have a personal grudge.

### **Encounter Killing of G. Chandraiah and Narayana in Karimnagar, December 1991**

On December 13, 1991, G. Chandraiah, a supervisor for a quarry contractor, and Narayana, a laborer, were arrested and subsequently killed in what the police claimed was an armed encounter. The two *dalit* men were cousins and resided in Kannala, in district Karimnagar. They were in their late 20s, were married, and had one child each.

The two families first learned of the arrest when the men failed to return home on the evening of December 13. The next morning the relatives asked around the village and heard there had been an encounter the night before in the village of Jagtial, about 50 kilometers away. At first the other villagers were afraid to tell the family, but when they learned that the family was searching for the men, they told them what they had seen. Narayana had been on his way home from work at about 6:30 p.m. when he met Chandraiah, who was on a motor scooter, at the railway gate leading to the village. As Narayana got on the scooter, the men were stopped by police at the railway gate. The police were in two jeeps and one car and with them was the head constable, who is well-known in the village and had been involved in three other encounter killings. As one witness told Asia Watch, "At first we thought it was the local police but we had seen the head constable before because he has killed other boys in this area."

When relatives asked the police in Jagtial about the incident, they were told that two unidentified Naxalites had been killed, the post mortem had been done and both bodies cremated. The relatives to see the spot where the cremation had taken place. Both bodies had been burned together. They recognized Chandraiah's scooter parked near the site. The photographs of the two men were published in the Telugu paper *Eenadu* on December 15 and captioned "unidentified Naxalites killed in an encounter in Jagtial on Friday."

Chandraiah and the head constable had quarreled on previous occasions, particularly after Chandraiah had told him to stop harassing people in the village. A relative who told Asia Watch that Chandraiah had been taken to the police station and beaten from time to time, asked, "Why didn't they just beat him like they did before?"

## Encounter in Khammam

On January 6, 1992, thirteen men and women were killed in what the police claimed was an "encounter" near Ramanjaram, in Khammam district.<sup>86</sup> The incident was the largest such encounter killing ever to occur in the state. All thirteen had been traveling by van from Jangoan, in Warangal district, from where they had departed on January 5. Eleven of them were from Warangal district; one was from Nizamabad and one from Nalgonda. On January 6 the van was stopped by some policemen who wanted a lift because their vehicle had broken down. Once inside the van, the police became suspicious and ordered the van to stop near Badarachalam, in Khammam district. During a search of the van, the police discovered that the group was carrying PWG leaflets and new PWG uniforms.

That evening, the police issued a press statement claiming that thirteen Naxalites were killed after "armed Naxalite squads planted a land mine which exploded and caused minor damage to a police vehicle traveling on the road." They claimed that "three Naxalite squads" numbering up to 100 men engaged the police, and the police "opened fire and killed thirteen Naxalites." No policemen were killed in the alleged exchange.

Local human rights investigators interviewed villagers in the area who told them that they heard gunfire from a forest area near Pagideru at about 5:00 p.m. on January 6. The shooting continued steadily for about 45 minutes, and then sporadically until 7:00 p.m. After that the villagers heard an explosion. The *mandal* revenue officer of Manugur, an executive magistrate, conducted the inquest and reported that there were no weapons found among the dead. Journalists who came to the site corroborated the report that those killed were not armed. All of the dead were wearing new PWG uniforms.

The van and driver were not found at the site of the alleged "encounter." On January 9, the police reported that the van was found on the side of the road headed toward the town of Tulasipata, the opposite direction from Jangoan. The police reported the incident as one in which an "unknown driver" had been killed in an "accident." After the incident, the PWG released a statement acknowledging that the thirteen who had been killed had been involved with PWG and were being shifted to Khammam because of stepped up police activity in other districts. The driver was not with PWG. Out of fear of police they had avoided the usual route through Warangal on the way to Khammam by taking a more roundabout way. Since late 1991, various CPI (M-L) groups have become active in the area, including the PWG and, according to local human rights monitors, the police have stated that they will go "to any lengths" to stop the Naxalites.

The investigators concluded from the evidence that the thirteen men and women were taken into custody by the Khammam police and summarily executed, and that the police subsequently manufactured evidence of an armed encounter. Those killed included: T. Ramaswamy from Shamirpet in Warangal district; B. Ramulu, from Sripatipalli in Warangal district; B. Ashalu, from Bairanipalli in Warangal district; S. S. Sammaiah, from Taralapalli in Warangal district; P. Ramesh, from Warangal town; S. Raghupati Reddy, from Venkatapuram in Warangal district; K. Bhaskar, from Annasagaram in Warangal district; T. Komuraiah, from Shamirpet in Warangal district; Satyanarayana, from Waniparti in Warangal district; K. Mallaiah, from Pendyal in Warangal district; Pochaiah, from Pochannapet in Warangal district; Jaya, from

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<sup>86</sup> The police have claimed that the incident took place in Pagideru, which has had a twenty year history of Naxalite activity and is deep in the forest where communications are difficult.

Raghavapuram in Nalgonda district and P. Babu Reddy, from Nizamabad district.

## V. Attacks on Human Rights Monitors and Journalists

### A History of Terror Against the APCLC

Human rights activists, particularly those associated with the APCLC, have frequently come under attack in Andhra Pradesh because of their efforts to expose abuses by the police and political leaders. Such attacks peaked in 1985-86, at the time of the N.T. Rama Rao government's crackdown on suspected Naxalite guerrillas. On January 12, 1985, Gopi Rajanna, 30, the vice president of the Jagtial unit of the APCLC, was murdered by thugs reportedly hired by local landlords. A lawyer, Rajanna had frequently argued cases on behalf of peasants and laborers. The police failed to follow up leads linking the killing to local land owners, some of whom had close links to political leaders and the police. No one was prosecuted for the murder.

On January 18, 1985, Varavara Rao, a distinguished Telugu poet and general secretary of the Revolutionary Writers Association and a member of the APCLC, was arrested from his home in Warangal and made to walk to the police station dressed only in a *lungi*.<sup>87</sup> His arrest coincided with a strike organized by a local student organization to protest the death in police custody of a local student activist. When two senior APCLC activists, Dr. Ramanadham and Seethrama Rao, went to the police station to protest Varavara Rao's arrest, they were both immediately arrested. The police first claimed that the two men had been arrested as a preventive measure, then later charged them with distributing explosives to student activists for an attack on the police Circle Inspector's house that morning. On January 24, Dr. K. Balagopal, the general secretary of the APCLC and a professor of mathematics, who had been investigating the death in police custody of another student activist,<sup>88</sup> returned to Warangal from Hyderabad and was immediately arrested on the same charges and jailed in solitary confinement. After about two weeks he was granted bail, but immediately rearrested on charges of sedition. He was acquitted by the court and released on February 12.

On September 3, 1985, the vice-president of the APCLC, Dr. Ramanadham, was gunned down at his clinic by a police party under the supervision of Superintendent Arvinda Rao and Deputy Inspector General Janak Raj. Ramanadham's murder was apparently in retaliation for an attack on police by a local Naxalite group. On November 7, 1986, another senior APCLC activist, Japa Lama Reddy, was called out of his home at 4:00 a.m. and shot dead by a subinspector of the Lower Maner Dam police station in Karimnagar district. No one was ever prosecuted for either murder.

Attacks on Dr. Balagopal have continued. Indeed, human rights activists in India have observed that

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<sup>87</sup> A *lungi* is a sarong like cloth wrapped at the waist.

<sup>88</sup> The student, Sarangapani, 18, had been charged with assaulting the police Circle Inspector. The police claimed that he had fallen into a pond while being chased, but investigators believe Sarangapani was tortured to death in custody. His parents were not permitted to view any of the body below the head and the police themselves had it cremated in secret. See "The State vs. Civil Liberties Organisations -- The Case of APCLC," *Lokayan Bulletin*, Vol. 3, No. 3, June 1985, pp. 77-80.

It has been during the period of Balagopal's general secretaryship of the APCLC that this civil liberties' organisation has particularly attracted the ire of the police and vested interests. During this period, the APCLC conducted a nationwide campaign against the deployment of CRPF battalions in the Telangana area and called for the withdrawal of the armed police camps ... [and] also alleged atrocities by the police. Balagopal was the key figure investigating into this matter.<sup>89</sup>

On November 16, 1985, Balagopal was again arrested under the Terrorist and Disruptive Activities Act (TADA)<sup>90</sup> for the murder of Yadagiri Reddy, a police subinspector. Following widespread protests from human rights groups, Balagopal was released, although the charges against him were never formally dropped.

On August 28, 1989, Balagopal was detained by plainclothes members of the Special Task Force, a police commando unit. Balagopal had been traveling by bus from Khammam to Suryapet when the STF police boarded the bus near Kodad crossroads in Khammam district and ordered him to accompany them. After his arrest, the APCLC received a telephone call saying that Balagopal was being held hostage for two policemen kidnapped by the PWG. Balagopal was released on August 31 after the two policemen were released.

### **February 1992 Assault on Dr. K. Balagopal**

On the evening of February 3, 1992, Balagopal was detained by local police in Bhadrachalam, Khammam district, and held overnight under section 151 of the Code of Criminal Procedure.<sup>91</sup> Local human rights monitors protested the arrest, and Balagopal was released the next morning.

Balagopal then traveled by bus about 15 miles to the town of Kothagudem. While he was traveling in the town in an auto-rickshaw he was stopped by two men. They asked him to come with them as they wanted to verify what he was doing in the town. The men took Balagopal back about a kilometer and began to threaten him. When they tried to take him into a dark lane he resisted. Then they threw him to the ground and began to beat him about the head. The men were eventually driven away when local APCLC activists intervened. Balagopal was then brought to the local clinic in Kothagudem, where the staff provided first aid but refused to treat his serious injuries out of fear of the police. On February 5, Balagopal was brought to Hyderabad and was treated for his injuries at the Nizamuddin Institute of Medical Science. He had sustained facial fractures, cuts around his left eye, and other injuries. A First Information Report (FIR)<sup>92</sup> was registered against the assailants, but as of August 1992, no one had been charged with the assault. In fact, when

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<sup>89</sup> Ibid, p. 80.

<sup>90</sup> For a further discussion of the act, see Appendix A.

<sup>91</sup> This section provides for preventive detention without warrant and without orders from a magistrate when a police officer "know[s]... of a design to commit any cognizable offence ... if it appears to such officer that the commission of the offence cannot be otherwise prevented." The period of detention is not to exceed twenty-four hours. The police alleged that Balagopal, who was traveling in the district raising funds for the construction of a memorial for Dr. A. Ramanadham, was engaged in extortion.

<sup>92</sup> A FIR is the first report of a crime filed by the police. It is the starting point for any further investigation.

questioned by reporters, the superintendent of police in Khammam district made the ludicrous assertion that the assailants were hired by K. Kannabiran, the president of the APCLC, because of differences within the human rights group.

### **The Assassination of Narra Prabhakara Reddy**

In the early morning hours of December 7, 1991, Narra Prabhakara Reddy, 32, a lawyer and the district convener of the APCLC in Warangal, was shot dead by unidentified gunmen at his home. According to eyewitnesses, four men with muffled faces pulled up in front of the house on two motor scooters. They got down, entered the house and called out for the lawyer. Reddy's wife Sharada was also in the house. As Reddy came out of the bedroom to meet them, they opened fire, hitting Reddy four times in the head and chest. The men then got back on their motor scooters and fled.

A lawyer in Warangal told Asia Watch:

I received a phone call at about 7:30 a.m. informing me that Reddy had been killed. When I went to the house the police were not allowing anyone inside. They said they were doing the *panchanama* (inquest). Finally at about 11:15 the police allowed the lawyers, the district subjudge and the magistrate into the house to see Reddy's body. After that the police took the body away and we left. On December 8, the district bar association convened a meeting and passed a resolution condemning the murder and all violence and terrorism. The members also observed a week-long strike in an attempt to pressure the state government to order a judicial inquiry. But the government did not respond.

Another lawyer in Warangal told Asia Watch that the police did not allow the magistrate or the lawyers into the house until the district judge told them that they could not prevent people from entering.

I learned about Reddy's killing at about 9:00 a.m. I went to the place with a senior lawyer. The police had cordoned off the house and they told us they were conducting the inquest. We insisted that we wanted to see Reddy's body. So we went to the district judge Ismael and told him to get permission from the District Collector or from the police to allow us to go in. He telephoned them and we returned to the house and saw the body. Reddy had four gunshot wounds to the head and chest. The police then sent the body for post-mortem and then to the village of Valdhandra where Reddy was the sarpanch, and the funeral was held. The authorities have not established a judicial inquiry.

Kaloji Narayan Rao, a highly respected veteran of India's independence movement and nationally recognized *praja kavi* (people's poet), told Asia Watch that he was informed about the murder at about 11:00 a.m. He went to the house along with two APCLC members and a lawyer, M.R. who told him that the police had cordoned off the house and were not letting anyone in. Kaloji Narayan Rao told Asia Watch,

When we reached the place, the police were standing 100 yards from the house. A subinspector or inspector stopped me and asked if I was related to Reddy. I told him, "When [Hayagrivachari]<sup>93</sup> was murdered, I went to see him and nobody objected. People of authority, even ministers, actually asked

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<sup>93</sup> Former Member of Legislative Assembly and Minister T. Hayagrivachari who was assassinated by the PWG the day before. See p. 34

me to come. But today you are asking how P. Reddy is related to me. My reason is the same: the other day I went to see the [former] MLA because he was murdered; today I've come to see Reddy because he has been murdered. I am an elderly person of the town -- I generally pay my respects.

The police told Kaloji Narayan Rao that Reddy's body had been sent to the hospital for the post mortem. Then they permitted him to go in to see Reddy's wife. He continued,

Nobody knows who informed the police. But they came all armed with guns and rifles. They set up a human barricade and surrounded the house. They ordered Sharada to clean up the blood before they let anyone into the house. There was so much blood, the gutter ran red. The police said that the body would not be handed over here and they sent it to Reddy's home village that evening.

The next day a photograph of Reddy's body appeared in the newspapers along with the police statement that four unidentified masked man who had come in numberless jeeps had entered the house and killed Reddy. On the morning of December 8 Reddy's body was cremated in the village of Veldanda.

Asia Watch interviewed Additional Superintendent of police R. P. Thakur of Warangal district, who stated that the Subedari police station is about one kilometer from Reddy's house. Thakur told Asia Watch that witnesses had described two persons entering the house while two waited outside on motor scooters. He said,

The investigation is continuing but we have not been able to identify the culprits. If the Home Minister orders a judicial enquiry, then it will happen.

Narra Prabhakara Reddy was the *sarpanch* of the village of Veldanda, in Warangal district. He was elected as an independent candidate in early 1990. He was also unanimously elected as the head of the Warangal district bar association. Human rights activists believe that Reddy was killed because of his human rights work. Reddy frequently acted as defense counsel for persons illegally detained by the police and forced the police to produce detainees in court. Reddy also defended persons charged under TADA and was frequently successful getting them bail.

In a recent case, in December 1990, in Narmetta, a Peoples War Group leader, Kalyanam Chandra Mouli was arrested. His arrest prompted a demonstration by some 5,000 villagers. After the demonstrators attempted to abduct a police jeep driver, the police broke up the demonstration by opening fire on the crowd, killing two. Charges were filed against 450 of the villagers under TADA.

The bail applications for the detainees were heard in the Warangal district court, and Reddy appeared for the defense and argued that the accused were all rural laborers and that they should not be charged under TADA. He obtained bail for every detainee, one after the other. The police then charged him in a separate case of illegally occupying lands along with a number of villagers who were accused of occupying the lands of a rich farmer. However, all the heads of the villages went to see the deputy superintendent (DSP) of Jangaon subdivision and told him that Reddy had nothing to do with any land occupation. The DSP admitted to them that, "We know he has not been involved but we spend a great amount of time on filing FIRs and within 24 hours he has these people out on bail."

The charges against Reddy were dropped, but after that he began to receive threats -- phone calls and verbal messages -- telling him he was on a police "hit list". One caller told him, "There are 17 names, you



are on the top." The then ASP Surendra Babu of Warangal had also reportedly claimed to have a list of lawyers and civil liberties activists for the police to 'take care of.'<sup>94</sup>

Reddy submitted a written complaint about the threats to the bar association. The president of the bar association sent a letter with a copy of Reddy's complaint to the district collector, a magistrate. The district collector then wrote to the superintendent of police, warning him that Reddy was "carrying out his statutory responsibility. You shall not do anything to interfere." Copies of the memos were sent to all district bar associations. During this period Reddy expressed fears that he would be killed. A colleague of Reddy's told Asia Watch, "He used to tell us that he would be killed, like [APCLC leader] Dr. Ramanadham,<sup>95</sup> but we never thought they would do it."

In early December, the Home Minister publicly vowed to take "drastic steps" in the areas most affected by Naxalite activity, saying the government was issuing "a challenge to them: we will wipe out the Naxalites. We ask them to come out and face the police."

In the early morning hours of December 6, T. Hayagrivachari, a former Congress (I) minister in the state government and former member of the legislative assembly (MLA), was assassinated at his home in Hanamkonda. The PWG took responsibility for the killing, stating in a press note that the murder was the organization's response to the Home Minister's challenge and that Hayagrivachari was the "first." According to APCLC general secretary, Dr. Balagopal, "The police took advantage of Mr. Hayagrivachary's killing to liquidate Mr. Prabhakara Reddy."<sup>96</sup>

In a letter dated February 24, 1992, Director General of Police R. Prabhakar Rao stated that Narra Prabhakara Reddy "has been in collusion with [PWG] groups" and that "it would appear that ... he has incurred the wrath of the families of the people who have been murdered or maimed by the PWG." He went on to state, "Every allegation against police of serious nature is subjected to open magisterial and often open judicial enquiry." In fact, there has been no such magisterial or judicial investigation into Reddy's murder, nor has any action been taken against police in Andhra Pradesh for attacks on other human rights activists and journalist or for the hundreds of cases of encounter killings in the state.<sup>97</sup>

### **Attacks on Journalists**

Journalists who have exposed police abuses or who have been critical of politicians and the police have also been attacked. Reporters for the vernacular press in rural areas are particularly vulnerable, as the police routinely accuse them of having sympathies with Naxalite guerrillas or of highlighting only police abuses and not criticizing violence by the PWG. Journalists have also received threats, especially in the guerrilla stronghold of Nizamabad, from the PWG.

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<sup>94</sup> "'APCLC Convener Murdered by Govt.'" Indian Express, (Hyderabad), December 10, 1991.

<sup>95</sup> See p. 30

<sup>96</sup> "'APCLC Convener Murdered by Govt.," Indian Express (Hyderabad). December 10, 1991.

<sup>97</sup> The letter from Director General of Police R. Prabhakar Rao was written to a member of a U.S. based human rights organization.

In recent years, police threats and attacks on journalists have become more blatant. During an impromptu speech in the village of Wadi, Medak district, on November 6, 1990, N. Sambasiva Rao, then superintendent of police for Medak district, exhorted the crowd to kill a *Eenadu* reporter and promised, "If you kill him I will ensure that no case is brought against you." When the APCLC complained to the police about the speech, the group was told that the police were angry with the reporter because the local press had been "making heroes of the PWG." Despite the complaints against him, in January 1992, N. Sambasiva Rao replaced Bhaskara Reddy as Superintendent of the Ranga Reddy district, after Reddy was transferred because of his involvement in the killing of journalist Ghulam Rasool.<sup>98</sup> Rao has continued to exhort villagers to kill Naxalites and promise them impunity if they do so. In two separate incidents, four activists of the CPI (M-L) (C.P. Reddy group) have been beaten to death by political opponents, and N. Sambasiva Rao has issued press statements congratulating the murderers.

The sweeping provisions of the Terrorist and Disruptive Activities Act (TADA) have been used against journalists in Andhra Pradesh, particularly those working in the Telangana districts. In August 1991, the APCLC filed a complaint with the Press Council of India about assaults on and harassment of journalists in Andhra Pradesh by the state police, stating that

Any realistic portrayal of the kind of problems and frustrations in certain parts of the state is regarded as legitimising, justifying or supporting the naxalites ... [T]he easiest victims are the *mandal-level*<sup>99</sup> reporters ... Unlike the district-level reporters, who are regular employees of the newspaper and can depend on the protection that position gives, the mandal-level reporters are treated by the newspaper managements as voluntary contributors who sell news ... on a piece-rate basis. ... It must be stressed once again that these are not reporters of local or small newspapers which may be suspected of partisanship, but of the principal dailies of Andhra Pradesh whose circulation runs into hundreds of thousands and whose editors and proprietors are in many cases known to be openly critical of the naxalite groups.<sup>100</sup>

The complaint listed eight reporters from small towns in Andhra Pradesh who had been charged with serious crimes, including murder. Three of them were charged under TADA. Four were subjected to torture and other degrading treatment, including being stripped naked, while in custody.

- Solipeta Ramalinga Reddy, reporter for *Udayam* from Medak district, was arrested on July 31, 1990 and charged under TADA. At the time of his arrest, the Circle Inspector in Siddipet, in Medak district, said to Ramalinga Reddy, "Resign your job. I want to "encounter" you, but as long as you are a journalist it is difficult for me to do so."
- Narala Ramanaiah, reporter for *Eenadu* from Adilabad district. He was arrested on March 27, 1991, and charged with three cases under TADA.

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<sup>98</sup> See below pp. 36

<sup>99</sup> A *mandal* is the smallest administrative unit above a village.

<sup>100</sup> From a complaint to the Press Council of India, filed under sections 13(1) and 13(2) of the Press Council Act (1978), by Dr. K. Balagopal, General Secretary, APCLC, August 7, 1991.

- Simhabotla Surya Sudarsanam, reporter for *Andhra Bhoomi*, from East Godavari district was arrested on December 13, 1990, and charged with murder, landgrabbing and rioting.
- Veeraboyina Yadagiri, a reporter for *Eenadu* from Medak district, was named in an FIR in a case of incitement and intimidation.
- Thamatham Srinivas Goud, a reporter for *Andhra Prabha* from Mahbubnagar district, was arrested under TADA in February 1991 in two cases of arson, destruction of private property and an attack on a police station. While in custody he was stripped and severely beaten. Under pressure from the local journalists' union, he was released without ever appearing in court.
- Telugu Sanjeev Kumar, a reporter for *Eenadu* from Mahbubnagar district, was arrested on May 7, 1991, in a case of rioting and murder of a police subinspector. He was held for five days, during which time he was severely tortured.
- Behara Venkata Srinivasa Rao, a reporter for *Eenadu* from Guntur district, was arrested on November 10, 1990. He was made to walk naked through the streets while being taken to the police lock-up, and severely beaten by the police. He was then charged with assaulting a police head constable.
- Chatla Muralikrishna, a reporter for *Eenadu* from Karimnagar district, was arrested on December 28, 1990, and charged under the Explosives Substance Act. He was badly tortured in police custody.

Other reporters who have exposed corruption have also been threatened and attacked. However, serious threats to journalists began with the killing of Ghulam Rasool. According to reporters interviewed by Asia Watch, the murder created genuine fear among journalists in the state.

### **The "Encounter Killing" of Ghulam Rasool**

On December 27, 1991, Ghulam Rasool, 28, a reporter for the Telugu daily *Udayam*, along with a friend of his, Vijay Prasada Rao, an unemployed graduate in political science, were arrested by the police while traveling by scooter in the Ambarpet area of Hyderabad. The next day the bodies of the two men were discovered on the road near Maseedpadu outside Hyderabad. Rasool had three bullet wounds, one in the head, chest and stomach. The bodies were brought to the mortuary at Gandhi Hospital in Hyderabad at 4:00 p.m. and a police post mortem conducted. At 10:30 p.m. the police took the bodies and cremated them in secret. No one was permitted to see the bodies before the cremation. Photographs of the bodies were later released to the press.

Initial police reports claimed that the two men were "unidentified naxalites" and that they had died in an encounter with the police on December 27. In statements released to the press, the police claimed that they had gone to Maseedpadu village because some local Naxalites were holding a meeting there. The police claimed that they asked the Naxalites "to surrender" but "when they refused and opened fire and police had to open fire." After it was over the police claimed that "three Naxalites had escaped" and that in the house they found two bodies which they could not identify. Following the incident the police and CRPF forces cordoned off the village and barred entry to the press. The press was also barred from seeing the bodies at

the Gandhi Hospital morgue.<sup>101</sup> The police claimed to have recovered arms and explosives from the site.<sup>102</sup>

The police version of the incident provoked widespread criticism from the local press and civil liberties activists who argued that, as a well-known journalist, Rasool would have been easily recognizable to the police. In fact, Asia Watch sources have stated that when Rasool was taken into custody he identified himself as a reporter. In response to the criticism, the police then claimed that Rasool was a Naxalite "working in the garb of a journalist." The police have also accused Vijay Prasada Rao of being a Naxalite; in fact, Rao had recently obtained a passport, for which he would have had to been given a security clearance by the police, making it highly unlikely that the police suspected him of guerrilla links.

Ghulam Rasool's aunt Sohrabee and his wife Zakira Begum came to know of Rasool's killing two days later. They told Asia Watch that they last saw him on December 27, and when he did not return home that night, they called the Udayam office that evening and were told that he had gone on an assignment and that he would return by 3:00 p.m. on Sunday. Because his mother had come to visit from his home village near the town of Bhongir, Rasool had applied for two days leave beginning Sunday. Zakira Begum told Asia Watch:

On Sunday, some of his friends from the paper came and told us that Rasool may have been killed in the encounter that had occurred in the city. They left right away and Rasool's uncle went with them. At the Udayam office, his uncle was shown photographs of the dead bodies and he confirmed that one of them was Rasool. He did not know Vijay Prasada Rao. Police had released the photo but they told his colleagues at the newspaper that they would not give them the body. We did not receive his body for last rites.

When Rasool's uncle asked the management of the newspaper about Rasool's body, he was told that Rasool's colleagues had tried to locate the body at various mortuaries around the city but could not find it. The police then informed the newspaper that both bodies had been cremated, even though Rasool, as a Muslim, and Rao, as a Christian, should have been buried. The cremation also violated the provisions of the Code of Criminal Procedure, which require any "unidentified" body to be preserved for fifteen days so that the identity can be established. Only if it has not been identified by then, may the police may dispose of it.

A local journalist who knew Ghulam Rasool told Asia Watch:

We only came to know that he was the one that had been killed on December 29. He was supposed to be away on some story dealing with the 400th anniversary of founding of Hyderabad. He met with a colleague and left the office at 6:45 p.m. on December 27. We did not see him after that. The next day we learned from the police that an "encounter" had taken place. We tried to investigate the story and get the names, but the police at the Uppal police station would not give the names of the two who had been killed because they claimed they were "unknown persons."

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<sup>101</sup> According to one journalist interviewed by Asia Watch, this was unusual, as the police usually invite the press to the scenes of "encounters". See also "Scribe, Victim of Fake Encounter," *Indian Express* (Hyderabad), December 30, 1991.

<sup>102</sup> "2 Naxals Shot Dead on City Outskirts," *Indian Express* (Hyderabad), December 29, 1991.

During this time, Vijay Prasada Rao's sisters repeatedly telephoned the newspaper office because they had identified him from the photograph published in the newspapers.

At about 4:00 p.m on December 28, the *Udayam* office in Hyderabad received a phone call from Nag Reddy, the TDP MLA from Dharmavaran, who had been told about the killing by Vijay Prasada Rao's neighbors. He told the *Udayam* office that one of the dead men was Rasool. The *Udayam* editor, Ramachandra Murthy, contacted the Home Minister and the superintendent of police of Ranga Reddy district, Bhaskar Reddy, who acknowledged that one of the dead men might be Rasool. When Rasool's colleagues at the office told Rasool's relatives and friends what they had heard, Rasool's brother and father came to the office and together with some of Rasool's colleagues from the *Udayam* office, they went to see Superintendent Bhaskar Reddy. One of the journalists told Asia Watch:

I asked for the bodies. He told me that within half an hour he would confirm who they were. Then superintendent Bhaskara Reddy told us that the bodies have been burned "as unknown persons." We went to the spot where the bodies were found. It was at Masjidguda, in an abandoned building on the edge of town that used to be an office for a local construction company. It has a single room and the courtyard in front of it is surrounded by a five foot wall. If it had been a real encounter Rasool would have had the chance to shoot the policemen first because he would have been hidden in the room. But no police were shot.

The police claim to have found four bullet shells at the site, although the revolver the police claim to have found with Rasool had six in its magazine. It was not until the evening of December 29 that the police released a statement which identified one of the men as Ghulam Rasool.

Rasool had previously received threats from the police, but had not received any after moving to Hyderabad in mid-1991. However, according to Rasool's mother, four or five days before he was killed police had been searching for him in the family's home village near Bhongir, some seventy kilometers from Hyderabad. When he learned of the incident, Rasool telephoned the police in Bhongir and told them that he was now working for the newspaper *Udayam* in Hyderabad and gave the police his address. The Bhongir police told Rasool not to worry and that if they needed him they would contact him. On December 27, the Bhongir police went to Rasool's family home in the village near Bhongir, broke the lock, entered and searched the place. They arrested his elder brother Ghulam Ahmed and took him to the police station. He was detained for four or five hours and then released when one of the officers said "we have no business with him". One of the policeman who was known to him warned Ghulam Ahmed to leave the village. So he and another brother, Ghulam Asif, came to Hyderabad for seven or eight days and then went back.

One of Rasool's relatives told Asia Watch:

Rasool had received threats in mid-1991 from the Circle Inspector of police in Bhongir after a man named Dharma Reddy was killed by Naxalites in the village. The police, who were conducting searches for Naxalites, came to Rasool because they thought that as a reporter, he could tell them the whereabouts of Naxalite leaders. They pressured him. He told them that he did not know where to find any Naxalites and that even if he did he would not tell them. This angered the police.

More recently, Rasool had exposed illegal land grabbing by rural landlords and urban real estate businessmen in Hyderabad. At the time of his murder he had been collecting information on illegal land grabbing in Hyderabad city, an activity in which a number of wealthy Congress (I) associates, and a deputy

superintendent of police named Rajaiah, reportedly were implicated.<sup>103</sup> The scandal involved prime land near the national highway where poor families had been living in a squatters' slum. After the value of the land increased in recent years, DSP Rajaiah reportedly colluded with Congress (I) landgrabbers to demolish the squatter colonies and turn the people out.

Rasool had also written a series of articles on Naxalite hideouts in the Hyderabad and Secunderabad, for which he had attempted to interview a prominent leader of the Radical Students Union, Benjamin, but had not been able to do so. Because of those articles, Asia Watch sources believe the police may have had him under surveillance, hoping he would lead them to Benjamin.

As one journalist told Asia Watch:

If they were so concerned about it why didn't they arrest Rasool under TADA? Because he had exposed a land grabbing scandal by Superintendent Rajaiah. Now the police are saying -- 'Why do you care? He was a Naxalite.' Rasool's killing was a plot of the deputy superintendent of police and others who hoped to achieve to two ends in one shot: to show that Hyderabad is free of Naxals and to terrorize the press.

The killing provoked widespread protests from journalists and human rights groups across the country. In response, the government of Andhra Pradesh ordered a judicial inquiry into Ghulam Rasool's killing and in January 1992, Superintendent Bhaskara Reddy was transferred from Ranga Reddy district.

Two or three days after Rasool's killing, journalists in Karimnagar and elsewhere received a call from someone who called himself "Hussain" who identified himself as an officer with the police Special Branch, which deals with political intelligence. Hussain read out the names of seven journalists "identified" as Naxalites, among them P. Ravinder of the *Indian Express* in the coal mining town of Godavari Khani, a PWG stronghold where several strikes have been organized and where the PWG reportedly operates almost as a parallel government; Narayan Reddy, of the Telugu newspaper *Andhra Prabhu* in Karimnagar; and Konda Lakshman of *Eenadu*. Hussain told the journalists, "If the PWG carries out any action in these district, these seven journalists will be bumped off."

When journalists questioned the Director General of Police about the calls, they were told that there was no "Hussain" with the police.<sup>104</sup> Two days later T. Lakshmi pathi, chief reporter at the Hyderabad office of *Indian Express* who had written an editorial blaming the police for Ghulam Rasool's killing, received a telephone call. When told that Lakshmi pathi was not there, the caller said to tell him: "What you are writing will not be tolerated. You will be killed in a road accident."

In February 1992, a subcommittee of the Editors' Guild of India which had been appointed to investigate the incident issued a report which charged the Andhra Pradesh police administration with "faking an encounter to cover-up a cold-blooded murder of Ghulam Rasool and Vijay Prasada Rao." In making its

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<sup>103</sup> In 1988, Rasool had angered DSP Rajaiah when he had criticized the authorities for granting the police officer an accelerated promotion.

<sup>104</sup> Other police officers reportedly told the journalists that "Naxalites" were making the phone calls.

conclusion the report in particular pointed to

the fact that the press was not allowed to photograph the bodies after the 'encounter' and that the bodies were hastily cremated even though one of those killed was a Muslim and the other a Christian ... Police refused to supply the post-mortem and inquest report to the committee, but only gave them the FIR which gives the police version of events.<sup>105</sup>

### **The Banning Orders of May and July 1992**

On May 21, 1992, the government of Andhra Pradesh banned the PWG and eight other organizations which the government claimed were front organizations for the group. These included agricultural laborers unions, tribal organizations, mine workers unions, and student organizations. The ban was promulgated under the Criminal Law Amendment Act of 1908 and the Public Security Act which states *inter alia*

If the Government [is] of opinion that any association interferes with the lawful administration, or with the maintenance of law and order or ... its existence constitutes a danger to the public peace or to pleasant relations between different classes or communities ... the Government may by notification ... declare such association to be unlawful.

...

Any person who is a member of an unlawful association, or takes part in a meeting of any such association, or contributes or receives or solicits contributions for the object of any such association or in any way assists in the affairs of such association, he shall be punished with rigorous imprisonment, for a term which may extend to six months, or with fine or with both.

The period of imprisonment for those who "manage or assist in the management" of any such association, or who "hold or assist in holding a meeting" is increased to two years.

Civil liberties groups protested that a previous ban under these same laws had been held unconstitutional in 1952, on the grounds that it did not fall within the definition of reasonable restrictions on the right of free association provided for in Article 19 of the Indian Constitution. In July 1992, the government promulgated a new Public Security Ordinance, again banning the PWG and six of the previously named groups. The two groups not included under the second banning order were the Organisation for the Protection of Girijan (Tribal) Rights, which is an organization of tribal youth, and the Revolutionary Women's League, which was determined to be a non-existent organization.

Human rights activists have reported that as of early August, 1992, more than 1,000 persons had been detained for alleged connections to the named groups since the banning order took effect. As one human rights activist told Asia Watch,

PWG was under a *de facto* ban for over two decades now. The *de jure* ban is to muscle human rights organizations and news media. The editors are contacted by phone and are asked to co-operate with them ... and the journalist reporters and stringers in the rural areas are threatened, saying any reporting of encounters, deaths in custody, etc. or publishing the statements left by the PWG will come within the meaning of the words "aid [or] encourage the ... unlawful activity of the PWG" and

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<sup>105</sup> "Editors' Guild Indicts AP Cops," *Sunday Times*, February 17, 1992.

will be looked upon as interference with the administration of law and order. An atmosphere of fear is generated.

## VI. Conclusions and Recommendations

Since publication of Asia Watch's last major reports on India,<sup>106</sup> little has changed to indicate that the central government has taken the steps it must if it is to end widespread human rights violations by both state and central government forces. While the pattern of abuses we have documented in Andhra Pradesh differs in important ways from the human rights concerns that have accompanied the conflicts in Punjab and Kashmir, many of the basic problems of official impunity and disregard for the rule of law remain the same.

Despite the fact that grave human rights abuses by government forces have been documented by local human rights groups and international organizations, and despite the private and sometimes public acknowledgement of senior government officials that the abuses are condoned, security forces responsible for murder, torture, rape are not criminally prosecuted or subject to punishments that would deter them and others from engaging in such crimes. These crimes are almost never even investigated and rarely subject to even any sort of disciplinary action. In fact, police and other security personnel who have gained a reputation for murder and torture are rewarded with promotions or money.

The extraordinary security laws which India has adopted to deal with terrorist violence are in conspicuous violation of international law. By suspending rights of due process and eliminating safeguards against arbitrary detention, torture, disappearances and the arbitrary deprivation of life, these laws have facilitated widespread abuses. Moreover, the security forces routinely and flagrantly violate Indian laws which are meant to safeguard against abuses. From the moment a detainee is taken into custody in Andhra Pradesh, it is almost certain that he or she will not be produced before a magistrate within the 24-hour period required or be given access to lawyers, relatives and medical care. The place of detention may not be made known to the detainee's family, or the detainee may be shifted from one police station to another repeatedly to evade detection. The detainee will almost certainly be beaten and otherwise severely tortured. In many cases, the detainee may never make it to a police lock-up at all, but will be shot dead while in the custody of the police and his or her body disposed of in secret. Finally, security personnel who routinely violate laws governing arrest, detention and inquest procedures are not punished.

In Andhra Pradesh, the state's approach to ending violence by Naxalite militants has alternated between brutal repression -- which has only provoked further violence by the militant groups -- and appeals for the Naxalites to renounce violence and participate in democratic processes. However, those who have attempted to participate in elections, and who have participated in legal organizations such as trade unions and student organizations, or who have organized peaceful forms of protest have also been the victims of abuse. Political meetings and marches are routinely banned; candidates and elected representatives from CPI (M-L) parties attacked and killed, or forced to resign; student hostels raided and student and peasant organizers arrested or killed in "encounters." As one human rights activist told Asia Watch,

The government's justification for the 'encounters' and other atrocities and acts of suppression is that

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<sup>106</sup> Those reports dealt with human rights violations and violations of the laws of war by all sides in Punjab and Kashmir.



the PWG has been indulging in large-scale organized violence, and that there is no other way to check that violence and maintain public order. Quite apart from the acceptability of this argument from a human rights point of view, this argument is basically dishonest because other groups which cannot be accused of indulging in uncontrollable violence are also being persecuted in the same manner by the government. ... They participate in legal mass activity and even in elections to the village *panchayat* as well as the state assembly and Parliament. Yet they are also persecuted by the police. It is interesting that suppression on these groups is the maximum at election time.

As we have documented in this report, others who have been the victims of police abuse are journalists and human rights monitors who have exposed the lawlessness and brutality with which the police and other security forces have sought to silence their critics and protect their political patrons.

The single most important step the state and central government must do to curb abuses in Andhra Pradesh is to end this policy of impunity and punish security personnel who have engaged in these crimes. In Andhra Pradesh the problem of impunity extends to non-state agents as well, particularly those who are politically influential, such as large landowners. But to end these abuses takes political will of a kind that has not been exhibited so far by any government that has been in power in Andhra Pradesh. Pressure to end the abuses must come as well from the central government, which is also responsible for the deployment of federal paramilitary forces in the state.

In May 1992, Prime Minister Narasimha Rao announced that the government was in the process of establishing a national human rights commission.<sup>107</sup> Asia Watch has welcomed the establishment of such a commission, and believes such commissions can play an important role so long as its members are independent of undue influence from any government or partisan group and it is granted sufficient powers and resources to ensure effective investigations. In particular, the commission must have the power to subpoena witnesses and conduct on-site investigations. If it does not, it will be no more effective than many of the judicial inquiries which have been initiated into abuses in Andhra Pradesh, which have lacked the necessary authority to initiate criminal proceedings against those responsible for human rights abuses.

To end human rights abuses in Andhra Pradesh, the government of India and the state authorities in Andhra Pradesh should also undertake the following measures:

- Independent, impartial commissions of inquiry into all reports of encounter killings, reprisal killings and other forms of extrajudicial execution, torture, rape and assault carried out by the Andhra Pradesh police and other security forces. Security forces found responsible for murder should be prosecuted and punished.
- The government should establish an investigation into the involvement of police in landlord and upper caste abuses against *dalits*, tribals or other groups. Discipline over the police should be strengthened to ensure that police do not operate as private armies for powerful interest groups. The findings of this investigation should be made public to deter future abuses.
- All security personnel should be trained to uphold the United Nations Code of Conduct for

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<sup>107</sup> The idea for such a commission had been part of the Congress (I) party's platform in 1989, but had never been implemented. At this writing, the members and terms of reference of the commission has not been finalized.

## Law Enforcement Officials and the UN Standard Minimum Rules for the Treatment of Prisoners

- The government of India should eliminate provisions in the law immunizing the security forces from prosecution for abuses.
- The government of India should repeal the Terrorist and Disruptive Activities Act (TADA) as its provisions are so broad as to virtually criminalize legitimate political dissent and free speech.
- The government of India should strengthen and enforce the safeguards existing in Indian law that protect detainees from torture, including requirements that all detainees be brought before a magistrate or other judicial authority empowered to review the legality of the arrest within 24 hours of arrest, that they be informed promptly of the charges against them and that all detainees have immediate and regular access to lawyers, family members and medical care. A centralized register of detainees accessible to lawyers and family members should be established.
- The government of India should grant access to all places of detention to the International Committee of the Red Cross.

## **Appendix A: The Terrorist and Disruptive Activities (Prevention) Act (TADA)**

The TADA<sup>108</sup> provides for administrative detention without formal charges for up to one year on broadly defined grounds.<sup>109</sup> According to human rights monitors, between September 1985 and September 1991, more than 15,000 persons were detained under TADA in Andhra Pradesh. The law has been widely used throughout Andhra Pradesh to detain tribals, rural activists, journalists, writers, teachers and others suspected of being Naxalite sympathizers. Peasants and laborers who have participated in strikes or demonstrations to demand better wages or land rights have also been detained under TADA.

TADA virtually criminalizes free speech. Under the TADA, anyone who "knowingly facilitates the commission of any disruptive activity or any act preparatory to a disruptive activity shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to a term of life and shall also be liable to fine." A disruptive activity is defined as

any action taken, whether by act or by speech or through any other media or in any other manner whatsoever,

(i) which questions, disrupts or is intended to disrupt, whether directly or indirectly, the sovereignty and territorial integrity of India; or

(ii) which is intended to bring about or supports any claim, whether directly or indirectly, for the cession of any part of India or the secession of any part of India from the Union.

Under ordinary law a detainee may be held in police custody after remand by the court for a maximum of 15 days before being transferred to judicial custody. (Remand may be renewed.) However, under section 20 of the TADA, a detainee may be held in police custody for up to 60 days. The extended period of police remand substantially increases the risk of torture. In addition, under the TADA a detainee need not be produced before a judicial magistrate, as is the case under ordinary law, but instead may be produced before an "executive magistrate" -- that is, an official of the police or administrative services who is not answerable

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<sup>108</sup> TADA was enacted in India in 1985 under the government of then Prime Minister Rajiv Gandhi which argued that the security forces in Punjab required greater powers. Since then, the act has been used throughout India.

<sup>109</sup> The lengthy one-year period of permissible detention before trial violates Article 9 of the International Covenant which provides, "Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release." In addition, Principle 11 of the U.N. Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment provides:

1. A person shall not be kept in detention without being given an effective opportunity to be heard promptly by a judicial officer or other authority.
2. A detained person and his counsel, if any, shall receive prompt and full communication of any order of detention, together with the reasons therefore.
3. A judicial or other authority shall be empowered to review as appropriate the continuance of detention.

Similarly, Principle 32 of the U.N. Body of Principles provides: "A detained person or his counsel shall be entitled at any time to take proceedings according to domestic law before a judicial or other authority to challenge the lawfulness of his detention in order to obtain his release without delay, if it is unlawful."

to the High Court.

Trial procedures under the TADA violate international standards of due process. As noted above, the fair trial and due process guarantees contained in the ICCPR may be suspended only during a time of officially declared emergency. The wholesale nature of such suspensions in Andhra Pradesh and the broad use of anti-terrorist legislation to arbitrarily detain political opponents of the government indicate that such derogations have not been limited "to the extent strictly required by the exigencies of the situation."<sup>110</sup> The TADA reverses the presumption of innocence, placing the burden on the accused to prove he is not guilty.<sup>111</sup> This is a violation of international standards and of Indian law.

In addition to the above measures, the TADA effectively amends India's Criminal Procedure Code and the Indian Evidence Act<sup>112</sup> to allow the introduction into evidence of extra-judicial confessions made to a police officer "not lower in rank than a superintendent of police and recorded by such a police officer either in writing or on any mechanical device like cassettes, tapes or soundtracks ... [as] admissible in the trial of such person for an offence under this act ... [if the police officer] has reason to believe that it is being made voluntarily." This provision substantially increases the risk of torture.

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<sup>110</sup> Among the deficiencies in the trial process provided for in the TADA are the following: Under the TADA, all proceedings before a designated court shall be conducted in secret "at any place other than [the court's] ordinary place of sitting." This violates article 14 of the ICCPR which states that "everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law." TADA in section 16(2) permits the designated court to keep the "identity and address of any witness secret." This provision is in direct contravention of Article 14, section 3(e) of the ICCPR, which guarantees each defendant the right "[t]o examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him." Section 19 of the TADA limits the right of the accused to appeal until the very end of trial and then only to the Supreme Court, effectively eliminating the High Court as an appellate review body. For many persons the financial burden of seeking Supreme Court review are prohibitive.

<sup>111</sup> Section 21 of the TADA states that in cases of persons accused of terrorist acts where arms or explosives are recovered or where "there is reason to believe that such arms or explosives ... were used, or where fingerprints are discovered," or where "a confession has been made by a co-accused," or the accused has made a confession to someone other than a police officer, then the court "shall presume, unless the contrary is proved, that such person has committed the offence." In cases in which a person has been accused of conspiracy in or abetting in any way the commission of a terrorist act, if the person is accused or "reasonably suspected of providing financial assistance" for the commission of the act, the person shall also be presumed guilty.

<sup>112</sup> Section 162 of the Criminal Procedure Code states, "No statement made by any person to a police officer in the course of an investigation ... shall, if reduced to writing, be signed by the person making it, nor shall any such statement or any record thereof ... or any part of such statement or record, be used for any purpose ... at any inquiry or trial in respect of any offense under investigation at the time when such statement was made." Section 25 of the Indian Evidence Act, 1872, states, "No confession made to a police officer shall be proved as against a person accused of any offense." Section 26 of the act states, "No confession made by any person whilst he is in the custody of a police officer, unless it be made in the immediate presence of a Magistrate, shall be proved as against such person."