

MURDERS MOST FOUL

**A REPORT ON THE EXTRA-JUDICIAL KILLINGS BY
THE POLICE IN NORTH TELANGANA**

Participating Organisations

**APCLC, AP DR, CPDR, MASS, OPDR, PDF,
PUCL (Pondicherry), PUCL (Tamil Nadu), PUDR**

MURDERS MOST FOUL

A REPORT ON THE EXTRA-JUDICIAL KILLINGS BY
THE POLICE IN NORTH TELANGANA

CONTENTS

Chapters

1. Preface
2. The Movement and Repression
3. Fake encounters
4. The Law
5. Conclusions

Box Recommendations of the National Commission on Human Rights

Tables

- I Encounter deaths in AP from 1985
- II Encounter deaths in 1996
- III District-wise break-up of encounter killings in 1996

This saga of political killings began long ago and Andhra Pradesh has become notorious for 'encounters' for more than two decades. Until 1978, i.e., prior to and upto the lifting of the Emergency, about 335 naxalite activists and sympathisers have been killed. After a gap of three years, the killings resumed but the pace accelerated after N T Rama Rao was re-elected in 1985. In the next five years 216 people were killed. The 1990s brought in a newer trend with the enactment of the Andhra Pradesh Public Security Act and the imposition of a ban on the PW. In 1992, when the PW was first banned, the death toll stood at 256 and in the last six years (i.e. 1991 to 1996), the total figure stands at a staggering 833. These figures alone tell the government's avowed decision to use 'encounters' as a means of killing activists and sympathisers and consequently rooting out the movement.

The present Naidu government which reimposed the ban in July 1996 has been repeatedly asking the Central Government for reinforcements from the central security forces. In recent months, the State Government has been petitioning the Centre to send 50 companies of Central paramilitary forces, in addition to the 20 companies already deployed. And what is alarming is that ever since the ban on the People's War was reimposed on July 25, 1996, 84 people have been killed in 64 'encounters'.

Over the years, the police have been given enhanced powers to deal with the 'naxalite problem' effectively. Torture, raids and illegal detentions are some of the commonly used methods against the people. But the most violent method is that of encounter deaths. People are abducted from their homes before dawn, dragged to some convenient distance and shot dead. Instead of following the normal procedure of producing the arrested person in court and charge-sheeting him, encounter killings have become the norm. In this atmosphere of police terror, it is common to see heavily armed policemen in mufti moving about in unidentified vehicles. With self-loading rifles, sten guns and AK 47s, they raid homes, detain and torture people and wherever possible, kill them. To date, not a single policeman has been prosecuted. In fact, the unofficial state policy is to reward a policeman who has committed such a murder. This is the lawless situation which prevails in Telangana.

It is within this context that a joint civil liberties and democratic rights team investigated ten recent 'encounter' deaths in the four districts of Nizamabad,

Adilabad, Karimnagar and Warangal. Representatives from Andhra Pradesh Civil Liberties Committee (APCLC), Association for the Protection of Democratic Rights (APDR), West Bengal, Committee for the Protection of Democratic Rights (CPDR), Mumbai, Manab Adhikari Sangram Samiti (MASS), Assam, Organisation for the Protection of Democratic Rights (OPDR), Andhra Pradesh, People's Democratic Forum (PDF), Bangalore, People's Union for Civil Liberties (PUCL), Tamil Nadu and Pondicherry and People's Union for Democratic Rights (PUDR), New Delhi, visited the areas between December 3 and 6, 1996.

During the visit, the team spoke to a wide cross-section of people including families of the victims, villagers, journalists, lawyers, doctors, politicians and officials such as district collectors and police officials. The aim of the investigation was to establish whether the 'encounters' were actually real as claimed or whether people were being deprived of their lives in gross violation of their constitutional and legal rights.

The purpose of the present report, a detailed account of the investigation, is simple. It reiterates the need to stop the state's policy of encounter killings and appeals to all sections of people to protest against the lawless acts of the police in North Telangana.

CHAPTER I

THE CPI-ML MOVEMENT AND STATE REPRESSION

Andhra Pradesh is normally divided into three zones : coastal Andhra comprising of nine districts along the Bay of Bengal, Rayalseema with four southern districts of the state and the Telangana comprising of nine northern districts plus the metropolis of Hyderabad which is a separate revenue district. Situated within the Godavari river basin, north Telangana presents a topography that is mainly arid with bare granite boulders and hard red soil, relieved by patches of fertile black (*regadi*) soil, especially in the region close to the forested and hilly banks of the Godavari river.

The five districts of Nizamabad, Adilabad, Karimnagar, Warangal and Khammam constitute the northern part of the Telangana region. The Godavari runs along the northern borders of the four districts and along the southern border of Adilabad. The Pranahita, a tributary of the Godavari, separates the northern district of Adilabad from the Gadchiroli district of Maharashtra. According to the 1991 census, the total population of the four districts excluding Khammam (these are the four districts visited by the present fact-finding committee), was close to One crore, out of the state's total population of 6.5 crore.

The population here is only one-fifth urban, compared to one-fourth for the state as a whole. In other words, the four districts are predominantly rural. The population is therefore dependent on agriculture. But unlike the agriculturally developed coastal districts of the state, cultivation here (except in the district of Karimnagar) is mainly either rainfed or dependent upon wells and tanks.

While the ratio of irrigated to sown land is 58 % for the coastal districts, it is only 42 % in these districts and just 10% for Adilabad. Besides agriculture, the districts also form the coal mining centre for the state and mines for the public sector Singareni Collieries Company, concentrated in Adilabad, Karimnagar, Khammam and to a lesser extent in Warangal, employ about 1.25 lakh workers. Apart from the coal mines, there is not much industry. In the 1991 Census, there were only 1880 registered factories with a workforce of 41, 764.

For the outside world, North Telangana is presented as a place of backwardness, poverty and rural unrest. Information about encounter killings and naxalite violence routinely appears as the region has a strong presence of the CPI (M-L) parties: the People's War, Janashakti, Towards New Democracy (TND, also known as Prajapandha following the name of its official Telugu publication) and other smaller ones. Hidden behind the routine information are the lives of countless people who have been fighting for a better life and livelihood. Unequal distribution of land, low wages, caste and gender oppression and other forms of oppressive behaviour by the village elite, corruption and maladministration by the local government officials, etc., were the core issues taken up by the CPI-ML led activities from the early 1970s onwards.

The CPI-ML parties whose activists are commonly referred to as naxalites have a strong base amongst the rural dalits, tribals, backward castes, landless labourers, small farmers and coal mine workers, though the actual participation of these masses in CPI-ML led activities has been of a varying magnitude.

For decades, the struggles of the people have been countered by brutal repression. Successive governments in Andhra have treated the movement as a law and order problem and hence the villages in Telangana have a long history of struggle and repression. This history is not often recounted as the truth behind the suffering and brutality is too difficult to hear. Yet, it is within this history that encounter killings have to be understood as a deliberate policy of the state.

The struggles led by the naxalites

In the latter half of the 70s, when the CPI-ML parties first formed the Rytu Cooli Sanghams (Peasants and Agricultural Labourers Unions) in the villages of North Telangana, their demands were redistribution of land and increase in wages. With only a few families possessing anything between 50 to 200 acres of land, and sometimes even more, the poorest strata was forced to work as daily wage labourers and annual (or seasonal) farm labourers in conditions similar to debt bondage.

The most striking form of feudal oppression was *vetti* or *vettichakri* (*begar*), forced unpaid labour which working people of lower castes had to perform

and give as 'free' gifts to the *dora* (landlord). All categories of public land were in the hands of the *dora* or those who were subservient to him. The *patwari*'s records were unfathomable and the record of *patta* and public lands was conveniently confusing. Even today, 75 % of the agrarian population is either landless or possesses upto 2.5 acres of land. Added to this is the traditional social domination through caste.

There is a sharp cleavage between the upper caste (brahmin as well as non-brahmin) landed elite on the one hand and the largely backward or scheduled caste poor peasants and landless labourers on the other. Though the non-Brahmin upper castes, such as the Reddys, have a strata of middle (and poor) farmers, caste oppression and domination is quite marked.

Oppression took other forms too. In the agriculturally lean season, *tendu* leaf picking provides the much needed income for the poor peasants and tribals living in the forest regions. But the exploitation by contractors, their agents and forest officials, had ensured a well-entrenched practice of bribes, forced unpaid labour and abysmally low wages. In the forest villages, the tribals were doubly burdened by oppressive forest laws which deny them their traditional rights over forest land and produce.

In Adilabad, which is even today the worst irrigated district of Telangana, agriculture is exclusively rain-fed and the hunger for fertile land continually drive the tribals in search of newer land. Over the decades, the rich black soils cleared by them were occupied by non-tribal farmers or the more enterprising among the tribals such as the Banjaras. Cultivation of commercial crops such as tobacco, chillies and cotton along the banks of the Godavari was lucrative for both the landlord as well as the traders. For the dispossessed tribals, harassment by forest officials, *tendu* and arrack contractors and landlords, added to their misery.

The call of the Sangham for strike by wage labourers and farm servants for increase in wages, or for occupation of public land, or conducting of enquiries into the corrupt practices of the *sarpanch* or contractor, had mass participation in the beginning until heavy repression became the order of the day and the naxalite movement became a primarily underground movement in North Telangana.

Significantly, what the Sanghams demanded was the implementation of

already existing laws (Minimum Wages Act) or the declared policy of the government (that of giving landless first preference in the use of public land, or rooting out corruption). Equally significant was the response of the state to these demands by repression. In the case of the *tendu* leaf struggle, the government responded by nationalising the trade and instead of setting up co-operatives, it allowed the contractors an even freer hand by letting the forest officials buy the leaf and sell it to them. At the village level, institutions such as the Zilla Parishads, rural banks and credit agencies became powerful tools of domination in the hands of the rural rich even as they helped to modernise the village in terms of technology and the market.

This is equally true of modernising methods of irrigation which the Green Revolution technology has made available. Energised pumpsets (Karimnagar has the highest concentration of such pumpsets) which involve private expenditure, are available only to the rich and middle farmers. For the poor peasant, it is still the village tank that remains the only source of irrigation.

'Land to the tiller' is an important aim of the struggles of the CPI (M-L) parties. As part of this aim, they have encouraged the landless poor to occupy land - both government land and surplus land of landlords. According to official statistics, lacs of acres of forest land is being cultivated by tribals with the support and encouragement of the naxalites. In the plains, too, thousands of acres of public and surplus land has been occupied by the landless and poor peasants.

The government's response, especially in the plains, has been to arrest the encroachers and send them to jail. The upshot of this is that thousands of acres of land is now lying fallow, for the poor who have encroached upon it with naxalite support are deterred by police threats, and the landlords who were the original owners are deterred by naxalites threats.

With the increase in State repression from the mid-80s onwards, the naxalites, especially the People's War, have been indulging in direct attacks upon the police and ruling party leaders at the local as well as State level. Killing, burning and blasting of property has become common in this struggle of the naxalites against State terror.

The naxalite parties have the political aim of capture of State power through

armed struggle. As part of this aim, they have been establishing their dominion in rural Telangana by violent means. The People's War, in particular, which is quite heavily armed, has succeeded in enforcing its writ up to a point in large tracts of north Telangana. This armed struggle for political power and the social power they exercise as part of this political struggle adds a dimension of direct conflict between the naxalities and the State. In this struggle the naxalites base themselves upon the poor whose interests they protect with the power they exercise.

The repression

In the beginning of the efforts of the CPI-ML parties to mobilise the masses, some of the landlords tried to hit back with their hired goons. But soon the police stepped in as the main instrument of suppression. The State, which was not concerned about ensuring the legal rights of the poor, obliged the landlords quite readily by sending in the police.

With lists of suspects provided by the *doras*, the police came to the villages and set up camps. To any outsider, these camps provide an eerie sight. Lodged either in the landlord's house or in a reasonably non-controversial building like the Gram Panchayat office or the village school, the camps were a physical reminder of the presence and power of the police. Often they remained in the village for a long period.

The declaration of areas as disturbed became a more powerful weapon. When Karimnagar was declared a disturbed area in 1978, over 300 persons were arrested in 64 villages. Raids and interrogations take on an aggravated form when such laws are invoked. The prevention of public meetings by imposing Section 144 (CrPC) is another method. An example of this is the infamous firing at Indravelli in Adilabad district in 1981, in which 13 Gond tribals were killed. The tribals had taken prior permission for holding the meeting. However, S.144 CrPC was imposed the evening before. Unaware of this, the villagers assembled for the meeting and were surrounded by police who opened fire upon them.

Even if one grants that the assembly was unlawful, the quantum of force used to disperse it was totally unjustified. As police suppression increased, the naxalite groups, especially the PW, stepped up their violence in response. Killing and maiming targeted enemies has become a frequent occurrence

with the naxalites. Setting on fire public property such as buses, government offices and vehicles, is also not uncommon. In the recent past, in two months, the PW has attacked and blown up two police stations in Adilabad and Khammam districts, killing more than 30 policemen.

We do not hold any brief for the violent activities of the naxalites. But violence does not happen in and by itself. There has to be a given situation, a context, behind the violence. To try to look at the context of the violence is not to condone it, much less to advocate it, but to understand it. It is to understand its socio-economic background, which the State refused to understand or even acknowledge.

But where the profession or propagation of a belief which questions the existing political and social system is treated as a crime, the practice of the same belief becomes a law and order matter. It is perceived as the biggest threat and therefore has to be countered with the maximum force. For decades, the State refused to address the questions raised by the movement such as rural poverty, landlessness and oppression. Undemocratic laws such as the Suppression of Disturbances Act, TADA (till it lapsed in 1995) and bans which are violative of Arts 14, 19 and 21 of the Indian Constitution, have been repeatedly imposed.

These undemocratic measures have been justified on the basis of a well-orchestrated State propaganda. Indiscriminate violence, destruction of government property and killing of innocents are images routinely used to project 'naxalite violence'. Successive governments have used this anti-naxalite rhetoric ad infinitum. Of course, the propaganda works because it is true as far as the allegation of violence goes. But the full truth goes beyond that allegation. To be complete, it must encompass the socio-economic context of poverty, oppression and deprivation and the struggle against the same.

The present Chief Minister Chandrababu Naidu justified the reimposition of the ban on the PW on the grounds that naxalite activity and violence is responsible for the lack of development in North Telangana. This charge is a distorted perception of a very complex reality. On the one hand, the aid extended by the naxalites to the poor and the oppressed for the betterment of their lives is itself development, as much as if not more than the development that the government speaks about. On the other hand, while

the presence of violent unrest does inhibit the accumulation of capital, it is not enough to blame the unrest for it. It is necessary to deal with the causes for the unrest. Questions regarding land reforms, forest-dwellers rights on forest land, fair wages and the dispensation of speedy justice need to be dealt with.

Recently, after the blowing up of the Karkagudem police station on January 10, 1997, the Chief Minister gave a call to the villagers to 'kill the naxalites', assuring them that no action would be taken against them. The rationale behind this state terrorism has given the police a complete and free hand in dealing with the problem. Which is why, apart from the regular armed wings of the state police, a Special Strike Force has been set up trained in guerrilla operations. Special police parties constituted periodically by the Superintendent of Police and the central paramilitary forces, are all part of the anti-naxalite operations (ANO).

The most common method adopted by these ANOs is for special parties of police to go around villages, heavily armed and in plainclothes. Acting either on the basis of information regarding squad activity or the ubiquitous 'suspect' test, they raid homes, torture people, abduct and kill them.

The State accuses the naxalites of running a parallel government. It is true that they have established a strong presence with their violent methods backed by sizeable mass support. But what their presence really signifies is the failure of the government to do what it is supposed to do - better the lives of the people and provide a responsible government. This is the crux of the problem.

Not all the acts of the naxalites may be justifiable or even defensible, but it is a fact admitted by even those who disagree with the CPI-ML parties that the rural masses, coal miners and tribals have benefited immensely from their organisation and their activities.

CHAPTER II

FAKE ENCOUNTERS

TABLE II
Encounters in the year 1996

Month	No. of Encounters	No. of Deaths
January	• 3	15
February	0	0
March	5	8
April	11	17
May	8	15
June	9	16
July	9	10
August	9	14
September	13	15
October	15	17
November	15	21
December	11	13
TOTAL	106	161

This chapter includes case studies of the ten cases investigated by the team. The persons killed were marginalised farmers, agricultural labourers, mine workers, doctors and unemployed youth. The accounts are self-explanatory, hence are given without comments.

1. Village Gurjal Gandhari Mandal, District Nizamabad

Battu Anand, an eighteen year old school dropout from Gujral village, was shot dead on May 10, 1996. He was one among the 19 persons killed in Nizamabad district last year. Battu Anand belonged to a backward caste. He was the only son of his family. His family owned two acres of land irrigated by a private borewell. On that fateful night, Battu Anand was sleeping in the field near the well. He was unaware that a PW squad was

also resting about a kilometre away. The police arrived at the spot and killed three members of the squad. Battu also died in the police firing.

It is not clear how Battu died, nor how the three squad members died. There are not eye-witnesses to the incident. The squad members were armed, but were killed without any injury being caused to the police. They were evidently caught unawares and killed. Were they shot dead while sleeping? How about Battu?

The villagers categorically state that he had no connections with the naxalites. One thing is certain. He was neither a member of the armed squad nor was he accompanying them. He had gone to tend his fields as usual that night. It is possible that having come to know of the presence of the naxalites nearby, he went to meet them for some reason or the other and got killed by the police. The other possibility is that either before or after the killing of the naxalites, the police saw Anand resting in his fields.

The police may have suspected him of having witnessed their operation or their movement, picked him up and killed him and dumped his body along with those of the slain naxalites. The initial police version stated that Battu was part of the squad and was killed in an exchange of fire. Later, as the villagers countered this account, the version was slightly changed and Battu was said to have been accompanying the squad.

The changed version is of little consequence because the First Information Report (FIR) of the incident names Battu as one of the accused under S.307 of the Indian Penal Code (IPC, attempt to murder). Also, no compensation has been paid in spite of the representations made by the family to the District Collector and the Home Minister. A representation of a local Telugu Desam Party (TDP) MLA to the Chief Minister for compensation has also not yielded results either.

2. Village Gurjal, Gandhari Mandal, District Nizamabad

Twenty-five year old Pathakam Sayilu was shot dead on August 26, 1996, in his own village. P Sayilu belonged to a very poor *dalit* family. He and his three brothers cultivated four acres of unirrigated land. Sayilu had been educated in night classes. He was a village-level activist of the PW. For the last four years, he was the taluka level leader of the Radical Youth League.

On the day of the incident, at around 8.30a.m. while Sayilu was having tea in a village tea-shop, around 30 policemen, including some in plainclothes, came to the village. A few policemen came to the tea-shop looking for Sayilu. On seeing them, he raised his hands and offered his surrender. The police caught hold of him and asked him to hand over his weapon. He told them that there was a grenade in his house and that he would hand it over to them. He was then taken there and a grenade was found in his house.

Sayilu had already surrendered and was in police custody. But, instead of being taken to the police station, he was shot dead on the outskirts of the village. According to the police, Sayilu was killed in an exchange of fire but the villagers totally refute this account. A magisterial inquiry is pending. Sayilu is survived by two wives and a three-year old child.

3. Village Indalvai, Sadashivnagar Mandal, District Nizamabad

Thirty year old Sunnam Narasimhulu was shot dead on August 8, 1996, in Indalvai village while he was relieving himself about 100 metres from the busy Hyderabad-Nagpur highway. The FIR lodged in this case states that, in a combing operation, the police found six squad members holding a meeting. There was an exchange of fire and Narasimhulu succumbed to bullet injuries. According to the police, he was part of the squad and was carrying a grenade. The villagers deny all of these claims. Shortly before his death, he had been seen in a hotel and then in a barber's shop.

The police version is improbable on two counts. One: people saw Narasimhulu just before the incident. Two: The villagers also state that the press had come to know about the incident immediately and on arrival at the site, saw the policemen digging near his body in order to plant evidence.

No one, however, is clear why Narasimhulu was killed. Of the several explanations floating around, the most viable seems to be that it was death due to mistaken identity. The police have been looking for a militant with the same name and claimed to have killed this militant. But soon after Narasimhulu was killed, the PW made an announcement that the said militant was still alive!

The official version is that the man killed was not the Narasimhulu from Indalvai village but the militant. In other words, the dead body belongs to the man who is alive, and there is no explanation as to the whereabouts of

the man who is dead. The theory of mistaken identity is not, however, the only explanation of this macabre incident. It is also said that another militant (not of the same name) of a neighbouring village, was moving around in the area and the police, while chasing him, spotted the figure of Narasimhulu relieving himself in the bushes. They shot him, assuming that he was the man they were after. When they realised that they had killed somebody else, they found out the dead man's name and took advantage of the fact that his namesake was also a militant. They then concocted the story that the man they had killed was actually that namesake. This version is quite possibly the truth.

Narasimhulu was not connected to any militant organisation and his death raised large-scale protests. A day after his death, hundreds of villagers went to Nizamabad to fetch his body. They met the Joint Collector and the SP. After another ten days, they also met the Collector and made him accept their demand that the magisterial enquiry be held near the village at the forest guest house. However, the Collector's notification about the enquiry apparently mentioned that it would be held at the district headquarters. The magistrate did not reach the forest guest house on the fixed date. Agitated villagers held up traffic on the national highway for about three hours. The police and the CRPF arrived at the scene and beat up the protesting villagers, including the wife and brother of the deceased. In the tussle, apparently, one rifle was stolen.

The same night, the SP and the DSP came to the village and arrested more than 100 persons. 152 were charged with several offences of unlawful restraint, dacoity and violation of the Andhra Pradesh Public Security Act. Eight persons, including the wife and the brother of the deceased, were held under all three charges. These 152 names included some of the people who had left for the Gulf countries or had died much before the incident. When the team visited the village, those arrested had been released on bail. The magisterial enquiry has not yet started.

The family has made representations to the Chief Minister for compensation, punishment of the guilty policemen and withdrawal of charges against the villagers.

4. Mancherial, District Adilabad

On November 5, 1996, a Shiv Sena activist, Dandekar, was killed in

Srirampur in Adilabad district. Three days later, SIKASA (Singareni Karmika Samakhya), a PW affiliated organisation active in the coal mining area, claimed responsibility for the murder. On November, 15, the Sirpur (U) police station was blasted by the PW. On November 19, two young men, Dadi Srinivas and Koppula Ravi were killed by the police near the General Manager's office at Srirampur. For five days before the killing, they had been illegally detained in different police stations in Mancherial mandal. The police claimed that the two died in an encounter.

Both men worked as coal miners in the Srirampur division of the Singareni Collieries Company. Both were in their mid-twenties and had joined work in 1990 and were activists of the AITUC, a CPI-affiliated trade union. Dadi Srinivas, a backward caste youth used to live in a workers' colony in Ramakrishnapur. On the day of Dandekar's murder, both were busy in the union office collecting membership fees.

The police account of the incident is as follows. According to them, the two youth were SIKASA activists. They were detained by the Mancherial police on November 17 and were to be produced before the magistrate the next day. In a press conference on November 17, the DSP announced that the police had apprehended the killers of the Shiv Sena activist. Another police press release the following day stated that the two had escaped from Lakshetipet police station in the late hours of the evening of November 18.

The next morning, the two were supposed to be travelling in a lorry in Srirampur area. When the police tried to stop the lorry (near the office of the General Manager of the Srirampur division of the Singareni Collieries company), the two young men allegedly fired upon them from inside the lorry. The police fired back and the two men died in the encounter. There was another activist of SIKASA who escaped with the weapons of the deceased. That was, of course, very convenient for the police, for otherwise, they would have had to produce the weapons with which the dead men attacked them.

There are several loopholes in this story. No case of dereliction of duty was filed against the policemen at Lakshetipet police station. The lorry allegedly carrying the two youth was not seized. No blood or weapons were found at the site where the encounter is supposed to have taken place.

The details of the incident pieced together from the interviews with the families of the two deceased, their neighbours and the members of AITUC are as follows:

Srinivas was picked up from his home in Krishnanagar colony on the night of November 13, 1996 by the Mancherial police. SI Razak Khan and seven other policemen came and searched the house and in the presence of his wife, took Srinivas away. The AITUC members, including K Ravi, in an attempt to find his whereabouts, repeatedly met the Mancherial police and also the DSP. They were told that Srinivas was not in police custody. On November 15, they came to know that Srinivas was at the Jaipur police station about 35 Kms away from Mancherial. They then went to the Jaipur police *thana* and were shocked to find K Ravi in the lockup.

Actually, on November 15 morning, four to five plainclothes policemen, including the same SI - Razak Khan of Mancherial police station, had gone to K Ravi's in-laws house at Shivajinagar. They searched the house and arrested Ravi. Ravi's family and the neighbours also went from one police station to another and were told that he was not in police custody.

The AITUC activists managed to meet Srinivas at the Jaipur *thana*. He told them that he had been tortured by the DSP, the CI and the SI of Mancherial and was forced to confess to the murder of Dandekar. The union activists then called the DSP and confirmed the news of the two being detained at the Jaipur *thana*. The activists threatened to go on strike if the two were not produced before a magistrate. The DSP promised that they would be produced in court on November 18 but this was not done. On November 18 night, the two were taken to the magistrate's residence but the latter refused to see them and told the police to bring the detenus to court the next morning.

On the morning of November 19, as the news of their escape from police custody appeared in the press, the AITUC also gave a press release that it feared that the two would be killed by the police. This release appeared in the newspapers on November 20, together with the news of their encounter deaths.

During their illegal detention, they were shifted from one police station to another, their family members were not informed of their whereabouts. It

is also clear that the detenus were also tortured while in custody. In fact, the family of Srinivas and neighbours saw the two in a bad shape, unable to walk while they were being shifted from Jaipur to Mancherial police station.

Srinivas has left behind his aged parents, his wife and three children while K Ravi is survived by his wife and two children. The two families, along with the local CPI MLA, have met the Chief Minister and the home Minister. They have demanded a judicial enquiry by a High Court judge, suspension of the guilty policemen and compensation. The magisterial enquiry is pending.

This incident of encounter killing was followed by widespread protests. A strike starting from the Srirampur division spread to all coal mines of Adilabad and lasted for ten days from November 19-28. All major unions joined the strike. This kind of total strike against fake encounter killings has occurred for the first time. The workers have also demanded that the wives of the victims be given jobs.

5. Village Naspur, Mancherial Mandal, District Adilabad

On June 23, 1996, an important leader of the SIKASA, Madireddy Sammi Reddy alias Ashok alias Ramakant, was killed after a prolonged exchange of fire. On the afternoon of that day, the police learnt that Ramakant had taken shelter in the house of one Niranjana in the workers' colony. The houses in this colony are row houses and Nilanjana's house is the first quarter in one such block.

A strong police contingent arrived and surrounded the entire block. They fired in the air and asked Ramakant to surrender. From inside the house, Ramakant fired back, injuring two policemen. Half an hour later, he escaped through the back door. Jumping over the compound walls of a few quarters, he finally entered quarter no. 5 through an open back-door. The entire family was sitting in one of the front rooms. Ramakant locked himself in a room at the back and continued to fire from inside. A Circle Inspector of police was killed.

After the death of the Inspector, more policemen moved in. The SP of Adilabad district, Umesh Shroff, who happened to be in Mancherial that

day, took charge. The police planned to drill holes in the roof of the house where Ramakant was hiding, pour petrol in and burn him alive.

A large number of people soon gathered around the scene as the police put their plan into operation. Some local journalists informed APCLC activists at Hyderabad about what was going on at Naspur. APCLC activists then contacted the Home Minister and pleaded with him to stop the attempt of deliberate murder at Naspur. The minister's final reply was that since two policemen had died, the police were uncontrollable!

In the meanwhile, at Naspur, the police drilled holes in the roof of the house, poured petrol and set it on fire. Sammi Reddy fired from inside at the hole they had drilled and killed one policeman. The continuous exchange of fire and arson lasted till late in the night when Ramakant died. Hundreds of people watched it. Meanwhile, Niranjana was dragged out of her house by the police and riddled with bullets in the backyard of the house next to that in which Ramakant was killed.

When our team went to Naspur, the police threatened the main witness, the tenant of the burnt house, into silence. The charred remains of the blackened and bullet-ridden walls and a mute witness to this blatant act of wilful homicide. Doctors who conducted the post-mortem told the team that Ramakant had died of bullet injuries and not of asphyxiation as was commonly believed.

Ramakant was an upper caste man. He began working in the coal mines of Mandamarri area since 1976 as a coal cutter. In 1985, he gave up his job and became the organising secretary of SIKASA. Nothing much is known about the families of both Ramakant and Niranjana. Given the circumstances of their deaths, it is not surprising that the magisterial enquiry is still pending. However, the High Court has directed a CID enquiry into the incident. This is in progress.

6. Village Pedatoondla, Malhar Mandal, District Karimnagar.

Twenty-five year old Satyanarayana Reddy was a registered medical practitioner. He had been practising in his village for the past three years. He had two sons and the younger was only a month old when Satyanarayana Reddy was killed on July 26, 1996. A week before the killing, the ASI of Malhar police station had warned the doctor that his name was

in the police files for associating with naxalites.

This was apparently in connection with the hoisting of red flags in the fields of a landlord. The ASI took Rs 500 from Satyanarayana Reddy, promising, in return, to get his name removed from the list of militants in the village. Around 5.30a.m. on the morning of July 26, the SI from Malhar police station, along with three to four policemen in *mufti* came to the house. Without saying anything to the family, they took Satyanarayana Reddy away.

Another set of policemen went to the house of Maddu Balaiah, a toddy-tapper. They took away his 20-year-old son Lakshmaiah who they said they wanted for questioning. His brother tried to follow but was beaten and sent back. The father also followed but found that the police did not take the route to the *thana*.

A number of villagers began following the police as both the youth were led outside the village. But they were intimidated by the threats of the police. A short while later, both were shot dead. The police say that the two were connected with the PW and killed in an exchange of fire. To substantiate this, they placed some arms near the bodies and at the time of the inquest, made two villagers sign a statement supporting the police version. Four and a half months after the incident, the two families are waiting for a notification of a magisterial inquiry. Neither family knows why the youth were killed.

Satyanarayana Reddy's family, with the help of the APCLC, had approached the Collector of Karimnagar for compensation. The Collector had promised a loan for setting up a shop. The family depends mainly on agriculture and the four brothers of the deceased own about one to two acres of land each. There is only one well which irrigates not more than half an acre of land.

The family of the other victim, Lakshmaiah, owns about six acres of land and have caste rights over toddy tapping. He had been married for only a year and his wife is 18 years old. In this case too, the Collector had promised a loan for setting up a shop. But so far, nothing has happened.

7. Village Kasaram, Kamanpur Mandal, District Karimnagar.

On July 26, 1996, at about 4a.m., three policemen in *mufti* came to the house of one Rajaiah asking for his son Ramesh. They took him away ignoring the pleas of the parents. A few hours later, the father, together with the

village sarpanch, went to Kamanpur police station and to the office of the ASP at Godavari Kani. They could not find Ramesh. On their return, they came to know that Ramesh had been killed and that his body was lying in a mango orchard a few kilometres away from the village.

Ramesh was Rajaiah's eldest son and helped his father in the fields. The family owns five acres of wet land and four acres of dry land. Ramesh had studied till Class IX and was about 20 years old. Ramesh did have connections with the PW. Last year, he was picked up by the police and kept in illegal custody for 13 days. He was brutally tortured and made to confess his links with the naxalites. However, no case was filed.

In June-July 1996, notifications were issued by the police listing names of people asking them to surrender. Ramesh's name was also on the list. He surrendered a week before his death. At a press conference, the police had given an assurance that those who had surrendered would not be harassed or harmed in any way.

When the team spoke to the SP of Karimnagar district, he said that surrendered militants never really surrender. In this case, the police claimed that Ramesh had died in an encounter. Ramesh's family had approached the Collector for compensation. As the time of writing this report, the family has been given certain options for financial assistance. A magisterial enquiry is pending.

The three deaths in two incidents in Karimnagar happened on July 26. A day before this, on July 25, the PW was banned and on the same day, the PW killed a police constable at Lakkepur in Manthani mandal of Karimnagar district. It would appear that these deaths were in retaliation by the police.

8. Village Peesara, Dharamnagar mandal, District Warangal

Twenty-two year old Polu Lingaiah, a village militant, was killed on June 6, 1996, in Peesara village. He had finished high school and discontinued his studies thereafter. He was very popular for, through his efforts, several developmental works were carried out in the village. For example, a drinking water well was dug and classrooms constructed in the village high school.

On the morning of June 6, when the police arrived, Lingaiah was talking

with some villagers about repairing drains in the village. The police caught him, beat him and tied his hands behind his back. He was then forcibly taken away on a scooter. A large number of people followed and tried to prevent the police from taking him away. The police fired in the air. Lingaiah was taken a short distance from the village and shot dead.

9. Village Peesara

In the same village, on November 6, 1996, Toomula Yellaiah, an underground activist, was killed in the presence of witnesses. The team met his wife and his crippled father. Belonging to a poor backward caste landless family, Yellaiah and his wife worked as labourers in Hyderabad. They came back a year ago. Police, in the meanwhile, had been making enquiries about him. However, he had never been arrested or interrogated.

On the day of his death, Yellaiah came to the village. His family did not know about his arrival. At about 8.45 p.m., the police saw him with two other activists near a medical shop. As the police party chased and fired at them, the two escaped and Yellaiah tried to hide in a neighbour's frontyard. We were told that he had a grenade but he did not use it. The police entered the frontyard and interrogated him till midnight. He was then shot dead there itself.

The magisterial enquiry into the death of Yellaiah has not yet begun. The family has not made a representation for compensation. Apart from his aged parents and wife, Yellaiah has left behind a three-year old adopted daughter.

10. Village Mogilichera, District Warangal

Dr Narayana, a very popular doctor of Mogilichera, was shot dead by the police on September 25, 1996. He belonged to a very poor, backward caste family of potters. He was one of the first persons from his community to have acquired an MBBS degree. Committed to working for the poor, he had opened a clinic in the village and had been practising there for the last 14 years. He was a very well-known figure in the area. People from 20-25 villages came to him for treatment. According to the villagers, he could be woken up at any time if some patient needed him. He would take fees only after the patient was cured. If the person could not afford to pay, he treated

the patient free of charge.

Mogilichera is one of the strongholds of the PW. Since last year, Dr Narayana had been repeatedly warned by the police not to give treatment to naxalites. He had been told to leave the village. Ultimately, he shifted to Warangal town. He did not, however, close his clinic in the village. He would reach the clinic every morning by 7.30 a.m. and work there till 9.30 p.m. The police were extremely hostile to his continuing to practise in the clinic. Last year, his brother was picked up and tortured by the police after Dr Narayana treated a naxalite at his brother's house. No charges were filed. Dr Narayana's brother was accused of pasting posters. His arrest was mainly to pressurise Dr Narayana to close his clinic. That was when Dr Narayana shifted his residence to Warangal.

On the morning of September 25, Dr Narayana was stopped on his way to the clinic by a person claiming to be sick. He had evidently been set up by the police. Dr Narayana started to examine him and took out a syringe to give him an injection. It was at this moment that he was shot at by policemen in civilian clothes, who were waiting behind a tree.

As soon as the news of his death reached the village, thousands of people from about 14-15 villages gathered and tried to prevent the police from taking away his body. More police were called and the protesting villagers were brutally *lathi*-charged and forced to run away. People mourned the doctor's death for more than a week. They were extremely agitated even when the team visited the village.

The police version of the incident differs from their versions of the other encounters. According to the police, the doctor was killed by some unidentified persons. This could be because he was so well-known as a devoted doctor who spent all his time at the clinic. No one would therefore accept the story of an encounter. An FIR has been registered.

The villagers and the doctor's family, on the other hand, are quite convinced that he was killed by the police. A Crime Branch enquiry as well as a judicial enquiry have been ordered primarily because of widespread protests following his death. As far as the judicial probe is concerned, the judicial officer is yet to be appointed. Not much progress has been made in the Crime Branch enquiry either. The SP, Crime Branch, visited the village once,

saw the clinic and returned without asking the villagers anything.

The team met the doctor's family. His wife and children are staying with her parents. No monetary help has been given to them till the time of writing this report. The Warangal unit of the Indian Medical Association is collecting money for the family. It is not difficult to understand why the doctor was killed. His crime was that he also gave treatment to naxalites. By killing a popular person in broad daylight, the police sends across a message that it can do whatever it wants. In Warangal district in particular, this is not difficult to believe as 58 people have been killed in 40 encounters during 1996.

For thousands of villagers, the doctor's death is an irreparable loss. When the team visited the village, the police already reached there in large numbers so as to intimidate the villagers into silence. Interestingly, the villagers kept on talking to the team even when the armed police passed by.

A Summation

In these ten recent incidents of fake encounters, in all 13 people were killed. The fact-finding into these ten recent incidents of what are known as encounter deaths very clearly reveal that all of them were fake encounters. The police version of armed resistance at the time of the arrests hold no grounds, except in the case of Madireddy Sammi Reddy, who did fire upon the police leading to the death of two policemen. The other 12 people killed were not carrying any arms and hence were in no position to resist arrest (with the exception of Toomula Yellaiah, who seems to have had a grenade with him, but he too did not resist arrest). They were all simply taken into custody and shot dead.

Out of these 13 people, two were activists of the PW, three were village militants of whom one had already surrendered. The rest were non-activists and of whom, four were probably sympathisers (Note: by the term 'activists', it is meant that they were either members of an armed squad or underground activists who were also invariably armed. The term 'village militants' is used to denote those who live and work in their villages but also undertake activity of the party. Sometimes, they also carry small weapons or grenades). Of the 161 people killed by the police in 1996, 70

were activists and the rest were militants or sympathisers or persons unconnected with the naxalites.

It is not necessary that incidents involving deaths of activists of village militants are actually those of exchange of fire. In fact, that is rarely the case. These killings are conducted according to the policy of the state to root out the movement through repression and to create an atmosphere of terror. In fact, the violence of the naxalites is being used as a pretext to blur the distinction between real and fake encounters. All the extra-judicial killings by the police are sought to be thus justified without proper investigation.

In all the cases investigated by the team, the mandatory magisterial inquiries are still pending. The District Collector of Nizamabad admitted that these inquiries take an unduly long time for completion. The police investigations into the killings are accepted as unnecessary and no FIRs are ever lodged for the same. The only FIR lodged is against the dead naxalites, that they were guilty of an attempt on the lives of the policemen.

In this atmosphere of lawlessness, retaliatory actions by the police have also become legitimate. For example, in these ten incidents also, Satyanarayana Reddy and Maddula Lakshmaiah of village Pedatoondla, Koppula Ramesh of village Kasaram in Karimnagar district, were killed in retaliation for the murder of a constable by naxalites. Similarly, Madireddy Sammi Reddy of Naspur, Adilabad district, was killed in retaliation for the killing of a Circle Inspector and a constable.

His death was a striking example of the retaliatory killing 'policy' adopted by the police. His death could have been avoided with the timely intervention of the government. Instead, the Chief Minister came out with the argument that it was not possible to control the police as two of their men were killed. Koppula Ravi and Dadi Srinivas of Srirampur, Adilabad district, were most probably killed in retaliation for the Sirpur (U) police station blast on November 15, 1996. Dr Narayana's killing also seems to be in retaliation for the killing of a constable the previous day.

Most of the victims of these fake encounters are young persons from extremely poor sections of society and very often belong either to scheduled or backward castes (SC and BC). In these incidents, three out of the 13 people

killed were SCs and seven belonged to backward castes. Out of the 161 people killed in 1996, the caste break-up of 98 persons is known. 33 of them were SCs, 47 were BCs, nine were STs and nine were of the upper castes. All of them came from economically weaker sections like coal miners, welders, jeep drivers, plumbers, rural artisans, agricultural labourers or small farmers.

Already poverty-stricken, the deaths of the victims reduced their families to further penury. Toomula Yellaiah's family in Peesara village in Warangal district is a case in point. The hut has two rooms but one can barely stand. Even the midday sun does not enter the rooms. In the darkness, on a string cot, lay Yellaiah's crippled father. The family belongs to the backward caste of Gollas and is completely landless. Yellaiah was murdered in November 1996, but even today, his crippled father, aged mother and young wife are waiting for some sort of material help.

All the deceased were quite young when killed. For the dependent families, the costs of their deaths, both economically and emotionally, is devastating. Compensation is never paid to a naxalite's family. What makes no sense is that the 'poorest of the poor' are paying the price for the 'rooting out' policy. And it is this section of the population that the government always professes to serve.

But how do people react to this state of affairs? They do not obviously accept state terrorism quietly. In two of these ten incidents, there were protests and in four of them, the protests were fairly organised. This gives some indication of the ways of the police.

CHAPTER III

THE LAW

TABLE III

District-wise break-up of encounters in 1996

District	No. of Encounters	No. of Deaths
Warangal	40	58
Karimnagar	36	55
Nizamabad	13	19
Adilabad	8	17
Cuddapah	1	4
Nalgonda	3	3
East Godavari	3	3
Medak	1	1
Mahbubnagar	1	1
Total	106	161

Unlawful killings

The aftermath: These ten incidents are illustrative not only of the police methods which culminate in murders but also of what follows the killings. What happens in the name of police investigation is somewhat like this:

The police in the nearest police station enter a record of an incident in the Station diary. In accordance with the version of the police party, an FIR is registered against the deceased under S 307 IPC (attempt to murder), to show that the deceased fired at the police and the death occurred during the exchange of fire.

Sometimes, the deceased may be pronounced an accused who was involved in offences punishable with death or life imprisonment and was evading

arrest. At the time of the arrest, the police report will state, the accused forcibly resisted by opening fire and the police had to return fire in order to defend themselves.

A routine inquest is conducted by the nearest Mandal Revenue Officer. Following this, a post-mortem is conducted, usually at the spot of the occurrence of the incident and not in a proper hospital and the body is handed over to the parents or relatives, who are pressurised to cremate it quickly. Simultaneously, the police make an announcement of an encounter death to the Press. The stories sound so routine that they have become a joke with presspersons.

Then, the police close the case. Either of the two arguments, that the deceased opened fire of that he was an accused who forcibly evaded arrest, is considered sufficient to close the investigation on the ground that the accused died in the exchange of fire. Since the leader of the police party is very often the Enquiry Officer, his account is accepted as the final version. Needless to say, the investigation is only concerned with the conduct of the deceased and not that of the police who caused the death. In our interview with the SP, Karimnagar, Surendra Babu, we were told that each and every encounter is a genuine one, and that the police opens fire only to defend themselves under the right of private defence, guaranteed by law.

When we asked him why the police never sustain injuries in an encounter, his answer was simple: the superior marksmanship of the police.

The question of law

If, for a moment, one were to accept the police version that there was an encounter and that the death occurred as a result of an exchange of fire, who is to establish that the police fired in self-defence?

In law, there are certain provisions which allow for the causing of death in self-defence. Sections 96, 97 and in particular 100 of the IPC, which are part of the General Exceptions, list the circumstances under which the right to self-defence is justified. Further, S.46 of the CrPC allows the police to use force during arrest, provided the accused forcibly resists arrest. Significantly, subsection (iii) reads: 'nothing in this section gives the right to cause the death of a person who is not accused of an offence punishable with death

or imprisonment for life'. But again, who is to ascertain whether or not the deceased forcibly resisted arrest or that there was sufficient cause for apprehension of death or of grievous hurt (S. 100 IPC).

When the right to self-defence is raised, it has to be established in court. S. 105 of the Indian Evidence Act clearly states: "When a person is accused of any offence, the burden of proving the existence of circumstances bringing the case within any of the general

exceptions in the IPC or within any special exception or proviso contained in any other part of the same Code or in any law defining the offence, is upon him, and the Court shall presume the absence of such circumstances". Thus, the police cannot decide for itself, during investigation, that the right to self-defence is justified.

Yet, this is exactly what happens, because no FIR is registered against the police for having killed another person. Police investigations empowered under S. 154 (information in cognizable cases), S. 156 (police officer's power to investigate cognizable cases), S. 157 (procedure for investigation) and S. 173 (report of police officer on completion of investigation) of the CrPC, lay down the procedures for conducting a proper investigation. Registering the FIR is the first step and it has to be done on receiving information of a cognizable offence. Investigation of the offence followed by a time-bound report of the same has to be sent to the Magistrate.

Instead of following these procedures, the officer in charge of the police station accepts the police version and concludes that no offence was committed. The case is decided and concluded without the FIR being lodged. In other words, the police sits in judgement on its own actions.

Provisions in the law are meant to act as checks on the arbitrary powers of the police. The magnitude of the arbitrariness of their power is far greater when the police are responsible for death. Non-registration of the crime committed by the police, followed by lack of proper investigation, not only violate the above procedures but violate the fundamental Right to Life (Art. 21) and Equality before Law (Art. 14) of our Constitution.

The Right to Life is all-important, as all other rights are dependent upon it. Both the Constitution and Art. 6 of the International Covenant of Civil and Political Rights, guarantee life in emphatic terms. No one can be deprived

of his life arbitrarily. The recent NHRC recommendations (see Box) stress this point when they say, "we cannot invoke the doctrine of necessity and apply it as a cover against the Fundamental Rights". If the due process of law is not followed, it gives "licence to the police to kill with impunity in the name of encounter, just by stating that he acted in the right of self-defence, or under S. 46 of the CrPC."

The fate of magisterial inquiries

Magisterial inquiries under S. 176 CrPC are one way of checking the arbitrary powers of the police. The 1983 amendment of the code made it mandatory for an Executive Magistrate to conduct an inquiry into each and every case of death in police custody. But in Telangana, these inquiries remain pending for years. Both the Collectors of Nizamabad and Karimnagar admitted that inquiries remain pending for at least five or six years. In Karimnagar, at least 100 inquiries are pending since 1992.

One of the reasons for the delay is the manner in which notices are issued. Since they are published only in newspapers, information never reaches the villages and families remain unaware of the inquiries. In cases in which inquiries do begin, the police stall proceedings, either by refusing to appear or by actively threatening the witnesses. Bureaucratic ways of interfering with the work of officials by transferring them, often aided by the police, further thwart the proceedings.

Delay, therefore, is not a technical problem but structured into the mechanism of these inquiries. Since the findings of the inquiries, if and when they are completed, remain unknown and never made public, they are rendered meaningless. To date, not a single inquiry has led to prosecution.

Apart from the inquiries, there is no other mechanism in operation to ascertain whether the encounters are fake or real. Judicial probes or inquiries by independent agencies like the CID, are rarely ordered.

The consequences

What is ultimately at stake is life and liberty. When the police become the sole judge, jury and executioner, the subversion of the rule of law is complete. And when subversion is sanctioned by the state, the denial of

justice is inevitable. For the families of the deceased, the cost of this denial is too high to bear. The deceased, who hail from poor, labouring families are very often robbed of their lives at a young age (generally between 18-30 years). They leave behind dependants like aged parents, spouses and young children, and their deaths, as the sole earning members of the families, rob their families of their only means of livelihood. Compensation, in any case, is never issued for deaths caused by the police.

In law, there is no provision for compensation for deaths, although there is a provision (S. 358 IPC) for compensation to a person arrested without any grounds. In order to remedy this lacuna, the first report of the Law Commission (Liability of State in Tort) had recommended the relaxation of the rule of government immunity but this was never implemented.

As such, compensation is treated as an exceptional or arbitrary matter, awarded only in certain cases. But in encounter deaths, it is rarely awarded, as the official policy instead of rectifying the omission in law, is clearly opposed to compensating the families of naxalites.

The NHRC has recommended compensation in only one case of encounter deaths, where the victim was not accused of any crime. For the NHRC too, compensation is an arbitrary and exceptional matter. The families are dependent on the mercy of concerned officials of the districts for some kind of economic aid, in the form of loans for government schemes, for backward castes and scheduled castes. This is given as a concession, not as a right.

The logic behind the state policy on encounter killings is an internally consistent one. It begins with the assumption that political dissent is a crime. Thus, the police have to be given enhanced powers to deal with naxalite violence and activities. In the course of their duties as lawful protectors of the state and people, they face naxalite attacks and have to open fire in order to defend themselves. Since the encounter is 'real', the state is not liable to compensate for the death of a naxalite. Besides, when fake encounters are believed to be real without investigation or trial, criminals have proof of their innocence, for they can kill and yet commit no offence. The challenge to our democracy comes from this unexpected quarter.

RECOMMENDATIONS OF THE NATIONAL HUMAN RIGHTS COMMISSION

On March 30, 1994, the APCLC submitted a complaint to the NHRC, listing 496 cases of encounter deaths that had taken place during 1991-93. In response to this complaint, the NHRC conducted an inquiry in August 1995 into five of these incidents. On November 5, 1996, the Commission submitted its report to the state government and asked it to respond in 30 days. In its Report, the Commission made some very significant observations and recommendations. These are:

1. The Commission has stated that the practice of showing the deceased as accused after the encounter killing, filing an FIR against him under S. 307 CrPC and then closing the case as abated on account of the death of the accused is contrary to legal procedures.
2. It has emphasised that in every case of encounter killing, proper investigation by the officer in charge of the police station as required under S. 154, S. 170, S. 173 and S. 190 of the CrPC is essential. Lack of due procedure "which brings about such unjust, unfair and unreasonable consequences cannot be countenanced as being within Art 21 of the Constitution.
3. It has reiterated that the right to private defence has to be established in court under S. 105 of the Indian Evidence Act.
4. Most importantly, it has recommended that the state government must make a general order for investigation by state CID or some other Independent investigating agency in every case of encounter deaths. It states that "each killing even in purported self-defence is a cognisable offence and there must necessarily be an investigation in each".

The state government has so far, not responded to the recommendations. Repeated recent assertions by the state government that it is planning to invest the police with more powers and deploy additional paramilitary forces make it unlikely that these recommendations will be accepted.

CONCLUSIONS

While the team was investigating these ten incidents, fresh news of three more encounters were reported in these districts. It should be clear by now that 'encounters' are another name for 'state terrorism'. Since the premise is that of a besieged state in the grip of naxalite violence, the mere holding of a belief is treated as a crime.

Legislative acts, purportedly carried out with public consent, have continuously treated political dissent as a law and order problem. Undemocratic measures like the imposition of a ban on any party, are one way of illegitimizing the movement. Enhanced police powers with continuous reinforcements and the policy of not compensating the families of the victims, are other measures adopted to teach people a lesson.

Consequently, people are convicted and killed without knowing whether they have actually committed any crime. The proof of this lies in the fact that most of the victims do not fall within the government's own caricature of extremists. Out of the 161 persons killed, only 70 can be called activists.

The intent of the state policy is obvious: to root out 'extremism' by force. And the reach and range of this policy is enormous. People live in fear and dread of the police. They fear for their lives, their liberty and their livelihood. A mere whim, a mere suspicion, is enough to be picked up, tortured and killed. Since the police is given absolute immunity against prosecution, institutional safeguards are made redundant as the entire state machinery is either collusive with or else a mute spectator of the lawless acts of the police.

The real question posed by state terrorism is this: how to police a policeman?

Resistance to this state policy is necessary and urgent. More so, since the Home Ministry is contemplating a joint action by the four states of Andhra Pradesh, Maharashtra, Madhya Pradesh and Orissa against the M-L movement. The protests of people in the villages were these fake encounters

have occurred are a ray of hope. But more collective protests are necessary. This report reiterates that there are constitutional provisions and no citizen, however grave a crime he or she may be charged with, can be deprived of life and liberty, without due process of law.

This fact-finding team and the organisations it represents, demands that the state government

1. Put an end to the policy of encounter killings in Andhra Pradesh
2. Implement the recent recommendations of the National Human Rights Commission (see box) and conduct an investigation into each encounter killing by an independent agency and direct the agency to file its report before the district Human Rights court within a stipulated period
3. Prosecute the police guilty of fake encounters
4. Pay compensation to the families of the victims
5. Ensure that police are identifiable by their uniforms and that their vehicles are numbered and
6. View the naxalite movement as a political movement with a socio-economic base with an understanding that a mere law and order approach cannot resolve the issue

Organisations: APCLC, APDR, CPDR, MASS, OPDR, PDF, PUCL (Pondicherry), PUCL (Tamil Nadu), PUDR

For copies of this report contact:

1. Association for the Protection of Democratic Rights (APDR), West Bengal
18, Madan Baral Lane, Calcutta 700 012.
2. Committee for the Protection of Democratic Rights (CPDR), Mumbai
C/o 104, YMCA, N. Parekh Marg, Colaba, Mumbai 400 039.
3. Manab Adhikari Sangram Samiti (MASS), Assam
Udangshri building, Anand Nagar, Bamuni Maldan, Gawahati, Assam.
4. *People's Democratic Forum (PDF), Bangalore*
Prof. N. Ramesh, 366, 8th Cross, 8th Main Padmanabha Nagar, Bangalore
560 070.
5. *People's Union for Democratic Rights (PUDR), New Delhi*
C/o Dr. Sudesh Vald, D-2, Staff Quarters, Indraprastha College, Sharnath
Marg, New Delhi 110 054.
6. *Andhra Pradesh Civil Liberties Committee (APCLC), Andhra Pradesh*
21/5/409, Puranapul Gate, Hyderabad 500 264.
7. *Organisation for the Protection of Democratic Rights (OPDR)*
C/o 4, College New Quarters, Nagaram, Tenali RMS, Guntur, Andhra
Pradesh.
8. *People's Union for Civil Liberties (PUCL), Tamil Nadu*
Chennai, Coimbatore & Pondicherry units.

Price: Rs. 10/-

2nd Edition: November, 1997