
NATIONAL PEOPLE'S TRIBUNAL ON KANDHAMAL

22-24 Aug 2010, New Delhi

FINAL REPORT

CONTENTS

Foreword	.....	3
Prologue	.....	6
<u>PART 1: THE VIOLENCE IN KANDHAMAL, 2008</u>		
1. BACKGROUND & CONTEXT	.....	9
2. FUNDAMENTAL ASPECTS OF THE VIOLENCE	.....	14
<u>PART 2: IMPACT OF THE VIOLENCE</u>		
3. FREEDOM OF RELIGION	.....	34
4. GENDERED IMPACT	.....	49
5. IMPACT ON CHILDREN	.....	67
6. SOCIO-ECONOMIC RIGHTS	.....	79
<u>PART 3: RESPONSES TO THE VIOLENCE</u>		
7. ROLE OF THE STATE & DEMOCRATIC INSTITUTIONS	.....	92
8. JUSTICE & ACCOUNTABILITY PROCESSES	.....	105
9. REPARATIONS	.....	118
<u>PART 4: CONCLUDING OBSERVATIONS AND RECOMMENDATIONS</u>		
10. CONCLUDING OBSERVATIONS	.....	135
11. RECOMMENDATIONS	.....	141
Annexures	.....	145-155
Abbreviations & Glossary	.....	156-160

Foreword

Orissa witnessed unprecedented violence against the Christian minority in August 2008. On August 23, 2008, Swami Laxmananand along with his four followers was killed, probably by a group of Maoists (As the maoist owned the responsibility with interviews to print and electronic media). Immediately, anti-Christian violence began on a big scale. The way it began it seemed as if preparations for it were well afoot. It was systematic and widespread. It sounded as if preparation was already there just the pretext was being awaited.

Christians are a tiny minority in India with 2.8 %. Contrary to the perception that British brought Christianity to India, it is one of the oldest religions of India. Its spread has been slow. Not much was heard against this minority till the 1980s when suddenly it started being asserted that Christian missionaries are converting. Anti-Christian violence has been occurring more in the remote-interior places and is accompanied by another phenomenon, that of so called Ghar Vapasi (return home) as it is called by Sangh Parivar, which is the conversions of Adivasis into the fold of Hinduism, by Vishwa Hindu Parishad-Vanavasi Kalyan Ashram.

It is from 1996, that this phenomenon of conversion-anti Christian violence has captured the attention of all of us. Suddenly, as if from nowhere has descended the 'threat of conversion to Christianity' by force or fraud. Simultaneously, attacks on pastors, priests and nuns increased in distant interior places. It has been a peculiar phenomenon that while these attacks in remote places were being undertaken, the Christian institutions in cities – schools, colleges and hospitals – were hard pressed to cope with the demands on their services related to education and health. The selective targeting of Christian missionaries in distant places was a matter of serious attention, concern and introspection.

As the 'social common sense' started accepting, 'yes, they are converting', 'they have been converting', a sort of silent approval of layers of society and state officials did accompany these attacks on the missionaries. One was used to hearing about attacks on Muslim minorities so far. How come a new minority came to be perceived as the 'source of trouble' and hence started being targeted?

Anti Christian violence did begin with isolated incidents like the attack on the villagers of Katingia in 1986 in Kandhamal, a series of burning of 19 churches in 1986-87 in Kandhamal, the Catholic Health Centre of India near Latur (1996), burning of Bibles and attacks on the Christian congregations. But most shocking was the burning alive of Pastor Graham Steward Stains (1999, January) along with his two sons, Philip and Timothy, aged 9 and 7 years, who were sleeping in a jeep after a village festival. Gradually the pattern of these attacks started emerging. In the remote places where Vanvasi Kalyan Ashrams (Society for Welfare of Forest Dwellers), an outfit of RSS, have been active and doing the propaganda work along with starting of Ekal schools and have been Hinduising Adivasis, the incidents were more pronounced and intense.

The violence against Christian missionaries has by now become a matter of routine. Unlike the anti Muslim pogroms-violence, it has been scattered and generally low key, occurring at sporadic intervals. Barring few dastardly acts like Pastor Stains' burning and Rani Maria's being hacked to death the incidents were medium in intensity and did not take the shape of carnage or pogrom against the community till the one in Orissa (December 2007 and later August 2008). The occurrence of these incidents was mostly in places that are having rampant poverty and illiteracy. The apathy in highlighting these core issues, deprivations, by a section of media was appalling. At the same time, by word of mouth the propaganda against Christian Missionaries was intensified.

The message has been spread that Christian missionaries working in remote places are soft targets and one can get away without much reprisals. Also the anti-Christian mobilization of Adivasi (could add and Dalit) youth through cultural manipulation was the groundwork on which the anti-Christian violence could sustain. In the atmosphere created by the activities of RSS progeny, local communal groups have felt emboldened to pick up any small issue and to make a violent incident out of it. Its' frightening effect on the victims is tremendous. It also begins to polarize the local communities into Christian and non-Christian camps amongst whom the seeds of tension are sown.

The physical violence has been accompanied by cultural manipulation in these areas. The silent work to Hinduise Adivasis and Dalit through religio-cultural mechanisms has been stepped up from last three decades. People like Swami Aseemanand (Dangs), Swami Laxmanananda (Kandhmal, Orissa), followers of Asaram Bapu (Jhabua, MP) began their work in popularizing Hindu gods and Goddesses in the region. The choice of Gods/Goddesses from the vast pantheon of Hindu religion was a clever one. Here Shabri (Symbol of poverty and deprivation) was the main goddess, the idol for Adivasis. Temples in her names were started and regular Kumbhs (mass religious congregation of Hindus) were organized in her name. Kumbhs have been a tradition in Hinduism on fixed interval of time on the banks of Holy rivers; Ganges in particular. Modifying that tradition, these Kumbhs were organized in Adivasis areas. Here the work of conversion to Hinduism, the spread of 'Hate against' foreigners', particularly Christians, was spread. In addition an atmosphere of terror was created against those who do not toe the line of Vanavasi Kalyan Ashram.

Similarly the God Hanuman, the foremost devotee of Lord Ram was also made popular, by spreading his lockets and through different stories around him, in the Ekal Schools and Saraswati Shishu Mandirs. It created an atmosphere of divide in the Adivasi areas, Adivasis turned Hindus, the Hindu dalits and upper caste versus the Christians. It is this atmosphere of divisiveness, which has been at the root of the violence in these areas.

This has been a part of the different activities undertaken by RSS combine to promote the agenda of Hindu nation. While RSS has floated many a organizations to communalize different sections of society, BJP, VHP, Bajrang Dal, etc. it has also unleashed a set of cultural activities, set of educational institutions along with infiltration in media, bureaucracy, police and military. They are gradually imposing the idea of Hindu nation and accompanying culture and ideas. The culmination of this has been the violence against minorities, polarization of communities along religious lines and ghettoization of minorities. While all this is going on the violence against minorities' is the most visible part of this phenomenon.

The role of state agencies has been no different in these incidents than what it has been in the anti Muslim violence. In most cases, the administration has looked the other way when communal goons were on the rampage. The administration most often provided enough leeway for them to wreck havoc, indulge in intimidation, violence and to get away with that. The Adivasi and Dalit areas, which were so far peaceful, started witnessing communal tensions. The area of violence in Adivasi and Dalit regions is synonymous with the map of spread of Vanvasi Kalyan Ashrams and Vishwa Hindu Parishads in an indirect way.

RSS had been floating different organizations for different sections of society; Vanvasi Kalyan Ashram, to Hinduise Adivasis was founded in 1952 and the Vishwa Hindu Parishad founded in 1964 was to play an important role in the anti Christian tirade in times to come. Another RSS progeny which, directly supported violence against Christians, Bajrang Dal, was founded by RSS in 1984. After the intimidation and browbeating of Muslim minorities, especially after the post Babri demolition Mumbai riots, they stepped up their social dominance and needed another community to target their trishuls for further expansion of their social and electoral base, and that was done by the bogey of forced conversions and accompanying anti Christian violence, which started coming to the fore from 1996 onwards. The targeting of minorities has played an important role in polarizing the communities, in consolidation of the majoritarian politics in various ways.

The burning of Pastor Staines, in that sense was a turning point for Human rights groups, who so far were trying to grapple and respond to the anti Muslim violence. With this many concerned groups took up the investigations of the violence against Christians in the right earnest. As such, the first major cover up had to be undertaken by the BJP led NDA Government itself, in the aftermath of Stains murder. Initially, as a fire fighting measure, the functionaries of the NDA government tried to give a clean chit to the RSS combine. After the murder, the then home minister Lal Krishna Advani stated that he knows Bajrang Dal very well and this act could not have been done by that organization. To put a veil on the episode, the three cabinet ministers, George Fernandez, Murli Manohar Joshi and Navin Patnaik rushed to the site and proclaimed that the murder of Pastor is an international conspiracy to destabilize the BJP Government. This way they tried to bypass the real issue, i.e. involvement of Dara Singh, an activist of Bajrang Dal.

The case of Orissa was specifically investigated by India Peoples Tribunal, led by Justice K.K.Usha (retired) of Kerala High court in 2006. This tribunal forewarns about the shape of things to come. This tribunal assessed the spread of communal organizations in Orissa, which has been accompanied by a series of small and large events and some riots...such violations are utilized to generate the threat and reality of greater violence, and build and infrastructure of fear and intimidation. It further noted that minorities are being grossly ill treated; there is gross inaction of the state Government to take action. The report also describes in considerable detail how the cadre of majoritarian communal organizations are indoctrinated in hatred and violence against other communities it holds to be inherently inferior. If such communalization is undertaken in Orissa, it is indicative of the future of the nation... the signs are truly ominous for India's democratic future.

It is in this backdrop that when the Kandhamal carnage took place, the offense of RSS affiliates, the lapses and partisan behaviour of state machinery, the lack of rehabilitation and deliverance of justice came as a big jolt to the victims and became the matter of concern for human rights groups. The lack of proper investigation and other actions on the part of state were the key for getting justice for the victims. While many a sincere, scattered efforts to help the afflicted were undertaken by different groups. These efforts were effective but inadequate in their reach. This is when many a groups came together to undertake the exercise of putting the tribunal in place to highlight all the aspects of the carnage with the hope that this will be the base around which efforts for long term rehabilitation, campaigns for justice can be undertaken.

It was remarkable that the organizing team went miles to cover all the diverse aspects related to the Kandhamal violence and its aftermath. The process of organizing the whole event was enthusiastically undertaken by friends in the committee. I do acknowledge the debt of gratitude to all of them. I also hope that this tribunal report will serve the purpose intended and will also add to the march of struggle for the human rights in the society, and will give justice to the religious minorities who have been the major victims of the politics of hate, the politics in the name of religion, which needs to be checked and countered forthwith.

Ram Puniyani
Secretary, Organizing Committee
National People's Tribunal on Kandhamal

PROLOGUE

Thousands of *dalits* and *adivasis* belonging to the Christian minority community in Kandhamal district of Orissa were victims of organized violence that began in August 2008 (though targetting of the Christian minorities in the region could be traced back to 1969). According to government figures during the violence from August to December 2008, in Kandhamal district alone more than 600 villages were ransacked, 5600 houses were looted and burnt, 54000 people were left homeless and 38 people were murdered. Human rights groups estimate that over 100 people were killed, including disabled and elderly persons, children and women. An unestimated number suffered severe physical injuries and mental trauma. While there are reports of a few women being sexually assaulted, many more such victims are believed to have been intimidated into silence. 295 churches and other places of worship, big and small, were destroyed. 13 schools, colleges, and offices of several non-profit organizations damaged. About 30,000 people were uprooted and lived in relief camps and continue to be displaced. During this period about 2,000 people were forced to renounce their Christian faith. More than 10,000 children had their education severely disrupted due to displacement and fear. Despite the passage of time since August 2008, the situation has not improved. The state administration though continues to claim that Kandhamal is peaceful and has returned to normalcy.

I. The National People's Tribunal on Kandhamal

The National People's Tribunal (NPT) on Kandhamal, held in New Delhi on 22-24 August 2010, was organized by the National Solidarity Forum - a countrywide solidarity platform of concerned social activists, media persons, researchers, legal experts, film makers, artists, writers, scientists and civil society organizations to assist the victims and survivors of the Kandhamal violence 2008 to seek justice, accountability and peace and to restore the victim-survivors' right to a dignified life. Please see Annexure C of this Report for a list of members of the National Solidarity Forum.

II. Objectives of the Tribunal

With a view to create conditions for justice and accountability for the violence, the National Solidarity Forum organized a National People's Tribunal (NPT) on 22-24 August 2010 at the Constitution Club in Delhi. The objectives of the Tribunal were:

1. To provide a platform for victim-survivors and their families to voice their experiences, perceptions, demands and aspirations to civil society at large;
2. To study and analyse the long-term and short-term causes and impact of the Kandhamal violence;
3. To assess the role, conduct and responsibility of various organizations, groups of individuals or persons, in influencing, precipitating and escalating the violence;
4. To assess the role played by the state and district administration as well as the public officials, including the police, before, during and after the pogrom;
5. To assess the functioning of the criminal justice system for fixing criminal accountability and prosecuting the guilty;
6. To study and analyse the various rights of victims and survivors that have been violated during the violence and thereafter;
7. To recommend both short-term and long-term remedial measures for promoting an efficient delivery of justice and reparations, and for strengthening peace-building, prevention of communal violence and promotion of secularism; and

8. To present the findings and recommendations before civil society, including the media, and to persuade the government and other agencies to pursue the necessary follow up action to restore dignity, right to life, justice and peace to the victim-survivors of Kandhamal violence.

III. The Proceedings & Processes

The Tribunal heard 45 victims, survivors and their representatives. The victim-survivors of the violence narrated their experiences to the Tribunal through duly notarized affidavits, which were taken officially on record by the panel of jury members. Though the organizers intended that each of the victim-survivors would orally present the contents of the affidavit before the Tribunal, not all made oral testimonies for lack of time. Except for one woman victim of sexual assault, who made her testimony to the jury members *in camera*, all other persons deposed before the Tribunal in open proceedings, despite being threatened and intimidated against testifying. This Report quotes from both, the affidavits as well as the oral testimonies of the affected persons, who spoke in Oriya and English, assisted by translators. In addition to the oral testimonies, the jury members considered all documentation related to each case, consisting of affidavits, court documents, medical and other supporting documents, as well as copies of reports and studies on the violence. Details of the victim-survivors who testified before the Tribunal are given in [Annexure A](#) of this Report.

A unique feature of this NPT was that the testimonies and depositions by victim-survivors of the violence were supplemented by 15 expert testimonies of reports of field surveys, research and fact-finding, as well as statements to the Tribunal. Some of these studies have been published as reports, which were distributed to the jury members in addition to an oral presentation of a summary of the reports. A summary of the findings of unpublished reports was also presented orally before the Tribunal. This Report incorporates and draws upon the contents of all reports and statements presented before the Tribunal. Details of the reports and statements are given in [Annexure B](#) of this Report.

The depositions by victim-survivors as well as experts were made on a range of issues including

- *adivasi* and *dalit* rights to religious and cultural freedom;
- role of police, administration and the criminal justice system;
- issues relating to housing, compensation, relief, rehabilitation, food and livelihood, displacement and migration of the victims;
- impact on children and their education;
- gender violence and violations of human rights; and
- role of media, political parties, and civil society in peace and reconciliation processes.

Formal invitations were extended to the Ministry of Minority Affairs, Ministry of Tribal Affairs, Ministry of Women's Development and Child Welfare, Ministry of Social Justice and Empowerment, National Human Rights Commission, National Commission for Minorities, National Commission for Scheduled Castes, National Commission for Scheduled Tribes and National Commission for Women to participate in the proceedings of the Tribunal. However, there was no participation from the concerned ministries and commissions.

On the final day of the Tribunal – 24 August 2010 – the panel members of the jury released an interim report, which contained its preliminary findings.

IV. The Jury Members

The jury of the NPT was headed by **Justice A.P. Shah**, former Chief Justice of the Delhi High Court. Joining him as jury members were **Harsh Mander** (member of National Advisory Council), **Mahesh Bhatt** (film maker and activist), **Miloon Kothari** (former UN Special Rapporteur on Right to Housing), **P.S.Krishnan** (retired Secretary, Government of India), **Rabi Das** (senior journalist based in

Bhubaneswar), **Ruth Manorama** (women and dalit rights activist), **Sukumar Muralidharan** (Delhi-based free lance journalist), **Syeeda Hameed** (member of Planning Commission, Government of India), **Vahida Nainar** (expert on international law, mass crimes and gender), Vinod Raina (scientist and social activist with a specific focus on right to education), **Admiral Vishnu Bhagwat** (former Chief of Naval Staff) and **Vrinda Grover** (advocate, Delhi High Court).

V. Allied Events

The National Solidarity Forum observed 25th August 2010 as International Kandhamal Day to remember the attacks on the Christian minorities in Orissa by communal forces. Civil society activists, political parties were requested to observe this day throughout the world. Particularly, NSF engaged with the civil society in Orissa and in other parts of India to observe the Day through various solidarity actions such as exhibition, public meetings, workshops, street-plays and film-shows.

An exhibition with articles from the site of the violence and paintings narrating human stories from Kandhamal was organized at Deputy Chairman Hall, Constitution Club, New Delhi on 22-24 August 2010. The exhibition was inaugurated by Javed Akhtar, a writer, poet and lyricist. The objective of the exhibition was to inform the larger society about the situation after violence and to create awareness against communal violence.

The final day of the Tribunal (24 August 2010) culminated in a press conference held at the venue of the Tribunal, where the panel members of the jury released the interim report of the Tribunal, and also addressed the print and electronic media on various issues pertaining to the Kandhamal violence. Please find as [Annexure D](#) of this Report a programme schedule of the Tribunal.

1. BACKGROUND & CONTEXT

A. ANTI-CHRISTIAN ATTACKS IN RECENT DECADES¹

Attacks against Christians in India have been in the form of killings of priests, sexual assault of nuns, and the physical destruction of Christian institutions, schools, churches, colleges and cemeteries. As with the attacks against the Muslims in 1992/1993 in various parts of the country or in 2002/2003 in Gujarat, attacks against Christians are part of a concerted campaign of the right wing Hindu organizations, collectively called the *Sangh Parivar*.² The main aim is to promote and exploit communal clashes to increase their political power base.

During the period 1997-1998, when the BJP-led coalition was in power at the Centre, more than 128 cases of violence have been recorded against the Christian community. Maneka Gandhi, a non-BJP minister in the central cabinet, singled out Gujarat and Maharashtra for being the worst-affected by this malady. According to Manini Chatterjee, who wrote in *The Asian Age* on 11 July 1998, the features of this violence are:

- Attacks on small defenceless and isolated Christian groups in states where they are an insignificant minority. The VHP has so far not dared to attack the community in Goa and Kerala where they are in large numbers.
- The tacit and sometimes active connivance of state machinery. This violence has been well-orchestrated by the members of the Sangh Parivar (*Vishwa Hindu Parishad* (VHP), *Bharatiya Janata Party* (BJP), *Bajrang Dal* etc.) accompanied by a systematic misinformation campaign.

Anti-Christian violence has been recorded in many states of the country in the last two decades, including Madhya Pradesh, Karnataka, Rajasthan, Gujarat, Bihar, Chhattisgarh, Jharkand, New Delhi, Punjab, Tamil Nadu, Uttar Pradesh, Uttarakhand and Kerala. The violence has often been severe and all-pervasive. Many civil society groups and human rights organizations have documented the violations and called for action against those responsible in their reports. The Sangh Parivar dismisses these documents and reports as exaggerated.

Violence against the Christian community is ostensibly intended to intimidate Christian missionaries and other religious leaders against religious conversions to Christianity and thereby 'retain a Hindu political constituency' that could be tapped to gain political power. Attacks on Christian institutions and leaders in Orissa are discussed in detail in Chapter 3 of this Report, while violence on the Christian community in Orissa is elaborated in Chapter 2 of this Report.

B. CHRISTIANITY IN ORISSA³

Christianity in India is not an import by the European colonial powers. Christianity reached the shores of India much before the Europeans – in 1st century A.D., and has been one of the religions practised in India since then. Coastal Orissa came in contact with Christian missionaries towards the end of 18th century when it became a maritime centre for European traders – English, French, Dutch, Danes and Portuguese. There is no statistical evidence of the rise in the conversions to Christianity in the last few decades. To the contrary, the Census indicates a steady decline in the Christian population: 2.60% in 1971, 2.44% in 1981, 2.32% in

¹ Derived from 'Revisiting Kandhamal' – a dossier compiled and edited by Durang Basu Mullick, produced by Vikas Adhyayan Kendra for National People's Tribunal, pp. 11-15, hereinafter referred to in this Report as 'Revisiting Kandhamal'

² This report uses the term 'Hindutva forces' inter-changeably to refer to the Sangh Parivar

³ Derived from 'Revisiting Kandhamal', pp. 16, 18-20 and 'Kandhamal: The Law Must Change its Course', researched and written by Saumya Uma, edited by Vrinda Grover, published by Multiple Action Research Group (MARG), New Delhi, 2010, pp. 30-31, hereinafter referred to as the MARG report

1991 and 2.3% in 2001. In Kandhamal, Christianity is nearly one and a half century old. Baptist missionaries set up institutions in Kandhamal during the period 1859-1863. They were pioneers in setting up modern centres of education and health in Kandhamal. According to the census report of 2001, the Christian population in Kandhamal stands at 1,17,950 (19.19%) of the total population of the district.

The Wadhwa Commission of inquiry, which investigated the murder of Graham Staines and his two minor sons, did not find any significant rise in the number of Christians in Manoharpur District of Orissa. Staines was burnt alive along with his two minor sons for the 'crime of forcibly converting people.' Christian population in the area was more or less static in the area: 0.307% in 1998 as compared to 0.299% in 1991.

C. CONTEXT OF COMMUNAL POLITICS IN ORISSA⁴

The ideologue and the former chair of RSS, the late M.S.Gowalkar, in his work 'Our Nationhood', wrote of his admiration for Adolf Hitler and suggested that 'race purification' carried out by Hitler was a perfect example to be followed by Hindu nationalists in dealing with India's claimed 150 million Muslims as well as its Christians, Sikhs, Buddhists and other minorities, all of whom should be denied even basic citizens' rights. The Hindutva forces have said that *Ram-drohi* (non-believer of Ram) is *desh-drohi* (anti-national).

The historic context of the Kandhamal violence is located in the spread of Hindutva ideology. In 2002, following the carnage of Muslims in Gujarat, Hindu nationalists gave a call to transform Orissa into Hindutva's next laboratory. It is only since then that concerned individuals and groups began seriously studying the reach of Hindu nationalism in Orissa. Following the Gujarat pogrom of 2002 that killed over 2000 Muslims and destroyed the community, a targeted attack on the Christian minority in Orissa was a disaster in the waiting. The potential of manipulating the tense dynamics of relationship between the dalit and the adivasi communities to serve the goals of religious fanatics made Kandhamal an ideal site for such an attack.

The Sangh Parivar has a visible presence in twenty-five of thirty districts in Orissa. They consolidated their reach and influence with the support of the institutions of the Government of Orissa, and Hindu nationalists in the state. In October 2002, a *Shiv Sena* unit in Balasore district in Orissa declared that it had formed the first Hindu "suicide squad" to train youth for high-risk assignments. The RSS operates 6,000 *shakhas* in Orissa with more than 1,75,000 cadres, and a growing general membership. The VHP has more than 1,50,000 primary workers in Orissa. The Bajrang Dal has more than 60,000 activists working as leaders through 200 *akharas* in the state. The Sangh Parivar has amassed between 35 and 40 major organizations with numerous branches (including paramilitary hate camps, and charitable, religious, educational, political, and development organizations), with a massive base of a few million persons operating at every level of society, ranging from, and connecting, villages to cities, in their campaign to "Hinduize" Orissa.

D. SOCIO-ECONOMIC PROFILE OF KANDHAMAL⁵

Orissa is one of the poorest states in India. The average per capita expenditure per annum is Rs. 790 in Orissa, and for members of the Scheduled Castes and Tribes (SC & ST respectively) it is Rs. 558. In rural areas of Orissa, the figure drops to Rs. 422 for SCs and STs. In Orissa, the average family owns about 1.29 hectares of land. Only 21% of all land available for cultivation is irrigated. The cyclone of 1999 and the

⁴ Derived from 'Revisiting Kandhamal', pp. 16-17, the MARG report, pp. 16 & 29, testimony of Dr. Angana Chatterji to the Tribunal on 'Hindu Nationalism's Violence in Kandhamal' (hereinafter referred to as Dr. Angana Chatterji's statement), and the presentation of Prasad Sirivella of National Campaign for Dalit Human Rights (NCDHR) to the Tribunal on 'Politics of Kandhamal' (hereinafter referred to as the NCDHR presentation)

⁵ Sources: 'Revisiting Kandhamal', pp. 9-10, 21, 47 and MARG report, pp. 14-15, 56

droughts of 2000 and 2003, the floods of 2001, 2003, 2005, 2006 and 2007 have challenged the environmental and economic well-being of the state. Land re-distribution and reforms have been insufficient in Orissa, irresponsible development and industrialization, anti-poor and pro-corporatization politics and privatization of resources have systematically deprived the poor of their livelihood rights. Such anti-people policies have led to rampant displacement, police brutality, deaths and deprivation of the poor of Orissa to their customary rights to public resources such as forests and water.

Kandhamal is among the poorest districts of Orissa. It stands 29th out of Orissa's 30 districts on the UNDP Human Development Index. According to the Orissa Development Report 2004, Kandhamal has a per capita income of Rs. 4743 per annum as against the state average of Rs. 5264. The Hindutva forces allege that, because of low per capita income, the tribals of Kandhamal district have become easy targets for missionaries.

Kandhamal is located in the heart of Orissa. Present day Kandhamal was formed as a district in 1994 from the earlier Phulbani district. Kandhamal is divided into 12 blocks / *talukas*, namely Phulbani, Phiringia, Balliguda, K.Nuagam, Tikabali, Chakapad, Khajuripada, Tumudibandh, Daringbadi, Kotagarh, Raikia and G. Udayagiri. It consists of about 2415 villages. Because of its hilly, forested areas, it has poor connectivity with other districts. Only 12% of its total area is cultivable. About 71% comprises of forests and the rest is barren land.

Statistics presented to the Tribunal on livelihood of the people in Kandhamal prior to the violence indicate that 78% of the population depended on daily wage labour and other ancillary jobs (including small businesses, private and government jobs), and 22% of the population earned their livelihood from agriculture.⁶ The repercussions of the Kandhamal violence on the livelihoods of the affected people are discussed in Chapter 6 of this Report.

The situation in Kandhamal is compounded by a decline in employment and income-generating opportunities in the area. Kandhamal remains socio-economically vulnerable, with a large percentage of the population living below the poverty line. In a context of disenfranchisement and poverty, the need to work and the non-feasibility of acquiring employment after basic schooling, the rate of student attrition within adivasi communities, for example, in G. Udayagiri, is very high at the school level, with only 3% continuing through completion.

The Christian community is economically disenfranchised in Kandhamal. A majority of the Christian population including local Christian leaders are landless or marginal landholders, with an average holding of half an acre per family. Christian leaders assert that the church does not convert under duress or offer money in lieu of conversions. In the 1960s and 1970s, many adivasis benefitted from the services of education, health care and employment provided by the Christian missionaries. The exposure to Christianity in the course of such access to services may have led some to convert their religion.

Adivasis and dalits are not religious, but ethnic groups. Adivasis are primarily animists and do not fall in the category of religion as a social phenomenon in the same way as Christians, Muslims and Hindus. However, the Sangh Parivar considers adivasis to be Hindus, and where they have adopted religions other than Hinduism, they have become targets for re-conversion. More than 30 % of the dalits in Kandhamal, otherwise known as *Panas*, are Christians. The tribals Christians are estimated to be slightly more than dalit Christians in number. The dalits are poorer than the adivasis and have no access to resources. However, *Kandhas* - the adivasis in Kandhamal – are also a disenfranchised community. 78% of the adivasis in

⁶ Derived from a study by Manoj Pradhan on 'Rapid Assessment of Present Condition in Kandhamal', presented to the Tribunal, hereinafter referred to in this Report as the Rapid Assessment report.

Kandhamal live below poverty line. As per the Human Development Report 2004 by UNDP, 87% of dalits and 92% of adivasi in Kandhamal viz Southern Orissa are below poverty line.

The Panas are designated as Scheduled Castes (SCs), comprise about 17% of the district population and hold 9% of the cultivable land. By contrast, the tribal Kandhas, who are designated as Scheduled Tribes (STs), own about 56% of the cultivable land. To increase their access to land and to avail of benefits, Phulbani Kui Janakalyan Samiti, acting on behalf of the Panas, moved the Orissa High Court, seeking an order to be categorized as Scheduled Tribe. Tribal categorization would allow Panas to buy tribal land and provide them with benefits such as reservation of jobs, education, regularize disputed land etc. Irrespective of the outcome of this plea, it is a cause for serious concern for the Kandhas, since any addition to the list of STs without increasing the benefits given to STs as a whole would eat into their rights.

The predicament of the Panas however is no less a matter of concern. An anomaly in the definition of Scheduled Castes in the Constitutional (Scheduled Castes) Order 1950 issued by the President of India is that the Scheduled Castes who convert to religions other than Hinduism are no longer regarded among Scheduled Castes. Subsequent amendments to the Presidential Order have permitted conversion to Buddhism and Sikhism without a loss of SC status, but not conversion to Christianity or Islam. As a result, a Scheduled Caste person loses his / her SC status upon conversion to Christianity. Conversely, Scheduled Tribes have rights to land and reservations that they do not lose upon conversion to any religion. In a 1949 constituent assembly debate, there is a reference that panas are to be treated as tribals and were in fact treated as hill tribes until then.

The 1950 Order has caused many Christian Panas to lose their rights to reservations and other benefits that they were entitled to as SCs. It is in this context that allegations are made against the Panas, of using fake certificates to avail of SC benefits despite conversion to Christianity. There is however no information on how widespread the practice is. The practise is nevertheless alleged to be prevalent in all states and is rooted in the unreasonable character of the 1950 Order. While the Sangh Parivar claim the demand for reservation benefits by converted Panas to be the root of the problem, the fact that both, dalit and adivasi Christians have been at the receiving end of the violence exposes the hollow nature of this claim.

Socio-culturally, there is a tradition of friendly interaction in Kandhamal among people across boundaries – Hindus and Christians, adivasis and dalits. Both, adivasis and dalits speak the same Kui language and despite the politicization and subsequent construction of oppositional identities, there are inter-marriages among tribal Kandhas and dalit Kandhas. Hindus and Christians have also lived side by side and for many of them, it is the outside Oriyas (mainly caste Hindus, some of who are members of the Sangh Parivar) who have instigated conflicts between adivasis and dalits or Hindus and Christians, so that their continued exploitation of local resources and domination of local politics and economy remains unchallenged. In Hinduising the Kandha adivasis and polarizing relations between them and the pana dalit Christians, the Sangh Parivar engineered rivalries between these two communities.

E. VIOLENCE IN KANDHAMAL, DECEMBER 2007⁷

The violence in Kandhamal in December 2007 and that which commenced in August 2008 were interconnected as events in Hindu nationalist targeting of the Christian minority community in Orissa.

On 23 December 2007, Hindutva-affiliated adivasi organizations organized a march, reportedly supported by Hindu communalist groups, rallying: “Stop Christianity. Kill Christians.” On 24 December, communal tension erupted in Brahmanigaon, where a structure set up to hold a Christmas celebration was attacked and destroyed. The provocation was nothing more than a *pandal* (a temporary bamboo structure) encroaching

⁷ Derived from Dr. Angana Chatterji’s statement and the Jan Vikas report, p. 25

the main road of the town. Attackers from different Sangh Parivar groups attacked Christians with guns, swords, iron rods and other lethal weapons, just 400 yards away from a police station in Brahmanigaon. 2 Christians were injured while many others ran away to the forests, leaving behind their belongings. A rumour of attack on the VHP leader Laxmanananda Saraswati spread like wildfire in the area, leading to increased tension of communal violence.

On 25 December 2007, seven churches - Catholic, Protestant, Pentecostal and independent – were torched in Barakhama village, in west Kandhamal/Phulbani district, central Orissa. On the same day, churches and houses of Christians were attacked, ransacked and burnt in areas including Pobingia, Bodagan, Kamapada, Kulpakia, Sirtiguda, Phiringia, Srasananda, Ruthungia, Kalingia, Tikabali, Nuagaon, Dalagaon and Iripiguda.

Between 24 and 26 December 2007, a total of 5 parish churches, 48 village churches, 5 convents, 4 presbyteries, 7 hostels, 1 vocational training centre and 1 leprosy centre were burnt and destroyed. Over 500 houses were burnt, looted or destroyed. 126 shops / other properties were destroyed. Several were killed and injured.

F. SWAMI LAXMANANANDA'S MURDER⁸

The purported trigger for the violence in Kandhamal commencing on 24 August 2008 was the murder of Swami Laxmanananda the previous day. On the evening of Saturday, 23 August 2008, Swami Laxmanananda Saraswati was killed at his ashram in Jalaspata in Kandhamal district, along with four others including three fellow leaders of the VHP. The Swami had lodged an FIR 48 hours prior to the attack, seeking adequate security arrangements, based on letters of threat to his life. The attackers estimated at thirty gunmen, were suspected Maoist insurgents based on the manner of attack and a letter found at the ashram. The government announced a special investigation into the attack.

Despite the media's announcement the next day, quoting police sources, that Maoist involvement in the killings was suspected, the Sangh Parivar, including the BJP in Orissa, alleged that "extremist Christian groups" were responsible for the violence. They cited Laxmanananda's claims that Christians were trying to eliminate him for his opposition to conversion and had attacked him eight times in the past. On 28 August 2008, a some media outlets, the VHP office in Gajapati district of Orissa and the Bajrang Dal received a letter from a Maoist group. Soon after the appearance of the said letter, Azad – a leader of the Maoist People's liberation Guerilla army – claimed responsibility for the murder of Laxmanananda. A leader of the Communist Party of India (Maoist), Sabyasachi Panda, also claimed that they had killed the Swami and four of his disciples. However, on 7 October 2008, the Orissa police announced that they had arrested three Christians in connection with the murders. As the media reported, there was no *post-mortem* done on any of the four bodies of the deceased persons.

While a Maoist group claimed responsibility for his killing, Maoist groups had largely not been operational in the riot-impacted areas. The Swami had been involved in creating a confrontational situation between Hindutva workers, adivasis and Maoists in the area. In mid-September, 2008, national *Rashtriya Swayamsevak Sangh* (RSS) leader, K. S. Sudarshan, alleged the involvement of "foreign hands" in the mobilization of the church and Maoists against Hindus. Maoists began to be uniformly named as "terrorists," and certain members of the Christian community who were associated with Maoists were labelled "Christian Maoists."

⁸ Derived from 'Kandhamal Revisited', p. 33, MARG report, pp. 16-17, Dr. Angana Chatterji's statement and the Jan Vikas report, p. 13

2. FUNDAMENTAL ASPECTS OF THE VIOLENCE

This chapter seeks to highlight aspects of the violence in Kandhamal, such as the history of violence against the Christian community in Orissa, the nature and scale of violence, the profile of victims and perpetrators and others responsible for the violence.

A. HISTORY OF ATTACKS AGAINST THE CHRISTIAN COMMUNITY IN ORISSA

A history of attacks against members of the Christian community in Orissa was presented by Fr. Ajay Singh to the Tribunal, illustrating that the 2008 violence in Kandhamal was not the first or the only instance of attacks on Christians in the state. A summary of his presentation is given below..

10 Dec 1986	Kishore Nayak of Balliguda, Kandhamal district was assaulted by RSS supporters.
12 Dec 1986	Sri Kasian Mantri of Sikeketa village under Daringbadi P.S. was beaten mercilessly by RSS members of that village.
14 Dec 1986	Sri Niranjan Singh of Alanjuri village was attacked at Jhinjiriguda near Bamunigaon P.S. of Kandhamal district. He was tied on a tree and beaten mercilessly by RSS members of the village.
24 Dec 1986	Christians were attacked at Bostingia village of P.S. Tikabali of Kandhamal district while observing night prayers; musical instruments were forcibly taken away.
25 Dec 1986	Christians were attacked while they were taking a peaceful procession on Christmas day at Simonbadi, Daringbadi PS of Kandhamal district
26 Dec 1986	Mr. Jitendra Pradhan of Simonbadi, P.S. Balliguda of Kandhamal was mercilessly beaten
11 Jan 1987	Mr. Bena Nayak of Brahmanigaon P.S., Kandhamal district - a cook assisting in the local church - was severely assaulted, and admitted to the hospital with a head injury
11 Jan 1987	Mr. James Nayak was assaulted at Jhinjeriguda, P.S. Brahmanigam, Kandhamal district at the instigation of Lakhshmanananda Saraswati.
2 & 3 Oct 1988	Christians were brutally attacked and sustained grievous injuries when the RSS, Bjarang Dal and VHP activists at Katingia village shot at 8 persons and assaulted one person with an axe. Nobody died despite sustaining grievous injuries.
May 1993	195 tribals families from 15 villages in Rairakhole sub-division of Sambalpur district were chased out by communal and anti-social elements. Their houses and place of worship were looted and destroyed. Apparently the local <i>panchayats</i> and block officials had taken the lead and the local police officials and civil authorities approved of it and supported the

	attackers. The police refused to register the FIRs given by affected persons.
21 Aug 1993	At Charmal of Rairakhol sub-division of Sambalpur district, about 100 RSS activists attacked and assaulted Christian youths.
Dec 1998	5000 activists belonging to Hindutva forces attacked a Christian area, Ramagir-Udayagiri, near Ranalai village in Gajapati district, setting fire to 92 homes, a church, a police station and a government vehicle. Earlier that day, Sangh Parivar activists entered the local jail forcibly and burnt and killed two Christian prisoners.
Mar 1999	157 Christian homes were set on fire and more than 12 persons attacked in Ranalai village. Three persons received gunshot wounds, about 100 adivasi activists supporting the Hindutva forces are claimed to have attacked the village, through the use of firearms and other weapons. After the attack, Bharat Naik, a BJP Leader said that the Christians had burnt down their own homes.
Feb 2004	Seven women - Sanjukta Kandi (45years), Shanti Kandi (25 years), Sumitra Kandi (22 years), Umitra Kandi (19 years), Nayana Samal (21 years), Nisha Samaj (40 years), Susbaah Samal (28 years) and a pastor were forcibly tonsured in Kilipal, Jagatsinghpur district, and a social and economic boycott was imposed against them.
Nov 2005	Members of Hindutva forces are alleged to have burnt 15 Christians homes in Gandahati village in Gajapati district, seriously injuring six people and living others homeless. In response, the police arrested eight Christians from the village, accusing them of instigating violence.

Many victim-survivors who testified before the Tribunal had suffered attacks both during the December 2007 violence as well as the August 2008 violence. They were acutely aware of the previous instances of attacks on Christians, as the following extract of a testimony indicates:

“As a leader of the Christian community in the village of Nandini since February 2000, I have seen that Christians have been under constant threat and attack of Swami Lakhmananda and numerous times prior to 2007, we have complained about threats to the civil and police officials. No action was taken against the leader of Sangh Parivar even when two Christian families of the village have been forcefully converted to Hinduism by the agents of Ashram of Chakapad. The Christian community was attacked several times in February 2000, March 2005, May 2006, December 2007 and August 2008.” (Gopabandhu Behera)

Between July and December 2007, Hindutva forces organized rallies that travelled across Kandhamal, raising sentiments against Christians in the district. In December 2007, massive attacks took place causing several deaths, looting of, damage to and destruction of several hundred houses, churches, shops, educational and health institutions. The violence that commenced in August 2008 is thus a part of the continued attacks on Christians, perpetrated by Hindutva forces.

The targeted nature of attacks against Christians and adivasis during the violence is discussed more elaborately in sub-section D of this chapter.

B. FORMS OF VIOLENCE

B1. Killings and Physical Violence

Some narratives of victim-survivors before the Tribunal contained references to multiple killings and brutal assaults, indicating the widespread nature of such violence. Indira Digal's testimony below contained such references.

"On 26.8.2008, an armed mob of more than 4000 people came again to the village encircling the area from all directions... Christian people desperately escaped running into forests, trying to save their lives. The culprits did not leave them any chance for running away. This time the rioters had plenty of guns in addition to axes, draggers, swords. They used their weapons, shot and killed two Christians Prafulla Nayak, the brother of the Bisweshwar Nayak (55 Yrs) and Ajaba Digal (20 Yrs). The murderers did not stop their atrocities and a woman named Sulochana received a serious and deep cut on head with dagger.

I, with other Christians, reached the OSAP camp at the school of the village. During this escape seven more persons [Prasad Digal, Gilap Nayak, Choi Nayak, Prafulla Nayak, Ratikant Digal, Ajab Nayak and one more] were shot and sustained grievous injuries. Later they were taken to the hospital for treatment and were saved.

In addition, some members of the mob caught hold of a young girl named Manini Digal aged about 20 years. They removed her clothes and made her to naked in public view. They even tried to rape her publicly, but she protested and resisted. Thereafter in lust and anger, they poured kerosene/diesel on her and set on fire to her body. The lonely girl suffered alone with all these humiliations and pain while the anti-social people were enjoying her sufferings. Though her life is saved, she is more than 60% burnt and is under treatment..." (Indira Digal)

Many people were killed or grievously injured due to the assaults by violent mobs. A woman from Petapanga village in Raikia taluka narrated to a team from Nirmala Niketan college, that her eldest brother was stopped by some people who asked him if he was a Christian. When he said yes, they killed him. When the family received his body, they found 27 stab wounds on it, all made by different weapons. There were also burns on his body. The family learnt that they stabbed him and then dragged his body around before trying to burn it.⁹

Seventy year old Binayak Naik of Dokari village narrated that when he saw a violent mob destroying the Believers' Church in his village, he questioned them as to why they were damaging the church and asked them to stop. The attackers started severely assaulting him, and also threw stones on him. He started heavily bleeding from head to toe. One eardrum tore and he lost his hearing capacity in that ear.¹⁰

Christodas Nayak's testimony also referred to physical violence and mutilation:

"When we were fleeing to the relief camp, my wife was attacked with a sword by a violent mob... I saw her palms being cut, she had a cut on her skull and her backbone. I was helpless. The police gave no protection. We rushed her to the hospital but she died. I am 55 years old, helpless and have nowhere to go and no way to manage my life."

There are several narratives which speak of sexual and gender-based violence. The attack on Sulokshana, a permanent resident of Barakhama village, Balliguda taluka, is one such case. Sulokshana said that when she

⁹ Report of Nirmala Niketan College of Social Work, titled 'Study of the Conditions of Women Affected by Communal Violence in Kandhamal District, Orissa', presented to the Tribunal, p. 34, hereinafter referred to as the NN College report.

¹⁰ Report of Loyola College, Chennai, titled 'A Study of the Impact of Communal Violence on Women, Dalits and Their Livelihood', presented to the Tribunal, Case Study No. 13 on women, hereinafter referred to as the Loyola College report.

was in her relative's house, around 50 attackers entered the house and attacked all the people in the house. A twenty-year old girl was being raped by 5-6 of the attackers. Sulokshana was hiding in the house, but seeing the girl's condition, she intervened to rescue her but was, in turn, also attacked. Sulokshana was sexually abused by the attackers, who severely assaulted her on her abdomen. She was assaulted at five places on her head with an axe, became unconscious and was admitted in the government hospital at Phulbani for five days. Due to the severity of the injuries, she was subsequently transferred to a hospital in Berhampur. She has undergone three surgeries including on her head and stomach.¹¹ Sexual and gender-based violence is more elaborately discussed in Chapter 4 of this Report.

The Jan Vikas report stated that although 86 people across the district were killed over a period of 120 days, proving how fearlessly and freely people were attacked, the government has confirmed a total death toll of 54 people, who have been considered for death compensation.¹² The MARG report, based on various figures stated by different sources, states that between 75 and 123 people were killed, and many more injured.¹³

B2. Psychological Violence

Among the facet of the psychological violence faced by the victim-survivors is the continued threat, intimidation and insecurity, causing obstacles to their return to their places of habitual residence, forcing victim-survivors to reside in hiding or preventing their life with dignity and peace, upon their return. The following quote is an illustration:

“Even to this day my family and I live in constant fear of being attacked and killed by members of Sangh Parivar. The memory of terrible scene of the murder of my brother keeps haunting us. I have been threatened against giving evidence in the court regarding the murder of my brother. Even to this day, whenever I go to my village, fanatic Hindus abuse me with filthy language and ask me not to come to my village. In fear, I do not live in my village and am living in hiding with my family.” (Bipin Nayak)

Premasheela Digal expressed to the Tribunal the psychological impact of the violence – the loss of her job, looting of her property, damage to her house and a threat to her life and bodily integrity:

“Now I am living with the threat of being raped and killed ... I want to go back and work as an anganwadi teacher... My situation is bad. Again and again I gave my request to the CDPO but the officials never accepted. Like me other anganwadi teachers suffer and live without work. There is a lot of danger. Till today all the necessary documents that were to be provided have been. But till today my name is not there in the damage list... I have lost everything. We have been looted, I lost my job. I find it difficult. And my survival is in danger. I want justice. Give me justice and save me.”

Fr. Basil Kullu narrated to the Tribunal his experience of trying to protect 370 children who studied and resided in the hostel associated with the Madhupur church, Bargah district, from impending attacks by a violent mob. In his testimony before the Tribunal, Fr. Basil described the trauma, anguish and the sense of helplessness that the children and he faced. This is more elaborately discussed in Chapters 5 and 7 of this Report.

¹¹ Loyola College report, Case Study No. 6 on women

¹² Jan Vikas report, p. 15

¹³ MARG report, p. 17

The National Commission for Minorities, which visited Kandhamal in September 2008, and interacted with victim-survivors in the relief camps, made the following observation in its report:

“In every camp I visited the main feeling was one of despair and hopelessness at the cruel turn of events. Practically everyone complained of the threats they had received that their return to their homes was predicated on their acceptance of the Hindu religion. I was even shown a letter addressed by name to one woman stating that the only way she could return to her home and property again was if she returned to the village as Hindu.”¹⁴

While all victim-survivors suffered psychological violence pursuant to personal attacks, or attacks / killings of their family members, or by witnessing the brutal violence perpetrated on others; the mental trauma and other psycho-social problems faced by children and women has been particularly marked, yet largely ignored.

Sulokshana, whose experience of assault has been referred to in the preceding section, said that her two children who witnessed the attack on her have been affected psychologically. They were extremely fearful of the attackers during the violence and continue to be fearful in the present day believing that the attackers will approach them and kill them, particularly when they hear any loud noise.

The WILPF and WISCOMP report found that at the end of January 2009, five months after the violence, women appeared to be traumatized and that many women were still wailing and depressed, and unable to coherently express themselves.¹⁵ The psychological impact of the violence on children and on women is discussed in detail in Chapters 4 & 5 of this Report.

The psychological violence faced by the victim-survivors are highlighted in various sections of this Report. The ongoing psychological assault is obvious in their narratives of the socio-economic boycott they face in their villages, the loss of livelihood and lowered standard of living, the sense of rootlessness caused by the displacement and lack of security, the humiliating rituals of forcibly ‘re-conversion’ to Hinduism, the threats and coercion to not to give evidence against the perpetrators in the Fast Track courts, the anguish at the acquittals of the perpetrators, and the living in hiding due to a fear of impending attacks.

B3. Burning of Residential Premises

During the violence in Kandhamal, residential property of dalit and adivasi Christians was burnt, destroyed entirely or damaged extensively. An illustrative example is that of Gojana Digal of Shankarakhol village, Tikabali taluka, whose house was completely burnt down during the violence. He narrated the incident to the Tribunal as follows:

“On 25 August 2008, at about 5 p m, shouts of mob could be heard from Shankarakhol town. At about 7 p.m. a mob of rioters, more than 200 persons, came towards our hamlet... Seeing the mob equipped with weapons, and hearing their slogans, my family and I were terrified and ran away to nearby jungle. Then, I returned to the corn field near my house to see the misdemeanors of the rioters...They opened my house, looted all household things and valuables, they even carried away my bicycles. Before leaving they set fire on my house, burning everything from the floor to the roof. Nothing of my home is left except parts of

¹⁴ Report on the Visit of the Vice-Chairperson of National Commission for Minorities, to Orissa, 11-13 September 2008, available at

<http://ncm.nic.in/doc/Tour%20Report%20VC%20Orissa%20Sep.%202008.doc>, accessed on 1 February 2010, at para 10

¹⁵ Observations of a team from Women’s International League for Peace and Freedom (WILPF) and Women in Security, Conflict Mitigation and Peace (WISCOMP), New Delhi, based on a fact-finding on the condition of women in relief camps, presented to the Tribunal.

burnt wall...I had made several attempts to return home with my family but was told that my family would have to convert to Hinduism and withdraw our complaints to be allowed back into our village...

After conducting a household survey in Kandhamal district, Jan Vikas said that close to 5000 houses were ruined – it puts the figure of fully and partially damaged houses at 4864 while the government data states it to be 4588.¹⁶

B4. Vandalism, Looting & Destruction of Moveable Properties

The vandalism and destruction of movable properties such as household articles, valuables, documents and certificates and looting of ornaments and cash, was a recurring experience in survivor testimonies of the violence. Chanchla Nayak deposed to the Tribunal as follows:

“... a large crowd of about 3000 people led by the leaders of Bajrang Dal such as Rinku Mishra, Chaita Bindhani, Dhiru Sahoo, Bhagwan Panda began to attack and loot our houses. Once again we Christians tried to escape from the village, Barakhama. The rioters looted, destroyed and set fire to my house. All valuables of my family including certificates, documents, money, ornaments and utensils were completely destroyed.”

Narasingho Digal narrated his experience to the Tribunal in the following words:

“.. When they approached my house, they looted all household articles, money, ornaments (gold and diamond), valuable assets, television, almirah, utensils and all our official documents of my mother, and finally they set our house on fire...”

Ashis Naik described the destruction of movable property as follows:

“...criminals put fire on the houses of Christians, including mine, burning all valuable documents, utensils, households, assets...etc. They also looted many valuables. Then they went shouting Jai Sriram and went towards Telingia village to do the same... My house has been completely destroyed.”

Umesh Chandra Nayak stated to the Tribunal that his house had been completely looted and he lost all his valuable documents such as educational certificates, land-related documents, cash ornaments, food grains, utensils, motor bike, cycle etc. The violent mob also took away his goats and cows.

A woman from Hattapada Sahi village in Raikia taluka told a team from Nirmala Niketan College that the perpetrators collected all the precious things from Christian houses, made a pile of it, poured petrol on it and burn it. They watched this, hidden in the bushes.¹⁷ Another woman from G. Udayagiri taluka narrated to the same team that the attackers had killed the lambs of the victim-survivors and spread the blood around their houses.¹⁸

The importance given by victim-survivors to their valuable documents is in complete contrast to the callous attitude of the police in registering such complaints as is apparent from Rajnikant's experience. Rajnikant Pradhan of Bapuriya village fled from his house along with his wife as the violence started. In his hurry to flee, he could not carry valuable documents such as his vehicle registration papers, driving license and his wife's education certificates. He tried to register a complaint on the lost documents and household possessions at G.Udayagiri. He was asked to visit the police station a second time, only to be shunted to

¹⁶ Jan Vikas report, p. 15

¹⁷ NN College report, p. 37

¹⁸ NN College report, p. 37

Tikabali police station, and thereafter to Sarangod police station, on the pretext that Bapuriya did not fall within the jurisdiction of the former two police stations.¹⁹ Despite repeated attempts, the police at Sarangod police station refused to register his complaint, and is quoted to have informed him that they were taking complaints “only about those who have gone up (killed)” and directed him to return to the relief camp.²⁰

B5. Destruction of and Damage to Places of Worship

Many churches and prayer halls were damaged and destroyed, and the religious artefacts desecrated. The Jan Vikas survey indicates that atleast 264 churches and prayer halls were damaged, while the government data states that 196 such places of worship were damaged. The Jan Vikas and MARG reports contain many photographs of damaged and destroyed places of worship of the Christian community.

Fr. Basil Kullu’s description of the manner in which the Catholic Church at Madhupur, Bargarh district, was attacked by the violent mob, is perhaps representative of the nature of violence perpetrated:

“...They started destroying the Kanski Dungri Maria Grotto (Mother Mary’s statue), whom the faithful venerate and respect. Then they came to the church, broke open and got inside the church and destroyed, damaged and defiled the sacred articles, statues, places of worship etc. They also burnt all the valuable documents, utensils, household items, clothes, boxes of the poor SC / ST children, who were in the hostels. In front of the police and the deputed Magistrate the rioters destroyed, burnt and ransacked everything whatever they could in two hours. Many valuables were stolen. They completely destroyed the church, priest resident, hostels, convent, dispensary and Maria grottos.”

Binayak Naik of Dokari village narrated that the violent mob first started to attack churches in Surasinga village and the church at Kolanachu village. At 5 p.m. the attackers reached Dokari village and attacked the Believers’ church. They took away all the musical instruments and church equipments with them and the chairs and tables were burnt outside the church.

Destruction of and damage to Christian places of worship are more elaborately discussed in Chapter 3 of this Report.

B6. Destruction of and Damage to Other Institutions

In addition to residential property and religious (Christian) institutions, it has been reported that many philanthropic institutions such as schools, orphanages, old age homes, leprosy homes, dispensaries, tuberculosis sanatoriums and NGO establishments were also looted, razed to the ground, burnt down and damaged. Manoj Pradhan’s study indicates that there was also considerable damage to public / community infrastructure, such as hostels, hospitals, community halls and *anganwadi kendras*.

The narration of James Dighal, a 14 year old student of St. Vincent ME School situated at Mondasur, on the damage caused to the school and hostel by a violent mob, contained in the Haq report is an illustrative example. He said that prior to the attack, the hostel was well-organized and had many facilities, but during the violence, everything was damaged. The church was destroyed, so he cannot do his prayers. The perpetrators took away the windows and doors, the mosquito nets and the fans. They broke the furniture, toilet, water motor and the dispensary, so the students do not get treatment for malaria.²¹

¹⁹ MARG report, p. 63

²⁰ MARG report, p. 99

²¹ Kandhamal’s Forgotten Children: A Status report, presented by Haq Centre for Child Rights, New Delhi, p. 22, hereinafter referred to as the Haq Centre report.

B7. Forced Conversions

The MARG report states that during the violence in Kandhamal that commenced on 25 August 2008, there were reports of thousands of Christians being chased and herded in groups into Hindu temples and forced to undergo ‘reconversion’ ceremonies with their heads tonsured. They were made to drink cow-dung water as a mark of ‘purification’ and some of them forced to burn Bibles or damage churches to prove that they had forsaken the Christian faith. The ‘reconverted’ Christians were forced to sign ‘voluntary declarations’ stating that they were becoming Hindus voluntarily – a condition required by the anti-conversion law in Orissa. Others speak of being forcibly reconverted in order to save their families, after having been called to meetings where deadly weapons such as axes, swords and iron rods were displayed. They were asked to sign a piece of paper saying that they were “renouncing foreign religion”. The ‘converted’ were also forced to loudly say “*Jay Sriram*” and “*Jay Bajrang Bali*”.²² The aspects of forcible conversions to Hinduism and brutal killing of Christians upon their refusal to convert to Hinduism are discussed more elaborately in Chapter 3 of this Report.

C. DISTINCTIVE NATURE OF THE VIOLENCE

C1. Scale of Violence

The Jan Vikas report categorically states that more than 25,000 people have been direct victims, who lost their family members, houses, properties and live stocks.²³ Valuables were looted, trees were felled, wells and water sources damaged, crops and cattle stolen, and hundreds of philanthropic institutions such as schools, orphanages, old age homes, leprosy homes, dispensaries, tuberculosis sanatoriums and NGO establishments were looted, razed to the ground or burnt down and public / community infrastructure, such as hostels, hospitals, community halls and anganwadi kendras were considerably damaged .

In addition to the statistics, the scale of violence can be discerned from the many testimonies of victim-survivors who referred to the size of the mob that attacked their villages. Chanchla Nayak informed the Tribunal that a mob of more than 4000 people came to their village, encircling the area from all directions. Prakash Kumar Nayak stated to the Tribunal that a mob of more than 3000 people approached their village. Manyabar Nayak spoke of a mob of more than 2000 rioters who approached his village. Narasingho Digal witnessed a mob of 500-600 people approach his village.

Lalit Digal, permanent resident of Sindrigaon village, Balliguda taluka, narrated that a mob of about 5000-7000 RSS men entered the village and broke all the 36 Christian houses in about 10 minutes. Sandhya Rani of Rodangia village told the Loyola College team that a large mob of about 10,000 people attacked their village from all four directions, leaving them very little scope for escape.

C2. Brutality

One of the distinctive features of the violence in Kandhamal is the extreme brutality of the violence. Many victim-survivors spoke of the brutality their family members were subjected to. Some extracts are reproduced below:

“While travelling by cycle, the mob apprehended us and asked Parikhita his religion. They wanted to kill him when he said that he was a Christian. They hit him and asked him to convert. When he refused they started to beat him. The mob was heavily armed with

²² MARG report, p. 33

²³ Jan Vikas report, p. 17

swords, lathis, etc. and as they started beating him, my eldest daughter started crying “don’t kill my father” and she even touched certain people’s feet to beg them to stop. Instead they took him to a prayer centre where they had a meeting and decided to kill him. They even contacted the village sarpanch to decide to kill him. They spat on him and started to sing and dance around him, they paraded him, and dragged him. The RSS people reached there by that time and they told him “you sing your songs and let Jesus come and save you.” And they started attacking and cut his body into 3 pieces. Manoj Pradhan hit him with an axe and Suraj Pradhan with a sword and cut him into three pieces. I witnessed these sights just standing there helplessly. After killing him the crowd collected some firewood and burnt the body with kerosene and buried the half burnt body.” (Kanaka Rekha Nayak, wife of deceased Parikhita Nayak)

“They approached him and said that he knew how to talk to and sing to god, and started to make fun of him. They came heavily armed. They beat him with sticks. We were crying but were helpless... One man told them to take him to a mango tree and burn him with kerosene but he did not burn. Jaya Pradhan said: “he knows god, that is why he is not burning”. Thereafter they covered him with papers from head to toe and burnt him. For 2 to 3 hrs they tried to burn him meanwhile he kept praying to god to save him, listening to that they said, “Yes, your god is coming to save you and help you,” and as he fell down they thought that he has died. They went away shouting slogans like “Jai Bajrang bali ki”. As he burnt, he tried to get up, but his flesh was falling from his body. He reached home calling for me. I was helpless and took a blade to cut the flesh that was hanging...For five days I was with the dead body, and dogs ate his half burnt body. I was alone during this time as there was no one else. After 5 days, I thought of burying it. When I promised that I will not file a case the Hindus helped me bury the dead body.” (Priyatama Nayak, wife of deceased Abimanyu Nayak)

Ranchi Pradhan of Tiangia village, G. Udayagiri taluka narrated that her son Dasarotha Pradhan was killed for supporting Christians despite being an RSS activist. His hands and legs were cut off, some attackers assaulted him on his head with an iron rod. When he fell down and died in his neighbour’s house, the house was destroyed. However, his mother, Ranchi Pradhan, retrieved his body, and protected it for three days from animals even as it started decomposing.²⁴

Attacks on Senior Citizens, Children and Pregnant Women: The following testimonies indicate that senior citizens were not spared from the brutal violence:

“While running away from the house, I requested my old parents to come with us. But they told me that they are too old and unable to run. They also told that nobody would harm the old persons. Thus both my parents stayed back at home, and were brutally injured by the attack of the rioters...My wounded parents were taken to hospital at G. Udayagiri and then to Medical College at Berhampur. Upon reaching Berhampur, my father breathed his last.” (Umesh Chandra Nayak)

60 year old Annapurna Digal narrated that she had been chased by a violent mob as she fled to the forest with her family, and that a knife was thrown at her leg and her leg started bleeding heavily. The same day, her 80 year old brother, Propal Nayak, had been brutally assaulted with sticks by the attackers, and killed.²⁵

A woman from Majumaha village in G. Udaigiri taluka narrated to a team from Nirmala Niketan College, as to how her family had to leave behind at home her 70 years old mother-in-law who could not walk, when they fled to the forest to escape from the violent mob. When they returned after three to four hours, they found that the perpetrators had stuffed *chivda* into her mouth in an attempt to choke her to death. She was in

²⁴ Loyola College report, Case Study No. 16 on livelihood

²⁵ Loyola College report, Case Study no. 17 on women

immense pain but alive. The family members tried to help her, but were forced to return to the forest due to the threat to their lives. The old woman died alone, a painful death.²⁶

Similarly children were not spared from being attacked during the violence. Sulokshana of Barakhama village informed that her two small children were thrown around among the perpetrators as if they were balls.²⁷

Pregnant women were treated with extreme brutality during the violence. For example, the Loyola College report refers to an incident where a five-month pregnant woman was severely assaulted on her stomach and back with a piece of wood, till she became senseless.²⁸

The jury, in its interim report, highlighted the brutality and heinous nature of the violence in the Preamble of the report, in the following words:

The jury records its shock and deep concern for the heinous and brutal manner in which the members of the Christian community, a vast majority of who are dalits and tribals were killed, dismembered, sexually assaulted and tortured.

C3. Patterns, Planning & Preparation

Pattern of Attacks: The pattern of attacks on property and livelihood emerges from the following testimonies:

“When I returned from the relief camp after ten months, I discovered that the rioters burnt down two churches in my village, looted and set fire to all Christian houses. The rioters looted away paddy, goats, chicken, and all valuables from Christian homes.” (Nalini Nayak)

“When the culprits approached all villagers ran away from their homes to jungles and had to stay in jungles for two days. We hid ourselves in bushes... The rioters first demolished and destroyed the church and then the dwelling houses... The rioters looted all the valuables and burnt two-wheelers. Then they set fire to the house. They did the same for all the Christian houses.” (Sebika Digal)

Appearance and Weapons Used: Victim-survivors’ testimonies repeatedly referred to the perpetrators wearing red head bands, carrying numerous weapons such as axes, daggers, swords, guns, crowbars, pickaxes, lathis, bows and arrows, lighted torches, bombs, petrol and kerosene barrels, *trishuls*, *tangia*, *pharsa*, *bhujali* and bars. Extracts of some testimonies in this regard are reproduced below in sub-section E of this chapter.

Financing the attack & Other Forms of Assistance: Victim-survivors also spoke to the Tribunal of various aspects of planning and preparation for the attacks. Keshamati Pradhan, a social activist belonging to Kui Dina Forum for Peace and Justice, made the following observations to the Tribunal:

“It is “Sahukars” from the towns of different parts of Kandhamal who took the leadership in creating the violence, supplying weapons, arms and explosives like petrol and diesel to some of our people and also used them to create more violence in the district... The Hindu fundamentalists were collecting funds by means of illegal taxes from market places.”

²⁶ NN College report, p. 104

²⁷ Loyola College report, Case Study no. 6 on women

²⁸ Loyola College report, Case Study no. 8 on women

“The rioters were collecting rice and money from members of the Kui Samaj, some non-Christian SCs and STs, businessmen, traders and government employees of their communities since long.” (Premasheela Digal)

“The leaders of the fundamentalist Hindu organizations used to collect chanda, money etc. every day for three – four months prior to the violence in the area.” (Mohini Nayak)

Victim-survivor testimonies made references to trucks and auto rickshaws that were brought to the site of violence to carry away the looted articles:

“The rioters brought trucks from other villages and they carried away looted valuables from our villages in the trucks.” (Manyabar Nayak)

“In the beginning the mob looted all the valuable assets, money, ornaments, documents, cloths, goods, household utensils, live stocks etc. and loaded in an auto (of Abhi Mohanti of Raikia) and took it away. The remaining things they put into one place of the house and burnt them. They even had got some special chemicals that the iron things too got melted.” (Mohini Nayak)

On aspects of planning and preparation for the violence, the NCDHR report states as follows:

“According to the victim-witnesses, generally only the immovables were destroyed; the movables, particularly the valuables, were carefully carried away in appropriate transportation – trucks and autos - provided by the traders and to be shared among the villagers. Incidentally, it is again the trading community, which provided the mob with the enormous amount of the required incendiary materials.”²⁹

Preparatory Meetings: Many affected persons referred to meetings held by perpetrators in / near their villages just prior to the attacks:

“The night prior to the attack, there was a meeting at Majagada village organized by the accused persons. Next morning, the attackers, at around 6 a.m., came and pulled my father and started abusing, shouting in filthy language and dragged him...” (Narasingho Digal, whose mother, Priyatama Digal was raped and killed, and father, Meghnath Digal killed by a violent mob)

“On 26 August 2008 when my son went out for morning walk, he overheard a group of BJP leaders and activists discussing to attack us. On the same day at about 12.30 p.m., a mob of about 200 people shouting slogans attacked us.” (Kamala Sahoo)

Survivor testimonies further referred to the complicity of public officials:

“The police and the district administration were aware of strategies of the rioters before the incident took place, because these rioters were organizing meetings, rallies in the presence of the police and district administration in many places.” (Premasheela Digal)

“From 3 August to 20 August 2008, I received repeated phone calls from Sohela Police Station enquiring about the registration number, places and number of the different churches in my district. I also came to know about the series of meetings of the leaders and members of the Bajrang Dal and RSS which took place in Sohela town through a police official - Mr Sujit Kumar Pradhan of Sohela police station. The police were well-aware of these gatherings,

²⁹ Summary statement of NCDHR, para 6

where the main agenda was about destroying the Madhupur church and killing me as I was the church leader.” (Fr. Basil Kullu)

A group discussion facilitated by a team from Loyola College with women from Mediakia village, Balliguda taluka, referred to a meeting of the perpetrators with the panchayat leader prior to the attack. The main objective of the meeting was to attack all the Christian families and destroy them completely. Three people from their village heard what they were discussing and passed on the message to the other residents. The subsequent morning, around 1000 persons attacked their village with weapons.³⁰

Binayak Naik, a resident of Dokari village, informed a Loyola College team that on the morning of 26 August 2008, there was a meeting conducted in which there were about 500-600 Hindu people who participated. It was then followed by a procession with sticks and lathis uttering slogans of their own, and that they first started to attack churches.³¹

Ranchi Pradhan, a permanent resident of Tiangia village, G. Udayagiri taluka, narrated that on 24 August 2008, after the death of Swami Laxmanananda, there was a meeting organised by RSS people in Tiangia village. Around 4000 Hindu people participated in the meeting, the main objective of which was to discuss how to kill Christians. Soon after the meeting about 400 members of the RSS started killing Christians.³²

Prakash Nayak, a permanent resident of Bettikola village, narrated that he witnessed and overheard a preparatory meeting organized by members of the RSS at a High School that was one and a half kilometres from his village. From his place of hiding, he could see about 500 persons present at the meeting, in which they planned to attack Christian dalits.³³

Bahan Nayak, a Hindu resident of Sindrigar village, Balliguda taluka, informed that after the death of Swami Laxmanananda, many meetings were organized to plan against Christian people by the RSS.³⁴

C4. Attacks on Persons and Properties of Human Rights Defenders

Among members of the Christian community, human rights defenders who had established or worked in non-profit organizations are among those who have been adversely affected by the violence. Details of human rights defenders who narrated their traumatic experiences to the Tribunal are as follows:

- Kamala Sahoo, worker in ‘Pollishree’, situated in Sarangada village, Paburia taluka
- Paul Pradhan, Secretary and Director of ‘Pollishree’
- Bijay Kumar Parichha, Secretary and Director of ‘Agranee Jana Kalyan Anusthan’ (AJKA), based in Beredakia village, Raikia taluka
- Antaryami Digal, Secretary and Director of ‘POORS’, Jiginagam village, Tikabali taluka
- Kamal Digal, Secretary and Director of ‘POHARA’, situated in Battaguda village, Baliguda taluka
- Mohini Nayak, President of ‘Nari Mohol Mahila Samiti’, based in Hata Poda Sahi village, Raikia taluka
- Fr. Ajay Singh, Director of ‘Jan Vikas’, based in K. Nuagam taluka
- Issac Digal, human rights defender from Valiatota Sahi village, G. Udayagiri taluka

³⁰ Loyola College report, Case Study No. 1 on women

³¹ Loyola College report, Case Study No. 13 on women

³² Loyola College report, Case Study No. 16 on livelihood

³³ Loyola College report, Case Study No. 3 on livelihood

³⁴ Loyola College report, Case Study No. 17 on livelihood

These persons narrated to the Tribunal the manner in which their residences and organizational premises were attacked, damaged, movable property looted, attacks and threats were made to their persons, and in addition, they were threatened by the mobs not to carry on with human rights activism. The testimony of Issac Digal, whose house was attacked once in 2008 and twice in 2009, is representative of the targeted violence against human rights defenders:

“On 6th September, 2008, some miscreants barged into my house, destroyed and looted my property. I managed to escape through the back door of the house, from the attack along with my family members and saved the life. For the second time on 23rd August, 2009 a mob of 60 – 70 persons attacked me in his house, however I escaped but seriously injured. The attackers destroyed some partition of my house and also the fencing. For the third time on 3rd September, 2009 some hard core criminals entered into my house armed with swords, guns and pistols, attacked me and looted property and valuables. They also abused and threatened to kill me if I do not put to end my human rights activism...I registered a complaint with the police. I have contacted so many government authorities for protection, including the police, district magistrate, Chief Minister and the Governor of Orissa as well as the State Human Rights Commission... Now I do not wish to return to my village due to fear of the perpetrators.”

Extracts of testimonies of other human rights defenders listed above are reproduced in sub-section B7 in Chapter 6 of this Report.

C5. Participation of Women as Perpetrators

A distinctive feature of the violence in Kandhamal is the mass mobilization of women who formed violent mobs and perpetrated the attacks. Narratives of victim-survivors before the Tribunal referred to mobs of women attacking their villages. Women who were local leaders of Hindutva organizations had also reportedly convened preparatory meetings in villages where Hindus were instigated to attack Christians. These aspects are discussed more elaborately in sub-section I of Chapter 4 of this Report.

C6. Destruction of Evidence

Another distinctive feature of the Kandhamal violence of 2008 was the systematic destruction of evidence of the attacks.

The jury of the Tribunal, specifically observed as follows in the Preamble to the interim report: *“The deliberate destruction of evidence pertaining to these crimes came to the attention to the jury.”*

Some of the killings narrated by the victim-survivors to the Tribunal, in which the evidence had been deliberately destroyed are as follows:

- The body of Parikhita Nayak was cut into three pieces and burnt by pieces of wood, straw and kerosene; his half-burnt body was buried.
- The body of Rajni Majhi, the warden of an orphanage at Padampur, was burnt, and according to Nicholas Barla who testified before the Tribunal and quoted Fr. Edward Sequeira, the lower part of her body was completely burnt so as to destroy all evidence of alleged gang rape.
- Ishwar Digal’s body was cut into three pieces and thrown into the river by the attackers, as witnessed by his wife, Runima Digal.

- The body of Jubraj Digal could not be located by his son Bidyadhar Digal, who watched the brutal killing of his father from above a tree and climbed down many hours after the attackers left the place. His skeleton and chain were found in a river near Telingia village after more than four months.
- Three pastors – Fidem Nayak and two others were assaulted in Dodarosu (Dokamaha) village, in the jungles. The two other pastors had been killed and their bodies cut into two pieces. A passerby saw Fidem Nayak dying and tried to get him water from a place nearby. When the passerby returned, he saw the perpetrators returning to the spot where the pastors lay, and burning all three of them. Nalini Nayak, wife of Fidem Nayak, rushed to the spot to find that her husband's body was completely burnt except a portion of his head.
- Premasheela Digal's uncle-in-law, Kantheswar Digal, was killed by cutting his throat, and his dead body was thrown into the river and recovered only after some days by the police.
- The Collector of Bargah forced Fr. Basil Kullu to remove all evidence of damage to and destruction of the Madhupur church and hostels, and even sent some persons to clear the debris that was lying in the compound, indicating the nature and extent of attack.

D. PROFILE OF AFFECTED PERSONS

Manoj Pradhan, in his report of the present status in Kandhamal, presented to the Tribunal, based on a study of 23088 families across 274 villages, found that 93% of the affected persons were dalit Christians and adivasis, while 6% were Hindus.

D1. Slogans Used

The findings of Manoj Pradhan's study are further substantiated by listing the slogans used by the violent mobs prior to and at the time of the attacks, which include:

- *Bajrang Bali ki jai*
- *Jai Shri Ram*
- *Bharat maata ki jai*
- *Swami Laxamananda amar rahe*
- *Bideshi dharm hatao, Hindu rashtra badhao* (Eliminate the foreign religion, create a Hindu nation)
- *Christian manku maro* (Kill Christians)
- *Christian magya sala manku maro, hano, kato, rape karo*
- *Christian dharmo chalibo nahi* (Christian religion will not remain)
- *Christian ghoru jali diyo* (Burn the Christian houses)
- *Christians rakhiba nahin*
- *Christian bideshi mananku maromo, eitharu todidio* (thrash the Christian foreigners, chase them out from the area)
- *Christian dharam nahin chalega* (Christianity is not acceptable)
- *London jao Christian* (go to London Christians)
- *Hindu Hindu bhai bhai* (all Hindus are brothers)

"...They were abusing Christians in vulgar language, kill Christians, rape Christians, destroy Christian property, chase them out from the district..." (Narsingho Digal)

These slogans clearly indicate that Christians were the prime targets of the attack.

D2. Targeted Attacks on Christians

In addition, the narratives presented to the Tribunal repeatedly highlight that Christians were singled out by mobs for violence, torture and brutality. Extracts of some such narratives are reproduced below:

“About 7-8 persons entered my house, breaking the wooden door. They scolded me with filthy language and assaulted me. They said “Pano Christian sala we will kill you, rape your wife, torture your children”... (Subramonyu Nayak)

...the rioters shot and killed two of our fellow Christians. Along with other Christians, I too reached the OSAP camp at the school in our village. By this time, 7 more of our Christian brethren were shot at, later they were taken for medical treatment and their lives were saved. (Prakash Kumar Nayak)

... The mob stopped us and began to attack us with lathis. Some of them shouted at us thus: “You Pano Christian, you killed our Swami Laxamananda, now you are sending us to jail, where are you going to escape from us?”... (Bidyadhar Digal)

“On 25/08/2008, under the leadership of Senapati Pradhan ... about 200 persons with the same slogans, at about 9.30 pm attacked 24 Christian families including my house in Sulesoru village and looted all the households, money, ornaments, valuable assets, documents, utensils and finally set on fire to the Christian homes and made into ashes.” (Iswar Digal)

“Christian families of our village have suffered irreparably during communal violence on three days in 8 months time. The fundamentalists in and around our village are planning to annihilate us Christians.” (Dashrath Digal)

“The rioters burnt down two churches in our village, looted and set fire to all Christian houses. The rioters looted away paddy, goats, chicken and all valuables from Christian homes, including mine.” (Nalini Nayak)

Villages which consisted exclusively or predominantly Christian families were targeted for brutal attack. For example, the village of Kattipada in Balliguda taluka, consisting of 32 Christian families, suffered brutal attacks, as reportedly, all 32 houses were burnt down by a violent mob.³⁵ Mediakia village – which also consisted exclusively of Christian families – was brutally attacked, reportedly by a mob of about 1000 persons.³⁶ Tiangia village, consisting of about 400 Christian families out of a total of 470 families, was attacked by a violent mob, resulting in many killings and the destruction of atleast 200 Christian houses.³⁷

D3. Attacks on Hindus Who Protected / Assisted the Christians

It was brought to the notice of the Tribunal that Hindu villagers who supported or protected Christians during the violence or tried to facilitate their return to the villages after the violence were also attacked. For example, the testimony of Iswar Digal refers to the killing of Sidheswar Pradhan, a non-Christian local RSS leader, aged about 60 years, who was trying to offer protection to the Christian people and calm down the situation during the violence.

Kamala Sahoo, a Hindu dalit woman who was a social worker associated with a non-profit organization named “Pollishree”, narrated to the Tribunal that her house and office were damaged and properties looted. Her son’s shop was also burnt after all the valuables were looted.

Satyabhama Nayak, a resident of Badapanga village, told a team from Loyola College that she had protected priests and nuns from the attacks by providing them food, shelter and clothing, and that due to this, her neighbours discriminated against her and refused to assist her in any way.³⁸

³⁵ Loyola College report, Case Study No. 15 on women

³⁶ Loyola College report, Case Study No. 1 on women

³⁷ Some facts are referred to in Loyola College report, Case Study No. 16 on livelihood

³⁸ Loyola College report, Case Study No. 5 on women

One of the interviews conducted by a team from Loyola College includes that of Ranchi Pradhan, a 70 year old woman residing in Nandagiri village, whose son, Dashorath Pradhan, had been killed during the violence for protecting Christians despite being an RSS member.³⁹

Khetra Bhaga, resident of Sundrigad village, Baliguda taluka, who spoke to a team from Loyola College, narrated his experience of being repeatedly threatened by local Hindus for maintaining a friendship with Christians and assisting them during the violence, including by protecting their movable property.⁴⁰

Rajni Mallik, a Hindu woman in Sundrigad village, Balliguda taluka, reportedly collected and safeguarded various moveable properties of Christian families during the violence, and returned the same to the families subsequently. She told a team from Loyola College that she did not face any threat from the Hindu neighbours as they did not know that she was assisting the Christians.⁴¹

The NCDHR presentation observed that not only Christians, but also those who, despite themselves being non-Christians, stood by the Christians, expressed solidarity and sympathy with them were not spared.

D4. Other Attacks on Hindus

The alleged sexual assault and brutal killing of Rajni Majhi, an adivasi Hindu girl, is an instance of other attacks on Hindus. Nicholas Barla, an advocate and human rights defender from Sundargarh district of Orissa, stated to the Tribunal details of the burning to death of Rajni Majhi, who was an inhabitant and warden at an orphanage run by Fr. Edward Sequeira in Padampur, Bargah district.

The Tribunal also heard, in camera, the testimony of a survivor of gang rape and multiple sexual assaults. The victim-survivor, whom this report will refer to as AB, is a Hindu woman, who was gang-raped and sexually assaulted as a revenge for her Christian uncle's refusal to convert to Hinduism.

Couples who had inter-religious marriages were also targeted for attacks and threats of attacks. For example, a Christian woman and her Hindu husband were reportedly threatened and asked to leave Rudagya village, Tikabali taluka - a Hindu-dominated village that they resided in - or they would be killed.⁴²

A Hindu woman from Petapanga village, Phiringia taluka, was reportedly threatened to stop associating with Jana Vikas – perceived as a Christian organization – and to stop interacting with and befriending Christians in her village.⁴³ Another Hindu woman from Petapanga village said that she was economically better off than her neighbours, and hence, the other Hindus took the opportunity of the violence and destroyed her house, damaged the furniture and took over her land. She has now been prevented from re-entering her village.⁴⁴ Yet another Hindu woman said that her family had been attacked and her house damaged as the perpetrators mistook them to be Christians.⁴⁵

E. THE PERPETRATORS

E1. Religious, Organizational and Political Affiliation

³⁹ Loyola College report, Case Study No. 16 on livelihood

⁴⁰ Loyola College report, Case Study No. 26 on livelihood

⁴¹ Loyola College report, Case Study No. 20 on livelihood

⁴² NN College report, Case Study No. 7, p. 96

⁴³ NN College report, Case Study No. 8, pp. 96-97

⁴⁴ NN College report, Case Study No. 9, p. 97

⁴⁵ NN College report, Case Study No. 18, p. 101

Almost all the victim-survivors who testified before the Tribunal described the perpetrators, their religious and organizational affiliation, their appearance, the weapons they were wearing as well as the slogans they were shouting, when they perpetrated the attack. Some narratives are reproduced below:

“...On 25 .09. 2008, morning at around 6.00 a.m the members of RSS, BJP, VHP, Bajrangdal, namely Dadhiya Mallick, Montu Naik, Sudhir pradhan, Manoj Pradhan the present M.L.A (G.Udayagiri Constituency from BJP), Sushil Kanhar....etc came from Shankrakhole, Topadingia, Jignagam, Bardisahi, Sitajada, Adabadi, Kadopadar, Peepalkhol, Bahadapada from Tikabali and Chakapado Blocks, along with 500- 600 people who were wearing saffron clothes and other traditional clothes, red bands on the foreheads, armed with lethal weapons in their hands such as swords, axes, spears, crowbars, guns, petrol and kerosene barrels, bombs....etc. They were shouting Jai Sriram, Jai Bajrangbali ki. They were abusing Christians in vulgar language, kill Christians, rape Christians, destroy Christian property, chase them out from the district, etc.” (Narasingho Digal)

“At about 12:00 noon, the members of RSS , Bajarang Dal ,VHP, Durga Bahini of Paburia and from nearby villages under the leadership of (1) Sahadev Pradhan (2) Aparajita Nayak ,ex-Samiti member (3) Kabi Bindhani(4) Kalia Sahu ,(5) Srinias Pradhan, (6)Sachi Nayak,(6) Kaleswar Digal,(7) Sruikant Nayak, (8) Babula Padhi , (9) Kutu Digal ,(10) Tunu Dalabehera and others, around 150 members entered into Pollishree Jana Sewa Samittee campus... The rioters were armed with lethal weapons like: Swords, Axes, Spears, Crow bars, bars, Trisuls, Petrol, Kerosene jenkins.. etc. and they were shouting Jai Sri Rama, Jai Bajrangawali ki, Jai Matadi, Kill the Christians etc. and abusing Christians in filthy languages.” (Paul Pradhan)

“...on 25.08.08, at about night 11.00 P.M , over 200 people led by Manoj Pradhan (BJP M.L.A) with the leaders of RSS, VHP and BJP namely 1.Dilu Mohanti,(Narayan Prasad Mohanti), S/O . Proful Mohanti, 2.Godadhar Sahoo, Sangram Kishori Pati (Popu), 3. Narayana Patro, 4. Simanchalo Patro 5. Satya Patro, 6. Duryodhan Lenka, 7. Arun Das, 8. Baya Das, 9. Sadan Behera, 10.Jogesh singh Patro,11. Prasant Patro, 12. Padma pada , 13.Santosh pada,14. Boykuntho Pada, 15. Abhi Panda, 16. Dhuti Patro, 17. Ashok Patro, 18. Dilip Patro, 19. Monglu Patro, used to go in groups with saffron clothes, yellow banyans, red bands on the foreheads armed with guns, swords, tangias, axes, pharsas, bhujalies, Crow bars, hammers, sticks, petrol torches attacked the Christian community shouting slogans such as “Jai Bajrangbali, Jai Sri ram, Christian manku maro, (Kill Christians), Chritian Dharmo Chalibo nahi (Chritian religion will not remain), Christian ghoru Jali diyo (burn the Christian houses)” ...” (Mohini Nayak)

The Nirmala Niketan College team had queried from victim-survivors about the identity and religious / political affiliation of the perpetrators. The report states that nearly 22% of the women interviewed identified the perpetrators as belonging to the Hindu community, while 7.85% women categorized them as Hindu adivasis. In terms of political affiliation, the maximum number of women identified the perpetrators as belonging to RSS cadres, followed by gram panchayat members, BJP and Bajrang Dal.⁴⁶

The NCDHR report summarizes the composition of the mobs that perpetrated violence:

“The mobs attacking the dalits and adivasis were of varying sizes, but invariably composed of, first, the inmates of Lakhonondo’s ashrams, immigrant traders, individuals identified as

⁴⁶ NN College report, pp. 40-42

*members of different Hindutva organizations, unknown outsiders and also the local villagers.*⁴⁷

E2. Women Perpetrators

The perpetrators were not only men, as is usually the case, but according to testimonies, consisted of mobs of women too, mainly from *Durga Vahini* (women's wing of the VHP). More details of this are given in sub-section I of Chapter 4 of this Report.

E3. Familiarity of Perpetrators to Victim-Survivors

Almost all victim-survivors who testified before the Tribunal have identified and named some of the perpetrators from the mob, including those who led the mobs, by names. The extracts of testimonies reproduced in sub-section E1 above are cases in point.

The report of Nirmala Niketan College too finds that more than half the women interviewed were able to identify the perpetrators, and that they were from the same village or local persons.⁴⁸

In its analysis of the profile of perpetrators, the NCDHR presentation stated that the mobs attacking the dalits and adivasis were of varying sizes, but invariably composed of, first, the inmates of Lakhshmanananda's ashrams, immigrant traders, individuals identified as members of different Hindutva organizations, unknown outsiders and also the local villagers. On the issue of perpetrators, the NCDHR presentation concludes as follows:

"We argue that the primary responsibility and culpability for the massive loss of precious dalit-advansi life, prolonged and manifold human misery in the region, lethal strike against the collective psyche, dignity and identity of the groups involved and destruction of crores of rupees worth of people's hard-earned property in Kandhamal of recent years lie with the Hindutva forces and their anti-democratic and anti-Constitutional agenda of forcible and fraudulent Hinduisation and re-Hinduisation."

F. OTHERS RESPONSIBLE FOR THE VIOLENCE

F1. Public Officials

Many victim-survivors spoke of the responsibility of public officials at various levels. The police have been silent spectators to the violence and failed to exercise due diligence in protecting Christians from the violence; they have often refused to lodge FIRs, delayed registration of FIRs, have registered omnibus FIRs and/or did not write diligent FIRs to assist the perpetrators escape the clutches of law. Some of them participated in the violence as well as in destroying evidence and threatening witnesses from testifying in court, in order to scuttle processes of justice. While the role of the police was much criticized, both by victim-survivors as well as in reports of field studies presented before the Tribunal, there are also several references to the culpability of tahsildars, Block Development Officers, district magistrates and panchayat leaders. The testimonies and other details in this regard are discussed in Chapter 7 of this Report.

⁴⁷ Summary statement of NCDHR, para 5

⁴⁸ NN College report, pp. 40-41

In illustrating the complicity of the police, the MARG report refers to a suspension of five police officials for misconduct and negligence of duty with regard to the case of sexual assault of Sister Meena (discussed more elaborately in Chapter 4 of this Report). It also refers to the letter of A.K.Upadhyay, IPS to the state government, accusing 13 police officials of dereliction of duties in protecting the life and properties of Christians and adivasis in Kandhamal, including the former Director General of Police - Gopal Nanda.⁴⁹

The NCDHR report summarizes state complicity with the violence in Kandhamal in the following words:

“The local government by and large not only stood by and silently watched, as the horrendous events were unfolding, but in several ways, according to the eye-witnesses, facilitated the gangs indulging in the destruction of human life and valuable property. What followed by way of administrative action - controlling the situation, relief measures for the afflicted and punishing the guilty – could only be described as formal-ritual motions to satisfy the letter of the law.”

F2. Political Outfits

Almost all victim-survivors who gave their testimonies to the Tribunal referred to members of the RSS, BJP, Bajrang Dal and VHP as being part of the violent mobs that attacked them and their villages.

The MARG report observes as follows on the responsibility of the political outfits for the violence:

“The role of Hindutva organisations in fuelling and orchestrating the carnage has been officially acknowledged. In response to a question posed in the Legislative Assembly, the chief minister of Orissa – Naveen Patnaik – candidly admitted, through a written response, that it has been found from the investigation that “members of the RSS, VHP and Bajrang Dal” were involved in the violence. The Chief Minister also disclosed that police had arrested 85 people from the RSS, 321 members of the VHP and 118 Bajrang Dal members in the attacks. He said that only 27 members from these groups were still in jail.”⁵⁰

G. PURPORTED RATIONALE FOR THE VIOLENCE

Narratives of victim-survivors indicated the intent of the perpetrators to displace them from their places of residence, and to substantially lower the socio-economic status that they enjoyed:

“The same persons came again the day after, shouting awful slogans against Christians: “Christian bideshi mananku maromo, eitharu todidio” (thrash the Christian foreigners...chase them out from the area). The culprits began to attack the Christians and destroying their houses. In fear the victims ran away to jungles to save their life. During this time the culprits totally destroyed and burnt the church and the dwelling houses.” (Gopabandhu Behera)

“A year before the attacks, Mr. Bhaskar Pradhan of Bakingia village, G.P. Mondakia of Kandhamal district – a Kondho leader – had told us that all Christians will be made beggars.” (Mohini Nayak)

⁴⁹ MARG report, pp. 100-102

⁵⁰ MARG report, p. 102

Victim-survivor testimonies presented before the Tribunal indicate that displacing the Christians from the district was a deliberate strategy of the perpetrators, particularly from the slogans shouted by the violent mob:

“...we heard the sound of “Jai Bajrangbali, Jai Sriram, abusing Christians in vulgar language, kill Christians, rape Christians, destroy Christian property, chase them out from the district etc. slogans by a group of people.” (Ashis Naik)

“...around 30 people were shouting slogans such as “Bharat mata ki jai, London Jao Christian” etc...” (Umesh Chandra Nayak)

In its analysis of the violence in Kandhamal, the NCDHR stated that the target of attack by the Hindutva forces was to kill, punish and “correct” those adivasis and dalits who had become Christians generations ago and thus have come of age not only within the Church organizations but also the larger society. This was expressed in their free and increased participation and leadership in the secular-civic and collective life of the region. In addition, other objectives were also sought to be fulfilled through the violence, namely robbing and looting the valuables of those who seem to have done well in life through their association with Christianity. In this context, the church-infrastructure around which these dalit-adivasis were rallying around too were attacked, it said.

The MARG report highlights part of the rationale for the targeting of the Christian community during the violence, in the following words:

“As explained by Sudhir Pradhan, a religious leader who initiated ‘re-conversion’ ceremonies for Christians to Hinduism, the VHP leader Pravin Togadia had already announced: “there is no place for Christians. If Christians don’t become Hindus, they have to go. We don’t care where they go. They must leave Orissa.” The attacks on Christians in Kandhamal were an implementation of this aggressive stance.”⁵¹

⁵¹ MARG report, p. 33

3. FREEDOM OF RELIGION

“As the free citizen of this country I had enjoyed my life with all democratic, constitutional and human values and rights prior to the violence. But, I feel sad that the district administration and the state government failed to protect me and my properties and also the Christian minority communities of my locality and fell in the hands of the fundamentalist members like RSS, Bajrang Dal, VHP etc. I feel that the sacred constitution of our country has failed to protect its citizens.” (Bijay Kumar Parichha)

A. SPREAD OF HINDUTVA IDEOLOGY

Prasad Sirivella of the National Campaign for Dalit Human Rights (NCDHR), made a presentation before the Tribunal on ‘Politics of Kandhamal’. He located the historical context of the Kandhamal violence in the spread of Hindutva ideology. He stated that the problematic entry of Laxmanananda Saraswati as the representative of the Hindutva forces, for the purpose of integrating or reintegrating the dalits and adivasis of the region into Brahminical Hinduism, took place in the late 1960s. In Kandhamal itself, he was invited, provided for and protected by the immigrant traders and government employees who were different from the majority of the natives - dalits and adivasis – in the practice of religio-culture and language and with whom they had, over the years developed exploitative and hence antagonistic relations.

Supported and sponsored thus by the immigrant Oriya caste-Hindus, the Swami and his disciples commenced propagating their brand of the Hinduistic discourse – an offensive combination of aggressive ‘Hinduism’ and sectarian nationalism. Such a discourse necessarily involved the forcible and violent mobilization of the local people into an imagined Hindu community by constructing an imagined ‘other’, the Christians in this context, as the enemy. Hindutva mobilization in Kandhamal as elsewhere thrived on intimidation, hooliganism, blackmail and half-lies. It also effectively galvanized the local group-irritants, manipulated community-rivalries and individual enmities. Sirivella stated that the Hindutva initiated violence in Kandhamal is seen as working at three inter-related levels:

- a) Coercively bringing the adivasi non-Christian Kondhos into Brahminical Hinduism;
- b) punishing the Christianised dalits and adivasis for “straying away” from Brahminical Hinduism; and
- c) “bringing home” the strayed dalits and adivasis, back to Brahminical Hinduism.

Furthermore, the Swami’s project of ‘Hinduism’ was intended to bring about and maintain the caste order. He therefore accommodated Kandho adivasis as Shudras within the Hindu caste hierarchy and insisted on the local Panos remaining Untouchables. The attacks have been severe on those who have been Christians now for generations and have emerged in the public place, staking their claim to equal citizenship. The perpetrators who attacked the dalits and adivasis, logically insisted that they give up all that they acquired, change their way of life and return to the ways of their ancestors as untouchables and forest-dwellers.

B. ANTI-CHRISTIAN HATE CAMPAIGN

Many testimonies of victim-survivors presented before the Tribunal referred to the prevalence of a hate campaign against Christians. They spoke of peaceful co-existence among Hindus and Christians in the

villages in Kandhamal prior to the commencement of such hate campaigns. Some extracts from the testimonies are reproduced below:

“In the last ten years the Hindu fundamentalists namely the members of the RSS, VHP, BJP and other Sangh Parivar members spread hatred against Christians and organized many yagnyas, yatras, pujas and have been converting the kondho adivasis into the Hindu fold. These were organized by one late Swami Lakhsmananda of Chokapad and Jalespata. The enmity between the Christians and the non-Christians, Kandhos and Panos began in the district.” (Mohini Nayak)

“...During the last week of December 2007, we Christians of our village were threatened by leaders of Sangh Parivar that we would be attacked and killed if we did not become Hindus. The church at village Ranipada (near our village) was also broken during last week of December 2007...Maharaj Pradhan, a disciple of Swami Laxmananda, used to conduct meetings quietly in our village. In those meetings, hate campaign against Christians were propagated...Due to hate propaganda of Maharaj Pradhan and other leaders of Bajrang Dal, non-Christians of our village began to hate Christians...” (Manyabar Nayak)

“Members of the Sangh Parivar have been planning to attack us for a long time and they had been spreading word against Christians among the simple ignorant tribals. They have been telling lies against Christians, saying that Christians are asurs, anti-nationals, foreigners etc. The murder of Swami Laxmanananda was an excuse to attack Christians. Non-Christians and Christians of our village and nearby villages had been living in peace and harmony since generations. A few years ago disciples of the Swami Laxmanananda began hate campaigns against us Christians.” (Bipin Nayak)

“Christian and non-Christian brethren have been living in peace and harmony for more than nine decades in this area. Fanatic Hindu leaders are bent upon creating tension between Christians and non-Christians.” (Christodas Nayak)

“My family is Christian from the year 1954. We Christians and non-Christians of this village have been co-existing in peace and harmony. There are 10 Christian families in our village. There has never been any tension between communities. My fellow caste-men of the village (Christians and non-Christians) have been jointly celebrating each other’s festivals. Our village community began to be divided on the lines of religion recently, about 5 years ago, when Mr. Manoj Pradhan MLA, began to frequent our village and conduct secret meeting of non-Christians...He and other fanatic leaders of Bajrang Dal from outside our village are cause of communal tension and suffering of Christian families of our village.” (Narahari Kanhar)

“Prior to riots in August 2008, non-Christian tribals were organized, indoctrinated with hate campaign...” (Prafulla Chandra Pradhan)

Archbishop Raphael Cheenath, in his statement delivered before the Tribunal, stated that hate campaigns were the root of eradication of freedom to religion.

C. ATTACKS ON CHRISTIAN PLACES OF WORSHIP AND OTHER INSTITUTIONS

Fr. Ajay Singh of Janvikas presented to the Tribunal a history of attacks against Christian religious institutions. A summary of his presentation is given below:

1967	Catholic Churches burned down in Berhampur town by college students,
------	--

	<u>instigated by Hindutva forces, when the church authorities did not make available their premises for celebrating the annual puja.</u>
1986-87	About 20 village churches in Kandhamal district were burned down.
31 Dec 1986	A bomb was thrown on a church in Daringbadi P.S., Rukunbadi, Kandhamal while Christians were observing the night prayer service
Mar 1986	The Baptist Church of Piserma near Raikia of Kandhamal attacked
Aug 1986	Gudrikiya Church under Balliguda block of Kandhamal destroyed.
1986	Village Church of Simonbadi of Kandhamal district was burned down by members of the RSS.
21 Nov 1986	The Hindutva forces, in collusion with some public officials, falsely accused Christian residents of Berhampur and Phulbani that they were trying to stop the chariot of Lord Jagganath. They used this pretext to shout anti-Christian slogans and pelt stones at Christian institutions and houses subsequently.
Dec 1986	Phulbani church attacked and burnt down, and the parish priest was threatened by the perpetrators.
25 Nov 1986	Two Churches of Simonbadi of Kandhamal attacked
13 Dec 1986	One church of Doberi under Daringbadi, Kandhamal district burnt
13 Dec 1986	Kusukupda church of Kandhamal district attacked
17 Dec 1986	The Bodakia church under Balliguda taluka, Kandhamal district, was attacked
17 Jan 1987	The chapel at Burbinaju (Padangi Parish), Tikabali block of Kandhamal district burned down by members of the RSS. They took away religious articles from the chapel and burned. They drew RSS symbols and wrote anti-Christians slogans on the walls of the chapel.
17 Jan 1987	Sarthaguda chapel in Kandhamal destroyed
17 Jan 1987	Tuduvalli village church of Kandhamal was destroyed
1988	Nearly 18 village chapels were destroyed in Phulbani district. Some Catechists and Christians were assaulted.
1989	Systematic arson and burning of churches of the Baptist, Pentecostal and Catholic denominations in the village under Balliguda Sub-division of Phulbani District. Apart from attacks on Christians, churches were damaged at Sahaliguda, Duringpodi, Budaguda, Nuagaon and Madhiguda villages of Kandhamal district.
1989	The Hindutva forces attacked the Christian community at Nawarangapur sub-division of the Koraput district, where churches, prayer halls and their properties were burnt down to ashes, apart from attacking and assaulting the Christians. The perpetrators also tried to burn an effigy of Jesus Christ
1 Mar 1991	On the first Friday of the month, RSS and VHP activists and their supporters forcibly entered a church at Birikote village of Ganjam district. They sprinkled Holi colour on members of the Christian community while they were praying, broke down the doors and windows of the church, destroyed the decorated materials and figures, burnt a motor cycle, assaulted one man and a child from the Christian community. The Collector sided with the attackers and threatened the parish priest with dire consequences. He threatened that he would direct the tahasildar to demolish the church building.
2 Aug 1993	The Hindutva forces attacked the Catholic church at Mangalpur in Balasore district of Orissa.

2 Aug 1993	A mob violently entered into the main church at Mangalpur in Balasore district, desecrated the Blessed Sacrament, statues and caused considerable damage to the church building and the presbytery. Fr. Joseph Kureekal, the parish priest, was violently assaulted. Eleven houses of Christians were set on fire.
26 Sep 1993	Attack on Bargarh Mission Hospital and the Catholic church
26 Aug 2004	Our Lady of Charity Catholic church was vandalized and figures of Mary and Jesus shattered. Some sacred objects burnt and the community targeted in Raikia in Phulbani District.
Mar 2006	A church was burned in Nandapur village in Koraput district;
Dec 2007	Churches and prayer houses in Kandhamal district were vandalized, looted and destroyed

The following narratives presented before the Tribunal highlight the attacks on churches and Christian institutions during the 2008 violence in Kandhamal, in the form of looting, damage, desecration, defilement and destruction:

“At 11 am, B.C.Pali church was attacked and destroyed about which immediately I informed Mr. Surjit (OIC) ...At 1 pm I got phone call of attacking Paramour church. I informed police in-charge of Sohela that now it may come any time to Madhupur ...At about 4 pm, RSS and Bajrang Dal people came in 5 vehicles with swords, axes, crow bars, spears, local lethal weapons in their hands ... Then they started destroying the Kanski Dungri Maria grotto (Mother Mary’s statue, whom the faithful venerate and respect). Then they came to the church, broke opened and got inside the church and destroyed, damaged and defiled the sacred articles, statues, place of worship etc...They completely destroyed the church, priest resident, hostels, convent, dispensary and Maria grottos.” (Basil Kuttu, priest-in-charge of Catholic church, Madhupur village, Bargarh district)

“The rioters looted, destroyed, ransacked and burnt our church, hostels, convent, health centre and homes of Christians...” (Prafulla Chandra Pradhan)

“The rioters first demolished and destroyed our church and then began to destroy our dwelling houses and looting valuables from our houses...The rioters looted and set fire to all Christian houses.” (Sebika Digal)

“The culprits began to attack the Christians and destroying their houses. In fear the victims ran away to jungles to save their life. During this time the culprits totally destroyed and burnt the church and the dwelling houses.” (Gopabandhu Behera)

“The rioters broke open, looted, ransacked and burnt and destroyed our church...” (Runima Digal)

“The mob attacked our church, destroyed and burnt it. After destroying the church, the mob looted and set fire to three dwelling houses of fellow Christians.” (Pratap Chandra Digal)

“The rioters burnt down two churches in our village, looted and set fire to all Christian houses. The rioters looted away paddy, goats, chicken and all valuables from Christian homes.” (Nalini Nayak)

During the violence in Kandhamal commencing August 2008, 264 churches and prayer halls were damaged, as per a survey conducted by Jan Vikas. The government data shows 196 religious structures as damaged.⁵²

D. ATTACKS ON CHRISTIAN LEADERS

Some incidents of attacks on Christian leaders as highlighted by Fr. Ajay Singh in his presentation to the Tribunal, are as follows:

Dec 1986	Pastor Saroj Digal of Kandhamal district was brutally assaulted by RSS supporters.
11 Dec 1986	A Christian leader of Sikeketa under Daringbadi P.S. of Kandhamal District was brutally attacked. The injured and bleeding victim was taken to the government hospital at Balliguda, where he was threatened to be killed.
8 Jan 1987	There was an attempt to murder Rev. Susant Kumar Naik, Sri K. Paul Pradhan and Sri Bikram Digal - prominent church leaders near Mdiakia, P.S. Baliguda of Kandhamal district
24 Jan 1989	Attack on the priest and vandalism of the church in Sadingia village of Pobingia grampanchayat, Phulbani
Jan 1999	Graham Staines, 58, an Australian missionary, and his sons aged 10 and 6, were torched in Monaharpur village in Keonjhar District. The Commission of Enquiry led by Justice DP Wadhwa charged Dara Singh, alias Rabindra Pal Singh, a key Bajrang Dal organizer, with the act even though it failed to hold the organization responsible.
Feb 1999	Jacqueline Mary, a Catholic nun, was gang-raped in Mayurbhanj district.
Sep 1999	Arul Doss, a Catholic priest, was killed in Jambabani village, Mayurbhanj district
2000	Fr. Lamesh Kanhar was nearly killed by a group of attackers in Betticola village of G. Udayagiri in Kandhamal district. He escaped death through the courageous intervention of some Catholic women who risked their lives.
2003	Fr. Laxmikant, a priest of Pobingia parish, was attacked in Mala village of Phiringia in Kandhamal district.
Feb 2005	Gilbert Raj, a Baptist pastor, was murdered and allegedly tortured before being killed.
Feb 2005	Dillip Dalai, a Pentecostal pastor, aged 22 was stabbed to death at his residence in Begunia village of Khordha district.
Jan 2006	Reportedly led by the village BJP leader, Pastor Kulamani Mallick was attacked and his home set on fire in Matiapada village in Jaipur district. Seven adjacent houses, six belonging to Christians, also caught fire. The Police asked that the name of the BJP leaders be removed from the First Information Report (FIR) and questioned the Christians under the Orissa

⁵² Jan Vikas report, p. 16

	Freedom of Religion Act (OFRA); 50 RSS activists attacked a Christian home in Koikonda village in Malkangiri district where four missionaries from the Indian Evangelical team were meeting with 14 Christians families.
24-27 Dec 2007	Attacks on Christian leaders in Kandhamal District

Narratives of victim-survivors before the Tribunal refer to attacks on Christian leaders during the 2008 violence in Kandhamal. The following are some illustrative examples:

“My late husband was a pastor and had gone out of home to nearby villages for his pastoral duties on 23rd August 2008...On 25th August along with 2 other pastors while he was returning home, they were assaulted at limits of village Dodarosu (Dokamaha) in jungles.” (Nalini Nayak)

“On 23rd August 2008, myself and Fr. Bernard Digal ... left for some official church work to Sankrakhole ...At about 11.30 pm about 30-40 people came with axes, crow bars, swords, spears etc in their hands to the church, where we were taking rest...Just we got out from the church and they also reached to the church and caught Fr. Bernard. They also caught me, but somehow I managed to run away and hid myself in the bush at night. Then I heard the sound of the hooligans saying “Maro Father ke” (kill the priest) and started beating him with sticks and other weapons. The sound of sticks and cries of father were very clear...The miscreants had made him naked, his body was full of bruises, and was bleeding all over the body...he died on 29th October 2008...Fr. Bernard was a very dedicated priest, with great concern for the poor and marginalized and in his death, we the rural community of Kandhamal and the family members, together with the church community, lost a great personality.” (Sishir Pradhan)

The Loyola college report, presented to the Tribunal, includes the interview of Sabistri Nayak, resident of Dokadi village in G. Udayagiri taluka, who spoke of the killing of her husband, a pastor (ministering in Sithiguda gram panchayat, Daringabadi taluka), along with two other pastors, during the violence in Kandhamal.⁵³ A woman from Breka village in Tikabali taluka had reportedly said that her husband, a pastor, had been killed by a violent mob.⁵⁴ A woman from Bakingia village in Tikabali taluka reportedly said that a member of the RSS had informed their village pastor that the aim of the perpetrators was to kill all pastors and rape their “women and girls”.⁵⁵ Pastor Samuel Nayak from Bakingia village had been reportedly beheaded by a violent mob.⁵⁶ Another woman from Karndagada village, Phiringia taluka, said that her husband had been targeted for a brutal killing as he was a pastor.⁵⁷ A woman resident of Sindrigaon village, Balliguda taluka referred to the targeted attack on a male family member who was a pastor.⁵⁸

E. FORCIBLE CONVERSIONS TO HINDUISM PRIOR TO KANDHAMAL VIOLENCE 2008

Conversions to Christianity is not a new phenomenon in India or in Orissa. Neither are such conversions restricted to Christianity alone. While part of the conversions must surely be taking place due to aggressive proselytization by some groups among Christian missionaries, experts state that in Orissa there were crucial differences between conversions done by Christian missionaries on the one hand and by Swami

⁵³ Loyola College report, Case study No. 10 on women

⁵⁴ NN College report, pp. 34-35

⁵⁵ NN College report, Case Study No. 20, pp. 101-102

⁵⁶ NN College report, Case Study No. 21, p. 102

⁵⁷ NN College report, Case Study No. 32, p. 105

⁵⁸ NN College report, Case Study No. 37, p. 106

Laxmanananda on the other. Conversion is not the sole and central object of the service that the missionaries give; the missionaries provide secular education even if they taught the Bible in addition; and they did not use violence to convert to Christianity or to prevent conversion to Hinduism. Investigations in Phulbani district of Orissa conducted by The Indian People's Tribunal revealed that overwhelmingly, conversions to Christianity *did not* occur with the intent of destabilizing the Hindu community or other communities, and the content and program of church-based education did not foster communal hatred or divisiveness in thought or deed.⁵⁹

Some incidents of forcible conversions to Hinduism since the year 2000, as presented by Fr. Ajay Singh to the Tribunal, are highlighted below:

Dec 2000	Communal elements in Jharia banned the statue of Jesus from being installed by local Christians. That same month, about 4000 people from eight villages in Balasore and Mayurbhanj Districts announced that they would not allow conversions to Christianity.
June-July 2001	When 18 Hindu dalits converted to Christianity in Karu village of Kenrapara district, the Sangh Parivar protested. In July, the police arrested 18 persons who converted and the pastors who administered the ceremony. While police reports state that the conversion were consensual, 22 cases were registered for not obtaining permission prior to the ceremony. On 26 July 2001, 15 of the 18 persons who had converted to Christianity were forcibly 're-converted' to Hinduism by the Sangh activists.
July 2002	VHP activists converted 143 adivasi Christians from 146 adivasi families to Hinduism in Tainser village of Sundergarh district.
Jan – Dec 2002	The VHP claimed to have converted 5000 people to Hinduism in 2002
Dec 2003	A 15000 members rally was organized by the Vanavasi Kalyan Ashram (VKA) in Bhubaneswar where Jagdev Ram Oram, the President of VKA, stated that adivasis who have converted to Christianity must not be accorded the benefits of reservation. Dillip Singh Bhuria, the then Chairperson of the National Commission for Scheduled Castes and Scheduled Tribes, commended the BJP for its pro-adivasi policies.
Mar 2004	212 adivasi Christians were forcibly converted to Hinduism by the VHP in Sarat village, Mayurbhanj district.
Oct 2004	336 adivasi Christians converted to Hinduism from 80 families within 11 villages in Sundergarh district.
May 2005	567 Christians converted to Hinduism by the VHP in Bergarh district.
June 2005	Motivated by the Hindutva activists, 268 persons from 19 villages in Gajapati district filed a public interest litigation. The Petition argued that the missionaries were forcing conversion to Christianity in the area. The Orissa High Court instructed that charge sheets be filed immediately and cases registered invoking Sections 3,4 and 5 of the Orissa Freedom of Religion Act. The division bench of the High Court directed the district magistrates to act strongly against conversions to Christianity.

⁵⁹ MARG report, pp. 30-31

Oct 2005	200 adivasi Christians were converted to Hinduism in Malkangiri district.
Nov 2005	58 adivasi Christians - 27 women and 31 men - were converted to Hinduism by the VHP supporters in Dharanidharapur village, Sundargarh district.
Dec 2005	16 Christians from Jamundar, Tabada and Tangarashi villages of Sundargarh district were converted to Hinduism in Tainda village. Members of the Bajarang Dal and VHP conducted the conversion ceremony and informed the local administration. Subash Chouhan stated that 733 conversions had taken place from among 167 families in 2005, in western Orissa.
Jan 2006	136 Adivasi Christians - 75 women and 61 men from Tumbei, Kodaliggochha - and Panakadhi village were forcibly converted to Hinduism in a ceremony organized by the Bajrang Dal and the VHP in Timbei village in Rourkela district.
March 2006	913 Christians from 150 families from Sonepur, Bargarh and Balangir districts were converted to Hinduism in Kandumunda village in Sonepur district of Orissa.
8-10 April 2006	342 Christians from 74 families were converted to Hinduism in Chakapad in Phulbani district, at the time of a Rath Yatra and Sammelan (conference / gathering) organized by RSS and VHP. The programme was conducted in the presence of Manmohan Samal (Minister for Revenue), Samir Dey (Minister for Higher Education), BB Harichandan (Minister for PR & Law), Surama Padhy (Minister for Cooperation), Bhagirathi Majhi (MP), Devendra Pradhan (former minister), Sugriv Singh (MP) and Parsuram Majhi (MP) along with other top officials.

The Nirmala Niketan College's study found that a large number of the women were not recent converts to Christianity but have been Christians for many years and hence do not want to convert back to Hinduism.⁶⁰ This finding is reiterated in the MARG report. The interviews conducted by MARG indicated that a majority of the people interviewed were Christians by birth, a few had converted more than twenty years ago and some had become Christians after marriage. The interviews further showed that a majority of the victim-survivors were aware that no one could force them to change their religion, and that religion was a personal choice of an individual. On enquiring they said that the pastor had given them this information. This is indicative of the overall environment and the pressure on Christians who convert, which required the pastors to inform people in the villages that they had a their right to follow the religion they believe in.⁶¹

The MARG report refers to the writings of experts to point out that since Hinduism is not a religion based on the teaching of any prophet, preaching it to others has not been the norm. In fact exclusion of others was insisted upon more than proselytisation. In contrast, Jainism, Buddhism and Sikhism, believed in propagating their religious tenets, resulting in their spread to other countries. However, in the twentieth century, the *Shuddhi* movement, started by Swami Dayanand Saraswati, aimed to reconvert those who had left the folds of Hinduism. This technique of conversion into Hinduism, introduced by the Arya Samaj, has been further developed by the Vishwa Hindu Parishad (VHP) into *Ghar Vapasi* rituals. It is

⁶⁰ NN College report, p. 32

⁶¹ MARG report, p. 34

aimed at bringing back to the Hindu fold members of the “lower” castes who had become “impure” by converting to Sikhism, Islam and Christianity.⁶²

Further, the MARG report states that the coercive reconversion ceremonies have been organized and initiated by Hindutva forces in and around Kandhamal, and other parts of the state as an addendum to the anti-Christian violence.⁶³ It further states that the conversion and ‘reconversion’ initiatives are premised on the questionable assumption that innocent adivasis, who are originally Hindus, have been fraudulently and by allurement converted to Christianity, and that they need to be ‘brought back’ to their ‘original home’ – an effort claimed to be directed at ensuring that Hindus are not reduced to a minority because of the activities of Christian missionaries.⁶⁴

D. FORCIBLE CONVERSIONS FROM CHRISTIANITY TO HINDUISM DURING THE VIOLENCE

Pratap Chandra Digal testified before the Tribunal his experience of having been forcibly converted from Christianity to Hinduism along with 13 other families:

“On the following day, i.e. on 26/8/08, in the morning we went to our village. Mr. Pramod Sahoo came to us, called us Christians together and told us thus: “If you give up foreign religion and become Hindu, you will not be attacked, you can live in this village safely.” We, the heads of 14 families were forced to write a bond saying that we gave up Christian religion. Mr. Pramod Sahoo asked us under threats to go to him at 9 o’clock the same day for attending conversion ceremonies.

We were forced to undergo conversion ceremony. A barber was called and he forcefully shaved heads of us 14 men and we were commanded to take bath and come to report to them again along with our wives. We had no option other than to obey their commands; we were told that we would be killed if we did not do what they said. A crowd of men armed with axe, sword, lathi etc had encircled us and were shouting slogans and also demanding us to become Hindus.

As per order...in fear and terror, we took bath and reported to the spot where we were commanded. We were given dhoti and towel and were made to attend ‘hom’ ceremony. We were forced to say ‘Jai Bajrang Bali ki’, we were made to wear Hanuman locket. We were made to drink urine of cows saying it was amrut. We were made to eat Prasad and were taken to temple and made to prostrate before idols...

Now we are back in our village, non-Christians of our village boycott us socially, they do not even talk with us. We all 14 families who were forcibly converted to Hinduism are again back in our church and we continue to be Christians.”

Testimonies of victim-survivors of the violence, presented before the Tribunal, repeatedly referred to threats of being killed, if they did not convert to Hinduism. Some such narratives are produced below:

“On 27.08.2008 at about 11 am, when I was alone in my house at village – Lingagada a rioting mob came with deadly weapons which was lead by Sri Gobardhan Pradhan of village – Lingagada and they dragged me out from the house and threatened to kill me, if I would not convert to Hinduism, thereafter they looted my household articles, broke the house windows,

⁶² MARG report, p. 29

⁶³ MARG report, p. 31

⁶⁴ MARG report, p. 32

doors and furnitures and set fire to the house. However I escaped from their clutches and saved my life.” (Rama Rao Nayak)

“Before leaving the villages they (the violent mob) shouted: “If you do not give up Christianity and become Hindus, we will kill you.” (Ashis Naik)

“On next day we Christian families were made to gather together and Gaurango Kanhar, Basant Kanhar and Subhash Kanhar threatened to kill us if we did not become Hindus. Due to fear for life we agreed to become Hindus. Two of our Christian families, under threats, got converted to Hindu religion. Rest of us 8 families were forced to sit at the yangya conducted by Hindu priests. We have been warned not to go to church.” (Narahari Kanhar)

In the report by Loyola College, presented before the Tribunal, one of the victim-survivors, Marium Digal, resident of Dodingia / Ambedkar Nagar village, Raikia taluka, spoke of the fact that nearly 15 out of 20 Christian families in the village had been forcibly converted to Hinduism. The families that refused to convert, went to live in the relief camp in Dodingia, she said.⁶⁵ Surekha Nayak of Dalbadi village said that five out of six Christian families in the village had been forcibly converted to Hinduism during the violence, while her family alone refused to convert and fled to a relief camp.⁶⁶ Tamja Nayak and her husband likewise narrated to a team from Loyola College their ordeal of being subjected to forcible conversion to Hinduism.⁶⁷

Testimonies of family members and eye witnesses also highlighted the fact that those who had refused to convert were either killed or grievously injured. The testimony of Kanaka Rekha Nayak, which described the killing of her husband Parikhita Nayak, clearly stated that he was first asked to convert to Hinduism, and when he refused, he was severely assaulted and brutally killed. A woman survivor from Mallikapada village, Tikabali taluka told a team from NN College that in her village, the perpetrators had a meeting with all the 240 Christian families in the village, and forced them to convert to Hinduism. When they refused, they were attacked.⁶⁸ The MARG report too makes reference to many Christians such as Abhimanyu Nayak, Mathew Nayak, Rajesh Digal and Ajit Kumar Digal, who were either killed or tortured for refusing to convert to Hinduism.⁶⁹ The report by Nirmala Niketan College (NN report) corroborates the fact that refusal to convert led to many victim-survivors being attacked.⁷⁰

F. COERCION TO CONVERT AT THE RELIEF CAMPS

The narratives of victim-survivors presented before the Tribunal also indicate that coercion to convert to Hinduism extended from villages prior to and at the time of the violence, to relief camps set up by the government.

“While we were in relief camp the secretary of Sritiguda Gram Panchayat illegally entered into our camp and told us to become Hindus so that we would be allowed to live in peace in our villages. I scolded him for illegally entering the camp and for talking anti-national sentiments. He contacted the police and instigated false case against me for which I was arrested and was in police station in Balliguda...the false case against me is still going on. Though I complained, no action has been initiated against the secretary of gram panchayat mentioned above...”

⁶⁵ Loyola College report, Case Study No. 2 on livelihood

⁶⁶ Loyola College report, Case Study No. 15 on livelihood

⁶⁷ Loyola College report, Case Study No. 14 on livelihood

⁶⁸ NN College report, Case Study No. 66, pp. 113-114

⁶⁹ MARG report, p. 33-34

⁷⁰ NN College report, p. 32

...after spending 3 days in the jungles we were trying to go to relief camp when armed criminal gang under the leadership of Bhuleshwar Nayak (leader of RSS) encircled us and Mr Nayak demanded us to write and give that we renounced Christian faith...He threatened us of death if we did not become Hindus. In order to be alive we complied by his demand..."
(Manyabar Nayak)

The MARG report refers to reports that point out that members and leaders of *Bajrang Dal* and *Durga Vahini* were able to walk into the camps freely and threaten the victim-survivors. It was only after a direction from the Supreme Court that the state government began ensuring that no outsiders would be allowed to visit the relief camps of the Christians.⁷¹

On the issue of coercion at relief camps to convert to Hinduism, the MARG report elucidates as follows:

*"Strategies for conversion to Hinduism executed in the relief camps range from inducement to coercion and physical threat. Photocopies of application forms that expressed a desire to convert to Hinduism were reportedly circulated in the relief camps, and signed forms were collected by local RSS leaders. The Hindutva forces thus exploited the helplessness of the victim-survivors in the relief camps, where conditions and facilities were poor and their future so bleak that they must have longed to return home."*⁷²

G. CONVERSION AS A PRE-CONDITION FOR RETURN TO VILLAGES

The testimonies presented before the Tribunal indicate that there were many victim-survivors and their families who were eager to return to their villages from the relief camps, partly because of the poor conditions in the camps, and partly because their land, property and sources of livelihood were in the villages. However, many who attempted to return to their villages in the hope that normalcy had returned, and that they would be able to re-integrate within their communities, faced severe threats to convert to Hinduism. Those who did succeed in returning to their villages continue to live in fear of forcible conversions to Hinduism and impending attacks as illustrated in the following narratives:

"In March 2009, at the relief camp at Nuagaon, in the presence of sub-collector Susanta Nayak (sarpanch) told us to become Hindus if we wanted to return home. The sub-collector did not take any action against the said person for his statement...though we have returned to our village now, we still live in fear of being attacked." (Manyabar Nayak)

"Whenever I am attempting to return back home and stay back with my family members the rioters are imposing condition for re-conversion into Hinduism... I have repeatedly sought help from the local police station for my protection but no action was taken...Now I am leading a miserable life ...as I am remaining under a situation of constant threat and fear..."(Ganjana Digal),

"We are not allowed to enter into our native village and stay there in our patta land, unless we embrace Hinduism." (Deobhanja Pradhan)

The report of the National Commission for Minorities issued in September 2008, makes the following observation that substantiates the testimonies reproduced above:

"In every camp I visited the main feeling was one of despair and hopelessness at the cruel turn of events. Practically everyone complained of the threats they had received that their return to their homes was predicated on their acceptance of the Hindu religion. I was even

⁷¹ MARG report, p. 65

⁷² MARG report, p. 36

shown a letter addressed by name to one woman stating that the only way she could return to her home and property again was if she returned to the village as Hindu... ”⁷³

According to the MARG report, the Orissa government claimed before the Supreme Court that it had organized over 1000 village level peace committee meetings with the participation of both committees in order to facilitate the return of the displaced Christians to their villages. However, the effectiveness of the peace committees has been critiqued by many. For example, the MARG report states that in practice, the meetings of peace committees served as yet another avenue for laying down conversion to Hinduism as a precondition for living peacefully in the village.⁷⁴ Archbishop Cheenath stated in his affidavit before the Supreme Court:

“...the purpose of the peace committee is to withdraw criminal cases by force, coercion and also to convert to Hinduism to return to their villages for peace. Very often the assailants or their political representatives are on the Peace Committees.” ⁷⁵

The Archbishop’s statement found a resonance in the testimony of Manyabar Nayak, who stated as follows:

“A peace meeting was held in September 2008, wherein the SP and Collector were present. In that meeting Mr. Narayan Pradhan and Mr. Maharaj Pradhan declared that no Christians would be allowed to live in their panchayat. Though the Collector scolded them, no legal action was taken against them for their anti-national statements. No compromise could be reached in that meeting due to the insistence of these persons that we should become Hindus.”

H. PRESENT IMPEDIMENTS TO EXERCISING THE RIGHT TO RELIGIOUS PRACTICE

The study by NN College on the impact of the violence on women stated the following on the issue of right to religious practice:

“When queried as to whether there was a place of worship in their village, over four-fifths, 314 women (88.5%) replied in the affirmative. However, a further analysis of the responses revealed that in many cases the women had to use makeshift sites as places of worship as their churches had been destroyed in the violence. While eighty two women merely mentioned that the church where they worshipped had been destroyed without saying where they were currently worshipping, others were more forthcoming about the latter. Gathering for prayer under a tree or any open spaces available like a maidan or the road (43 women), praying outside the damaged church itself (24 women), using other’s undamaged churches (23 women), using one of the relief camp tents itself (21 women) and praying at home itself (20 women) were some of the common responses. Other places enumerated were the community hall, the pastor’s or other fellow villagers’ homes, in the college premises or a temporary structure erected as a makeshift church.

Forty five women said that there was a church and temple available nearby for worship while nine stated that the same was far away.

It is evident from the findings that inaccessibility to their place of worship and/or inability to pray in the place of worship, was a direct attack on the Constitutionally protected

⁷³ Report of the Visit of the Vice Chairperson NCM to Orissa, 11th to 13th September 2008, available at ncm.nic.in/doc/Tour%20Report%20VC%20Orissa%20Sep.%202008.doc, accessed on 1 March 2010, at para 10, cited in the MARG report, p. 37

⁷⁴ MARG report, p. 36

⁷⁵ Quoted in MARG report, p. 36

fundamental right of an individual to choose or change one's religion as well as practice the religion of one's choice. Again, in this case, particularly where religion and faith came across as being a very important part of the women's lives, there is a high likelihood that they were adversely affected."⁷⁶

The MARG report makes the following observation based on interviews conducted among victim-survivors of the violence:

*"Nearly all of the persons interviewed as part of the MARG study stated that they had faced some threat as a result of practicing Christianity. Most of the respondents also indicated that although they did celebrate and practice their religion and rituals, they had to do so quietly without attracting attention. A few, who lived in Christian majority villages, did not perceive a restriction in their practice of Christianity and celebration of Christian festivals. Apart from immediate impacts in terms of prosecutions and harassment, anti-conversion laws seem to send out the message that it is criminal to be Christian or to express one's faith, leading to a loss of citizenship rights."*⁷⁷

A study by Loyola College, presented to the Tribunal, found that 30% of the persons interviewed were not able to practice their religion after the violence and that 62% were not able to continue with their cultural activities after violence.

I. FREEDOM OF RELIGION & THE LAW

Archbishop Raphael Cheenath, in his presentation to the Tribunal on Freedom of Religion in Orissa, referred to the Constitutional provisions, in particular, Articles 14, 15, 25-30. The rights enshrined under these provisions are as follows:

Article	Fundamental Right Enshrined
14	Equality before the law and equal protection of the laws
15	Prohibition of discrimination on grounds including religion
21	Protection of life and personal liberty
25	Freedom of conscience and free profession, practice and propagation of religion
26	Freedom to manage religious affairs
27	Freedom as to payment of taxes for promotion of any particular religion
28	Freedom as to attendance at religious instruction or religious worship in certain educational institutions
29	Protection of interests of minorities – particularly the right to conserve distinct language, script or culture of their own
30	Right of minorities to establish and administer educational institutions

Article 25 provides the essence of the right to freedom of religion. There are two sets of freedoms protected by this provision: a) the freedom of conscience; and b) the right to freely profess, practice and propagate religion. Freedom of conscience ensures that a person is not liable to be made accountable for his / her religious beliefs, by the state or any other person.⁷⁸ The latter set of freedoms protects both the freedom of religious opinion as well as performance of ceremonies and rituals, and the freedom to transmit information

⁷⁶ NN report, pp. 27-28

⁷⁷ MARG report, p. 44

⁷⁸ Explained by the Supreme Court in *Sardar Syedna Taher Saifuddin Saheb vs. State of Bombay* AIR 1962 SC 872, referred to in MARG's report at p. 25

related to one's religion to others. The right to freedom of religion is not an absolute or unfettered right, and is subject to restrictions such as public order, morality and health.

There are two other laws that impact on freedom of religion. One, the Orissa Freedom of Religion Act, 1967 (OFRA) – an anti-conversion law that seeks to regulate all conversions through a set of administrative controls, including a declaration before the concerned authority of the intention to convert voluntarily, and to prevent conversions by force, fraud or inducement / allurement. The Archbishop pointed out that the law is rather harsh, as the procedure laid down requires a person intending to convert to give an affidavit to the magistrate, which would be forwarded to the Collector of the area, and the Collector would have the final say in allowing or disallowing the conversion. Experts point out that this law, ironically titled as the Freedom of Religion Act, indeed violates the freedom of religion as guaranteed by the Indian Constitution. A critique of this law as well as judicial responses to the anti-conversion law are contained in the MARG report presented before the Tribunal. The MARG report explains how the OFRA couched in general and non-suspicious language targets the activities of Christian missionaries.⁷⁹

The Tribunal questioned the Archbishop with regard to the often-made allegation that Christian missionaries use force and inducement for conversion of people to Christianity. He responded that while such allegations have often been made against the missionaries, these have largely been unsubstantiated, as there are no convictions against the missionaries in Kandhamal or any part of Orissa under the OFRA. His statement is further echoed in the report of the National Commission of Minorities (NCM), which, after visiting Kandhamal in September 2008, clearly rejected the explanation given by state authorities and others that alleged forced conversions to Christianity were the cause of the violence in Kandhamal. It observed that:

“If indeed conversions by force or fraud were responsible for the feelings against Christians, it is absolutely amazing that the provisions of an Act designed precisely to address such conversions have never been invoked. It gives rise to the suspicion that conversion had really very little to do with the problem.”⁸⁰

The Archbishop also responded to the allegation of ‘allurement’ / ‘inducement’ to convert to Christianity, and wondered if helping the people and providing services to them could be considered as an allurement. He opined that Mother Theresa had extended assistance to and served the poor and the downtrodden in myriad ways, but wondered whether her acts be interpreted as allurement to convert to Christianity. He said he, and many others like him, were guided by the teachings in the Bible – to do unto another as one would do to Jesus – and that motivated them to serve the people, particularly the marginalized and underprivileged communities.

The MARG report further points out that the provisions of the OFRA have not been used in the case of forcible conversions to Hinduism both during and subsequent to the Kandhamal violence, despite the directions of the NCM in this regard. The NCM had stated:

“Since the Act is now on the statute book, however, its provisions must be used against the pernicious threats to Christians to convert forcibly to Hinduism or lose all their property and their right to return to their homes. In camp after camp I was bombarded with complaints of such threats and the fear they inspired. The provisions of an Act that seeks to outlaw and punish conversions made by force and fraud must now be used to achieve that purpose, viz. to

⁷⁹ For further details, see pp. 24-28 of the MARG report

⁸⁰ Report of the Visit of the Vice Chairperson NCM to Orissa, 11th to 13th September 2008, available at ncm.nic.in/doc/Tour%20Report%20VC%20Orissa%20Sep.%202008.doc, accessed on 1 March 2010, at para 10, cited in the MARG report, p. 31

*take action against those who seek to convert others to Hinduism by using threats and force.*⁸¹

- a. In his presentation, the Archbishop also referred to the Constitutional (Scheduled Castes) Order, 1950 issued by the President of India (referred to as the Presidential Order 1950). He reiterated the view discussed above that, by an exclusion of those who convert to religions other than Hinduism from the definition of Scheduled Castes, the dalits are being denied the freedom to convert to Christianity if they want benefits from the government.

⁸¹ Report of the Visit of the Vice Chairperson NCM to Orissa, 11th to 13th September 2008, available at ncm.nic.in/doc/Tour%20Report%20VC%20Orissa%20Sep.%202008.doc, accessed on 1 March 2010, at para 13, cited in the MARG report, p. 43

4. GENDERED IMPACT OF THE VIOLENCE

“It is ironical that on the one hand there have been impressive developments at the international level with various declarations, treaties and statutes denouncing all forms of gender based violence against women and declaring that ‘Women’s Rights are Human rights’ while on the other hand this has had little effect on the occurrence of gender- based violence which seems to have become synonymous with all contemporary conflict situations cutting across continent, country and community and where impunity is still the norm.” –Nirmala Niketan College of Social Work, Mumbai

This chapter focuses on the sexual and gender-based violence experienced by women and girls, as well as the gendered impact of the attacks, both during and after the violence, particularly with regard to their socio-economic and cultural rights. At the Tribunal, 12 women victim-survivors testified about various forms of violations and these testimonies alluded to the fact of sexual and gender-based violence against women. One survivor of sexual violence testified *in camera* before the jury members.

A. Violence Against Women

The study by Nirmala Niketan (NN) College categorizes various types of violence faced by women. A significant finding in the study is that a large majority of the women (33.8%) underwent threats of violence. The other forms of violence include vandalism of property (19.71%), family members killed in the violence (3.38%), physical violence (2.81%), and sexual violence (1.4%).⁸²

Among the types of violence women and girls faced in general during and after the conflict, an overwhelming majority (65.91%) spoke of threats to violence and 50.70% spoke of verbal abuse of girls and women. Physical violence such as beating / maiming of women ranks third (10.42%).⁸³

A1. Murder – One of the instances of murder of a woman was narrated to the Tribunal by Christodas Nayak, who spoke of the brutal killing of his wife, Ramani Nayak, in the following words:

“At about 5 a m, on 30/9/08, the villagers of Ganjuguda were suddenly waking up by shouts of mob. More than 2000 persons carrying petrolaxes and weapons such as axe, lathi, crowbar, sword, gun, bow and arrow came towards the hamlet of the victim in shouting awful slogans “Bajrang Bali ki Jai, Bharat Mata ki Jai, Jai Shri Ram,”. The rioters entered our hamlet from all directions and blasted a bomb. They blocked even the roads in order to let no possibility of escape...While running out of village, my wife was fatally attacked with a sword. Her palms were cut, she got cut on the skull and backbone. Her attackers were immediately caught by officers of CRPF. My wife was taken to hospital at Udayagiri where she succumbed to injuries and breathed her last.”

Narasingho Digal spoke to the Tribunal of the brutal rape and killing of his mother, Priyatama Digal. Iswar Digal referred to the killing of his ailing mother-in-law, Padista Digal, by a violent mob. Another woman told a team from NN College that a woman from Sonjuguda village of Bandaguda G.P.(Tikabali) was cut into pieces when still alive. She died due to this.⁸⁴ Eye witnesses from Riuthangia village, Tikabali block, told a team from Loyola College that they had seen a woman, Riyamani, being beaten on her head, and cut into pieces by a violent mob.⁸⁵ Annapoorna Digal, a 60 year old woman, told the same team how, as she

⁸² NN College report, p. 29

⁸³ NN College report, pp. 38-40

⁸⁴ NN College report, Case Study No. 75 at p. 116

⁸⁵ Loyola College report, Case Study No. 12 on Women

and her family members fled into the forest, she had witnessed a Christian girl being burnt to death by the attackers.⁸⁶ Thus it appears that women were killed in brutal ways during the violence in Kandhamal. In the NN College study, twelve women stated that female family members had been murdered during the conflict.⁸⁷

A2. Physical violence – The NN College study reports that ten women had faced physical violence in some form ranging from beating resulting in physical injuries, to their daughters sustaining severe burn injuries when their houses or property was set on fire.⁸⁸ A woman from Panchayatsahi village in Raikia taluka narrated to a team from NN College as to how a 10 year old child in the family could not escape from their house before a violent mob set fire to their house, and was badly burnt. Since there was a curfew, the family had to take the girl to the jungle and stay there for two days without medical treatment. The family had to cover her mouth with a piece of cloth to muffle the sounds of her cries in pain. She was subsequently taken for medical treatment and has since recovered fully. She is currently studying in Class 7.

Sister Christi who works with Carmel Convent of Balliguda taluka was interviewed by a team from Loyola College. After an initial refusal to speak about the violence as it was traumatic for her, she recounted the physical violence and mental trauma that she had been subjected to during the attacks in 2007 and 2008. On 24 December 2007, when she and three other nuns were decorating the church altar, a few youths led them to the seminary in order to protect them, anticipating violence. Two of the nuns switched off the lights, locked the gate and hid themselves under the staircase. A violent mob entered the convent, broke open the gate, turned on the lights and found the two nuns, who managed to escape from the perpetrators. The mob vandalized the convent, breaking the articles and setting the place on fire. Sister Christi and another nun ran to the seminary and hid themselves in a room, and closed all the windows of the room. The mob threw petrol bombs and burnt the seminary building where they were hiding. Although they suffered from acute suffocation due to the smoke, they were terrified to step out of their place of hiding. The youth who had protected them earlier rescued them from the place, as they saw the entire seminary and the convent destroyed and burnt. They fled to the forest. After the 2007 violence, the building was rebuilt and inaugurated on 1 August 2008. Another mob destroyed the things as well as the building in the last week of August 2008. Though Sister Christi has undergone extreme physical and mental agony due to the repeated violence that she had witnessed and escaped from, she has refused to accept the transfer to Madhya Pradesh, opting instead to stay in Orissa and serve the people there.⁸⁹

Annapoorna Diga, a 60 year old woman, showed a team from Loyola College the scars on her leg. She had been attacked by a violent mob while fleeing to the forest with her family members. The mob threw a knife on her calf, causing her excessive bleeding. She continues to experience pain in her leg. Although she has lodged an FIR with the local police with regard to the assault, there is no known action taken against the assaulters. Nor has she received any compensation for the injury.

Sulokshana, a resident of Barakhama village, narrated the brutal assaults on her by a violent mob, which included assault on her abdomen and five cuts on her head with an axe. She has had to undergo a series of surgeries, subsequent to which she continues to experience headache, pain in her eyes and reduced sight in both her eyes, adversely impacting her ability to earn a living and financially support her family.⁹⁰

A3. Sexual and Gender-Based Violence – A woman, AB, testified in camera, as follows, before the jury members of the Tribunal, about the sexual violence that she had been subjected to.

“...At around 9.30 p.m., when my grandfather came out of the house for nature’s call, some RSS activists pushed him, pushed my grandmother and barged into the house. One of them told me: “So you have come and you are here? Good that you have come. We have given

⁸⁶ Loyola College report, Case Study No. 17 on Women

⁸⁷ NN College report, p. 29

⁸⁸ NN College report, p. 29

⁸⁹ Loyola College report, Case Study No. 4 on Women

⁹⁰ Loyola College report, Case Study No. 6

several deadlines but your uncle has not converted. So we are going to take revenge on you". They forcefully picked me up and started carrying me to the jungle. I started shouting and screaming for help. They said that no one would save me. They dragged me for about two kilometers from the village to a jungle. Around 25 people were there in the mob, wearing tilaks and saffron head bands, with their faces partially covered with a mask. They carried knives and other weapons and shouted slogans such as "Jai Shriram!" "Jai Bajrangbali!" I pleaded with them saying that I am a Hindu girl. But they said "even if you are a Hindu, your uncle is a Christian, and he has not converted, so we cannot leave you."

"4-5 men raped me after discussing with each other as to who will rape me first. I lost consciousness and became senseless... After about three hours my grandparents with another person came searching for me, found me and carried me home. The mob had struck on my head and also cut me on my hand...Later on, other RSS members approached me and persuaded me not to file a complaint as it was a question of shame for the woman...Since I am born and brought up in the village, I could recognize some of the attackers. The attackers removed their mask before they raped me. Earlier, they would respect me. I was shocked that they took revenge on me for my uncle's refusal not to convert to Hinduism...Lots of things have changed in my life after that incident. I have been in hiding. I am traumatized, sad, depressed and struggling. I feel ashamed. I am unable to forget about the incident and carry on with life. But I feel I should be strong to get justice."

Another instance of suspected sexual violence and murder of a young woman – Rajni Majhi - was narrated to the Tribunal by Nicholas Barla, an advocate and activist from Orissa, based on facts that he had gathered from Fr. Edward Sequeira and the local people. Rajni was a 20 year old Hindu girl who worked in a church-run orphanage in Bargah district of Orissa. Fr. Edward Sequeira, who had established the orphanage, had been attacked by a violent mob and locked into a room, where he lost consciousness due to suffocation from smoke. Before he became unconscious, he had heard the cries of Rajni Majhi. Nicholas Barla quoted Fr. Edward Sequeira's words:

"Some others caught hold of Rajani Majhi (age 21) a Hindu Adivasi girl, who was a student of 2nd year B.A., an orphan herself, and residing at the orphanage and taking care of the children. As they were binding her hands with wire I heard her crying "Father, they are going to burn me alive". Since I was already thoroughly beaten up, having deep head injury, continuous bleeding, and her cry was the last thing I could remember before I fell unconscious. Later on I learnt that Rajni Majhi was stripped naked, gang raped and thrown into the fire of centering materials.

Mind me, without clothes or petrol poured, can a naked body catch fire easily? Twice the hapless girl tried to escape. Third time when she tried to come out, someone picked up a log and hit her mercilessly on the head, as someone would kill a snake. How cruel people can be and the entire mob watching! They saw to it that the lower part of her body is completely burnt so as to destroy all evidence. Rajni haunts me till today, often seeking justice. The sad story is that no witness shall come forward to prove her case."

Nicholas Barla informed the Tribunal that her case was pending in court for murder, and that the charge of rape had not been included. Rajni Majhi's case received wide media coverage.

Fifty-year old Indira Digal deposed before the Tribunal that she had witnessed the sexual assault of a 20 year old girl that she witnessed as she was fleeing from a violent mob of 3000 persons on 26 August 2008 in her village, in the following words:

"On 26.8.2008, at about 13 hours, an armed mob of more than 4000 people came again to the village encircling the area from all directions. Christian people desperately escaped running into forests, trying to save their lives. The culprits did not leave them any chance for running away... some members of the mob caught hold of a young girl named Manini Digal aged about 20 years.

They removed her clothes and made her to naked in public view. They even tried to rape her publicly, but she protested and resisted. Thereafter in lust and anger, they poured kerosene/diesel on her and set on fire to her body. The lonely girl suffered alone with all these humiliations and pain while the anti-social people were enjoying her sufferings. Though her life is saved, she is more than 60% burnt and is under treatment. An FIR No 12/40 was registered under S.147/452/354/120-3 (of Indian Penal Code) with the P.S (Police Station) - Boijnath Nagar, Berhampur.”

Indira Digal’s narrative has been substantiated by the testimony of Chanchla Nayak of the same village, who, while deposing before the Tribunal, spoke of the sexual assault on Manini Digal, and named 13 persons who had perpetrated the violence.

Narasingho Digal, aged 24 years, deposed before the Tribunal of the rape and killing of his mother, Priyatama Digal, along with the brutal killing of his father, on 25 September 2008 at Dudukagaon village of Tikabali taluka. He stated as follows:

“On 25.09.2008, morning at around 6.00 a.m., the members of RSS, BJP, VHP, Bajrangdal, namely Dadhiya Mallick, Montu Naik, Sudhir Pradhan, Manoj Pradhan the present MLA, Sushil Kanhar etc. came from Tikabali and Chakapado Blocks, along with 500-600 people... They were abusing Christians in vulgar language, kill Christians, rape Christians, destroy Christian property, chase them out from the district etc...The attackers pulled my father and started abusing, shouting in filthy language and dragged him. Also they dragged my mother. Later the criminals raped my mother and killed her in the forest and similarly they brutally killed my father also.”

A report presented to the Tribunal described the sexual violence that Sr. Meena, a nun working with the Divyajyoti Pastoral Centre of K. Nuagaon, had been subjected to. After having been raped and sexually assaulted by multiple perpetrators, her clothes were torn by a violent mob, and she was forcibly made to walk in the market by a mob, which jeered at her, made lewd remarks such as “hi beautiful” and commented on the size of her breasts.⁹¹ Sr. Meena’s case is among the most publicized instances of sexual assault during the Kandhamal violence. The trial is pending in a court in Cuttack at the time of preparation of this Report.

A 29 year old from Masadikia in Raikia Taluka spoke to a team from NN College about the rape and murder of her 55 year old aunt, by five young boys in the village of Gudrikiya Chanchedi.⁹² Another woman from Mundanaju village in Raikia taluka spoke to the team about the rape of a girl, on whom the violent mob poured petrol and burnt her alive. At the time of the interview with a team from NN College, the girl was still in hospital.⁹³ Another woman – a permanent resident of Magadangia in K. Nuagam taluka – narrated that her daughter had been raped during the violence, and that she continued to suffer from fear and anxiety.⁹⁴ A woman from Muningia village in K. Nuagam taluka said that her daughter had been raped and continued to suffer from chest pain. She had not been given adequate treatment as the family did not want others to know about the rape.⁹⁵

Jacob Pradhan from K. Nuagam taluka narrated that members of the RSS attempted to rape his 18-year old daughter when she went to get the ration, but that he (Jacob) was able to rush to the spot and prevent the rape. He and his wife approached the police station to lodge a FIR but the police refused to register the same.⁹⁶ Sulokshana from Barakhama village narrated that she had witnessed a 20 year old woman being gang-raped by 5-6 men from a violent mob. The mob had forcibly entered her relative’s house, where she as

⁹¹ MARG report, pp. 127-128

⁹² NN College report, p. 33

⁹³ NN College report, p. 31

⁹⁴ NN College report, p. 57

⁹⁵ NN College report, Case Study No. 11, p. 98

⁹⁶ Loyola College report, Case Study No. 4 on Livelihood

well as the raped woman were in hiding. When Sulokshana intervened to rescue the girl, she too was sexually and physically assaulted.⁹⁷

The clear intention to target Christian women and girls for sexual violence and other forms of gender-based violence, is indicated by a woman survivor's narration of her experience to a team from NN College, in which she said that a member of RSS who was on good terms with the pastor in their village informed him that the aim of the perpetrators was to kill all pastors and to rape their wives and daughters. The advance information helped the Christian families in Bakingia village, Raikia taluka to escape before the attack.⁹⁸

These are not isolated instances of sexual violence on women. The report of the WILPF / WISCOMP study makes the following observation:

When talking to the DG and the Collector we asked if there had been incidents of sexual violence, and if so also rape. It seemed from those talks as well as the interviews with the victims that there had been such incidents... It is well known that many women are too traumatized to even mention let alone report a rape to the police. The shame and also stigmatizing from the society is a huge hindering, and the victims need to get help by trained people. We strongly recommend that resources are allocated to this important purpose...

The Loyola College study states that 4% of the 50 women interviewed had faced sexual violence. According to the NN College study, five women reported that they and / or their female family members had been subjected to sexual assaults with two stating that there had been a rape and attempts to commit rape mentioned by three women. The study further states that on enquiry about sexual violence on women and girls in their area that they had witnessed or heard about, 16 women said that young girls in their area had been raped while 12 women reported that women had been raped in their village.⁹⁹ There are several other reports of sexual assault and molestation and it is highly likely that many other such cases have gone unreported due to the shame and stigma attached, as observed in a report by Human Rights Law Network.¹⁰⁰

A4. Threats of Sexual Violence – In addition to infliction of violence, women were also subjected to threats of violence, particularly sexual and gender-based violence.

Premasila Digal told the Tribunal:

...People are angry with my husband because he protected so many people during the violence. Now my daughter and I continue to live with the threat of being raped and killed...

Mohini Nayak, a leader of a *mahila samiti* in Raikia block of Kandhamal, testified before the Tribunal the mental agony she suffers because of consistent threats and coercion by local BJP MLA Manoj Pradhan, the local Block Development Officer as well as other local government officials not to testify in court against Manoj Pradhan. She had been repeatedly warned that she and her 18-year old daughter would be raped in public and forced to leave their village if she did so. In August 2008, Mohini Nayak's house was destroyed by a mob of 200-300 people led by Manoj Pradhan, and she had witnessed them destroying other houses in her village. She was a witness in some of the cases pending in court against Manoj Pradhan. Similarly, a woman from Hatipada Sahi, Raikia taluka told a team from NN College that she and her daughter had been threatened with rape for having given evidence against Manoj Pradhan in the fast track court.¹⁰¹ Mohini Nayak's narration above illustrates the use of threat of sexual violence by perpetrators to silence women victim-survivors and scuttle processes of justice.

⁹⁷ Loyola College report, Case Study No. 6

⁹⁸ NN College report, Case Study No. 20, pp. 101-102

⁹⁹ NN College report, p. 39

¹⁰⁰ **Genocide in Kandhamal: Ethnic Cleansing of Christians by Hindutva Rightwing Forces in Orissa**, Human Rights Law Network, 17 December 2008 at p. 3

¹⁰¹ NN College report, Case Study No. 12, pp. 98-99

A woman from Ruabanja village in Tikabali taluka told a team from NN College that a violent mob pulled off her sari and threatened her with rape.¹⁰² Another woman from Gunjiwadi Gutamaha village in K. Nuagaon taluka narrated to the same team that men urinated in front of her as she tried to run. They made suggestive gestures of raping her, thereby threatening and traumatizing her.¹⁰³ An 18 years old girl from Balliguda had been molested and threatened with rape when she went to obtain rice from the public distribution system.¹⁰⁴ Yet another woman stated that the Christians in her village were often threatened that if a man was seen he would be killed, and the women in his family would be raped.¹⁰⁵

The MARG report quotes a woman survivor of Kandhamal who recalls the violent mob threatening them saying: *"We will do to your young women what you have done to our mataji."*¹⁰⁶

In presenting the MARG report to the Tribunal, it was stated as follows:

"Interviews conducted by MARG and other organizations have indicated clearly that there are women who have been sexually assaulted, over and above the few reported incidents. The intimidation or impending threat of sexual and gender-based violence on women survivors and their family members, particularly daughters, continues to be a major obstacle to victim-survivors' return to their villages as well as their pursuit of justice and accountability."

A5. Impact on Reproductive Health of Women: The studies presented to the Tribunal indicate that while all women were vulnerable to forms of sexual and gender-based violence, pregnant women and those who had recently undergone deliveries / family planning surgeries experienced increased vulnerability.

For example, when the December 2007 violence broke out in her village, Sulokshana, a 27 year old dalit Christian resident of Barakhama village, was recovering from a family planning surgery she had undergone ten days ago. She narrated that when she fled to the forest to escape the perpetrators, her stitches opened causing immense pain and agony. She went to the local church for help but found the attackers destroying the church. She stayed in the jungle for about seven days without food, water or medical assistance and thereafter went to a relief camp, where she received medical attention.¹⁰⁷

Similar to the experience of Sulokshana, Sandhya Rani from Rodangia village had undergone a family planning surgery twelve days prior to the attack, leading to the opening up of stitches, excessive bleeding and puss formation. Sandhya Rani recounted the extreme sense of fear as their village was attacked by a violent mob of about 10,000 persons from four different directions, leaving very little scope for fleeing from the mob. Her physical condition, coupled with running from one place to another with an infant to save their lives, left her very weak and in dire need of medical assistance. However, she was unable to go to the hospital due to fear for her life. The physical wounds have healed now, but the mental scars remain.¹⁰⁸

The experience of Chandrika Digal, a 20 year old woman from Pikira, was similar, as her village was attacked five days after she had delivered her infant. She, her husband and mother-in-law had to flee to the forests with her infant due to the violent attack. She experienced extreme pain and her stitches too turned septic. They remained in the forest for five days and were able to seek medical assistance for her only after they emerged from the forest.¹⁰⁹

¹⁰² NN College report, p. 30

¹⁰³ NN College report, p. 38

¹⁰⁴ NN College report, Case Study No. 41, p. 107

¹⁰⁵ NN College report, Case Study No. 4, page 96

¹⁰⁶ MARG report, p. 127

¹⁰⁷ Loyola College report, Case Study No. 6

¹⁰⁸ Loyola College report, Case Study No. 14 on Women

¹⁰⁹ Loyola College report, Case Study No. 16 on Women

Subo Nayak, aged 28 years, was three months pregnant when she had to flee to the forest. She stayed in the forest for five days and walked for many hours to the Balliguda relief camp, following which she miscarried. She stated that she was provided no medical assistance at the relief camp.¹¹⁰

A woman from Barakhama village in Balliguda taluka narrated about how she, as a pregnant woman with two children, accompanied by another pregnant woman, struggled to run as they fled to the forest. She was accompanied by another pregnant woman, who suffered from immense pain, subsequent to which she delivered a child in the forest but the new-born could not be saved.

Another pregnant woman from Rampur block narrated how a violent mob had attacked her at her house in her fifth month of pregnancy. She was brutally assaulted repeatedly on her abdomen and back with a piece of wood, due to which she became unconscious. She was taken to the hospital by her family members, and informed that the foetus had been severely affected and was immobile. With treatment and medication, the woman and the foetus recovered and she gave birth to a healthy child.

There were instances when more than one woman in a family were adversely impacted by the violence. For instance, the NN College report refers to a woman from Kanjamendi in K. Nuagaon taluka, who contracted brain malaria when she fled to the jungle. Her elder daughter, who was eight months pregnant, was bitten by a snake in the jungle and died, and stitches of her second daughter - who had recently delivered a baby - opened up when she ran into the jungle with her new born.¹¹¹

The Haq Centre's report states that in Kandhamal district, there had been no still births till March 2008, but in the next 12 months to March 2009, there were 109 still births. The trend continued with 85 still births till March 2010. These statistics demonstrate the impact of the violence on women's health and nutrition.¹¹²

B. Experiences in the Forests

When the violence broke out, most of the Christians fled, out of fear, to the relative safety of the forests. The NN College study indicates that about 77% of the women interviewed had spent 1-5 days, while about 18% had spent 6-10 days in the forest.¹¹³

Women have had myriad experiences in the forests, where they fled to along with their children and other family members. One woman from Mediakia village of Balliguda block told that many families separated from each other when they ran into the forests. A woman had lost her 8 years old son while running into the forest and was united with him after 5 days in the relief camp.¹¹⁴ During the stay in the forest the people were unable to get food and water. As the children were very thirsty, and the parents were unable to get them drinking water, they gave the children's urine to wet their tongues. They also narrated instances where the survivors licked rain water damped stones in the forest to wet their tongues. Many of them ate tender, inedible leaves to quell their hunger.

Women who required urgent medical assistance had to tolerate the physical pain and cope with the rigours. 60 year old Annapoorna Digal lived in the forests with a heavily bleeding leg for 2-3 days. As discussed above, women's reproductive health was adversely affected due to an absence of medical assistance and nourishing food that was warranted in their condition. Many described their horrific experiences of surviving in the forests with small children.

The NN College study summarizes the various hardships the women faced on their arduous journey into the forest and the traumatizing stay in the forest in hiding as follows:

¹¹⁰ Loyola College report, Case Study No. 8 on Women

¹¹¹ NN College report, pp. 36-37

¹¹² Haq Centre's report, p. 33

¹¹³ NN College report, p. 45

¹¹⁴ Loyola College report, Case Study No. 8 on Women

- Total lack of food, water, shelter and clothes to wear;
- Braving the vagaries of nature like continuous rain and the threat of wild animals;
- Living in constant fear and experiencing sleep disturbances;
- Lack of sanitation facilities;
- Various health problems;
- Pregnant women and old people especially experienced difficulties like moving quickly in the difficult terrain; and
- Distress caused by separation from the family.

C. Conditions in the Relief Camps

After the violence, the state of Orissa set up about 25 relief camps in various parts of the district and the state. These were guarded by the CRPF personnel. The overall conditions in the relief camps are discussed more elaborately in Chapter 9 of this Report, while the present section focusses on the gender aspect of the same.

The NN College report includes various women survivors' accounts of conditions in the relief camps, and critically examines the absence of facilities for women, that would restore them to a life with dignity. These are summarized below:¹¹⁵

- Nearly 85 percent of the women lived in State Run relief camps for periods ranging from one to 18 months.
- There were problems like shortage of or no water facility at all, shortage of food, inadequate clothing and lack of proper shelter. Inadequate sanitary supplies caused women difficulties during their menstruation.
- A common living space for both men and women in the relief camps, some places having just two bathrooms without roofs for 5000 people and no toilet facilities as well meant a total lack of privacy for women, insufficient or no place to sleep, difficulties in staying and also no privacy for women. This explains the reason why women were being harassed and abused by other refugees, Hindus and even police personnel in the camps while bathing. Women were reportedly given 30 minutes to go out of the relief camp for toilet, and if they failed to return within the stipulated time, they were reportedly punished by the CRPF personnel who were guarding the camps.¹¹⁶
- Women suffered from many health related problems including abdominal tumours/ pain, bone diseases, reproductive health issues, urinary tract infections and illnesses like tuberculosis, malaria and jaundice. To compound matters, often there was no female doctor available.
- Pregnant women and new mothers were a particularly vulnerable group where the problems faced ranged from no protection for these women, no assistance for them during their delivery to lack of clean drinking water and no special facilities for pregnant women who were suffering from malaria. There had been cases of miscarriage, premature deliveries, forced abortion and two cases where pregnant women had died in the camp – one because of a snake bite while in the forest. Due to lack of basic sanitation facilities during delivery, newborns had caught infections and in a few cases the child had died for want of treatment.
- All these factors point to the fact that, overall, the facilities in the camps were very dismal and the infrastructure very poor, thereby showing that various International guidelines and protocols laid down for treatment of women refugees seemed furthest from the Government's mind.

The Loyola College report refers to a group discussion with women victim-survivors, who told the team that they did not get sanitary napkins during menstruation, and tore their sari for use as napkin.¹¹⁷ The NN

¹¹⁵ NN College report, pp. 81-83

¹¹⁶ Loyola College report, Case Study 1 on women

¹¹⁷ Loyola College report, Case Study No. 8 on women

College report substantiates this, and highlights the gender blindness in relief packages, as they did not include sanitary napkins or nutritional packages for pregnant and lactating women to address women's special health needs. A few women informed the NN College team that only one packet of sanitary pads was given per family though often there was more than one woman in the family menstruating at the same time. This was contrary to a Block Development Officer's information when he said '*sanitary pads were distributed to each girl as per her requirement.*'¹¹⁸

An interview of NN College team with an 18 years old girl from Raikola village, G. Udayagiri taluka, is an eye opener on the experiences of adolescent girls in relief camps. Reportedly, in the camp, the CRPF men would tease the girls. The girls had no undergarments, as the clothes supplied had been only for adult women and young children. They had no privacy for changing their clothes. Although the girls were not used to wearing a sari, they were forced to wear the same. She said that many CRPF officials had made false promises of marriage to the girls, got them pregnant, forced them to abort the foetus and deserted them thereafter.¹¹⁹

The absence of psycho-social care to the inmates of the camps, particularly women and children, has been elaborated in the WILPF / WISCOMP report in the following manner:

"The victims, especially the women and children, even in the end of the month of January, i.e., five months after the mayhem occurred, appear to be traumatised. We were told by the District Collector, during our meeting, that psycho-social care was being provided. Unfortunately, we did not come across any evidence of such care. On the contrary, we found a number of women still wailing and depressed, unable to coherently express themselves. They also felt that their children were being neglected without proper food and care."

There were a few deaths reported in the relief camps due to want of medicine, and death of children due to unhygienic conditions in the camps.¹²⁰ The NN College study indicates that despite these conditions, one fifth of the women interviewed felt safer, more secure and peaceful in the camp as compared to their villages.

D. Psychological Impact of the Violence

Besides the physical impact of violence, women continue to experience the psychological effects long after the conflict subsided. Victim-survivors who testified before the Tribunal spoke of extreme mental anguish and trauma that they faced and continue to face, due to their varied experiences during the violence in Kandhamal. For example, Kanaka Rekha Nayak wept bitterly as she narrated to the members of the jury her traumatic experience of witnessing the gruesome killing of her husband, Parikhita Nayak, and the helplessness she felt.

Similarly Priyatama Nayak narrated to the Tribunal the anguish with which she witnessed her husband, Abhimanyu, being tied to a tree, covered with papers head to toe, poured kerosene and burnt by a violent mob for 2-3 hours. She also narrated the agonizing experience of having to guard his burnt body from dogs for five days as no neighbours were willing to help her bury his body. She was finally able to secure the help of her Hindu neighbours only after she promised not to lodge a complaint with regard to the killing. She said:

"Till date the accused are roaming free. They make fun of me and mock me and say that I can't do anything. Despite witness depositions from us nothing has been done. They are threatening

¹¹⁸ NN College report, p. 71

¹¹⁹ NN College report, Case Study No. 45, pp. 108-109

¹²⁰ Elaborated in John Dayal, 'Camp and Culpability', Combat Law, April 2009, referred to in the MARG report, p. 72

my family to withdraw the case or they will kill us. They do not allow us to get our land back and return to the village. I want justice so that we can live in peace.”

The case study of Urmila Pradhan, a permanent resident of Bagadi village, K. Nuagam taluka, is an illustrative example of the psychological impact of the violence faced by women. When a violent mob attacked her home, her husband and children fled to the forest, but she was caught by the mob. The mob destroyed her house, and also poured kerosene on her. She miraculously escaped from being burnt. However, when Urmila’s family returned to her damaged home a day later, Urmila was sitting in the house in a shocked and dazed condition, and has been unable to communicate thereafter. No medical treatment has helped Urmila recover from her trauma.¹²¹

Ila Pathak, in the presentation of the WILPF / WISCOMP report to the Tribunal, elaborated on the psychological impact of the violence on women, which she observed in the relief camps, in the following words:

“When we asked Bishop Monteshuru about counselling, he said that after the first mass at the church especially after the violence, the women wept a lot and caressed one another. That was the only ventilation of feelings for women... Women were traumatized, violated, uprooted and suffered very deep trauma. Woman inflicted self punishment. A woman was pricking the inside of her elbow to hurt herself out of her frustration and depression. Another woman was clutching her saree and hiding her face as if she did not want to see anything. Another lady said that she doesn’t want to go home, because according to her it is night and only night, a black night. A woman also said that her husband was killed, killed, killed, and later started weeping. Many were extremely traumatized, but there was no trauma counselling done (in the relief camps). I suggest that trauma counselling is provided in the relief camps.”

A woman from Nandagiri village in G. Udaigiri taluka told the NN College team her aged mother had not recovered from the pain of witnessing the brutal killing of her son.¹²² Another woman from Breka village in Tikabali taluka told the team that she was adversely affected as her pastor husband was killed in the jungle, and she was unable to recover his body, and could only find his spectacles, shirt and some belongings.¹²³ A woman from Masadikia village in Raikia taluka shared her feeling of extreme fear and anxiety with the NN College team, recalling that the perpetrators threatened that in future, they would not go about breaking or destroying the homes of Christians, but would kill the men and then attack the women, or use women as a bait to kill their husbands.¹²⁴ A woman resident of Borakia village in Balliguda taluka told the team that she was still afraid as it had been discussed in her village that in the next five years, there would be more violence until only Hindus or Christians are left.¹²⁵ Another woman, from Maudikutti (Pattamana) village in K. Nuagaon taluka, narrated that she and the villagers lived in constant fear, and that the men were afraid to leave women alone in the village and go out to cities to work.¹²⁶ The Loyola College team found the women residing in Riuthangia village to be in a depressed state, and that they were unable to overcome the attacks and feared further attacks.¹²⁷

The Loyola college study found that 90% of the women faced emotional and psychological abuse. The findings of the study include: 74% of women were in a depressed condition; 50% of the women continue to get frightened; 20% get heartache and muscular reactions when they remember the violent events; 78% of the women were unable to overcome the memories of the violent incidents; 20% of the women were able to overcome the memories of the violent incidents only partially; and only 22% of the women were able to

¹²¹ Loyola College report, Case Study No. 22 on livelihood

¹²² NN College report, Case Study No. 34, p. 106

¹²³ NN College report, Case Study No. 73, p. 115

¹²⁴ NN College report, Case Study No. 48, p. 108

¹²⁵ NN College report, Case Study No. 44, p. 108

¹²⁶ NN College report, p. 54

¹²⁷ Loyola College report, Case Study No. 12 on women

overcome the memories of the violent incidents completely. The findings clearly indicate that women's mental well-being has been severely impacted by the violence, as a result of which the women are unable to lead a life with dignity and peace of mind.

The NN College study further corroborates these findings stating that the psychological effects of violence against women include anxiety, post-traumatic stress disorders, depression and attempt to commit suicide. Fifteen women expressed that the conflict and its aftermath had caused intense mental trauma and stress, especially the fear of losing their lives. The findings further revealed that women 'feeling very sad' topped the list at 87.04%. A large majority of between 81% and 86% of the women were dominated by fear for their own lives and those of their children and other family members, afraid that someone could harm them. Nearly four fifths of the women shared that they had stranger anxiety (79.72%), they were feeling tense most of the time (77.46%), especially when the children were not with them (78.31%) and fearful to let their children go out alone anymore (76.90%). The report also found that 116 women (32.68%) said that sometimes feelings of not wanting to live anymore would overcome them while a sense of shame or embarrassment to speak to people now was expressed by a little more than one third of the women (37.18%).

On the issue of women's mental health, the NN College study concludes as follows:

More than half of the women had not had a chance to share their feelings and problems with anyone since the conflict. It can only be imagined, the kind of psychological trauma and stress these women must be going through and the toll it must be taking on their physical health. This also shows the low priority accorded to mental health issues among victims of conflict.¹²⁸

E. Housing, Livelihood and Financial Insecurity

Premasila Digal, an anganwadi teacher, narrated her present condition to the Tribunal as follows:

"I was working as an anganwadi teacher in my own village, Katadi, Tikabali taluka. After the violence, I have not been reinstated in my job, not allowed to stay in my centre and not allowed to return to my village. I presently stay at Bhubaneswar and am doing the job of a daily wage earner to maintain my family. In Bhubaneswar, I live like a beggar. Even the sari that I am wearing is not mine – I have borrowed it. I want to go back to my village and resume my job again. My situation is very bad. Again and again I gave my request to the CDPO for reinstatement but the officials never accepted my request. Like me other anganwadi teachers suffer and live without work. There is a lot of danger. Though I have submitted all the necessary documents, my name has not been included in the damage list. So because I have lost everything. We have been looted, and I lost my job. I find it difficult. And survival is in danger."

The statements of women survivors as told to teams from Loyola College and NN College encapsulate the financial insecurity and fear that many Christian women in Kandhamal continue to face:

A woman who was a permanent resident of Magadangia village in K. Nuagam taluka narrated about the financial difficulties that her family faced. She said that her family stayed in a rented house in Bhubaneswar, paying a rent of Rs.600/- per month. They were unable to return to their village and re-build their house because of the threats that they continued to receive. When she went to the village to enter her name for the census survey, the villagers did not allow her to do so. Her daughter who had been raped during the violence, was also frightened to return to the village.¹²⁹

¹²⁸ NN College report, p. 80

¹²⁹ NN College report, p. 57

A woman from Perigoda village in K. Nuagam taluka spoke of her anxieties in bringing up her children as a single mother. Prior to the violence, the Hindus had employed her, but now, they did not do so. Even if they did, she was fearful of her own safety and reluctant to work in Hindu houses. Her grandfather's land in Dharampura village had been grabbed by others and was used by them, hence she was struggling to make a living.¹³⁰

A woman from Beheragaon village in Tikabali taluka said that her father, a public official, had been denied permission to work in office by the sarpanch and Hindu co-workers. All his certificates had been burnt and they were asked to leave the village.¹³¹

A woman from Sindrigaon village in Balliguda taluka said that she had lost her business of selling dried fish and her husband is no longer appointed as the ration seller at the *gram panchayat* because the Hindus refused to buy things from him.¹³²

E1. Women as Sole Breadwinners: The killing of male breadwinners of affected families forced many women in such families to make a living, in order to financially support their children and other family members. Such is the case with Ashalotha Naik of Tiangia village. Her husband, Vikram Naik, worked as a contractor, and made his livelihood through petty businesses such as selling kerosene. He sustained severe injuries due to attacks by a mob, subsequent to which he died at the hospital. Ashalotha had undergone a training in auxiliary nurse midwife (ANM) two years prior to the violence that helped her secure a job as mid-wife in a primary health centre of Daringbadi. She earns Rs. 3000 a month, out of which she pays a house rent of Rs. 1000 and supports herself, her child, her brother and sister-in-law with the remaining amount. Ashalotha has decided to reside in Daringbadi and not return to her original residence at Tiangia, which still holds powerful memories of the devastation the violence unleashed on her family.

Not only are women forced to earn a livelihood for the first time, with limited education and skills, they are forced to do so away from the villages where they were originally residing, causing further difficulties in searching for livelihood. A case in point is what a deceased pastor's wife from Tiangia (Budedipada) in G. Udayagiri taluka stated – that she did not want to return to her village, because she was still a target and the villagers would kill her. So she intends to go somewhere else to earn a livelihood for the sake of my two children.¹³³

E2. Impact on Self-Help Groups: The Kandhamal violence had another gendered impact – many women who were part of self-help groups, who had previously obtained a loan for income generation, lost their money during the violence. An example is a self-help group in Mediakia village, that engaged in income-generation activities such as planting vegetables and making turmeric powder. The group lost Rs. 1 lakh in cash, which had been kept at one of their homes, and have received no compensation despite reporting the loss to the governor.¹³⁴ Incidentally, the government directives on compensation mention nothing about loss of movable property including money.

E3. NREGA & Employment to Women: Many women face financial insecurity, loss of livelihood and housing following the violence in Kandhamal. Though the NREGA is intended to guarantee some form of livelihood, the law is flawed in its implementation. For instance, Amaravati, a 49 year old widow with three sons, fled to the forest when a violent mob attacked her village on 24 August 2008. Her house was burnt by the mob. She went to a relief camp and was shifted to another village Ruthangia. Till the time of the interview by a team from Loyola college, she was unable to return to her village due to her Christian identity. In addition to having lost her house and household articles, she has also been denied a job under the

¹³⁰ NN College report, Case Study No. 49, p. 110

¹³¹ NN College report, p. 53

¹³² NN College report, Case Study No. 4, p. 96

¹³³ NN College report, Case Study No. 16, pp. 100-101

¹³⁴ Loyola College report, Case Study No. 8 on women

National Rural Employment Guarantee Act (NREGA). She is psychologically affected by the violent incident, and has no means of livelihood.¹³⁵

Similarly, no work has been made available to Dalimba Digal – a 34 year old widow, under the NREGA scheme. Dalimba is still in a state of disbelief as to what had happened, and has no source of livelihood.¹³⁶

The Loyola College study highlights the fact that 70% of the women were not provided employment under the NREGA, though the government is obliged to do so. The contractors have been allocating jobs only to the Hindus. A group interview conducted by Loyola College further highlights the disparities between payment to men and women under NREGA.¹³⁷ The NN College report states that approximately 21% of the women interviewed reported a loss of a job under the NREGA.¹³⁸ Substantiating the findings of the NN College and Loyola College studies, a summary of interviews conducted by MARG also highlights the fact that a majority of survivors stated that they were provided no jobs under the NREGA because of their religious identity.¹³⁹ In the case of women, such discrimination has further consequences as they are vulnerable to gendered forms of exploitation due to the financial insecurity.

The Loyola College study highlighted the economic impact of the violence on women, and found that 90% of women lost their house, 24% lost their livestock, and 14% lost their land. Only 72% of women have received compensation for their damaged houses. 28% of them have not received any compensation for their damaged property or livestock loss.

A report by Nirmala Niketan College of Social Work sums up the impact of the violence on livelihood of women as follows:

“The economic impact included loss of employment including NREGA work, loss of sources of livelihood like farming, cultivating rice and paddy, loss of their livestock/ cattle and loss of family businesses like dealing in turmeric, dry fish and leaf plate making as fear had prevented them from going to the forest for their leaf plate work and collecting firewood. This in turn meant that there was a shortage of money to buy food and survival had becoming difficult. Depression, a feeling of insecurity as no proper jobs were forthcoming and feeling afraid to move out for employment were some of the most widespread psychological effects as a result of the adverse impact of the violence on women’s livelihoods.”¹⁴⁰

F. Internal Displacement

One of the aspects of internal displacement is the inability to return to their villages due to a threat to their lives. Some narratives of women who testified to the Tribunal in this regard are reproduced below:

“The agents of murderers of my husband have told me that they would kill me and therefore I am afraid to return to my village and cultivate my land. In fear I am now living in hiding.”
(Runima Digal, whose husband, Ishwar Digal, was brutally killed by a violent mob)

“Today I am deprived of getting a widow pension though legally, I deserve it. Finally I am going to lose my identity as a bona fide resident of my native place of Barapalli village during the ongoing census as I am not in a position to go back, construct my house and prove my

¹³⁵ Loyola College report, Case Study No. 3 on women

¹³⁶ Loyola College report, Case study No. 2 on women

¹³⁷ Loyola College report, Case study No. 15 on women – the persons interviewed said that the women were paid Rs. 50 a day and men Rs. 70 a day for the same work done.

¹³⁸ NN College report, p. 52

¹³⁹ MARG report, pp. 170-176

¹⁴⁰ NN College report, p. 79

residential holding." (Priyatama Nayak, whose husband Abhimanyu Nayak was brutally killed by a violent mob)

Amaravati, a permanent resident of Ruthangia village, is unable to return to her village as the Hindu villagers have barred Christians from residing there, and has instead migrated to another village. She has reportedly lost her house, household belongings, has been uprooted from her surroundings, and is deprived of livelihood due to religious discrimination under NREGA, leaving her in a state of acute depression.¹⁴¹

The violence in Kandhamal caused large-scale internal displacement of women, girls and their families. The NN College study has attempted to document various types of displacement that had occurred in women's families as a consequence of the violence. This includes:

- Displacement of family members – Nearly 1/3 of the women said that the violence had forced their family members to leave home. While some said they themselves were forcibly displaced, others said that male members of their families - husbands, brothers and sons - had been forced to migrate due to the prevailing circumstances. In some cases, the entire family had been uprooted from its place of residence. Most of the women had stated that they were aware of the whereabouts of the family members. Displacement of male members of families had a gendered impact on the women, as they were forced to fend for themselves and other family members in the villages, and were more vulnerable to violence and intimidation from the perpetrators.¹⁴²
- Forcible migration of girls from the women's families: About 13% of the women interviewed by the NN College team said that they had sent their daughters to boarding schools. Some women said that they had sent their daughters away to work, with pastors, nuns, relatives, friends and neighbours. A majority of them seemed to be in contact with the girls or at least know their whereabouts. Some women spoke of having been persuaded by strangers to send their daughters to cities to escape poverty and have a better life. Young widows, unmarried and young women were similarly persuaded at the relief camps. The NN College study found that as in the case of other disasters/calamities, there were groups and individuals, who, taking advantage of their social and economic vulnerability, attempted to lure women/girls away from their families. However, the report finds that a majority of the women did not send their daughters away to work with strangers, probably indicating their awareness of trafficking and its consequences on young, unmarried and single women.¹⁴³

G. Single Women's Experiences

Documentary evidence suggests that some groups of women and girls are particularly vulnerable in conflict and displacement situations. These include young, single, widowed or disabled women who are at particular risk of sexual violence, more vulnerable to trafficking and with the breakdown of traditional community and social support systems, are most often left to fend for themselves.

Sabistri Nayak's case highlights the extreme vulnerability that aged single women faced in Kandhamal, first through mob violence and second, through exploitation by their own family members. Sabistri Nayak is a 65 years old woman from Dokadi village of G. Udayagiri. Sabistri Nayak's husband, Manada Nayak - a pastor, was brutally killed by a mob. Sabistri was taken from the G.Udayagiri relief camp to the Raikia mountain to identify the burnt body of her husband. She complied with all formalities, and claimed and received a compensation of Rs. 5 lakhs from the government, assisted by her son. Together they spent part of the money re-building their house that had been destroyed by the mob. The remaining money, deposited in Sabistri's bank account, was stolen by her son along with her identity proof and bank documents.

¹⁴¹ Loyola College report, Case Study No. 3 on women

¹⁴² NN College report, p. 48

¹⁴³ NN College report, p. 51

Thereafter, he and his wife deserted Sabistri. As a result, Sabistri continues to live alone in her house without any source of livelihood. She is too old to go for work and is dependent on her neighbours for food. She continues to be in a state of deep shock and anguish, as recorded by the team from Loyola College.

A woman survivor from Mallikapada village, Tikabali taluka, interviewed by a team from NN College said that the perpetrators had a meeting with all the 240 Christian families in the village, and forced them to convert to Hinduism. When they refused, they were attacked. At least 125 of the families had single women living in the village as their husbands were working in Kerala, and such women were also attacked.¹⁴⁴

In the NN College study, about 40% of the women acknowledged and elaborated on various difficulties that unmarried and single women (widows / women separated from husbands) particularly faced during and after the conflict. These include:

- *Economic difficulties*- Financial problems, lack of employment opportunities and loss of job with Hindu employer were the most widespread difficulties faced by this group of women. A woman from Petapaadar in Tikabali taluka explained that many single women worked in slave-like conditions in other houses;
- *Lack of facilities*- Lack of basic amenities, water problems and not being given a Below-Poverty-Level (BPL) ration card;
- *Feeling of Loneliness*- Twenty eight women had said that many of the single women felt lonely and were anxious about how they would survive without any support;
- *Emotional / Psychological trauma* – Receiving threats from the perpetrators, experiencing fear and insecurity as well as depression; and
- *Increased dependency on other family members* – A few women explained that becoming dependant on their children or extended family was a difficulty this group faced.¹⁴⁵

H. Peace-building Initiatives

The Orissa government claimed before the Supreme Court that it had organized over 1000 village level peace committee meetings with the participation of both committees in order to facilitate the return of the displaced Christians to their villages.¹⁴⁶ Ironically, perpetrators and their political representatives were included on the peace committees¹⁴⁷ while women survivors were excluded from peace-building processes, as observed from survivor testimonies, NN study and WILFP / WISCOMP study.

Ila Pathak, in presenting her report on the status of women in relief camps, gender violence and women's rights to the Tribunal, made the following observations:

“The peace committees were started and only men attended these committees. It started with 10 victims and many more on the other side. There was not even a single woman was there among the victims or in the peace committee as a member. In contravention of Security Counsel Provision 1325, which says that in peace negotiations women must be included... At times such as this, we need to protect the human rights of women. I wish peace committees were set up in the relief camp and villages especially for and with the participation of women.

I wrote to the Home Minister and Prime Minister, but received no reply for 3 months. I sent a number of reminders and then we went to Supreme Court and asked for a mechanism to be

¹⁴⁴ NN College report, Case Study No. 66, pp. 113-114

¹⁴⁵ NN College report, pp. 51-52

¹⁴⁶ MARG report, p. 36

¹⁴⁷ MARG report, p. 85

activated. Our PIL is clubbed with Bishop Raphael Cheenath's first Public Interest Litigation and notices are issued and are awaiting final hearing."

Geeta Balakrishnan of Nirmala Niketan College of Social Work, Mumbai, substantiated this in the presentation of the NN College report to the Tribunal, where she said:

"Women have not been considered at all, there is no place for women in the village level peace committees. Even where women have asked the Block Development Officer (BDO) to attend the peace committee meeting, they have not been allowed..."

I. Women's Participation as Perpetrators

Many narratives of victim-survivors before the Tribunal referred to mobs of women attacking their villages:

"At about 3.30 p.m., I heard from my staff and other reliable sources that the members of RSS, Bajrang Dal, VHP, Durga Bahini of Paburia and from nearby villages under the leadership of (1) Sahadev Pradhan (2) Aparajita Nayak, ex-Samiti member (3) Kabi Bindhani (4) Kalia Sahu, (5) Srinias Pradhan, (6) Sachi Nayak, (6) Kaleswar Digal, (7) Sruikant Nayak, (8) Babula Padhi, (9) Kutu Digal, (10) Tunu Dalabehera and others, around 150 members entered into Pollishree Jana Sewa Samittee campus and looted all the valuable documents, assets, money and set on fire to the office building." (Paul Pradhan)

"The mob included women and children too. Some members of the mob were carrying flags of Bajrang Dal." (Kamala Sahoo)

"It was a surprise to note, rather difficult to understand that, about 5000 women, the members of Durga Bahini had come to attack the Tikabali relief camp, where thousands of Christians were in the camp, after the departure of the then revenue minister Mr. Manmohan Samal, who was from the BJP." (Premasheela Digal)

Prakash Nayak, a permanent resident of Bettikola village, narrated that after a meeting held to attack the Christians, the attackers instructed him that any one of his family members should meet them. Thereafter his mother went and met them. She found RSS women standing with weapons in their hands. They asked his mother to convert into Hindu religion but she refused to do so. They chased his mother and she had to run to save her life. On the way to save her life she was exhausted and fell down and could not get up. The lady attackers thought that she was dead and left the place at once. Prakash's mother was injured and she reached the forest with great difficulty.¹⁴⁸

From victim testimonies, it appears that women were not only part of violent mobs but, on some occasions, also participated in planning and instigation of the violence, and leading some of the violent mobs. For instance, in Kuttipoda village of Balliguda taluka, which consisted of 32 Christian families and no Hindu families, Ms. Sunita Mallick is reported to have had a meeting with the panchayat leader about attacking the Christian families and destroying their houses.¹⁴⁹ Three villagers are reported to have overheard the conversation. The subsequent day, the village was attacked by a violent mob of about 1000 persons.¹⁵⁰ Paul Pradhan testified to the Tribunal that the mob that attacked the premises of his non-profit organization, Pollishree, was led by persons including Aparajita Nayak, leader of Durga Bahini of Paburia.

¹⁴⁸ Loyola College report, Case Study No. 3 on livelihood

¹⁴⁹ The political affiliation of Sunita Mallick is not clear; however, from the facts, it can be inferred that she did hold an influential political post

¹⁵⁰ Loyola College report, Case Study No. 1 on women

J. Present Conditions, Pursuit of Justice and Aspirations for the Future

This chapter on women's experiences would be incomplete if it did not highlight the present condition of women, their pursuit of justice and their aspirations for the future. At the Tribunal, some women expressed extreme pain and sorrow at their present condition, while others were angry at the injustice and indignity with which they have been forced to live life at present. However, most were consistent in their demand for justice, an aspiration of peaceful coexistence and a restoration of their life with dignity.

Kanaka Rekha Nayak, who narrated to the Tribunal the horrific experience of witnessing the brutal killing of her husband, stated as follows:

“My economic condition is very bad. I live in a rented house in Bhubaneswar and am unable to go back to my village. I have deposed against Manoj Pradhan, the main perpetrator, in court; so has my daughter aged six years. Manoj Pradhan is on the lookout for me and my children. I am afraid to go back to the village. I have received Rs. 2 lakh compensation from the government, but have no help for the education of my daughters, or a job. I live on my own and on the charity of the church. One of my daughters is in a hostel. I feel I have not got any due justice as the culprits are free. I presented the truth in court, but the opposition lawyers have said that my daughter and I have lied and that my husband has not been killed. I want Manoj Pradhan to be hanged to death as my children and I continue to suffer.”

Priyatama Nayak, who narrated to the Tribunal about the brutal killing of her husband and the horrific experience of having to guard his half-burnt body from dogs for five days, spoke of her quest for justice:

“I live in a rented house in Udaygiri and pay rent of Rs1200 while I have my own house in the village. I find it hard to support my 4 children. Till today the accused are roaming free. They make fun of me and mock me and say that I can't do anything. Despite witness depositions from us, nothing has been done. They are threatening my family to withdraw the case or they will kill us. They do not allow us to get our land back and return to the village. I want justice so that we can live in peace. I want them to be hanged.”

Kamala Sahoo, a social activist whose home and office were looted and destroyed by a violence mob, stated to the Tribunal as follows:

“Being a Hindu, I was very shocked when Swami Laxmanananda died and had collected flowers to put on his body. Instead the mob came and looted and destroyed everything... Members of the BJP and RSS have threatened me, saying that since I was working with the Christians, I would be killed along with my son. I was promised by the government that I would be paid Rs. 20,000 as compensation but have received only Rs. 10,000 without any reason. While I was reconstructing my house, all my housing material was looted and people continue to threaten me not to do cases against them. I feel unnecessarily targeted and victimised and wants justice.”

Nalini Nayak, whose husband, a pastor, had been brutally killed, described her present situation to the Tribunal:

“In my family there is no one who has a job. Though I have incurred a loss of properties worth more than Rs. 4 lakhs, I have received only Rs 30,000/- compensation. According to the government our house is partially damaged but we could not complete rebuilding it. So we are currently living in a partially-built house in the rain. If I can get a job I can finish rebuilding the house. I hope that we can return to the peace and harmony which existed in Phulbani before the violence.”

Premasila Digal, an anganwadi teacher – who lost her job, whose house was damaged and property looted, and who has been prevented from returning to her place of habitual residence, nevertheless reiterated her belief in the constitutional rights of the country and in processes of justice.

From the interviews conducted by the NN College team, it appears that many women had implicitly accepted the violence that was meted out to them as a part of life, but aspired for peaceful co-existence. For example, a woman from Budamaha village in Raikia taluka said that it was written in the Bible that Christians will have to suffer one day for Jesus and this violence is exactly that.¹⁵¹ Another woman from Petapaadar village in Tikabali taluka stated that the women only think about the future of their children, and that they want peace in life and support so that they can live like before (with dignity).¹⁵² A woman from Rotingia village in G. Udayagiri taluka said that she desired peace, that she had forgiven the perpetrators and that among the Hindus and Christians there should be spirit of friendship.¹⁵³

¹⁵¹ NN College report, pp. 72-73

¹⁵² NN College report, p. 73

¹⁵³ NN College report, p. 73

5. IMPACT ON CHILDREN

“From the forest, we watched and heard them destroy the hostel, school, dispensary and the church... The children have undergone extreme trauma. What is the value of the Indian Constitution if dalit and adivasi children cannot be protected from such attacks?” (Fr. Basil Kullu of Madhupur church and hostels)

When men and women of the Hindutva forces unleashed violence based on prejudice and politics of hate, innocent children and adolescents have had to face its consequence. The devastating effect on them include death, injuries, homelessness, disruption of family-life, violation of basic rights, and long-term trauma. There were no minors among the victim-survivors who deposed before the Tribunal with regard to their experiences. Hence this chapter of the Report relies almost entirely on secondary sources.

A. Violence on Children and Adolescents

Since many churches house a large number of children in their convents, hostels and orphanages, attacks on such churches by violent mobs have had a direct impact on the physical security and mental well-being of the children and adolescents in such institutions. Fr. Basil Kullu’s narration of the attack on Madhupur church, Bargarh district, is perhaps representative of the experiences of many churches and the children residing there, which came under attack in Orissa.

Fr. Basil Kullu, a Catholic priest with Madhupur church, Bargarh district, described to the Tribunal his personal traumatic experience of having to protect over 370 children residing in the hostels managed by the church, from the violence, with very little help from the police. He stated that Bargarh district was far from Kandhamal, and was also subjected to violence in August 2008. The church was established in 1952 to provide education, health care and socio-economic development of the remote area, he said. The church had 224 boys and 146 girls residing in the hostels, including 20 physically-challenged children. There were a total of 500-600 children, including residents and day scholars. Most of the children were dalits and adivasis, and a majority of them were Hindus, he stated.

On 23 and 24 August 2008, Fr. Basil repeatedly met and contacted various police personnel at various levels, including the Superintendent of Police, the District Collector, Mr. Suresh Paddy, the Deputy Magistrate as well as the Block Development Officer, as part of his efforts to protect the children in the hostels from the impending violence. Despite their visits and assurance of protection, no armed police reinforcements arrived on 25 August 2008, he said. The police officials had also advised Fr. Basil that he, the workers and the children remain inside the church compound, as the situation was tense, and a violent mob was shouting slogans to cut off his (Fr. Basil’s) head. Fr. Basil said;

“I repeatedly asked the government officials, till 1 p.m. on 25 August, to send me adequate protection as I had a huge number of children in the convent, and I could not send the children anywhere to protect them. I received no response. At around 3.20 p.m., the priests, nuns and workers of the church started to vacate the children out of the hostel, and evacuating them to the nearby forest. It was a very difficult process as we had to move the children through a back entrance of the hostel, through a stony area with no road, into the forest. The twenty physically challenged children who had to be carried through this arduous route from place to place, which was difficult. At 4 p.m., while we were doing this, a violent mob arrived, with 5 vehicles and about 600 RSS activists, armed with swords, axes, crowbars, spears and other lethal weapons, shouting slogans such as “Jai Bajrang Bali, Jai Sri Ram, Christians to be killed”. They started throwing stones at the children, even as we were

leading them into the forest. We stayed in the forests for 5 hours without food and water for the children.

Responding to queries from members of the jury, Fr. Basil said that he had given 10 written complaints to the police within one day, on 25 August 2008, and yet, the police gave assurances but took no action. Subsequent to the attack, he said the police held his hand and cried.

Many children and adolescents faced physical violence in their villages, during their flight to the forests to escape mob violence and during the arduous stay in the forests. An illustrative case is that of a seventeen day infant of Julia Nayak, of Sarniketa village. On 25 August 2008, when she fled to the forest (which was six kilometres away) along with her husband, parents-in-law and her baby to escape attacks by a violent mob, she fell on a stone, and the infant started crying. In order to prevent the infant's cry from being heard by the attackers, she closed the mouth of the infant. After about fifteen minutes of closing the mouth of the infant, Julia realized that the infant had died due to suffocation. The family underwent emotional trauma, buried the infant but did not lodge any police complaint.¹⁵⁴

Jenati Pradhan, a 25 years old woman from Bagadi village, K.Nuagam taluka, narrated her experience of running into the forest with her family members when she was pregnant. She was unable to run and fell down several times, after which she lived in the forest for 12 days. Thereafter, she went to a relief camp and delivered a pre-mature baby, which died after two days. The death of the infant can only be attributed to the physical exhaustion and mental agony Jenati faced during the final stages of her pregnancy during the violence in Kandhamal.¹⁵⁵

Mahendra Parida, while presenting his report to the Tribunal, observed that children were among the most victimized, and that they faced many hardships in the forests where they had to stay for days together without water and food.¹⁵⁶ Some women survivors narrated that they had forced their children to eat inedible leaves of trees, and had wet their tongues with urine out of helplessness.¹⁵⁷

B. Mental Trauma and Psycho-Social Needs

Fr. Basil Kullu, head priest at Madhupur church and hostels, testified before the Tribunal the trauma he and the children faced as they watched and heard the violent mob destroy the hostel, school, dispensary and the church, defiling and destroying sacred articles, statues, places of worship, household items and all other belongings of the church.

The attack of another school - Vincent ME school in Mondasur village – by a violent mob has been recorded in Haq Centre's report. Due to the attacks, about 150 boys, along with two teachers, hid in the jungle from 25 August to 2 September 2008. So did four nuns along with 95 girls for four days. Another four nuns and two priests took ten children and went off to Ganjam district around 80 km away from Mondasur. Haq Centre reports that children were in extreme shock and clung to their teachers.¹⁵⁸

A woman from Tiangia (Budedipada) village, G. Udayagiri taluka, described that her four year old daughter could not talk at all for many days after witnessing the brutal killing of her husband. The child

¹⁵⁴ Loyola College report, Case Study No. 5 on livelihood

¹⁵⁵ Loyola College report, Case Study No. 8 on livelihood

¹⁵⁶ Mahendra Parida, 'Child Labourers: A By-product of Kandhamal Riots – A Few Case Studies', hereinafter referred to as Mahendra Parida's report.

¹⁵⁷ Loyola College report, Case Study No. 8 on violence against women

¹⁵⁸ Haq Centre's report, p. 23

had seen the father's limbs and neck being cut off by the violent mob, and his stomach being stabbed. The child was reportedly trembling and crying constantly due to the fear and shock.¹⁵⁹

The forced displacement from their homes due to the violence and a fear of violence, has shaken the sense of security and permanency that the children had previously enjoyed. The children in Kandhamal are confronted with is their own sense of loss as well as the impact of what the adults around them feel. Many children have experienced gruesome incidents and witnessed violence being inflicted on their family members, in addition to experiences of hiding in the forests and living in relief camps.

Haq Centre report quotes James Dhigal, a Class 7 student at Vincent ME school, Mondasur village, as saying that he feels angry, sad and also revengeful. He also reportedly said that nothing has changed in two years and that his life continued to revolve around the violence.¹⁶⁰

Children who lost their parent/s in the violence face immense mental agony, loneliness and a sense of rootlessness. For example, Himesh Naik, whose father Vikram Naik was brutally killed by a violent mob, when he was a 5 months old infant. Now, the two year old child continuously asks his mother, Ashalotha Naik, questions such as – Who is my father? Where is my father? What happened to him? When will he be back?¹⁶¹

Mahendra Parida's report cites the case study of Rajat Nayak, a 10 years old victim-survivor of the violence, and observes that though the parents have tried to send him to school months after the violence, he is afraid to go to school as he had witnessed the violence, and does not want to leave his parents.

Some children expressed their feelings to the Haq team, including that of anger and revenge:

- One boy said, he saw a dead body being eaten by dog, which left him deeply disturbed and unable to concentrate in his studies and his examination scores dropped from 50 per cent to 30 per cent.
- Another boy who is studying in a residential school asked his uncle to give him some bomb so that he could drop it on Hindu-dominated village.
- A girl wanted to become a collector when she grew up so that she could punish the offenders.¹⁶²

Exposure to violence has resulted in distrust of adults and fear of the other community among children. The Haq Centre report observes that the children are anxious, worrying, fearful and withdrawn. Some even have a desire to show they are strong and powerful and may learn to use violence as a means to control others in future.¹⁶³

As in the case of affected women, there has been no trauma counselling for the affected children and adolescents. Children are forced to live with vivid memories of the violent past. Many of them, till date, have nightmares of running in the jungle, with killers in pursuit, are frightened by loud noises and are afraid of people in groups or talking loudly. Most of them said they felt sad remembering what they went through and sometimes they just sit and cry quietly.¹⁶⁴

In the opinion of the Haq Centre, the children showed several signs of Post Traumatic Stress Disorder in their interactions including:

- Intense horror, fear or helplessness, inability and unwillingness to move around freely.
- Flashbacks of events and of fear of recurring attack.

¹⁵⁹ NN College report, p. 35

¹⁶⁰ Haq Centre's report, p. 22

¹⁶¹ Loyola College report, Case Study No. 18 on livelihood

¹⁶² Haq Centre report, pp. 15-16

¹⁶³ Haq Centre report, p. 14

¹⁶⁴ Haq Centre report, p. 14

- Physiological reactions (such as rapid heartbeat) in response to voices, fear of fire or people standing in groups.
- Avoiding activities, people or places that remind them of the violence.
- Withdrawal, detachment from other children and working / playing in isolation.
- Poor concentration and impulsive behaviour, adversely affecting their studies.
- Feeling of anger and revenge
- Children deal with the pain of their feelings by trying to feel nothing at all – by becoming emotionally numb and communicating less with other people.¹⁶⁵

Haq Centre report states that children have difficulty concentrating on the present as their efforts are largely devoted to avoiding the past and fighting the negative memories. It attributes the lack of confidence and sense of uncertainty among the children to the inter-community communication gap created after the violence as well as their rootlessness - the lack of a proper shelter and the inability to return to their former homes and lifestyle, especially to a time when they did not have to fear their neighbours.¹⁶⁶ Mahendra Parida's report observes that the children experienced extreme trauma during the violence, and received no counselling, resulting in their fear of going to school. His study finds that this has been a major contributing factor for children dropping out from schools and entering the labour force.

C. Impact on Education

“After the Kandhamal violence most of our people are suffering, their children are unable to continue their study. My son’s studies were disrupted. This is a similar story with many people.” – Bijay Kumar Parichha

CI. Destruction of Schools and their Property: A case study of St. Vincent ME school, situated in Mondasur village, by Haq Centre, highlights the manner in which destruction of schools and school property during the violence in Kandhamal has had an adverse impact on the education of children studying / residing in those premises. Two years after August 2008, St Vincent ME School, an aided missionary school up to Class 7, reportedly bears indelible signs of violence. This is not a residential school but provides hostel facilities for students, both boys and girls, up to Class 10. The current strength of the school is reportedly 450 children - 190 girls and 260 boys. The Haq Centre's report states that none of the buildings escaped mob fury. They were damaged, ransacked of all furniture and goods, essential as well as valuable, and then set on fire. Furniture and food stores, including dry rations for Mid-Day Meals scheme, were looted from the hostels. Ten doors and 28-30 windows were broken in these buildings. Construction and repairs of the school and the boys' hostel, including roofing and electrification, were still not complete at the time of preparation of the Haq report – two years after the violence. Basic infrastructure such as table, chair, beds, cupboards, and computers are absent. Desks are enough for just about the students of class 6 and 7, while the rest have to sit on the floor. The common room is being used as the office room. Since the water pump was damaged, children have to use the well for everything. The school continues to have inadequate teaching aid material.

As there are no doors and windows and lack of mosquito nets, as many as 20 boys in the past six months have contracted malaria. They also have diarrhoea and stomach pain. The small dispensary inside the hostel was damaged and restarted on 13 June 2010 with only sisters for nursing and giving medicine but no doctors. For treatment, children have to go 16-18 km away to Raikia.¹⁶⁷ All such daily struggles and the lack of basic infrastructure are impeding children's ability to cope with the trauma and move on with life. Subsequent to the violence, there have been some dropouts as well as school transfers by the children of the

¹⁶⁵ Haq Centre report, pp. 14-15

¹⁶⁶ Haq Centre report, p. 16

¹⁶⁷ Haq Centre's report, p. 23

Hindu community. In the place of 15 Hindu girls, only two are reportedly now in the hostel. The school results were very poor in 2009 but improved considerably in 2010.¹⁶⁸

James Dighal, a student resident of the hostel, further narrated to a team from Haq Centre the manner in which his life has changed since the damage to the school and hostel premises. He said that prior to the violence, everything in the hostel was very good and well-organized but during the violence, everything was damaged. The church was destroyed, so he is unable to do his prayers. The dispensary had been destroyed so the students do not receive any treatment for malaria. He reportedly said that they did not play football or volleyball like they did prior to the violence, and have even stopped going out of the hostel.¹⁶⁹

Fr. Ajay Singh, Director of Jan Vikas, told the Tribunal that at least 13 Catholic-run schools and hostels in Kandhamal had been damaged / destroyed, though there was no detailed list available to present to the Tribunal. This was substantiated by a representative of Haq Centre for Child rights, who, when presenting the Centre's report to the Tribunal, observed that about 13 schools had been severely damaged by the violence, and many of them are yet to be re-constructed. If an average of 300 children studied / resided in each of those institutions that was attacked, the scale at which the attacks impacted children's education can be estimated.

C2. Schools Converted to Relief Camps: Reportedly, children's right to primary education was the biggest victim of the communal violence in Kandhamal.¹⁷⁰ Several relief camps were opened in the primary school buildings, effectively shutting down school indefinitely. For example, Vincent ME school in Mondasur village had been converted into a relief camp, providing shelter for 3000 people for close to five months. In Raikia block, 10,000 victim-survivors of the violence were reportedly sheltered in relief camps set up in St Catherine Girls' School and Bijoya High School. According to Mr Atulya Kumar Champatire, District Project Coordinator, Sarva Shiksha Abhiyan (SSA), Kandhamal, around 40,000 victims were sheltered in nearly 40 schools, which were converted into a relief camps or as camps for the central reserve police force (CRPF). He further mentioned that as the violence continued for more than one month, children as well as teachers were afraid to attend school and resume the academic session. The SSA office staff had reportedly provided counselling services to the students and arranged for teachers, who too were staying in the camps, to address the educational needs of the children in the camps.¹⁷¹ Contradicting the claim, James Dighal of Vincent ME school, when interviewed by a team from Haq Centre, said that no one had come to the relief camp to teach, and that he had to appear for his examinations from the relief camp.

In this regard, the WILPF-WISCOMP report made the following observation:

“Tikabali and G. Udaygiri camps are located inside school premises. It has disoriented the students studying in those schools and so their learning is disturbed. For the children living in camps, the efforts of the state do not seem to bear fruits largely because the children are traumatised. We also noticed that in the half way camp at Mandasur the tutoring by teachers was disrupted.”

C3: Impact of Reduced Socio-Economic Status of Affected Families on Children's Education: The 2007 and 2008 violence in Kandhamal and other districts of Orissa have had an adverse impact on children's education due to many factors. Parents spoke to the Tribunal of their grief, frustration and helplessness at their inability to provide education to their children. For example, Subramonyu Nayak, stated to the Tribunal as follows:

¹⁶⁸ Haq Centre's report, p. 23

¹⁶⁹ Haq Centre's report, p. 22

¹⁷⁰ Haq Centre's report, p. 19

¹⁷¹ Haq Centre's report, p. 19

“I am a middle class person who was working as a postmaster. Now I cannot go back to my village and join the Postal Department at Bodimunda due to the socio-economic boycott on Christians, and fear for my life and my family’s security. I have lost assets worth Rs. 25000 and everything.. at present I am just driving around Bhubaneswar on a bicycle and I am unable to provide education to my children...I am sad that I cannot provide education to my children...I plead and request there should be peace and we should be allowed to return to our native place, so that my family, particularly the children can resume a peaceful and normal life.”

Haq Centre’s report contains the case study of Susana Digal, Class 10 of Raikia Convent school. The case study describes the discontinuance of Susana’s studies after her father, a skilled mason, was grievously injured during the violence. Since her father’s legs are paralyzed, he is unable to make a living. Even the financial assistance received from the government for re-construction of their house had been spent on his father’s treatment. Susana’s elder brother, who had studied upto Class 10, was forced to discontinue studies, go to Kerala and work to support the family. Through his earnings, Susana now studies in Raikia Convent school, which is a residential school. Two of her other siblings are studying, while a third has completed school.¹⁷²

Mahendra Parida’s report documents many case studies of children, who were forced to discontinue their studies and earn a living to supplement the family income that declined following the violence. Dipanjali Pradhan – a Class 5 student, the 15 years old Hiralal Digal, his three sisters and two brothers – all of who dropped out of studies after the violence to supplement the earnings of their father – a daily wage labourer in Bhubaneswar, are indicative of the adverse impact of reduced socio-economic status of families on the education of the children.

C4. Drop outs, Missing of Examinations and Shift to Residential Schools: Children have missed their final class / board examinations and are forced to repeat classes because of inability to pay fees, lack of receiving communication from school, or lack of secure residential arrangements.¹⁷³ For example, Santoshini Nayak from Pidigoda village, was reportedly studying in the tenth standard when the violence took place. She was staying in a relief camp and came to know a few days after the last date about the date of filling up forms for the board examinations. But when she went to school to submit her forms, the headmaster refused to accept it as the last date was over. Despite fervent requests, the headmaster refused to consider her case on humanitarian grounds. She was verbally abused and asked to shift to a missionary school. She then tried to take the help of an NGO for a transfer certificate but even after running from pillar to post, she was not issued the same in time. She finally appeared for her finals the subsequent year through a correspondence course.

An interview of NN College team with an 18 years old girl from Raikola village, G. Udayagiri taluka, is an eye opener on the experiences of adolescent girls in schools. She and her 16 years old sister were threatened and teased in school, forcing them to discontinue education. She said that she was also forced to give up education (Standard X) after the violence as the school was 3 kilometres away, and she had to pass a Hindu colony to reach the school. She had witnessed her classmates among the violent mobs that attacked Christian persons and their houses.¹⁷⁴

There are instances of Christian children being refused admission in mainstream schools. The Haq Centre’s report cites the case of a Christian boy in Mondasur village who was refused admission in Gurudev High

¹⁷² Haq Centre’s report, p. 20

¹⁷³ Haq Centre’s report, p. 18

¹⁷⁴ NN College report, Case Study No. 45, pp. 108-109

School in Phiringia and was instead advised to approach a missionary school. This boy has reportedly discontinued his studies.¹⁷⁵

In presenting the Haq report to the Tribunal, representatives of the Centre elaborated the fact that many children were forced to change school; many of them have taken admission in hostels and missionary-run residential schools as their parents were concerned about the safety of their children. On an average the Centre found that atleast 10 children from each of the 18 villages visited by the team were found to have shifted to residential school after violence. A large number have dropped out of schools because of social and financial insecurity and many of them have gone out to work. Religion and caste-based discrimination have been prevalent in regular schools, and increased after the violence, forcing the children to shift to church-run educational institutions.

Although children have been sent to residential schools in Kerala, Karnataka, Chennai and Andhra Pradesh to provide them with a safe environment for education, they are reportedly finding it tough to adjust to the new language and culture. The forced removal from the protective and nurturing environment of their family has increased their loneliness and contributed to their alienation. For instance, one small girl who was sent to a hostel in Chennai has forgotten her own mother tongue in two years. The Haq report observes that the children themselves were ambivalent about the shift to residential schools.

Manoj Pradhan's report states that out of 936 affected boys who were part of the research, only 804 have returned to school, and out of 806 affected girls, only 657 have returned to school. The report notes that many girls have discontinued their education after the violence. Mahendra Parida's report gives case studies of children who were forced to discontinue their studies after the violence, and earn a living in Bhubaneswar. Mahendra Parida's report further finds that the government's callous decision to continue conducting the final examinations on the fixed dates despite the violence, ignoring in totality the trauma faced by the affected children, forced many children to discontinue their studies and enter the work force at a tender age. The WILPF-WISCOMP report too makes a recommendation in this regard, which the government did not heed:

"It would be helpful if the examination dates were postponed by at least six weeks, keeping in mind the trauma that the students have undergone and its aftermath. This was also the suggestion that we have received from their parents."

C5. State Policy and Responsibility on Children's Education: As mentioned in Chapter 1, sub-section D of this Report, while tribal people (Kandhas) continue to enjoy the benefits that they are entitled to, irrespective of their conversion to Christianity, the dalits (Panās) are unable to enjoy any benefits of reservations under the Constitution if they have converted from Hinduism to Christianity, due to the effect of the Presidential Order 1950. For example, they cannot avail themselves of the post-matric and pre-matric scholarship schemes for SCs, the central scheme of *ashram* schools and hostels for SC/ST. So they are forced to send their children to private or missionary schools - the latter has only one merit scholarship scheme for children who have secured at least 50 per cent marks in the primary school finals.

As Beenitha Digal of Thilyapanga village has pointed out, if the dalit children touched the vessel containing food, the other children (non-dalit) would refuse to eat. The teachers would remain mute spectators and would not intervene in the discriminatory treatment meted out.¹⁷⁶ Loyola College report substantiates this through the case study of Lalit Digal, a permanent resident of Sindrigaon village in Balliguda taluka, who, in his capacity as a teacher of a government school, had to supervise the preparation of mid-day meals. He said that being a dalit, if he touched the vessels or the food, the children refused to consume the food. He

¹⁷⁵ Haq Centre's report, p. 17

¹⁷⁶ Loyola College report, Case Study No. 19 on livelihood

was subsequently dismissed from service along with 22 other Christian teachers in the school after the violence in Kandhamal.¹⁷⁷

Article 21A of the Indian Constitution has made free and compulsory primary education a fundamental right for all children from the age of 6 to 14 years. Consequently, the state is duty-bound to ensure that all children within this age group are provided access to education, and are indeed in schools. Mahendra Parida's report refers to a child club and motivational centre in Bhubaneswar, run by Centre for Child and Women Development (CCWD) – a non-profit organization – which some child survivors of the Kandhamal violence have joined. The club and centre aim at motivating such children, helping them overcome their trauma through various forms such as singing and dancing, creating an awareness of child rights and in assisting them resume their education.

D. Child Labour

Inability of parents to send their children to school is intrinsically linked to an increase in child labour, as more and more children are sent to work in order to supplement the family income. This is particularly so in situations where the breadwinner of the family is dead or unable to earn a living and where the state compensation is inadequate to restore the family to the socio-economic status that it had enjoyed prior to the violence. While the Haq Centre's report states that 7000 children had been identified as working children in the Kandhamal district, there is no data available for the number of child labourers in Kandhamal prior to and after the violence. Given the fact that there is a general increase in child labour and child migration for labour in recent years, linked to issues and patterns of 'development', the data does not clearly indicate the extent to which the increase in child labour can be attributed to the Kandhamal violence. In fact, according to a 1997 survey in Kandhamal, 6,482 child labourers were reportedly detected in non-hazardous occupations, of which 6,440 were found in non-formal education centres managed by government and NGOs. Till date, the Labour Department has not carried out any field visit or survey to find out if there has been a change in the situation post-violence, when all indicators point to a rise in the number of working children.¹⁷⁸

The presentations made before the Tribunal made it amply clear that children had been forced into child labour and become increasingly vulnerable to abuse, subsequent to the violence in Kandhamal. For example, Mahendra Parida presented the case study of 12-year old Munna Pradhan, a permanent resident of Raikia village, Tikabali taluka. Munna's parents, who fled from their village after the violence, employed him as a domestic labourer in a house in Berhampur town where he had to take care of children in the family. In July 2010, Munna delayed in giving food to one of the children, which angered his employers. He was severely assaulted by the employer couple, causing grievous injuries to his face and eyes. Childline reportedly rescued Munna and handed him over to his parents.

The case studies of children who have fled from Kandhamal to Bhubaneswar after the violence, and forced into the labour force to supplement the family income, illustrate the linkages between the violence, impact on education and child labour. Almost all the children that Mahendra Parida studied in his research have discontinued their education subsequent to the violence, and entered the labour force: 12-year old Saroj Pradhan is engaged in construction work, 13-year old Mamina Pradhan and 15-year old Dipanjali Pradhan work as domestic workers and 13-year old Tophan Pradhan and 15-year old Hiralal Digal work as rag pickers in Bhubaneswar.

From interviews with the people conducted by Haq, it was learnt that 50 children (40 boys and 10 girls) studying in classes 9-12 had to drop out of school because of inability to pay the school fees. Of them, around 40 children over 17 years' old have gone out of Orissa to work, though not all parents are clear about

¹⁷⁷ Loyola College report, Case Study No. 6 on livelihood

¹⁷⁸ Haq Centre's report, p. 26

the work. The boys have gone to Andhra Pradesh, Kerala and Gujarat and are working in plastic factory, cotton mills, stone quarries as truck loaders and breaking stones at construction sites. An interview with survivors from Badamaha village, Raikia taluka by NN College team substantiates this, where it is reported that many young boys from the village went to Kerala and obtained jobs as labourers.¹⁷⁹ Reportedly, some villages, such as Barakhama, have been more affected than the rest as even girls have gone out to work.¹⁸⁰ Ten to fifteen girls over 17 years are working even in the coffee plantations in Udhamandalam, Tamil Nadu. The families of the girls who went out said that they had been sent with the Sisters and now they are either working as kitchen helper in the convent, babysitter in orphanages, or as *ayah* in old age homes run by the missionaries.

Mr. Parida stated to the Tribunal that the state government does not provide with any study materials to assist the victimized children resume their education. Since there is no National Child Labour Programme running in the district, reportedly, there is little scope for rehabilitating a working child. According to a labour officer, the lack of infrastructure and institutions for rehabilitation hampered his efforts to be more proactive on this front.¹⁸¹

E. Trafficking in Children

As in most post-conflict situations, what needs immediate attention in the context of the Kandhamal violence is the rising incidence of trafficking of children, mainly for labour, sexual exploitation and abuse. Death of one or both parents during the violence, separation of the families and decreased income to the affected families have exposed children to various forms of trafficking. Mahendra Parida, in presenting his report on child labour to the Tribunal, observed that the relief camps did not maintain any record of the number of child inmates, no monitoring or tracking was done of the children who left the relief camps and migrated, leading to children being taken to cities by *dalals* for child labour. No data was presented to the Tribunal, that linked an increased trafficking of children and adolescents to the violence in Kandhamal. However, there were references made to specific incidents of trafficking after the violence.

The NN College report stated that situations such as those in Kandhamal served as catalysts to trafficking in human beings, and that women and children were more vulnerable to the crime.¹⁸² Among other things, the research attempted to study if there had been any signs of trafficking in the Kandhamal region. A woman interviewed by the team had reportedly said that there were chances of girls being trafficked, as ‘agents’ had come to the relief camp, but she was not certain about it.¹⁸³ The study, however, finds that contrary to fears that trafficking of girls and women was one of the adverse outcomes of this conflict, there did not seem to be any signs of this evil. It further observed as follows:

“Some women said that the girls in the family had been sent away to boarding schools for their own safety while a very negligible number had sent their girls to work with people whom they regarded as trustworthy. Most families seemed to be in touch with their girls who were away from home or at least aware of their whereabouts. A few women mentioned that some individuals did try to persuade them to send their girls or young widows/single women/unmarried women to go to cities for work. Thus, it is evident that as in the case of other disasters/calamities, there were groups and individuals, who, taking advantage of their social and economic vulnerability, attempted to lure women/girls away from their families. However, the small numbers of those who actually sent their girls away to work as well as some women mentioning that they did not send their girls with neighbours or

¹⁷⁹ NN College report, Case Study No. 2, pp. 94-95

¹⁸⁰ Haq Centre’s report, p. 19

¹⁸¹ Haq Centre’s report, p. 26

¹⁸² NN College report, p. 47

¹⁸³ NN College report, Case Study No. 12, pp. 98-99

strangers who had approached them indicates that probably their knowledge of such practices prevented them from giving in to such individuals.”

However, the Haq Centre’s report presented a contradictory view. In presenting the report before the Tribunal, a representative of Haq Centre stated as follows:

...we found that child protection was totally ignored and that children were increasingly vulnerable to being trafficked after the violence in Kandhamal. We found that 15 girls from Gumamaha panchayat had been rescued from the Bhubaneswar railway station. They had been trafficked by a person who called himself a supervisor of L & T. Two girls, studying in Class 7, were taken to NOIDA after the violence, sexually abused and forced into prostitution. They managed to escape after two months and finally sent back home by an NGO. The sub-division collector has also been involved. And when we personally interacted with him, he ignored the query. We interacted with an NGO; they have also been involved in the rescue of these girls. He narrated the incidences and according to the district welfare officer, women are also migrating from Daringbadi and there are trafficking-related cases also from this taluka...

Manorama Mohapatra, the District Social Welfare officer, is reportedly aware of two incidents of trafficking of girl children after the violence in Kandhamal. One case came from the Tikabali block, where a girl was lured away by a boy on the promise of marriage and was finally rescued from Jharkhand. In another case, four girls from the Daringbadi block were trafficked to Delhi to work as domestic labour. The Haq Centre’s report states that according to some NGO activists, there are organised racketeers who are working the district now. The local people of the district generally act as middlemen and lure the family members by job offers.

F. Absence of Protection for Child Witnesses

Many children witnessed the brutal attacks on persons and properties during the Kandhamal violence 2008. Many of them have reportedly been used by the police to testify in court, making such children and adolescents vulnerable to threats to their lives. While there are some references to child witnesses in the testimonies and reports presented before the Tribunal, there is no known study, either by government or non-governmental sources, on the number of child witnesses who are involved in proceedings related to the Kandhamal violence. This aspect is discussed more elaborately in sub-section F, Chapter 8 of this Report.

G. Health and Nutrition

Malnutrition: The people of Kandhamal, a cerebral malaria-prone area, have never enjoyed good health. The high poverty level and lack of livelihood opportunities also ensure that malnutrition remains high, particularly among children. Post-violence, as jobs and resources got scarcer, families were left with no option but to neglect the health of their children, making them more vulnerable to illness and diseases. In the case of a malnourished child, even minor fever and illnesses can turn fatal. The Haq Centre’s report states that according to the district officials of the Child Health Project, Orissa State Health Mission, malnutrition has also been the root cause of an increasing number of mentally-challenged children being born.

Statistics related to malnutrition of children, obtained from government sources, indicate that severely malnourished children (in grades 3 and 4 of mal-nourishment) have consistently risen during the last three years

up to March 2010.¹⁸⁴ More importantly, in 2009, there was a sharp drop in the number of children in the 0-3 years' age group being covered under the project from 2008. This fact indicates that livelihoods and family incomes have been severely impacted by the violence in Kandhamal, adversely affecting the ability of the families to keep children nourished.

Infant mortality: Haq Centre's report finds that both child and infant deaths are on the rise. Citing statistics compiled by the Office of the District Project Manager, Orissa State Health Mission, Kandhamal District, the Haq report states that the cumulative figure of death of children less than one year old in March 2009 is 261 – an increase from 209 deaths as of March 2008. The total number of infant deaths in Kandhamal increased from 603 in 2007-8 to 837 in 2008-2009, after which it reduced to 750 in 2009-10. The sharp deterioration in child health in 2009 is reported more in the blocks of G Udayagiri, K Nuagaon, Kotagarh, Phiringia, Phulbani, Raikia and Tumadibandha - areas worst affected by violence.¹⁸⁵

Health services: The district also lacks in health infrastructure and most health centres are far off the villages. After the violence, the government is believed to have started a mobile health van service but, barring one village 5 km away from the sub-division, no village has reportedly received much service out of these vans. Some villagers even informed the Haq Centre's team that the doctors used them as personal vehicles. Reportedly, only two paediatricians attend to the children in the entire district of Kandhamal.¹⁸⁶

H. Ineffective Protection of Children by State Agencies

The government's failure to fulfil its constitutional obligations in relation to children's fundamental right to education has already been discussed above in sub-section E of this chapter of the Report.

Nutrition and health of children and adolescents have been accorded low priority by the government officials, as reflected in the fact that there was no infant or child food distributed in the relief camps, as pointed out by Mahendra Parida through his report.

Mahendra Parida pointed out to the Tribunal that provisions of the Juvenile Justice Act (JJA) and the UN Convention on Rights of the Child were violated, and that the Child Welfare Committee set up under the Juvenile Justice Act, the Labour department and the Women and Child Development department have ignored issues faced by children, particularly after the Kandhamal violence.

The Haq Centre report reiterates this finding, by observing that members of the Child Welfare Committee (CWC) are not aware of their roles and responsibilities. The officials seem unaware of the number of orphanages, government-run homes and short-stay for children and other facilities for children available in the district, indicating a poor implementation of the provisions of the JJ Act in Kandhamal.¹⁸⁷

The state government gives grants-in-aid through the Orissa State Council for Child Welfare to house about 585 children, but does not monitor how these homes are run or the standard of services made available to the children. The Haq report states that Kandhamal has one short stay home and a Swadhar home for girls, which are already cramped for space, but no children's home or observation home. Further, 'mahila and shishu desks' that were established in each police station of the state, are reportedly dysfunctional in Kandhamal.¹⁸⁸

¹⁸⁴ The statistics were obtained from the Office of the District Social Welfare Department, Phulbani, and cited in Haq Centre's report, p. 33

¹⁸⁵ Haq Centre's report, p. 32

¹⁸⁶ Haq Centre's report, p. 33

¹⁸⁷ Haq Centre's report, pp. 28-29

¹⁸⁸ Haq Centre's report, p. 30

In addition, the Haq Centre's report highlights that there is no centralized data on children in need of care or protection, even two years after the violence, with any of the government departments -education, social welfare or health - or the police. There are no figures on how many children were affected by violence, how many were in the relief camps, how many orphaned, how many dropped out of school, how many children are working in the district and in other parts of the state and country, how many have been internally displaced and have 'migrated' to other places, and how many cases of suspected trafficking.¹⁸⁹ Further, the Haq Centre's representative told the Tribunal that while there is general data available of the number of families affected by the violence, there were no details available of how many children exist in each of the families and what are their age groups, in order to facilitate policies and intervention for children of different age groups. Reliable data is imperative for state policy and effective intervention in protecting the rights of children and addressing their varied needs for a return to a life with dignity.

Overall, the general apathy of the state towards the situation of children is highlighted by this quote:

“Over two years of the entire process of relief and rehabilitation after riots, Kandhamal's children remained silent spectators. They were totally left out of administrative or judicial decisions. Nobody asked their views; nor were their voices heard. No mental health services or programme were conducted for the children...”¹⁹⁰

¹⁸⁹ Haq Centre's report, p. 28

¹⁹⁰ Haq Centre's report, p. 36

6. IMPACT ON SOCIO-ECONOMIC & CULTURAL RIGHTS

“Though apparently situation seems to be improved and normal, thousands of people are not in a position to return back home, particularly those who fled away due to the attack and want of proper protection. No proper assessment of the damage and human loss was made, no adequate compensation. No livelihood support system for the victims has been arranged...A large number of people will be deprived of their democratic right to vote as they cannot enumerate themselves in their native place, which they are staying away from.” – Issac Digal

This chapter focuses on the impact of the violence in Kandhamal on socio-economic and cultural rights of the people, including on right to livelihood, housing and socio-cultural rights.

A. DISPLACEMENT & RIGHT TO HOUSING

During and in the aftermath of the violence, many dalit and adivasi Christians fled from their homes, villages and communities, abandoning their lands, houses, property and valuables as well as sources of livelihood. They fled to the forests, and thereafter, made their way to relief camps, to other districts in Orissa or to other states such as Andhra Pradesh and Kerala.

The term ‘internally displaced persons’ (IDPs) refers to

“persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.”¹⁹¹

Two criteria exist for identifying a person as an IDP: (1) the coercive / involuntary nature of the movement of people due to situations beyond their control; and (2) such a movement is within the national borders of a country. Since the mass movement of people from villages in Kandhamal was caused through attacks on persons and property by violent mobs, and an impending fear of the same, and such an involuntary movement was within the borders of India, this Report refers to all such persons who had moved out of their villages in the context of the violence as internally displaced persons (IDPs).

A1. Data on Internal Displacement: Studies and reports attribute varied figures to the number of displaced persons. The Jan Vikas report states that more than 25,000 persons have been permanently displaced from the area, and that the manner in which the attacks were carried out was very similar to the Gujarat violence of 2002.¹⁹² The MARG report states that in Kandhamal district alone, approximately 25,000 – 40,000 people became displaced and started living in 25 relief camps set up by the government.¹⁹³

Manoj Pradhan, in presenting his report to the Tribunal on rapid assessment of the present situation in Kandhamal, stated that approximately 15,000 people were displaced from 274 villages studied. As the table below illustrates, a large number of persons have migrated within the district, a smaller number to other

¹⁹¹ The Guiding Principles on Internal Displacement, E/CN.4/1998/53/Add.2, dated 11 February 1998, at para 2. This document is hereinafter referred to as the ‘Guiding Principles’.

¹⁹² Jan Vikas report, p. 14

¹⁹³ MARG report, p. 18

parts of the state and an even fewer number of people to other states. This data is indicative of the trends in movement of people caused by the violence and the consequent displacement.

Violence-induced migration

Nos. Of villages	GPs	Blocks	Migration within the district		Migration within the state		Migration out side the state	
			Family	Persons	Family	Persons	Family	Persons
274	69	7	2574	9035	1385	4902	NA	970

Source: Study by Manoj Pradhan (IRDWSI) on rapid assessment of present situation in Kandhamal

A2. Inability to Return to Their Place of Habitual Residence: Several victim-survivors testified before the Tribunal of their ordeal in attempting to return to their villages of habitual residence. As the extracts of the narratives reproduced below highlight, one of the main obstacles to return to their villages is the repeated threats by perpetrators and their supporters against return:

“I was attacked during the 2008 riot and my house was burnt. I lodged FIR in the local police station, Tikabali, which was not registered against the accused persons and I was forced to leave my native place and remain at Bhubaneswar along with my family members as a daily wage earner. Whenever I am attempting to return back home the rioters are imposing condition for reconversion into Hinduism and refrain from deposing truth before the court. I have repeatedly sought help from the local police station for my protection but no action was taken... Now I am leading a miserable life without a definite source of income as I am remaining under a situation of constant threat and fear, unable to cultivate my traditional paddy fields and construct my damaged house fully. I am not in a condition to go to the forest to collect fire wood and also other forest products which I used to depend traditionally from the time of ancestors...” (Gajana Digal)

“The attackers are threatening me over the phone to kill me and not to enter into my native village unless I become a Hindu. Otherwise, I will not be allowed to stay in my village. About 20 families have not gone back to our own village and are facing the same situation like mine.” (Iswar Digal)

A woman originally from Magadangia in Nuagaon Taluka asked the NN College team how she could return to her village, when her daughter, who was raped during the violence, is frightened, and the family continues to receive threats from the villagers not to return.¹⁹⁴ Another woman – a permanent resident of Tiangia (Budedipada) in G. Udayagiri taluka - whose husband, a pastor, was killed by a violent mob, told the NN College team that she does not wish to return to her village as she continues to be a target and fears being killed.¹⁹⁵

The NN College report found that two years subsequent to the violence, almost half of the women interviewed said that the situation was still tense, violence could break out at anytime again, they were receiving threats from the villagers and so most people did not feel safe enough to return to their homes and villages.¹⁹⁶ Nearly one third also said that people had returned to temporary homes and not their own homes in their villages probably because of the threats they received or that they did not get adequate compensation to rebuild their homes.¹⁹⁷ This highlights the obstacles to return to the village of habitual residence, the

¹⁹⁴ NN College report, p. 57

¹⁹⁵ NN College report, p. 57

¹⁹⁶ NN College report, p. 80

¹⁹⁷ NN College report, p. 80

insecurity, fear, coercion to convert to Hinduism and the adverse impact of the same on livelihood and way of life. The fear, threat and insecurity also indicate the persistent nature of psychological violence that the victim-survivors continue to contend with.

A3. Residence in Hiding: Some live not only away from their villages but also in hiding. For example, Bipin Nayak testified to the Tribunal that he and his family live in hiding as members of the Sangh Parivar, who killed his brother, continue to threaten him against giving evidence in court. He lives in constant fear of being attacked and killed, and lives in hiding with his family, he said. Similarly Runima Digal, who witnessed the brutal killing of her husband, Ishwar Digal, now lives in hiding due to constant threats from perpetrators. Deobhanja Pradhan likewise testified before the Tribunal that he was living in hiding with his family members as their lives were in danger, as he had testified in court against the perpetrators. The instances of all these families in hiding is a stark reminder of the absence of a witness protection programme that would protect such witnesses and their family members from threat, coercion and intimidation by the perpetrators. This issue is discussed in detail in sub-section E, Chapter 8 of this Report.

A4. Returned Home But Living in Constant Fear: On the other hand, those who have been able to return to their villages live with a constant fear of being attacked, as the following testimony illustrates:

“In March 2009, at the relief camp at K.Nuagaon, in the presence of sub-collector, Susanta Nayak (sarpanch) told us to become Hindus if we wanted to return home. The sub-collector did not take any action against the said person for his statement...Though now we have returned to our village, we still live in fear of being attacked.” (Manyabar Nayak)

The present situation is aptly captured in Haq Centre’s report, where it observes that even two years later, the security of the people remains the main concern, along with a sense of miscarriage of justice.¹⁹⁸

A5. Socio-Economic Boycott

“We are not allowed to enter into our native village and stay there in our patta land, unless we embrace Hinduism. We have no access to forest to get fire wood and minor forest produce for daily use and drinking water, tube wells and wells for water. We are socially boycotted by them...” (Deobhanja Pradhan)

The MARG report highlights the ongoing socio-economic boycott of Christians in the villages:

“The testimonies of Kilos Pradhan and Savitri Nayak indicate the predicament faced by many, who returned to their villages in the hope that normalcy would have returned, only to face severe threats to convert to Hinduism, and to suffer social and economic boycott in the event of their refusal to convert. The interviews among victim-survivors, conducted by MARG reiterated the ongoing socio-economic boycott of Christians in the villages of Kandhamal, and the reluctance to return to their villages of origin in apprehension of the hostility they would face.”¹⁹⁹

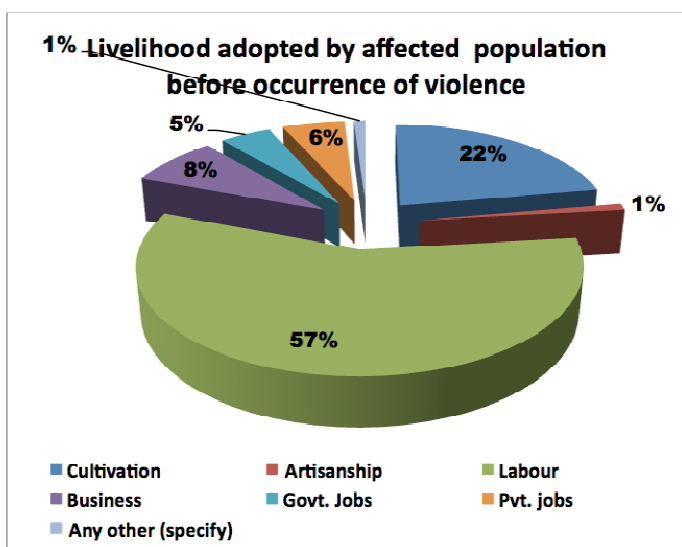
¹⁹⁸ Haq Centre’s report, p. 12

¹⁹⁹ MARG report, p. 76

The report further describes the predicament of people who have been prevented from entering their villages, forcing them to live in the outskirts of the villages in tents and other forms of temporary shelter.²⁰⁰

B. LIVELIHOOD & FINANCIAL INSECURITY

Statistics presented to the Tribunal on livelihood of the people in Kandhamal prior to the violence, 78% of the population depended on daily wage labour and other ancillary jobs. 22% of the population earned their livelihood from agriculture. The data shows that 57% of the persons affected by the violence in Kandhamal were landless, daily wage labourers, while the second major section of population was that involved in cultivation. 8% of the people were involved in small businesses, while 6% in private jobs and 5% in government jobs. The violence in Kandhamal and its aftermath has had an adverse impact on people engaged in different forms of livelihood in differing ways, as discussed below.



Source: Study by Manoj Pradhan on rapid assessment of present situation in Kandhamal

B1. Impact on Daily Wage Labourers: As the graph above indicates, more than half the victim-survivor population worked as daily wage labourers, which made them dependent on other communities to employ them. Following the violence in Kandhamal the subsequent and ongoing socio-economic boycott, many of them have difficulties finding a job as daily wage labourers in Kandhamal, due to which they are forced to migrate to other parts of the state and country.

At the same time, searching for work in the nearest town or city is not a viable option for many breadwinners of families. For example, a woman from Maudikutti (Pattama) in K. Nuagaon taluka, told a team from NN Collge that the villagers, including her, lived in constant fear and that the men were afraid to leave the women alone in the village and go out to cities to work.²⁰¹

²⁰⁰ MARG report, pp. 65-66

²⁰¹ NN College report, p. 54

Forty year old Rojini Nayak, resident of Dodingia village, Raikia block, separated from her husband 14 years ago and is the sole breadwinner in her family consisting of her and her four children. She works as a daily labourer in nearby villages in the district. Her house was broken and destroyed by a violent mob in August 2008. Although she received a compensation of Rs. 20,000 for reconstructing her house, the amount grossly inadequate to serve the purpose. She has returned to her village with her children but leads a difficult life, as Christians are prevented access to water and firewood in the village. She earns a living by going to the forest, collecting leaves and making leaf plates, as well as from collecting firewood from the forest. The socio-economic boycott has adversely affected her source of livelihood, she said.²⁰²

B2. Discrimination under the NREGA: The Mahatma Gandhi National Rural Employment Guarantee Act (NREGA) aims at enhancing the livelihood security of people in rural areas by guaranteeing 100 days of wage-employment per year to a rural household whose adult members volunteer to do unskilled manual work. Many have spoken of how they have job cards, which entitles them to 100 days of work, but have been given no jobs. Some pointedly speak of public officials informing them that they were being denied jobs because of their religious identities.

Santosh Kumar Digal of Sundrigad village, Balliguda taluka, stated that prior to the violence, he had enrolled under NREGA and would get daily wages of Rs. 100 under the same. However, subsequent to the violence, he has not received any job under NREGA, and is forced to work as a contractor. Due to the continued socio-economic boycott, his livelihood suffers, as Hindu residents have refused to give him tractors on hire for his work as a contractor.²⁰³

Santosh Kumar's narration of his experience with the NREGA is resonated in the MARG report, which includes extracts of individual and group interviews done with victim-survivors of the violence.²⁰⁴ A Christian man, codenamed SN, stated that although he has a job card, he received only 3 days of work under the NREGA from 1 April 2008 to 31 March 2009, and has been informed that he will get no further work under NREGA. So is the case with PN, GN and KN, who have no land for cultivation, no job under the NREGA and are given no work by the villagers. Another Christian man - PP - has also not been provided a job under the NREGA despite having a job card.

In addition to a religion and caste-based discrimination that exist in the implementation of NREGA, women are reportedly paid less than men for the same work done. A group interview conducted by Loyola College highlights the fact that women were paid Rs. 50 a day and men were paid Rs. 70 a day, both of which were less than the market rate. When they questioned the officers as to why they were paid less, the officials are reported to have stated that this payment was excessive and they should be happy with what they received.²⁰⁵

The NN College report states that approximately 21% of the women interviewed reported a loss of a job under the NREGA.²⁰⁶ The Loyola college study highlights the fact that 70% of the women were not provided employment under the NREGA, though the government is obliged to do so. The contractors have been allocating jobs to the Hindus alone. The denial of right to livelihood of women under the NREGA has been discussed more elaborately in sub-section E3 of Chapter 4 of this Report.

Haq Centre's report sums up the situation of victim-survivors under the NREGA:

“The much-touted Mahatma Gandhi National Rural Employment Guarantee Programme has not been of much use to the people. Villagers said MNREGA neither gave hundred days' work

²⁰² Loyola College report, Case Study No. 25 on livelihood

²⁰³ Loyola College report, Case Study No. 21 on livelihood

²⁰⁴ MARG report, pp. 170-176

²⁰⁵ Loyola College report, Case Study No. 15 on women

²⁰⁶ NN College report, p. 52

nor was the payment on time - usually delayed by 15 days to four months. Even the wages in the district were low compared to the average in the state--only Rs 90 a day for unskilled workers, Rs 103 for semiskilled, Rs 116 for skilled and Rs 129 for highly skilled. Many have also lost their old job cards in the fire.

*Villagers also said the MNREGA grants to the Panchayat were being mainly siphoned off by the panchayat secretary and members with only a small portion being used to generate work. Post-violence, the situation has become worse because the work is now being given on the basis of people's religious affiliations. The Sub-Collector of Balliguda block said payments were delayed, usually by a month, due to the lack of capacity and inefficiency of the postal department.*²⁰⁷

One of the major findings in the study is that two years after the violence, there continues to be no sure source of income for 2500 families affected by the violence.²⁰⁸

B3. Impact on Agro-based Livelihoods: Those who were engaged in agriculture and had their own plots of land have now lost the land as they have been forcibly displaced from their villages due to the violence. Many of them are unable to return to their villages unless they convert to Hinduism, and therefore unable to access the land that they had previously owned. Many of the victim-survivors owned cattle as well as agricultural products such as seeds and fertilizers, all of which were either looted by the violent mob or destroyed.

"Recently, Tahasildar of Tikabali came to Guttingia and told a Christian man to leave his land and go away from there, otherwise there would be riots..." (Prafulla Chandra Pradhan, aged 55, former chairperson of a panchayat, Tikabali taluka)

Martina Mallik, a resident of Bettikola village, stated the impact of the violence on her family's livelihood. She said that a violent mob had damaged their house, looted their property and valuables, including 5 cows, 6 goats and household utensils. They had owned 5 acres of land in Bettikola, on which they cultivated paddy, corn, turmeric, ginger, vegetables and grains. After the violence, the land has been taken over by the perpetrators. Due to fear for their safety, they have moved to and presently reside in Nandagiri village. In the words of Martina, *"We have lost everything and are unable to come out of the trauma"*. Her family has received no compensation from the government, not even for the damage to their house.²⁰⁹

A violent mob looted from Martha Pradhan's house in Kuthulamba village, 8 goats, 12 hens, a scooter, a bicycle and many other valuable things. Her house was burnt to ashes. Her husband, who was the sole breadwinner of the family, earned Rs. 3000 per month by working in an NGO called LAMP. While fleeing from the violence in their village, he sustained a severe injury to his leg, due to which he is bed-ridden. The family now lives at Hatapada village in G.Udayagiri block, without any money or source of livelihood. Though she received Rs. 10,000 as compensation from the government, the amount is inadequate to compensate for the loss they have sustained, the displacement and the loss of livelihood.²¹⁰

Eighteen year old Beenita Digal of Thilypanga village narrated that a violent mob had looted their assets, including 3 cows, 4 goats and 7 hens. Her husband was a farmer but their small piece of land has also been grabbed and they have lost their income completely. They fear going into the forest to collect leaves to make leaf plates due to fear of attacks from Hindu fundamentalists.²¹¹ Binayak Naik of Dokari village, G.

²⁰⁷ Haq Centre's report, p. 11

²⁰⁸ Haq Centre's report, p. 13

²⁰⁹ Loyola College report, Case Study No. 10 on livelihood

²¹⁰ Loyola College report, Case Study No. 11 on livelihood

²¹¹ Loyola College report, Case Study No. 19 on livelihood

Udayagiri taluka, has reportedly sold all the cattle owned by the family as his family members are not allowed to graze with or on the lands of Hindus.²¹²

In addition to the financial loss to property, the psychological impact of the violence also obstructs victim-survivors' pursuit of their livelihood, as pointed out to the Tribunal by Lalit Digal:

"My father is a farmer and owned land. However, after the violence, he has stopped working out of fear and stays inside our house at all times."

Mala fide arrests of members of the Christian community by the police has also facilitated the process of looting and destroying their property and livelihood, as illustrated in the case of Jacob Pradhan of K.Nuagam. Jacob Pradhan, who spoke to a team from Loyola College, said that on 24 August 2008, he was arrested by the local police on the instructions of members of the RSS, and was taken to Phulbani where he was jailed for forty days on the allegation that he had killed Swami Lakshmananda. During this time, his house and household articles had been burnt, all his valuables looted, and his cattle had been taken away. Since his land is unregistered, he continues to feel vulnerable that the land would be taken away too. The government paid him a compensation of Rs. 20,000 but he is unable to earn a livelihood due to fear and threats from the perpetrators.²¹³

While on one hand, Christians residing in the villages are facing a pressure to leave or live with fear of impending attacks, a majority of those who fled from their villages have been effectively prevented from returning to their villages and cultivating their land and carrying out other agricultural activities. For example, Deobhanja Pradhan stated to the Tribunal that valuable documents, money, ornaments and assets were looted from his house, and his house set on fire, due to which he has suffered a loss of about Rs. 2.7 lakhs. He and his family members, like many other Christians from the village, have not been allowed to enter and reside in their village. They have been denied access to forest land, drinking water, tube wells and wells, making it very difficult for them to survive, he said.

In the words of Subramanyu Nayak who testified before the Tribunal:

"Christians are not allowed to use public road, drinking water from tube wells and wells, forest to collect fire wood, even to graze the cattle in the common grazing fields."

From the above accounts by victim-survivors, it is obvious that social and economic boycott of Christians continues in villages, and that the same has an adverse impact on many forms of livelihood, including agro-based livelihood.

B4. Impact on Small Businesses: Iswar Digal spoke to the Tribunal of the impact of the violence on his small business:

"I used to run a two wheeler repairing and welding workshop at market complex building, Paburia which falls under P.S- Sarangada. I had invested Rs.3,70,000/- towards machinery tools and instruments of the workshop. My younger brother Susant Digal and other two workers were also engaged in the workshop on monthly salary basis and all the members of my family were depended on the workshop for the livelihood and workshop was running smoothly. But on 24 August 2008, at about 12.30 P.M, 150 persons...came with lethal weapons ... They looted all the valuable tools, machinery instruments, set fire and destroyed my workshop. Again the next day, the houses of 24 Christian families including my house were attacked. All our household items, money, ornament, valuable assets, documents and utensils were looted and our houses set on fire. They destroyed my property worth about Rs 3, 42,000 /-... The attackers have been threatening over the phone to kill me if I enter my native village unless I become a Hindu. About 20 families have not

²¹² Loyola College report, Case Study No. 13 on women

²¹³ Loyola College report, Case Study No. 4 on livelihood

come back to their own village and have been facing the same situation. I have received a total of Rs. 30,000 as compensation from the government, but this is grossly inadequate to resume my source of livelihood.”

The experience narrated by Monomohan Behera was similar. He depended on natural resources for a small business activity, for which he bought 126 cattle. However, a violent mob assaulted him and his helpers, snatched away Rs. 5000/- and all the cattle. Although he subsequently lodged an FIR with the local police, no action was taken against the accused (who declared to him that they could do what they liked) and the cattle was not returned to him. Neither was he compensated for the huge loss in his business.

The testimony of Paul Pradhan to the Tribunal highlights the manner in which shops and small businesses are forcibly taken over by the perpetrators and their supporters:

“...the same mob attacked on our Paburia Fruit and Vegetable Growers Development and Processing Cooperative Society Ltd, Paburia, Kandhamal and assaulted our staff Aditya Kumar Sahoo, Secretary and Basanti Sahoo, sales women. Thereafter the rioters looted all the stationeries, cloths, money, kerosene, all the valuable documents, files, records, registers, assets and destroyed the shop. Now, that cooperative shop cum residence is forcefully occupied by one of the rioters Srinivas Pradhan and the shop has been given to Purna Chandra Pradhan, Sarapancha, Petapanga gram panchayat on rent basis...We have reported to all concerned departments but till date, no suitable action has been taken in the matter.”

A resident of Sindrigaon village in Balliguda taluka informed a team from NN College that she lost her business of selling dry fish etc. and her husband is no longer appointed as the ration seller at the gram panchayat because the Hindus refused to buy things from him.²¹⁴ Thus, as in the case of agro-based work, victim-survivors engaged in small businesses too suffered from socio-economic boycott.

B5. Impact on Persons with Government Jobs: Those who had been employed by the government, such as anganwadi workers, teachers and postmen, have also had difficulty obtaining transfer orders to work from other parts of the state, particularly since they are unable to return to their villages to resume their jobs. Some have not been paid back wages for the months that they were unable to work during the violence. For example, Sebika Digal spoke to the Tribunal about the manner in which the violence impacted her family:

“My daughters and husband are Hindus, while I am a Christian. My daughter had worked as a junior teacher (Shikhya Sahayika) in a government school and she was not able to attend to her duties for about 5 months. Though her payment was ordered by the collector, due to mischief of the Block Development Officer, her salary for five months has been denied. The state authorities have provided us with no rehabilitation measures.”

Subramanyu Nayak was working as a *Gramin Dhaak Sevak* in the postal department in Bodimunda village and lived in a rental house with his family members at about 50 metres from Tikabali Police Station. A violent mob destroyed his assets and valuables both at his rented premises as well as in his native village, leading to a loss of about Rs. 20 lakhs. Till date he has not been able to join his office out of fear in the Postal Department at Bodimunda and has no other source of income to maintain his family. Due to his miserable financial condition, he was unable to meet the expenses towards medical treatment of his ailing father; consequently his father passed away in December 2009.

In the case of Premasila Digal, she worked as an anganwadi worker prior to the violence, and has not been reinstated in her job thereafter. After the violence, she was not allowed to stay at her centre (where she used to work), not allowed to return to her village and presently resides at Bhubaneswar, working as a daily wage earner to maintain her family.

²¹⁴ NN College report, p. 56

Even village *sarpanch* who were dalit or adivasi Christians were not spared from the discrimination and violence, as a woman from Beheragaon village in Tikabali block narrated to a team from NN College. She stated that her father was denied permission to work in office by sarpanch and Hindu co-workers. They were asked to leave village although her father is government servant. The perpetrators burnt all his certificates.²¹⁵

The interview of Lalit Digal, a resident of Sindrigaon village, Balliguda taluka, reveals the discrimination against Christians in government-run primary schools in villages. Lalit Digal was appointed on merit as a primary school teacher in Kalingia in the year 2005 after he passed his 12th standard, and earned Rs.2500 per month. The school head master appointed him to supervise the mid-day meals. However, he faced discrimination due to his identity as a dalit Christian. He narrated that whenever he touched the vessels or the food at the first place, the children refused to eat the food. At the time of the violence in Kandhamal, he was unable to report to his school out of fear for his safety. During this time, vigilance officers approached the school for checking its records, and after enquiry, he and 22 other Christian teachers were dismissed from school, presumably because they had remained absent from school due to fear for their safety. They were not given any further appointment orders by the state government, he said.²¹⁶

B6. Impact on Livelihood of Women: A report by Nirmala Niketan College of Social Work sums up the impact of the violence on livelihood of women as follows:

“The economic impact included loss of employment including NREGA work, loss of sources of livelihood like farming, cultivating rice and paddy, loss of their livestock/ cattle and loss of family businesses like dealing in turmeric, dry fish and leaf plate making as fear had prevented them from going to the forest for their leaf plate work and collecting firewood. This in turn meant that there was a shortage of money to buy food and survival had becoming difficult. Depression, a feeling of insecurity as no proper jobs were forthcoming and feeling afraid to move out for employment were some of the most widespread psychological effects as a result of the adverse impact of the violence on women’s livelihoods.”²¹⁷

Sub-section E of Chapter 4 of this Report threads together survivor testimonies and studies, and further elaborates the impact of the violence on livelihood of women.

B7. Attacks on Persons and Properties of Human Rights Defenders: Among members of the Christian community, human rights defenders who had established or worked in non-profit organizations are among those who have been adversely affected by the violence. Kamala Sahoo’s narration to the Tribunal is an illustrative example:

“I am a Hindu OBC woman who was working with an NGO called Pollishree Janaseva Samiti, in Sarangada, Paburia block. I, along with my son Suresh Sahoo, used to live in a residence attached to the office at Paburia. Even before the actual violence took place on the 26th August 2008, some Hindu fundamentalists used to threaten me of dire consequences if I did not stop working with Pollishree, as it was headed by an adivasi Christian. On 26 August 2008, at about 12.30 p.m., a mob of about 200 people ... came armed with guns, crowbars, axes, pickaxes and swords. They approached our office and residence... In fear my son and I fled from our residence to the nearby forest and watched what the violent mob did. The mob of rioters first broke open my office and

²¹⁵ NN College report, p. 53

²¹⁶ Loyola College report, Case Study No. 6 on livelihood

²¹⁷ NN College report, p. 79

house and looted all valuables such as cash, computers, television, fans, tables, chairs, typewriter, almirah, etc. They then opened the cooking gas at my home and set fire to the residence and office...The mob gathered again at about 8.30 p.m, shouting slogans, carrying weapons including guns, crowbars, axes, pickaxes, swords, etc. With lighted torches they came to the shop of my son, broke it open, looted all valuables such as computers, mobile phones and cash and then burnt the shop... After completely ransacking, looting, destroying and burning the office and residence, the mob went away shouting slogans."

Paul Pradhan, a human rights defender who worked as the secretary and Director of Pollishree Janaseva Samiti, substantiated Kamala Sahoo's testimony on the nature of attack on the organization and office property before the Tribunal.

Bijay Kumar Parichha, a resident of Beredakia village, Raikia block, is a human rights defender working as a Secretary cum Director of organization named Agraneer Jana Kalyan Anusthan (AJKA) for the last 20 years based at Beredakia. He works on issues of human rights, health, social forestry, empowerment of dalits and women in the district of Kandhamal. He described to the Tribunal the nature in which his house and office property were destroyed, and their impact on his work:

On 25th August 2008 morning around 10 a.m. a Hindu man came to my house and asked me to leave the place and find a secure place for myself. He also told me that Raikia members of RSS and Bajarang Dal have planned to sacrifice me in front of the Shiva temple at Raikia. So I sent my family members to a relative's house in Kilakia and fled from my house. At about 11 p.m. on the same day, the members of RSS, Bajarang Dal, Raikia Banika Sangha ... and others about 50 members entered my house and attacked... The attackers looted all my valuable documents, money, ornaments, assets, live stocks (2 cows), cut the fruit trees & set my house on fire. They also put some poison, glass pieces and dead animals in my well, so that the water cannot be consumed... I continue to hold meetings with affected people though I do not have an office, but have been warned against the same."

Antaryami Digal, a Pano Christian, is a human rights defender, working as the Secretary cum Director of a non-governmental organization called POORS for the past twenty years. His experience, as narrated to the Tribunal, is as follows:

"On 26th August 2008 at about 9 p.m, members of RSS , Bajarang Dal, Kui Samaj, V.H.P., under the leadership of ... and others about 200 members entered into our village and attacked the houses of Christian families & burnt a Church. The attackers looted all the valuable documents (certificates, land documents, etc), money, ornaments, assets, etc. & set fire to the houses of my elder brothers Sriram Digal, Natua Digal and my own house...At present, my life is in danger. I am not allowed to return to my native residence to cultivate my land...We face financial difficulties."

Kamal Digal of Battaguda village, Baliguda block, is yet another human rights defender whose household and office articles and documents were looted, and residential and official property damaged and destroyed in August 2008. He has been working as a Secretary cum Director in organization named Peoples Organization for Hill Area Reconstruction Awareness (POHARA) for the last 20 years in Battaguda, Kandhamal district. The organization works for promotion of human rights, dalit rights and women's empowerment in the district of Kandhamal. Though his office has been completely destroyed by the attackers, he stated to the Tribunal that only his residence was listed as partially damage and the office building not listed in the damage list. The accused persons have been acquitted in this case. No adequate relief and rehabilitation measures have been taken by authorities concerning the loss of his properties. His life is in danger and no protection is given to him or his family members. They have not been allowed to

enter into their native residence and village, causing great hardship to Kamal Digal in carrying out his professional activities.

Mohini Nayak is the president of 'Nari Mohol Mahila Samiti'. She had thrice been awarded the best woman social worker in the district. She narrated to the Tribunal the manner in which her house was ransacked and set on fire, and how she continues to face threat and intimidation in court.

The office of Jan Vikas also came under attack by violent mobs, which looted, damaged and destroyed office property including computers, furniture, stationery and vehicles. The organization had suffered a loss of approximately Rs. 15 lakhs from destruction of its vehicles, Rs. 7 lakhs from loss of technical / electronic equipment, Rs. 31 lakhs from destruction of internal furniture and fixtures, and Rs. 2,65,000 from damage to documentation centre and library. Fr. Ajay Singh, its Director, narrated to the Tribunal that their office had been attacked thrice since August 2008, and that despite lodging FIR, naming some of the perpetrators and giving details of the approximate loss of Rs. 56 lakhs, neither have the perpetrators been apprehended by the police, and nor has the state awarded any compensation. Fr. Ajay also explained that the human rights defenders and organizations who had been at the forefront of assisting the victim-survivors of the 2007 violence in Kandhamal through processes of justice and reparations, were the ones who were targeted during and after the 2008 violence.

B8. Findings of Study on Livelihood and Standard of Living: The findings of a study by Loyola College, on the issue of livelihood sums up the status of the enjoyment of this right among victim-survivors and their families. The findings presented before the Tribunal include:

- 60% have not been able to continue with their traditional occupation after the violence;
- None of the respondents could go for their regular work;
- 84% had to walk 2-3 km for work;
- 38% have lost their employment permanently;
- 38% get low wages because they not get work after the violence;
- 38% of respondents enrolled in NREGA were not assigned job cards;
- 68% of the respondents' savings had decreased after the violence;
- 58% spent most of their money for food;
- 62% of respondents did not possess any land;
- 74% do not have adequate supply of water. These people did not use the common tap because they were scared of the Hindus and caste people who used the tap;
- 72% did not have electricity; and
- 42% did not involve any agricultural activities after the violence.

B9. State Response to Loss of Livelihood: The state response to loss of livelihood is best captured in the submission of the representative of Jan Vikas before the Tribunal:

"Prior to the violence, most people worked as farmers, agricultural labourers, masons and carpenters. These people – dalits and adivasis – were socially boycotted by NREGA...Livelihood is completely ignored. No support is given to victims. Those whose crops were destroyed and left penniless are given Rs. 15,000 – some are given Rs. 25,000 – but this is not enough to restore their livelihood. Some had to take out loans to cultivate land, but because their land was destroyed they cannot repay the loan. Yet, the bank has given them notice that they have to repay the loan... Those who have not returned to their villages – their land has been grabbed by the other residents. Since many people have lived in the relief camps from August 2008 onwards, they could not earn a livelihood. State rehabilitation policy does not acknowledge loss of livelihood and factor this into the compensation package.

From our knowledge, there are only two cases of victims of the Kandhamal violence being given jobs.”

The state response to the issue of livelihood, its duty towards rehabilitation of affected families and the legal standards related to the same are discussed more elaborately in Chapter 9 of this Report.

C. Impact on Relationships: Conflict, especially ethnic or communal, destroys traditional community bonds and relationships replacing these with hostility, suspicion and a lack of trust between conflicting communities. This was confirmed by around one fifth of the women who said that because of the violence there was a lack of sharing among villagers which had spoilt relationships among them and that erstwhile friends had become enemies. A few also mentioned that relationships within the family had been disturbed.

7. ROLE OF THE STATE AND DEMOCRATIC INSTITUTIONS

“Neither the State of Orissa and nor of India can be absolved from its share of the guilt... The State here has completely abdicated its Constitutional duty of protecting the vulnerable sections of the society. We have no hesitation in saying that the present regime has lost its moral and legal right to continue.” – Prasad Srivella, NCDHR

There have been many questions raised about the role and responses of the State while the violence was being unleashed on the dalit and adivasi Christians of Kandhamal and other districts in Orissa. Was the State a helpless and powerless victim of the perpetrators? Was it a silent spectator and a mute witness to the orgy of violence and destruction? Or did it actively collude with the perpetrators to violate the human rights of the victim-survivors? Did the state and district administration diligently discharge their responsibilities to prevent the violence, and protect human lives and properties, as mandated by the Constitution, domestic and international law? What was the role played by democratic institutions that have been established to safeguard the human rights of the people? This chapter looks for answers to these questions in the testimonies of victim-survivor testimonies, field studies conducted and reports published and presented to the Tribunal.

A. PREVENTING THE VIOLENCE

“The biggest question is, why was the procession with the dead body of Lakshmananada and the communal forces allowed openly by the district administration, covering more than 175 kilometers by Jalespota to Chakapad, when curfew under S. 144 had been clamped? Who gave the order? Why was it not stopped and controlled? It was noticed that wherever the said procession went, the dead body was kept in front of the Christian institutions and houses, and there were inflammatory speeches against Christian communities. At that moment a group of fundamentalists went to kill and burn the houses of Christians...”
(Mohini Nayak)

Mohini Nayak’s observations to the Tribunal are substantiated by the MARG report, in a chapter on role of the state in preventing the violence. The chapter outlines several ways in which the violence could have been averted. These include:²¹⁸

- Making preventive arrests of key *Sangh Parivar* leaders prior to the funeral procession of Swami Laxmanananda;
- Calling an all-party meeting seeking support of leaders of all political parties to ensure peace;
- A personal appeal by the Chief Minister, Naveen Patnaik, through the electronic media, assuring the public that his government was taking steps to investigate and identify the persons who killed Swami Laxmanananda, and further issuing a strict warning to the people against taking law into their own hands;
- Implementing the recommendations made by the National Commission for Minorities (NCM), that visited Kandhamal in January and April 2008 – in the wake of the Christmas 2007 violence;
- Preventing the funeral procession of Swami Laxmanananda across a long route of over 150 kms that passed through communally sensitive areas; and
- Preventing hate speeches and propaganda from being spread, as these inflamed communal passions and incited violence.

²¹⁸ MARG report, pp. 49-59

The NCM was also unequivocal in holding the state accountable for failure to prevent the funeral procession of Swami Laxmanananda, which inflamed passions and incited violence. The NCM, in its September 2008 report, observes as follows:

“It was obvious that public reaction to the murder of a prominent religious leader like the Swamiji would be extreme. Yet when options to be followed after the murder were being considered, there is little evidence that high level political and official leadership offered guidance and support to the local district administration. Given the near certainty that a procession of over 170 kms. with the body of the slain leader was bound to arouse huge passions it would have been proper for the senior leadership of the State to try to persuade the Swami’s followers to avoid a long procession and bury him in the ashram where he was murdered. Even if his followers had been adamant that he had to be buried at the site of his first ashram in Chakpad, the alternative of airlifting the body should have been examined.

It is certainly possible that if the procession had been banned or even delayed there might have been serious trouble at Jalaspeta. This might possibly have spread to other places as well. But a reasoned analysis of the pros and cons does not appear to have taken place. Less than 18 hours after the murder, the funeral procession was taken out and the state still reels under the events that followed it. There is little evidence that anyone at the senior levels of either the political or the official establishment participated in or attempted to influence the decision making process in such a vital matter. This is unfortunate because mature advice could have introduced a measure of sanity into the situation and resulted in a balanced, considered response.”²¹⁹

Permitting entry of Pravin Togadia to the District

The Jan Vikas report stated that Pravin Togadia, a national leader of the VHP, who had been barred from entering different States for his role during the Gujarat carnage 2002, was allowed by the Orissa government to visit the state and the district during a very sensitive period. He arrived on 25 August 2008 and was escorted to travel a 300 km long distance on road from Bhubaneswar to Jalaspeta and lead the procession.

State responsibility in this regard was further elaborated in the MARG report, which stated as follows:

“Even if the state administration had not been able to anticipate the killing of the Hindu leader, it could have certainly anticipated the consequences of the presence and speeches of Togadia, who has earlier been disallowed entry by various state governments into their territory because his speeches are designed to mobilize hate and incite violence. The state government’s due diligence in preventing the communal violence would have been evident, had it prevented Praveen Togadia and other BJP leaders from entering the state. Instead, Togadia was allowed to visit Orissa at a very sensitive period, with police escort, and given a free hand. Togadia was allowed to travel the full distance of the funeral possession for two days and lead it, deliver inflammatory speeches throughout Kandhamal, spreading hatred and disharmony, and incite people to attack Christians, their property and places of worship. The state government’s failure to prevent Togadia from entering the sensitive area of Kandhamal in August 2008 stands in stark contrast to its issuance of prohibitory orders to him in March 2010, barring him from entering Kandhamal and is indicative of the selective use of its preventive powers. A similar exercise by the state government in 2008 could have saved many

²¹⁹ Report of the Visit of the Vice Chairperson NCM to Orissa, 11th to 13th September 2008, available at <http://ncm.nic.in/doc/Tour%20Report%20VC%20Orissa%20Sep.%202008.doc>, accessed on 1 March 2010, at paras 8 & 9

*lives, property and prevented the trauma caused to many members of the Christian minority.*²²⁰

Based on the facts that the state government failed to enforce prohibitory orders under S. 144 of the Cr.PC and the imposition of a curfew on 25 August 2008, suspended Nikhil Kumar Kanodia – the Superintendent of Police at Kandhamal the day before the bandh – along with the local police inspector, purportedly for failing to provide security to Lakshmananada, and did not post any substitute senior police officer despite anticipating violence the subsequent day during the bandh, the MARG report concludes as follows:

*“the state government not only ‘failed’ to prevent violence but also deliberately created a situation where in the communal attacks the following day would be intensified and the damage maximised.”*²²¹

It was further brought to the notice of the Tribunal that the Orissa government failed to prevent hateful rumours from being propagated, which had the impact of inciting violence against the adivasi and dalit Christian community. The report counters each of the baseless rumours that served to increase the scale, intensity and barbarity of the violence that was unleashed.²²²

The MARG report further observed that the state government did not prevent a series of Hindu programs that sparked communal tensions. First, there was the Orissa bandh. Section 144 was imposed, but it was not implemented by state agencies. Second, there was the plan of the *kalash yatra*, which was halted at the last minute, perhaps in anticipation of a stern directive by the Supreme Court. Third, there was the *Shraddanjali Sabhas*, memorial meetings held throughout the district. The Shraddanjali Sabhas provided a platform for anti-Christian hate speeches, in which the speakers declared an end to cow slaughter and urged retaliation against Christians. The fourth was the *dharna* held by Hindu religious leaders, who performed rituals to eliminate “enemies of the Hindus” and demanded actions against Sister Meena for her falsely alleged rape. It was highlighted to the Tribunal that the state government did not invoke the anti-hate speech provisions of the Indian Penal Code, take any of the preventive actions provided for under the Code of Criminal Procedure, or make efforts to extern such persons under Section 46 of the Orissa Urban Police Act, 2003. In a context already surcharged with communal hatred, the state government’s decision to allow these programmes that were intended at inciting violence indicates that it lacked the political will to exercise its powers to prevent the violence, the report stated.²²³

²²⁰ MARG report, p. 57

²²¹ MARG report, p. 52

²²² MARG report, pp. 52-56

²²³ MARG report, p. 58

B. WILFUL NEGLIGENCE & DERELICTION OF DUTY TO PROTECT HUMAN LIVES AND PROPERTY

B1. Dereliction of Duties of Public Officials

The following testimonies presented at the Tribunal highlight the failure of the local police in promptly responding to violations, and protecting human lives and property:

“On 27th August 2008...some miscreants with lethal weapons entered into my house ...forcefully dragged my husband, tied him in a nearby tree and burnt him alive in my presence...The incident was reported to the local police station by my son but the police did not turn up to reach to the spot. Desperately I watched the dead body for 5 days and also tried to protect the body from the dogs which almost consumed half of the body of my husband...The police came after 10 days and the body was taken out of the grave and post-mortem was made. Though I had mentioned specific names of the criminals involved in the incident and the G.R. case was registered vide No. 263/2008, no main culprits were arrested yet. No appropriate investigation was conducted...no initiative was taken to recover my looted property...” (Priyatama Nayak)

“My wife rang up to the OIC, Raikia with her mobile phone for the protection and to extinguish the burning fire in our house. But the police replied that, at this juncture of the night, it was not possible to either come and protect us nor even send the fire brigade to extinguish the fire. When we phoned the fire station, the fire brigade told us that the fundamentalist group has blocked the station and was not allowing the public servants to discharge their duties.” (Bijay Kumar Parichha, whose house and NGO were destroyed by a mob)

“Personnel of local police camping in our village did not do anything to save us. Roads were blocked by rioters by felling trees. Personnel of CRPF and Rapid Action Force, camped 4 kilometres away, ran and reached to save us. If they had not arrived, all of us would have been killed and whole village would have been destroyed.” (Christodas Nayak, whose wife was brutally killed by a violent mob)

The experience of Ranchi Pradhan, a 70 years old woman, permanent resident of Nandagiri village, echoes that of Priyatama Nayak detailed above. She spoke to the Loyola college team about her traumatic experience of having witnessed the brutal killing of her son, and staying with her son’s body during the violence, and safeguarding it from being eaten by dogs, pigs and cats. The police arrived and took away the decomposed body only after three days.²²⁴

The testimony of Fr. Basil Kullu, chief priest of Madhupur church, part of which is reproduced below, highlights the fact that the police alerted him about the possibility of attacks. They had also warned him not to move anywhere because the accused persons were shouting slogans to cut the head of the Fr. Basil. Fr. Basil informed the Tribunal that despite knowledge of the probability of the attacks by a violent mob, and despite giving 10 written complaints to the police within one day, on 25 August 2008, the police did little to protect him and the over 370 children residing in the hostels belonging to the church.

“We three, Mr. Sujit Pradhan (OIC), Mr. Satya Narayan Das (Block Development Officer) and myself sat in front of the priest resident and discussed the security matters and how to handle the situation. During the discussion I had strongly asked for more police

²²⁴ Loyola College report, Case Study No. 16 on livelihood

personnel. I even told them to talk with Collector and Police Superintendent of Bargah because situation was becoming worse. They gave assurances and left the place but no action was taken...I informed police-in-charge of Sohela that now the mob may come anytime to Madhupur, so please inform collector and get more police personnel to save the Madhupur church...I did not get any response from the local police-in-charge. I rang up to the Police Superintendent Mr. Ashok Biswal of Bargah. He also told that he is discussing with S.P. After forty five minutes I rang up again, but I did not get any response from both.” (Fr. Basil Kullu, chief priest of Madhupur church which was attacked)

The complicity of various public officials with regard to the attack on Madhupur church is discussed in more detail in Chapter 5 of this Report.

The testimony of Gopabandhu Behera highlights the active role played by a tahasildar in denying relief to the victim-survivors whose houses had been burnt down:

“The same persons came the day after...the culprits totally destroyed and burnt the church and the dwelling houses. I requested for help from the Tahasildar, but he responded by saying that no relief would be given and to the dismay of the Christians, baselessly he accused that the Christians themselves had destroyed their houses.”

Manyabar Nayak’s testimony highlights the failure of the sub-collector in taking action against the sarpanch who coerced inmates of a relief camp to convert to Hinduism:

“Though I complained, no action has been initiated against the secretary of Sritiguda gram panchayat for illegally entering the relief camp and coercing us to become Hindus...In March 2009, at the relief camp at Nuagaon, in the presence of sub-collector, Susanta Nayak (sarpanch) told us to become Hindus if we wanted to return home. The sub-collector did not take any action against the said person for his statement. I had lodged FIR but no action has been taken against the culprits.” (Manyabar Nayak)

The following testimonies speak of government officials being mute spectators to the violence:

“The police and district administration did not take any preventive action before the riots / violence took place; no action was taken by the district administration during the violence to control the mob. Rather it allowed the fundamentalists (BJP, RSS, VHP, Bajrangdal etc.) to destroy the Christian community and to kill them. The police and the district administrators were mute spectators and allowed it to happen.” (Premasila Digal)

“About 7 to 8 persons entered into my house, breaking wooden door. They scolded me in filthy language and assaulted me. They said “Pano Christian sala, we will kill you, rape your wife, torture your children.” At this time I ran to police station and requested to police officer to save me and my family members but everything was in vain. No police gave protection. They were just silent spectators...In the presence of police, all the valuable assets and cash...ornaments, television, fridge etc were looted, set on fire and burnt into ashes...The inaction of the district administration is encouraging the culprits to commit more crimes in this village.” (Subramonyu Nayak)

In a group interview conducted by Loyola college at Katipada village, the victim-survivors said that the homes of 32 Christian families in the village were burnt down. Villagers escaped to the forest and stayed there for 3 days. They said that the police officers from Balliguda police station were present during the attack but did not help the villagers, and that they were silent spectators to the violence because they had some connection with and supported the attackers.²²⁵

²²⁵ Loyola College report, Case Study No. 15 on women

There were also reports of the presence of police officials and other public officials along with the violent mobs that attacked Christians and their properties in Kandhamal. For example the MARG report refers to the desecration of the Catholic church in Phulbani, when the motorcade carrying the body of Swami Laxmanananda was stopped in front of it. Top police officials and the district collector were reportedly present at the time of the incident, and did nothing to stop the desecration.²²⁶

The Haq Centre's report on the status of children in Kandhamal also substantiated the fact that police officials were silent spectators to the violence. The report observes that some children said police were mute bystanders when the arson and looting was going on and did not act against the rioters.²²⁷

The failure of the police and other local officials to take action against the perpetrators and its direct impact on the security of the victim-survivors were highlighted in the following testimony before the Tribunal:

"The violence continued for more than 2 months due to inaction of police and the district administration. Till date, no legal action has been taken against the culprits and accused persons of Sulesoru village by the district administration. After riot, the kingpins and culprits of the violence are scott free and moving freely, threatening Christian people, challenging the police and the district administration." (Deobhanja Pradhan)

Dereliction of duties of police personnel has been officially acknowledged by the fact that five police officials were reportedly suspended in Sister Meena's case for 'misconduct and negligence of duty' on the basis of a joint report filed by the Kandhamal Collector Krishan Kumar and Superintendent of Police Prabin Kumar. Further, in a letter written by A.K.Upadhyay, IPS, who works as DIG (training) at the Biju Patnaik State Police Academy, he accuses and names 13 police officials including former Director General of Police – Gopal Nanda – of dereliction of duties in protecting the life and properties of the Christians in Kandhamal. He further recommended withdrawal of medals that had been awarded to four of them.²²⁸

In response to a query on the MARG report on the responsibility of politicians and bureaucrats for the violence, it was brought to the notice of the Tribunal that one quote attributed to the police by many people is as follows: *"the guns are in our hands, but the bullet is in Naveen Patnaik's hands. If he gives written orders we will control the riots in two days."* Stating that the police did not need written orders from Chief Ministers to discharge their Constitutionally-mandated duties, the MARG report observes that, if correct, the quote indicates that the police may have had instructions *not* to control the situation and to refrain from protecting people and their properties.²²⁹

B2. Refusal to Register First Information Reports (FIRs) and Failure to Take Action Pursuant to Registration of FIRs

Many victim-survivors and witnesses deposed before the Tribunal that the police had refused to register FIRs or had registered them in a delayed / incomplete manner, so as to allow perpetrators to escape accountability. The police had also reportedly failed to take action pursuant to registration of FIRs, including arrest of the accused. Since these aspects have a direct bearing on processes of justice and accountability, these are discussed more elaborately in sub-sections A & B, Chapter 8 of this Report.

B3. Indifference to Threats to / Intimidation of Victim-Survivors

²²⁶ MARG report, p. 62

²²⁷ Haq Centre's report, p. 16

²²⁸ MARG report, pp. 100-102

²²⁹ MARG report, pp. 60-61

According to reports presented before the Tribunal, threatening of victim-survivors and witnesses has been rampant and has reached an unprecedented level in the context of Kandhamal violence, leading to a sense of extreme insecurity.²³⁰ Victim-survivors narrated to the Tribunal their experiences of approaching the authorities for protection from intimidation by perpetrators and their supporters. The following extract is an indication of the state response:

“I have already informed about the ongoing attacks and threatening in writing and also approached personally all the officials concerned like Police In-Charge Officer, Block Development Officer, Tahsildar, District Magistrate and Superintendent of Police, Kandhamal, but no appropriate action has been taken so far. I have also informed the matter to the Chief Minister of Odisha, D.G. Police and also Honourable Governor of Odisha about the administrative inaction and protection of my life...” (Priyatama Nayak)

The testimonies of Antaryami Digal, Mohini Nayak and Umesh Chandra Nayak similarly refer to the inaction of the judge, public prosecutor and the police in protecting witnesses from threat and intimidation. Extracts of their testimonies in this regard are reproduced in sub-section E, Chapter 8 of this Report.

C. COLLUSION AND COMPLICITY

In addition to failure to prevent, wilful negligence and dereliction of duty to protect loss of lives and property, another aspect of state responsibility for the violence in Kandhamal is that of collusion and complicity of government officials prior to, during and in the aftermath of the violence.

C1. Prior Knowledge of the Attacks

Testimonies of victim-survivors indicate that the police and the district administration had prior knowledge of the impending attacks.

“The police and the district administration were aware of the strategies of the rioters before the incident took place, because the rioters were organizing meetings and rallies in the presence of the police and district administration in many places.” (Premasila Digal)

Fr. Basil Kullu of Madhupur church informed the Tribunal that he came to know about a series of meetings of the leaders and members of the Bajrang Dal and RSS which took place in Sohela town through Mr Sujit kumar Pradhan, a police official attached to Sohela police station. The main agenda of these meetings was how to destroy the Madhupur church and to kill the church leader Fr. Basil Kullu. He said that the police was well aware of these gatherings as Mr Pradhan had taken photos and prepared a C.D of it. He questioned as to why nothing was done to prevent the violence despite prior knowledge of the attacks.

Fr. Basil Kullu further informed the Tribunal that he was repeatedly questioned by officials of Sohela police station about the Madhupur church that he headed, from 3-20 August 2008. He said that it was no coincidence that intensive inquiries about the church were made by the police a few days prior to the attacks, and that the inquiries were perhaps a part of the preparation to attack.

C2. Complicity in the Violence

Testimonies also pointed to police supporting, shielding and protecting the perpetrators prior to and subsequent to the violence:

²³⁰ MARG report, p. 110

“I gave complaints to police naming the culprits, but the police are protecting the criminals...The riots are well-planned and executed by the fundamentalists...The police is not taking sufficient action against them.” (Dashrath Digal)

“OIC, Tikabali Mr. Mahapatra and one Mr. Jena (police person) told me two months prior to the communal violence: “Your Christian leadership will not work anymore”. Both of them were silent supporters of such fundamentalists...When the riot was going on, the Rapid Action Force (RAF) and CRPF were not utilized by the local police. Some RAF told us that the local police misguide us. When the message is given that in the east the village is burning, then the local police was sending the CRPF and the RAF on the west side. Due to the support of the local police, the communal forces went on killing and burning the Christian community.” (Mohini Nayak)

In addition to the police, the role of panchayat leaders and members also came in for criticism in the victim-survivor testimonies before the Tribunal:

“...The same mob attacked our ‘Paburia Fruit and Vegetable Growers Development and Processing Cooperative Society Ltd’, Paburia, Kandhamal...Now that cooperative shop cum residence is forcefully occupied by one of the rioters Srinivas Pradhan and the shop has been given to Purna Chandra Pradhan, Sarpancha, Petapanga Gram Panchayat, on rent basis...We have reported to all the concerned departments but till date no suitable action has been taken on the matter.” (Paul Pradhan.)

State participation in the violence was summed up by the NCDHR in the following words:

“The local government by and large not only stood by and silently watched, as the horrendous events were unfolding, but in several ways, according to the eye-witnesses, facilitated the gangs indulging in the destruction of human life and valuable property. What followed by way of administrative action - controlling the situation, relief measures for the afflicted and punishing the guilty – could only be described as formal-ritual motions to satisfy the letter of the law.”

C3. Threatening of Witnesses & Destruction of Evidence

Testimonies of victim-survivors further highlighted the active role of the local police, tahsildars, Block Development Officers and other local government officials in threatening of witnesses and scuttling of justice and accountability. The testimony of Mohini Nayak is a case in point:

“I am a leader of a women’s group. My house was destroyed by a mob of 300-400 persons, led by Manoj Pradhan, the local MLA... As I was giving evidence in court against Manoj Pradhan, I was intimidated and threatened. The Tehsildar of Raikia, Mr. Rebasantar Mohapatra OAS, is threatening me telling that “If you give witness against Manoj Pradhan MLA, I will initiate case against you on Regulation 2 of 1956. So you better withdraw your case.” Mr. Debo Brato Jena, OAS, the Block Development Officer of Raikia threatened me to withdraw the case against him, otherwise he would cut my name from the dealership list and I would be in problem. The local officers warned me that I and my daughter will be raped in public and forced to leave the village if I gave my testimony as a witness to the crimes committed by Manoj Pradhan.” (Mohini Nayak)

Victim-survivors also testified to the fact that the Collector had actively connived with the perpetrators by destroying evidence of the violence at the site of violence.

“Only on 27th August the Collector, Mr. Suresh Parikh, came to see, but he was not at all feeling sad and was telling that they were thieves, not any religious fanatics. When I asked

for police protection, plainly he said “I cannot give for 15 days.” Instead he forced me to remove all the things immediately what was lying there, burnt, and were scattered. Surprisingly he sent some people to clean and remove things which were lying in the compound as debris.” (Fr. Basil Kullu, chief priest of Madhupur church which was attacked)

Fr. Basil Kullu, in his narration to the Tribunal, raised the issue of active state participation, complicity in and connivance with the violence in the following words:

“I have serious question on the responsibilities of all the above-mentioned public servants of the state (police, collector, Block Development Officer), who are duty-bound to maintain law and order, take precautionary measures, protect lives and properties of the citizens, to take legal action against the violators under the laws and rules of the state, to help the victims and to maintain peace and harmony in the areas. I also raise question, whether the said communal violence, particularly on the minority group (Christians) was state-sponsored! Since the authorities didn’t take any action, in spite of my repeated requests, and it was allowed to happen. The violators did these violent activities in front of the police and magistrate and officials who remained mere spectators. Or these brutalities are due to negligence of the state authorities? It all looked as if they were part of a state-sponsored violence.”

C4. False Allegations Against Victim-Survivors by Public Officials

Another manner in which public officials participated in the violence is by making false allegations and threat of imposing false charges on victim-survivors in order to silence them and prevent them from pursuing justice. This is discussed more elaborately in sub-section C, Chapter 8 of this Report.

C5. Acts of Commission and Omission by Public Officials With Regard to Relief and Rehabilitation

The public officials reportedly committed grave dereliction of duty through acts of commission and omission with regard to relief and rehabilitation too. Some aspects are as follows:

- Preventing rescue, relief and rehabilitation activities in Kandhamal;
- Failure to respect the rights of victim-survivors in the relief camps;
- Forcible return of victim-survivors to their villages; and
- Negative role of public officials in village level peace committees.

These are discussed more elaborately in sub-sections A1, A2, A3 and D1 respectively in Chapter 9 of this Report.

D. OVERALL FAILURE OF THE STATE

The testimony of Issac Digal sums up the various aspects in which the state failed to discharge its responsibilities to protect the lives and properties of its citizens in Kandhamal, and to uphold their human right to live with dignity:

“Though apparently situation seems to be improved and normal, thousands of people are not in a position to return back home, particularly those who fled away due to the attack and want of proper protection. A large number of people have not filed complaints out of fear. Many complaints are not registered in the local police station officially and whatever petition is registered, they are not properly investigated and there are serious lapses and weaknesses in the investigation to build up the cases with appropriate evidence...A large number of criminals are being acquitted. No step was taken to recover the looted property, identify and

penalize the leaders who financially supported the attackers, planned, organized the crime and led the process and also supplied the deadly arms, weapons and explosives. No proper assessment of the damage and human loss was made and also awarded adequate compensation. No livelihood support system for the victims has been arranged. No transparency in the relief, rehabilitation and peace building process and also no local socially marginalized communities and their leadership was involved in the process. Till today not a single government official has been made criminally liable for their gross negligence in discharging their duties, for being sectarian in delivering the service, though the damage was so colossal and the violence continued for months together in spite of presence of the police forces.” (Issac Digal)

While presenting the NCDHR report to the Tribunal, Prasad Srivella observed as follows:

“Neither the State of Orissa and nor of India can be absolved from its share of the guilt. It is the State that is responsible for, not only allowing the existence and operations of these well-recognised fascist groups, but at times it has been found nurturing them and also participating in their murderous agenda. Despite the fact that the State’s involvement, direct or indirect, in the numerous mass-killings of recent history has been recognized and highlighted, no serious steps have been taken to rectify the fast-deteriorating situation. The State here has completely abdicated its Constitutional duty of protecting the vulnerable sections of the society. We have no hesitation in saying that the present regime has lost its moral and legal right to continue.”

E. ROLE OF HUMAN RIGHTS INSTITUTIONS

E1. National Commission for Minorities

The National Commission for Minorities (NCM) was among one of the most active human rights institutions in the context of the Kandhamal violence. The NCM made three visits to the district in January, April and September 2008, the first two visits being in the wake of the December 2007 violence, and the third subsequent to the August 2008 violence.²³¹ The MARG report discusses in detail the observations and recommendations made by the Commission. All the reports contain numerous recommendations to the state government on aspects such as preventive measures to be taken, protection of members of Christian minority community, rehabilitation and re-integration of the victim-survivors in their communities.

One of the most significant interventions made by the NCM was to reject the explanation given by the state government and others that alleged forced conversions to Christianity were the cause for the anti-Christian violence in Kandhamal, by pointing to the fact that the provisions of the Orissa Freedom of Religion Act (OFRA) have never been invoked against such alleged forced conversions.

Some of the most important recommendations of the NCM are as follows:

- a. the state government must examine the speeches of Laxmanananda Saraswati to determine whether they amount to incitement of violence and take appropriate action;
- b. that it must issue a white paper on conversion to dispel fears and suspicions raised about the Christian community and its institutions;

²³¹ Report of the NCM visit to Orissa, 6-8 January 2008, available at <http://ncm.nic.in/pdf/orissa%20report.pdf>, accessed on 1 March 2010; Report of the Visit of the Vice Chairperson, NCM to Orissa 21-24th April 2008, available at <http://ncm.nic.in/pdf/VC%20Tour%20Report%20of%20Orissa.pdf>, accessed on 16 March 2010; Report of the Visit of the Vice Chairperson NCM to Orissa, 11th to 13th September 2008, available at <http://ncm.nic.in/doc/Tour%20Report%20VC%20Orissa%20Sep.%202008.doc>, accessed on 1 March 2010

- c. that it should set up a statutory state Minorities Commission for safeguarding the rights of minorities;
- d. that the state government should show greater vigilance to prevent the outbreak of violence;
- e. that it should urgently address issues of social exclusion and structural inequities;
- f. The confidence of the people in the impartiality of the law enforcing administration and the sanctity of the rule of law must be re-established through speedy and concrete measures to bring the guilty in the riots to book. They should be identified and named as early as possible; and
- g. that the provisions of OFRA be used in cases of forcible conversions of Christians to Hinduism;

In its April 2008 report, the NCM observed that its earlier recommendation of determining if Swami Laxmanananda's speeches amounted to incitement of violence *"does not appear to have been acted upon."*²³² It re-emphasized the preparation of a White Paper on conversion, and setting up of a state Minorities Commission. The MARG report observed that none of these recommendations were acted upon by the state government, and there was no apparent effort to even attempt implementing these recommendations.²³³

E2. State Human Rights Institutions

Victim-survivor testimonies illustrated their experiences when they approached the State Human Rights Commission for assistance in the wake of the violence in Kandhamal. Some extracts are as follows:

"On 28 March 2009, a group of victims along with me approached through KFPJ the Odisha Human Rights Commission formally with a prayer for immediate intervention and action for safety of the victims and human rights defenders involved in the process. The case was registered vide No. 472/2009 and after hearing, District Magistrate and the Superintendent of Police were instructed to conduct a joint enquiry on the petition and to report OHRC after taking the appropriate action including against the erring officers within 8 weeks as per the order dated 5 May 2009. But no action was taken on the specific grievances of the complainants. While there was a need for immediate intervention for safety and protection of the victims, the condition of the victims were further miserable as there was no appropriate investigation by any high level agency. The process was further delayed through the adjournment of cases." (Priyatama Nayak)

"The ST Commission, the tribal welfare ministry and the Tribal Advisory Council are not seriously discharging their responsibilities to protect and safeguard the interests of the communities on which communal violence continued for months together in the Kandhamal district." (Paul Pradhan)

"I had intimated the police station about the incident, the district administration and also the Odisha State Human Rights Commission, Bhubaneswar, which was registered vide P.S. case no. 549/08 and given directions to the Superintendent of Police, Kandhamal to investigate and report back to OHRC. But no such enquiry was made nor any protection was given to me despite the direction of OHRC ... and no action was taken since then...Once again, I reported the matter to OHRC...This case was registered under Case No. 472/2009 and a direction was given to the Superintendent of Police and the Collector, Kandhamal for a joint enquiry into the matter and report back to OHRC of the action taken within 8 weeks, as per an order dated 5 May 2009. The district administration did not respond in spite of the repeated posting of the case." (Debendra Nayak)

²³² Report of the Visit of the Vice Chairperson, NCM to Orissa 21-24th April 2008, available at <http://ncm.nic.in/pdf/VC%20Tour%20Report%20of%20Orissa.pdf>, accessed on 16 March 2010, at para 3 of Conclusions & Recommendations

²³³ MARG report, p. 50

The red tapism and time-consuming nature of lodging complaints before the Orissa State Human Rights Commission (OHRC), particularly in the face of urgent interventions that were warranted, are illustrated in the following narrative:

“I came to G.Udayagiri police station and lodged an FIR on 2.09.2008 and sent a copy to OHRC...Through a letter dated 27.09.2008, I again sent copies of the inaction of the police station through registered post to the OHRC...Once again I reported the matter to OHRC through Kuidina Forum for Peace and Justice. This case was registered under Case No. 472/2009 and a direction was given to the Superintendent of Police and the Collector, Kandhamal for a joint enquiry into the matter and report back to OHRC on action taken within 8 weeks as per order dated 5.5.2009. The district administration did not respond in spite of the repeated posting of the case. On 21.12.2009, on the request of the Forum the Collector and Superintendent of Police were asked to appear before the Commission personally on 2.02.10. The District Magistrate, Kandhamal appeared before the Commission and we were also given a scope to narrate our complaints and grievances..We were not communicated the result of the hearing and also the date of the next hearing. We managed to collect the date from the official sources and appeared with a large number of petitions from the victims relating to non-proper assessment of damage and also awarding compensation, non-acceptance of petitions and also conversion of petitions into formal FIRs of the victims and human rights defenders etc. Though we had given the specific complaints earlier, again we were asked to submit fresh complaints in a short form within 2 weeks time. The process takes so much time, which further complicates the situation and the delay further encourages the criminals to create further violence. Due to the police and administrative inaction, the victims are not so much interested at present to file fresh complaints.” (Debendra Nayak whose house was destroyed and moveable property looted)

The extract of testimony reproduced above illustrates that despite meticulously following up the complaint with OHRC for over 17 months, the victim-survivor obtained no reliefs, and was asked to submit a fresh complaint. Debendra’s experience is indicative of the frustration faced by many other victim-survivors, with the futility of trying to obtain remedial orders from the OHRC, as his testimony indicates.

F. ROLE OF NON-PROFIT / CHARITABLE ORGANIZATIONS

Civil society organizations and members, including individual human rights defenders, social workers, non-profit organizations and church-based groups played a significant role in assisting the victim-survivors particularly with rehabilitation. This is a finding in the NN College report, which observed as follows:

“NGOs also took the initiative to provide compensation to some of the women. This was mainly in kind but also monetarily in a few cases. Jan Vikas assisted nearly one fifth of the women with mainly food items, clothes and house building material. Mana Foundation and Life Foundation provided compensation mainly in kind and Catholic charities and other missionaries compensated six women monetarily and the rest in kind.”²³⁴

The Jan Vikas report observes that the local church organizations and a few human rights organizations were engaged in reaching out to the people to provide help to whatever extent they could. It said that in accordance with the general trend of pathetic response to human disasters such as communal violence, as compared to natural disasters, the NGOs and civil societies engaged in theoretical debates on conversion without addressing issues of basic necessities and of abating the fear among the victim-survivors.²³⁵

²³⁴ NN College report, pp. 63-64

²³⁵ Janvikas report, p. 17

The report further highlights obstacles to the work of local non-profit organizations in assisting victim-survivors for justice and reparations. It discusses the fact that almost all charity and social service organizations in Kandhamal were completely destroyed during the violence, and local activists were attacked and intimidated and are victim-survivors of the violence. Since the organizations and activists are themselves in need of support, they are not in a position to work for the other victims.²³⁶ Attacks on the lives, official and residential property of human rights defenders are discussed in further detail in sub-section C4 of Chapter 2 and sub-section B7 of Chapter 6 this Report.

The NN College's study indicates that despite the challenges and obstacles, NGOs were at the forefront of assisting women victim-survivors of the violence, particularly in processes of justice and accountability. Religious leaders, pastors, priests and nuns, and law enforcement agents followed up with assistance to the victims-survivors.²³⁷ In contrast, when the women were asked to elaborate on the assistance provided to them by the government apart from the monetary compensation they had received, only 51 women (14.37%) mentioned receiving government assistance.²³⁸

Very few testimonies before the Tribunal referred to assistance by non-profit organizations, one of which is reproduced below. Many spoke though, about the destruction to and damage of their own organizations, more elaborately discussed in Chapters 2 and 6 of this Report.

"We did not get any compensation or relief from the government or from any NGO because NGOs were also following list of the government for distribution of relief materials." (Kamala Sahu)

The report of the National Commission for Minorities referred to assistance provided by NGOs for distribution of relief. It observed as follows:

*"I was also informed that some NGOs had offered their services to conduct medical operations. Such offers should be freely accepted even if they come from the so called Christian NGOs. Since inmates of the camps are all from the same religion there is little prospect of controversy arising out of a discriminatory approach to medical services. In the same way there should be no objection to allowing Christian groups to distribute relief in the camps. Since only Christians are housed in the camp there can be no allegations of a sectarian approach to the distribution of relief."*²³⁹

The peace initiatives of the Catholic Archdiocese, New Delhi, have been discussed in Chapter 9 of this Report.

²³⁶ Jan Vikas report, p. 17

²³⁷ NN College report, pp. 59-60

²³⁸ NN College report, p. 64

²³⁹ Report of the Visit of the Vice Chairperson NCM to Orissa, 11th to 13th September 2008, available at ncm.nic.in/doc/Tour%20Report%20VC%20Orissa%20Sep.%2008.doc, accessed on 1 March 2010, at para 16

8. PROCESSES OF JUSTICE & ACCOUNTABILITY

“I believe in the sacred Constitution of our country and its laws and regulations. Normalcy can be brought back once the perpetrators are made accountable according to the proper laws and judicial procedures of our country.” – Moses Nayak

Flowing from the complicity of public officials through their acts of commission and omission, discussed in the previous chapter of this Report, the present chapter focuses on the adverse impact of the same on processes of justice and accountability. This chapter seeks to highlight the challenges to justice in the context of the Kandhamal violence.

A. FAILURE TO REGISTER / DELAYED REGISTRATION OF FIRST INFORMATION REPORTS (FIRs)

The following narratives reveal the fact that police failure to register FIRs and take action dates back to years prior to the Kandhamal violence 2008:

“I have been a leader of the Christian community in the village of Nandini since February 2000. The Christians had been under constraint threat and attack of Swami Laxmanananda and numerous times prior to 2007, we complained about these threats to the civil and police officials. The officials have not taken any action against the leader of Sangh Parivar even when two Christian families of the village were forcefully converted to Hinduism by the agents of Ashram of Chakapad.” (Gopabandhu Behera)

“On 10th August 2007 I lodged a written FIR before the Officer-in-charge of Tikabali police station. But the FIR was registered 3 days later ... Even after 9 months of registration of the FIR, no action was taken against the accused and we did not get back our cattle. The accused had openly declared that Swami Laxmanananda Saraswati is behind them, and that nobody can do anything to them and they can do anything whatever they like.” (Monomohan Behera)

While references were made to the commencement of criminal proceedings against some perpetrators of the December 2007 violence, the narratives, an example of which is given below, make it clear that the masterminds behind the December 2007 violence have escaped accountability, and continued to threaten the Christian families in villages:

“Cases against some of the rioters are pending in courts. But leaders of Sangh Parivar, namely Balram Dehuri, Dhiru Sahu, Muni Panda, Jagnath Patra, Rinku Mishra, Chita Bindhani and others are continually threatening us and Christian families in my village live in fear of being attacked by Hindu fundamentalists.” (Dasarath Digal)

The presentation of the MARG report brought to the attention of the Tribunal that the NCM had made a number of recommendations in its reports issued in January and April 2008, in the context of the December 2007 violence in Kandhamal. For example, if the state had taken a concerted effort at apprehending, investigating and prosecuting perpetrators of the December 2007 violence, that could have had a deterrent

effect on the violence of August 2008 by sending out a strong message that the government was determined to protect the minority community and to enforce the rule of law, it stated.²⁴⁰

Testimonies presented before the Tribunal repeatedly spoke of the refusal of the police to register FIRs. Extracts of some testimonies are reproduced below:

“I had sent the FIR to OIC Sarangada Police station with copy to SDPO, Baliguda, S.P. and Collector, Kandhamal and DIG, Berhampur by registered post on 26 September 2008. But my FIR is not yet been registered by the Police station at Sarangada. The kingpins and the culprits are moving freely and no stringent action is taken against the accused persons as yet and still there is danger to my life.” (Paul Pradhan)

“I was attacked during the 2008 riot and my house was burnt. I lodged FIR in the local police station, Tikabali, which was not registered against the accused persons...I have repeatedly sought help from the local police station for my protection but no action was taken inspite of my petition dated 19 May 2010 against the criminals with specific names like Dahia Mallick, Sudhira Pradhan, Ajiban Mallick, Mantu Gauda and Biranchi Behera. My petition was not registered and no action was taken against the accused persons.” (Gajana Digal)

“I complained to police, giving names of leaders of those who attacked us. But no criminal cases have been filed against them and that many of them are freely moving about in the village and they continue to threaten us.” (Pratap Chandra Digal)

“I had lodged an FIR at the Tikabali police station but OIC refused to receive my FIR and my case is not yet registered, despite my approach to the OIC several times.” (Premasheela Digal)

“The OIC of Tikabali police station did not receive the individual FIRs that were handed over to him by the villagers. Instead, he made the villagers write the FIR on a single paper.” (Deobhanja Pradhan)

When Jacob Pradhan’s wife tried to lodge an FIR with regard to the attempted rape of their daughter, the police refused to lodge the complaint.²⁴¹

The interviews conducted by MARG, the findings of which were summarized in its report presented before the Tribunal, reiterate this fact. The MARG report states that almost all the victim-survivors interviewed had tried to lodge the FIR at the local police station but the police refused to register the same until three months subsequent to the events.²⁴² The Nirmala Niketan College’s report found that ten women said that their cases had been registered but no FIR had been filed; significantly twenty women said that when they sought police assistance, the police refused to lodge an FIR and on the contrary that the police had verbally abused the complainants and in three cases the complainants themselves had been arrested.²⁴³

The MARG report gives further instances of the negative role of the police with regard to registration of FIRs. It discusses Sister Meena’s testimony, that she was first dissuaded by the police from registering an FIR with regard to the gang rape and sexual assault on her, and when she insisted, she was prevented from writing details of the crime including the complicity of certain police officials.²⁴⁴ It also discusses the ordeal of Rajnikant of Bapuriya, who was shunted between the police stations at G. Udayagiri, Tikabali and

²⁴⁰ MARG report, pp. 50-51

²⁴¹ Loyola College report, Case Study No. 4 on livelihood

²⁴² MARG report, pp. 98-99

²⁴³ Nirmala Niketan College’s report, p. 81

²⁴⁴ MARG report, p. 99

Sarangada to register a complaint on lost documents and household possessions, and whose attempt was unsuccessful even after several trips to the police station, as the police official at Sarangada police station is quoted to have informed him that they were only taking complaints about those who had been killed.²⁴⁵

Citing the MARG report, the Tribunal was informed that of the 3,232 complaints filed by victims, only 832 were actually registered by the police. Between 75 and 123 people were killed in the violence, yet only 26 murder cases were registered by the police as of February 2010. These statistics clearly indicate police failure to register FIRs, thereby actively scuttling processes of justice, it was stated.

B. FAILURE TO TAKE ACTION PERSUANT TO REGISTRATION OF FIRs

One of the major actions that the police is duty-bound to take, in pursuance of registration of the FIR, is arrest the perpetrators. Many victim-survivors spoke to the Tribunal of the failure of the police to arrest perpetrators, despite the fact that the perpetrators were named in the complaints to the police. Some extracts are given below:

“I had lodged FIR against the sarpanch who told us at the relief camp at Nuagaon, in the presence of the sub-collector, that we had to become Hindus if we wanted to return home. No action has been taken against the culprits.” (Manyabar Nayak)

“The leader of the rioting, Shri Gobardhan Pradhan, has not been arrested till today in spite of my several requests to the Superintendent of Police, Kandhamal and Officer-in-charge of G. Udayagiri police station and other higher authorities of the government.” (Rama Rao Nayak)

“I launched police FIR No. 53/26 Aug 2008, ST No. 78/2008 at Raikia police station with specific names of the criminals who killed my younger brother and damaged our houses. Unfortunately the criminals are yet to be arrested and taken to task. There was no proper enquiry of the incident...No step has been taken by the police to recover my looted property or identify the real criminals who organized the action, financed and also led the process...” (Naresh Digal)

Sulokshana, a permanent resident of Barakhama village, who witnessed a 20 year old woman being gang-raped by 5-6 men, and who was also sexually assaulted when she tried to rescue the woman, stated that she had complained in the Balliguda police station about the abuse and the loss of her home. Although a case was registered, no steps have been taken till now, and that her body shivers each time she sees the perpetrators who sexually assaulted her walking freely.²⁴⁶

Failure to arrest the perpetrators and taken action against them facilitates their threatening of victim-survivors as the testimony below clearly illustrates:

“Though we have given complaints to police, many of the culprits are roaming about in the nearby places. Witnesses are threatened and are afraid to give witness in courts.” (Umesh Chandra Nayak)

The victim-survivors clarified to the Tribunal that the police’s refusal to take action against the perpetrators was a result of the police actively protecting the perpetrators:

²⁴⁵ MARG report, p. 99

²⁴⁶ Loyola College report, Case Study No. 6 on women

“As we were running towards jungles, my husband was badly beaten with lathis by rioters. He was badly injured in the attack and he was almost dead. He was treated but within a month, he died. I informed police of the death of my husband due to the beating he received during the violence. The police has not taken it as a case of murder and they have taken no action against culprits...I gave complaint to police naming the culprits, but the police are protecting the criminals.” (Indira Digal)

“Non-Christians were told by leaders of Sangh Parivar that whatever crime may be done against Christians, no harm would happen to culprits because they would be protected by people in the government... The police is aware of the anti-national, inhuman activities of the Sangh Parivar and they know the whereabouts of the culprits, yet they do not take any action against them.” (Prafulla Chandra Pradhan)

The MARG report, in substantiating the police refusal to arrest, cited the case of Sr. Meena, who had been sexually assaulted by a mob repeatedly. In her case, some perpetrators were arrested and handed over to the Crime Branch only 38 days after the lodging of the FIR by the nun.²⁴⁷ The MARG report further illustrates how the local police were unwilling to arrest perpetrators. In one instance, the CRPF had rounded together about 75 rioters in Deegei village under Raikia police station and reported them to the local police, who refused to arrest them. Honest police officials who tried to arrest wrongdoers were violently threatened. Violent mobs marched to police stations to free their fellow perpetrators. It was only under national and international pressure including strictures from the Orissa High Court and the Supreme Court, and the possibility of President’s Rule or the declaration of Kandhamal as disturbed area – which would hand the area in question over to the Army – that the police moved to make arrests.²⁴⁸

Reports quoted victim-survivors, whose interviews were conducted, as stating that the government was very slow in taking action against the perpetrators, causing loss of faith in the government and the legal system increasing their sense of insecurity.²⁴⁹ One of the major findings in the NN College study was that more than 80 women reported that an FIR had been lodged but to date no action has been taken.²⁵⁰

C. FALSE COMPLAINTS AGAINST VICTIM-SURVIVORS

Victim-survivors testified before the Tribunal that they had been harassed through a lodging of false and baseless allegations against them, or threatened that they would be arrested on false charges if they demanded accountability and continued pursuing justice:

“While we were in the relief camp, the secretary of Sritiguda Gram Panchayat illegally entered into our camp and told us to become Hindus ...He contacted the police and instigated false case against me for which I was arrested and was in police station at Balliguda. I contacted the SP and at his intervention I was set free from the police station. But the false case against me is still going on.” (Manyabar Nayak, resident of Kritingia village, Sarnagada taluka)

“On 4 October 2008, at about 10 p.m., one of them called me out of my house asking me to sign a paper. As soon as I came out, I was caught hold of by two personnel of the CRPF...I was made to sign at two spots on some blank format. Thereafter I was left free. They told me that they were taking away the old gun and shirt of my uncle which they took from his house. Before leaving the place one of them threatened me saying that if I informed anybody by phone call, consequences would be very bad for me...All seven persons

²⁴⁷ MARG report, p. 99

²⁴⁸ MARG report, pp. 99-100

²⁴⁹ NN College report, p. 60

²⁵⁰ NN College report, p. 81

including my uncle are still in judicial custody. I fear that there is a high level conspiracy to implicate the above seven persons in the murder of Swami Laxmanananda...” (Jirimiya Sunamajhi)

Jirimiya further elaborated to the Tribunal as follows:

“There was a hue and cry from the Sangh Parivar that if the people who killed swamiji were not caught the situation would be dangerous, it was in the newspaper too. The police wanted to satisfy their demands and the seven people were taken to jail. In fact there was no evidence saying that they were involved but they are still jailed. When we said that there was no evidence, the police said that they have evidence. When the case was tried in the fast track court, the witness said that they did not know about the involvement of these people. The concerned police official – S K Patnaik - is not coming to court to give his deposition. We even applied for deposition copy but did not receive it, as a result of which my uncle is still in jail. We are very sure that they are innocent, and even in jail they are severely beaten. We belong to a very poor family and due to their absence the family members are suffering a lot.”

When Jacob Pradhan was arrested by the local police on the allegation that he had killed Swami Laxmanananda, he was taken forcibly to Phulbani by the police, where he was assaulted repeatedly and severely by the police. He was then taken to Bhubaneswar and detained for forty days, and baseless allegations made against him by the media that he was a Maoist and was found with weapons. He was released after forty days. The RSS members had openly threatened Jacob in the presence of the police, asking him to run away from the police station or else, they would kill him. The police, instead of taking action on the perpetrators, asked him to compromise on the issue, which he refused.²⁵¹

A threat of false allegations against and arrest of victim-survivors has been used to intimidate and silence active persons of the Christian community, as the following testimony indicates:

“The police, SDPO and sub-collector warned and threatened me that if I took up leadership of the Christian community, they would implicate me in further cases, branding me as a Naxalite / Maoist.” (Prakash Kumar Nayak)

The MARG report highlighted the fact that while there was an inordinate delay in arresting the perpetrators, there was no delay in arresting victim survivors trying to get justice, many of whom were implicated with false charges. A case in point is the arrest of Lenin Kumar, who wrote an 80-paged book in Oriya titled ‘River of Bloodshed in Kandhamal in the Name of Religion.’ The book criticised the activities of Hindutva leaders and also exposed state complicity in the violence. The NN College report also noted the fact that among those interviewed, three women victim-survivors had themselves been arrested when they approached the police to lodge a complaint.²⁵²

D. INVESTIGATIONS, PROSECUTIONS & TRIALS

Some of the experiences of victim-survivors in relation to investigations, prosecutions and trial, that were narrated to the Tribunal are as follows:

“The police has not given protection to the Christian people and could not save my uncle-in-law, Kantheswar Digal, resident of Bujlimendi, but who was residing in Sankarakhol, who has been killed by cutting his throat and his dead body was thrown into the river and recovered after some days by the police. Due to lack of witness and the negligence of the police, this

²⁵¹ Loyola College report, Case Study No. 4 on livelihood

²⁵² NN College report, p. 81

case could not stand. As a result, the family members are still worried and upset about the criminal procedure of the court and the responsibilities of the state.” (Premasheela Digal)

“After hearing both the parties and evidence of records of the cases, the accused persons have been acquitted with plea of benefit of doubt as the prosecution failed to prove the case. Though there is ample evidence against the accused persons, showing their involvement with the alleged crimes, the accused persons have been acquitted by the trial court. Being the appellant of the case, I want to challenge the order passed, in the higher court.” (Antaryami Digal)

“To my surprise, the court procedure has not begun yet. The fundamentalists and the perpetrators are moving freely and threatening me in person and still there is danger to my life.” (Bijay K. Parichha)

The factors that have contributed to the scuttling of justice, are highlighted in the letters of Sampradayik Hinsa Prapidita Sangathana (Association of Victims of Communal Violence in Kandhamal). The Association wrote a letter to Mr. Naveen Patnaik, the Chief Minister of Orissa, where aspects of justice processes in the two Fast Track Courts are highlighted. The relevant paragraphs are reproduced below:

“We are not satisfied with the legal procedures undertaken in the two Fast Track courts established at Phulbani, which seem to be in a hurry to dispose of the cases without proper trial and witness examination...

In most of the cases finalized in the Fast Track courts at Phulbani, the accused are acquitted. The quality of the police charge sheets is doubtful; and therefore we demand a CBI inquiry into the cases for proper delivery of justice to the innocent people.”²⁵³

The MARG report highlights the fact that impartiality of the investigations in Kandhamal has been undermined. This is mainly due to the fact that the police, that was complicit in the violence through myriad acts of omission and commission, has itself been conducting the investigations. Investigations have been conducted in a biased and shoddy manner, prompting demands for investigation to be conducted by a Special Investigation Team for all cases of murder and arson.²⁵⁴

In addition to the biased investigations, another major factor that poses an obstacle to effective prosecutions, as elaborated in the MARG report, is a lack of forensic evidence.²⁵⁵ For example, the government did not conduct an autopsy on Swami Laxmanananda’s body, which would have been crucial to establish the nature and cause of death. Many have been unable to locate the bodies of their family members, or located the bodies after an inordinate delay, thereby weakening the quality of forensic evidence available. With the motive of eliminating all incriminating evidence, the mob, in many instances, mutilated, burnt or otherwise disposed of the bodies of the victims after brutally killing them. Details of cases before the Tribunal in which evidence of the killings has been destroyed are listed in the chapter 2 of this Report in sub-section C6.

An example of this phenomenon is the experience of Bidyadhar Digal, as narrated to the Tribunal. His father, Jubraj Digal, was brutally killed by a violent mob, while he himself escaped, and hid from the mob. Bidyadhar was unable to locate his father’s dead body from the place of the incident subsequently. He complained to the police. Police recovered bones that they claimed to be his father’s after a month, from a nearby river. The Public Prosecutor applied to the court for a DNA test but it was rejected. Due to inability to recover the body, the offence of murder was not proved and the accused was acquitted. However, Rs. 5 lakhs has been given by the government to Bidyadhar’s mother as compensation for his death, through a parallel civil process of compensation.

²⁵³ Letter dated 13 January 2001, No. 12/2010, quoted from ‘Kandhamal Revisited’, p. 73

²⁵⁴ MARG report, p. 101

²⁵⁵ MARG report, p. 102

MARG report further highlights the fact that weak / non-availability of corroborative evidence, poses further obstacles in proving the culpability of perpetrators. It states:

“... in a context where many have fled from the district and the state, and others are being constantly threatened and intimidated, corroborative evidence is not easy to come by except from some family members who are resilient and determined enough to withstand the intimidation. Given the large-scale displacement in the district, it would also need a committed and sincere Investigating Officer to identify witnesses who can give corroborative evidence, protect them from possible intimidation coercion by the perpetrators and ensure that they testify in court in an uninhibited manner. Such is not the case in Kandhamal.”²⁵⁶

Commenting on the dire need for legal assistance for the victims, it was reported that in Gajapati district, on one single day in June 2009, the lawyers counselled and drafted petitions for 30 persons. In addition, the Special Public Prosecutors treat these cases as routine work and are indifferent to the extraordinary circumstances influencing these trials, making justice a bleak prospect for most of the victim-survivors.²⁵⁷

The MARG report highlighted the fact that in addition to institutional bias of the police that comes in the way of effective investigations and prosecutions, investigations in Kandhamal were also seemingly dogged by ineptness. Police in Orissa, as indeed in the rest of the country, are untrained or under-trained and ill-equipped apart from being far fewer in number than optimum. The Orissa Police Manual dates back to the year 1940. While an Urban Police Act was enacted by Orissa in 2003, this enactment only applies to the towns of Phulbani and G. Udayagiri, in Kandhamal district. Police officials are therefore not trained and not effectively instructed in conducting a thorough forensic investigation of cases.²⁵⁸

E. THREATENING OF VICTIM-SURVIVORS & WITNESSES

The narratives of victim-survivors before the Tribunal repeatedly referred to intimidation of witnesses with the purpose of scuttling processes of justice. Extracts of some such testimonies are produced below:

“Even in the Judicial Trial I was repeatedly threatened by the miscreants not to give witness against the criminals, and also pressurized me to withdraw the case. Even in last April 2010, the miscreants threatened my relatives to kill me and my family members and also not to allow to construct my house though it was a patta land if I don’t withdraw the case... I am in a terrible condition till today. No action has been taken to arrest the criminals and also no protective measures have been arranged for the safety of my life and to lead a normal life in my native place” (Priyatama Nayak)

“The cases against some of the rioters are pending in courts. But leaders of the Sangh Parivar, namely Balram Dehuri, Dhiru Sahu, Muni Panda, Jagnath Patra, Rinku Mishra, Chita Bindhani and others are continually threatening us. We Christian families in my village live in fear of being attacked by Hindu fundamentalists.” (Dasaratha Digal)

“From 2007 onwards my father was under target as he had filed cases against them (the perpetrators)...Now the case is in Fast Track court and 8 people have been arrested and they are still on bail. Many are yet to be even arrested. Sometime they threaten that if they are convicted they would kill me as I have filed the case. Therefore I is under threat and the administration is not taking steps to arrest them.” (Chanchla Nayak)

²⁵⁶ MARG report, p. 104

²⁵⁷ MARG report, p. 104

²⁵⁸ MARG report, p. 105

Some spoke to the Tribunal of how they were forced to live in hiding while pursuing the cases in courts that they were testifying in:

“I have been threatened against giving evidence in the court regarding the murder of my brother... in fear I do not live in my village and am living in hiding with my family” (Bipin Nayak)

“I was threatened by agents of the accused and was told not to give witness in the court...the agents of the murderers of my husband have told me that they would kill me and therefore ...in fear, I am now living in hiding.” (Runima Digal)

“I have given witness in the Fast Track Court No. 1 against the accused persons in two murder cases, but surprisingly the accused persons are acquitted by the honourable court. As I have given witness, the accused persons are threatening me to take revenge and take away my life. Now my life and the lives of my family members are in danger. I am unable to go to my native village and compelled to hide myself...” (Deobhanja Pradhan)

While some victim-survivors have testified in court and continue to live in fear, others spoke about their inability to testify in court if they were not given adequate protection:

“I have been threatened by Sri Gobardhan Pradhan who is a leader of RSS, VHP and BJP and my witnesses have also not been left with. I am quite unable to give evidence in this case unless I am provided sufficient security.” (Rama Rao Nayak)

“He (Fr. Edward) could hear her screaming that they were going to burn her alive and afterwards he lost conscious. Later he came to know that she was gang-raped and as she tried to escape the fire, one person hit her and killed her... The case is going on in Padampur court... Unfortunately nobody is coming forward as a witness; even Fr. Edward in not coming as a witness as he is threatened.” (Nicholas Barla, on the brutal killing and alleged sexual assault of Rajni Majhi)

Some victim-survivors spoke to the Tribunal about how they had complained to the judge and the police about the threats and intimidation, yet did not receive any assistance:

“Myself and my elder brother have gone to Phulbani to give witness in the Fast Track Court 1. We were threatened by Biswanath Kanhar, Pabira Kanhar and Ajibana Mallick, saying that “we will kill you if you give evidence today”. I had complained before the judge and the Honorable Judge advised me to give a complaint to the government advocate. Till now, my life is in danger and the circumstances are not allowing me to go to Phulbani to give a complaint against the above-mentioned people.” (Antaryami Digal)

“In the Fast Track court, I have given clear witness against Manoj Pradhan and 24 others, who burnt our house and he is convicted, but he went to the High Court and got bail and is roaming freely. Now I am threatened by Manoj Pradhan and his group members over phone and in person, telling me “you withdraw the case, otherwise we will rape you, we will kill you, we will finish all the members of your family etc... Hearing all these threatening words, I feel insecure, frightened about my own life as well as the members of my family. After this I have complained to the Superintendent of Police, to the local police, but I am not given any security nor the above-mentioned criminals are taken to legal task. I feel our justice delivery system is very weak. The witnesses are threatened in the court premises. Even when the witnesses complain to the judges and the police, no action is taken.” (Mohini Nayak)

“Though we have given complaints to police, many of the culprits are roaming about in the nearby places. The witnesses in cases are threatened and are afraid to give witness in courts.” (Umesh Chandra Nayak)

Sampradayik Hinsa Prapidita Sangathana (Association of Victims of Communal Violence in Kandhamal) wrote letters to the Chief Justice of Orissa High Court, drawing his attention to issue of rampant threatening of witnesses. The relevant paras is reproduced below:

“The sense of insecurity among witnesses is adding to the gross miscarriage of justice in the two Fast Track Courts. Victims and witnesses are being coerced, threatened, cajoled and sought to be bribed by murderers and arsonists facing trial. Shoddy police investigations have already created a crisis in the dispensation of justice, and genuine eye witnesses are renegeing in court as they see the court premises full of top activists of fundamental organizations and often the same persons who had burnt their houses. The police mutely watches, as always. The witnesses are threatened in their homes, and even in their distant relatives are being coerced...

In the current volatile political situation, we fear with reason that religious, political leaders and former ministers are influencing the district administration and judicial system along with communal elements in Kandhamal.

Even the media has reported at the strange situation in the two Fast Track courts of Ad hoc Additional Session Judges who are trying all the murder and arson cases against Legislative Assembly Member Manoj Pradhan. Though witnesses have deposed strongly on his involvement in the crimes, he has been let off in case after case.

The accused Manoj Pradhan, BJP MLA, threatened one of the witnesses in front of the police personnel inside the Fast Track Court, and he also threatened the police.

Till today, communal elements are still threatening the witnesses in the remote villages where they live, due to which the witnesses are in panic and do not dare to speak in the court. Many witnesses have even refused to come to court as they do not dare to travel anymore.”²⁵⁹

The MARG report presented before the Tribunal corroborates the testimonies of victim-survivors as well as the letters written by the victim-survivors’ association quoted above. The report observed that threatening of victim-survivors and witnesses has been rampant and has reached an unprecedented level in the context of Kandhamal violence, and that the sense of insecurity among witnesses adds to the gross miscarriage of justice in the two Fast Track courts.²⁶⁰ One strategy used by lawyers for victim-survivors is to lodge transfer petitions in the Orissa High Court for transferring sensitive case out of Kandhamal courts, preferably to courts in Cuttack or Bhubaneswar, on grounds that the court atmosphere is not conducive for a free and fair trial. In one such transfer petition, on 31st March 2010, the Orissa High Court ordered the transfer of the rape case of Sr. Meena from the Phulbani Fast Track court to the Sessions Court in Cuttack.

F. ABSENCE OF PROTECTION FOR CHILD WITNESSES

Since the 2008 violence in Kandhamal took place in full view of the children, many of them came to be used by the police to testify in court. This has placed all these children and adolescents in an extremely vulnerable position, to the extent that their lives are in danger. For example, Kanaka Rekha Nayak, who desposed

²⁵⁹ Quoted from ‘Revisiting Kandhamal’, pp. 68-69

²⁶⁰ MARG report, p. 110

before the Tribunal that she as well as her 6-year old daughter testified in court with regard to the brutal killing of her husband – Parikhita Nayak – stated as follows:

“I now live with my two girl children in a rented house in Bhubaneswar and am unable to go back to my village. Manoj Pradhan is on the lookout for me and my children...I and my younger daughter told the truth in court, but we have been told that we lied and that my husband was not killed...He was sentenced to seven years in jail, but got the bail within seven days...We have got no justice and now I fear that my children will be harmed...”

The Haq Centre’s team had the opportunity to meet Jyoti (name changed) - a 6 year old child witness from Phiringia. Jyoti had witnessed attacks on her father - a journalist and correspondent with two local newspapers - and her grandmother, by a violent mob, which tried to teach her family a lesson for her father questioning the destruction of a local church and writing about the same. She was four years old at that time. She was reportedly questioned several times by police as if she was an adult, with a callous attitude to the trauma that a child of such a young age would have undergone, thereby requiring a sensitive handling of the child witness. Jyoti was called to the police station (instead of questioning her at her home, which would have given her a better sense of security), taken to a separate room where her father was not allowed – a potentially intimidating situation for the child. The police cross-questioned her and repeatedly tried to confirm if she was speaking the truth or if she had been tutored by her father or other family member. The police reportedly remained in uniform while questioning her and asked pointed questions that involved disclosure of names. They did not adopt any child-friendly technique in the questioning. Even while recording her statement, they did not call her father to sit beside her. Unfortunately, it appears that the extreme harassment that the child was subjected to did not have any positive bearing on the case, as the judge ultimately did not record her statement in court as she was too young.²⁶¹

There is no data or study on how many children are testifying in court or giving statements to the Investigating Officer, and how sensitively such children are being treated during such processes.

G. ACQUITTALS & SENTENCING

Victim-survivors also narrated to the Tribunal that due to the destruction of the body of the victim, the perpetrators have been convicted for less severe crimes. An illustrative example is the brutal killing of Iswar Digal. Runima Digal testified to the Tribunal that she witnessed her husband’s body being cut into three pieces and thrown into a river by a violent mob. When she managed to take the Superintendent of Police to the spot, nothing was found there. She said:

“I identified the accused and had to force the police to arrest the perpetrators. Still only one person was arrested and prosecuted... He was punished for 5 years for abduction and not for the actual murder as the prosecution could not prove the murder. None of the people who killed my husband has been made accountable till now. The other accused are absconding.”

The MARG report discusses the killing of Padisti Nayak, a 65 year old woman who was visiting her daughter at the village of Solesoru. While she was burnt alive in her daughter’s house by a violent mob, the court acquitted the perpetrators of murder and convicted them only for destruction of evidence.²⁶²

Other testimonies to the Tribunal referred to acquittals and reasons for the same. Extracts of some such testimonies are reproduced below:

²⁶¹ Haq Centre’s report, pp. 27-28

²⁶² MARG report, p. 103

“At the time of the trial in the Fast Track court of Phulbani, I was unable to identify in court the accused persons who had raped my mother and killed my parents, because we had moved to Shankrakhole village only a few months prior to the violence. The culprits were released.” (Narsingho Digal, whose father Meghnath Digal and mother Priyatama Digal had been brutally killed after his mother was raped by a violent mob)

“The attackers brutally tortured and killed my father. I climbed on a tree and sat on it till all the attackers moved away...Much after midnight I gathered enough courage and strength to go back to the spot where we were attacked. I could not find my father or his dead body, nor could I find our bike...The police searched for my father and our bike for days, but they also could not find him or our bike. A case was initiated and some persons were tried and the case was dismissed as a false case. On 15 Jan 2009, the skeleton of my father and his chain were found in a river near village Telingia. His bone was sent for DNA test... In my opinion, it was due to lack of interest on the part of the police that the murderers of my father have not been punished.” (Bidhyadhar Digal, whose father Jubraj Digal was brutally killed)

“On 10 September 2008, I had lodged FIR in Tikabali police station against the accused persons and about the destructions. On the basis of the FIR, the case came on trial. The accused persons had faced trial in Fast Track Court no. 1. After hearing the parties and evidence on records, the offenders have been acquitted.” (Iswar Digal, who witnessed his house being destroyed and his mother-in-law being brutally killed by a violent mob)

There were a few testimonies presented to the Tribunal on the quantum of punishment, such as this:

“After hearing the parties and evidence on record, the accused persons have been convicted. But the punishment imposed is lesser to their crimes and should have been punished with more rigorous imprisonment and fine to compensate my loss and render justice.” (Subhramonyu Naik)

The MARG report discusses in detail the lenient sentences imposed by the Fast Track courts, instead of imposing exemplary punishments that would have a deterrent effect against heinous crimes such as those committed in the context of the Kandhamal violence. It observes that this is indicative of the fact that the judges did not consider the crimes to be serious enough to warrant stringent sentences.²⁶³ The report further observes:

“As seen in the above cases, it appears that Rs. 2000/- fine has been routinely imposed on all convicted persons without taking into consideration the gravity of the crime committed, and the value of the property damaged. The Judge did not invoke S. 357 of the Code of Criminal Procedure, and impose a higher amount of fine, which, when recovered, could have been paid to the victim-survivor as compensation. This could have helped bring some reprieve to victim-survivors, particularly since many have had difficulties accessing the compensation awarded by the state government.”²⁶⁴

H. ACCESS TO JUSTICE

Sampradayik Hinsa Prapidita Sangathana wrote letters to the Chief Justice of Orissa High Court, drawing his attention to issues of access to justice. The relevant paragraphs are reproduced below:

“Around 20 to 25 advocates are arguing for the defence, and the Public Prosecutors are not able to cope with the volume of work every day.”

²⁶³ MARG report, p. 115

²⁶⁴ MARG report, p. 116

While we do not want to cast any aspersions on the PPs, their actions have left us in great doubt.

We also have strong doubts in the quality of the police investigations which are making it easy for the guilty to go scot free...

*We seek urgent actions from Your Honour in the interests of justice such as shifting the sensitive cases related to Manoj Pradhan to outside, to Cuttack or Bhubaneswar, transferring the judges and changing public prosecutors, providing special protection to witnesses.*²⁶⁵

I. CRISIS IN THE JUSTICE DELIVERY SYSTEM

A report of a meeting convened under the banners of the Common Concern and Orissa Manavik Adhikar Suraksha Abhijan on the justice delivery crisis highlights the varied dimensions of processes of justice and accountability that victim-survivors have had to contend with.

- *“Public Prosecutors are mostly found biased against the victims;*
- *In comparison with the skills, influence, clout and number of advocates favouring the accused persons, the strength of advocates need to be improved;*
- *Faulty and biased methods of police investigation, framing the charge sheets and presentations in the courts weaken the cases;*
- *Absence of social and physical security of the victims and witnesses inside and outside the court;*
- *The provision that in GR cases only Public Prosecutors can argue, while the victim parties cannot appoint their own advocates privately, does not help the victims in cases where PPs are biased;*
- *Show of extra favour to the accused by some judges harass the victims and their counsels;*
- *Lawyers counselling the victim parties are persuaded not to continue their legal assistance;*
- *Witnesses are threatened / allured to turn hostile;*
- *Absence of democratic and left parties in comparing to the dominance of the BJP and RSS helps the culprits and corrupts the atmosphere of the courts.*²⁶⁶

Further, the report of the meeting also highlighted the different factors responsible for the failure of justice and accountability processes, vis-a-vis the stages of a criminal trial:²⁶⁷

“Occurrence of the Incident:

- *Many of the victims are not eye-witnesses as they fled away to the jungle just before the incident happened.*
- *As the investigations started very late, the proof and marks of violence had disappeared or washed away.*

FIR:

- *Non-registration by the police*
- *The names of the accused persons are not mentioned*
- *Delay in filing*
- *In some FIRs the offence in specific cases is not disclosed*
- *In most of the cases, copies of the FIR are not given to the victim*
- *The informant himself is hostile in some cases*

²⁶⁵ Quoted from ‘Kandhamal Revisited’, p. 69

²⁶⁶ Quoted from ‘Kandhamal Revisited’, pp. 101-102

²⁶⁷ Quoted from ‘Kandhamal Revisited’, pp. 103-104

Investigation:

- *No proper investigation but a stereotyped process adopted by the police.*
- *Non-examination of important witnesses*
- *Accused examined as witnesses*
- *Non-arrest of the accused persons (particularly the kingpins) till date*
- *The property of the absconding accused persons could have been attached (S. 83 of Cr PC) which could compel them to surrender;*
- *Proper sections of IPC not mentioned in the charge sheet;*
- *Delay in filing of charge sheet helped the accused persons to get bail*

Magistrate:

The lawyers for the victims could have put their objection before the magistrate, before whom the charge sheet is submitted, on the non-mentioning of appropriate sections of IPC in the charge sheet (S. 216 of the Cr PC)

Trial:

- *Most of the independent witnesses were hostile as they were threatened by the accused persons in the village.*
- *The court atmosphere is not conducive for free and fair trial.*
- *The judge and the public prosecutors lack judicious mind.*
- *Deficiency of trained lawyers in comparison to the number of cases.*
- *Lacuna in the part of the lawyers engaged on behalf of the victim. No effort to build up the case in favour of the victim, only tutoring of the witnesses on their previous statement to the police is done...*

Appeal:

- *No appeal preferred in most of the cases where the accused were acquitted.*
- *Appeal should be preferred in acquittal cases as in the said case, conviction is done for only few accused persons and most of them are acquitted."*

The report of the consultation with victim-survivors and their lawyers, as detailed above, gives a summary of the crisis in the justice delivery system in the context of the violence in Kandhamal.

9. REPARATIONS

“I have lost everything. We have been looted, and I lost my job. I want to go back to my village and resume my job again...I find it difficult. And my survival is in danger. As a citizen of Kandhamal, I want to live in peace and harmony, abiding by the constitutional rights of the country and the rules of the state...I want justice. Give me justice and save me.” – Premasila Digal

This chapter examines various aspects of reparations including relief and humanitarian assistance, compensation, rehabilitation, restitution, peace-building initiatives and re-integration, and the challenges faced by victim-survivors with regard to the same.

A. RELIEF & HUMANITARIAN ASSISTANCE

A1. Preventing Rescue and Relief Work

The MARG report highlighted the fact that an “appalling feature” of the Kandhamal violence is the blockage of relief material to victim-survivors, and the prevention of rescue, relief and fact-finding work among them for several months subsequent to the violence. In the context of the December 2007 violence, a notification by Manish Kumar Verma, the Collector of Kandhamal, banned the entry of non-profit organizations and humanitarian agencies, including church groups, into the district. The directive was finally quashed by the Supreme Court in May 2008. However, the quashing did not cause any embarrassment to the district authorities which, subsequent to the August 2008 violence, once again prevented relief agencies, non-profit and charitable organizations from conducting relief work among the victim-survivors. On the impact of the ban, the report stated that the state not only abdicated its responsibility towards providing relief measures in a prompt and adequate manner, but also ensured that help did not reach the devastated victim-survivors, and that the attacks against the vulnerable population continued.”²⁶⁸

A2. Relief camps

“We stayed in the relief camp for about 8 months. We had to undergo many sufferings at the relief camp. We had to suffer lack of food, insufficient clothing, sickness etc.” (Pratap Chandra Digal)

Anapoorna Digal narrated that her family had stayed for many days in jungle without any food and clothing. When they approached a relief camp in Balliguda, they were sent back to their village by the camp officers, who told them that there was no place to keep them, and that the water in the camp had been poisoned. Subsequently, 30 kg of rice, 1 kg of dal and a vessel were delivered to their house by the camp officers.²⁶⁹

²⁶⁸ MARG report, pp. 64-65

²⁶⁹ Loyola College report, Case Study No. 17 on women

The Jan Vikas report observes that while the administration claimed that the victims are well-cared for and protected, these camps were devoid of basic facilities. All religious, cultural, civil and political activities were prohibited in these camps and permissions denied to nuns, priests and local nurses for months.²⁷⁰ The NN College report observed that the human right to life with dignity was undermined and violated in the relief camps. All their human rights to live, earn livelihood, maintain their self-respect, and even access potable water were stripped away.²⁷¹

Many reports speak of appalling conditions in relief camps, and clearly suggest the state government's indifference to the plight of victim-survivors.²⁷² A summary of the conditions in the relief camps, based on accounts of victim-survivors and the reports, is as follows:

- Location of the Camps & Unhygienic Surroundings - Some of the relief camps were situated on water-logged open land, such as the camp at G.Udayagiri. The MARG report stated the Relief Commissioner (Southern Region) had refused to relocate the camp to a concrete structure, as 'other communities' were objecting to the allotment of any government building for the victim-survivors.²⁷³ Lack of or inadequate sanitation facilities, unclean surroundings, continuous rain and mosquito menace were the kind of conditions in some of the camps as described by thirty seven women among the 355 women interviewed by a team from Nirmala Niketan College of Social Work. The Haq report stated that many relief camps were situated in schools, thereby disrupting the education of children for many months.
- Lack of basic amenities – insufficient quantity / quality of food, water, clothes, electricity and medicines; The NN report and the report of WILPF / WISCOMP clearly indicated that the women's special health needs during menstruation, pregnancy, child birth and period of lactation were also not taken care of. The Haq report highlighted the fact that there were no educational facilities for school-going children residing in the camps.
- Overcrowding in camps – resulting in insufficient or no place to sleep and difficulties in staying;
- Lack of privacy – the camps had no privacy for women to change their clothes, for couples to interact with each other, for women while bathing with some relief camps having just two bathrooms without roofs for 5000 people and no toilet facilities.
- Lack of medical assistance – Medicines and female doctors were not available and no counselling services were provided in the camp. Many women suffered from health problems including tumour/ growth/ pain in the abdomen, bone diseases, reproductive health issues, urinary tract infections, tuberculosis, malaria and jaundice. The NN study reported that a few women had died from diseases they contracted during their stay in the camps. Women with gynaecological problems and skin diseases faced immense difficulties. A man had reportedly died from tuberculosis at a relief camp.²⁷⁴
- Inadequate medical assistance for pregnant women and new mothers - no protection for such women nor any assistance for them during their delivery and no special facilities for pregnant women who were suffering from malaria. Among the women interviewed by NN, five women said that there had been cases of miscarriage, premature deliveries and one abortion, and that two pregnant women had died in the camp. A few women informed that due to lack of basic sanitation facilities during delivery, the newborn caught an infection and that it was difficult for new mothers to live in the camp with an infant without access to proper medical care.

²⁷⁰ Jan Vikas report, p. 14

²⁷¹ NN College report, p. 14

²⁷² See for example MARG report, pp. 71-72

²⁷³ MARG report, p. 72

²⁷⁴ NN College report, Case Study No. 1, p. 94

- Absence of psychological assistance - Depression, fear to go out and work, anxiety, no one close to speak to or share their problems with and loneliness were some of the psychological problems that women in the relief camps suffered from. No trauma counselling was provided to any of the inmates, including women.
- Lack of security – Some from the majority community had forcibly entered the camps and threatened the inmates; women were attacked by violent mobs when they were bathing and when they went out of the camps for urinating and defecating. Many women and young girls suffered physical and sexual abuse while they were in the camps, observed the NN College report. Two instances of rape of girls were mentioned.²⁷⁵ Reports point to the fact that multiple strategies were used for conversion of the Christian victim-survivors to Hinduism at the government-run relief camps, ranging from inducement to coercion and physical threat. Photocopies of application forms that expressed a desire to convert to Hinduism were reportedly circulated in the relief camps, and signed forms were collected by local RSS leaders, in exploitation of the desperation of the inmates to return home.²⁷⁶ Reports also point out that members of the *Bajrang Dal* and *Durga Vahini* were able freely to walk into the camps and threaten the victim-survivors, thereby aggravating the sense of vulnerability and insecurity that the inmates faced even within the camps.²⁷⁷ A woman survivor from Gunjibadi village, K. Nuagam taluka reportedly said that there had been a bomb blast in one of the camps and a live bomb was recovered from the same camp.²⁷⁸ Another woman from Letingia village, K. Nuagam taluka also said that a live bomb had been recovered from the camp she stayed in.²⁷⁹
- Preventing Relief and Humanitarian Agencies Access to Relief Camps: The MARG report noted that despite the inhospitable conditions in the camps, the Orissa government did not allow members of relief agencies and charitable organizations access to the victim-survivors in the camps. The unjustified restriction and prohibition of all religious, cultural, civil and political activities in the camps hindered the healing process of victim-survivors, almost all of whom suffered from acute trauma.²⁸⁰
- Premature Closure of Relief Camps: The Orissa state government’s act of forcibly closing relief camps before the victim-survivors felt secure enough to return to their places of habitual residence, or resettle elsewhere, is violative of the right of IDPs to safe return or resettlement with dignity, states the MARG report.²⁸¹

Women’s experiences in the relief camps are discussed more elaborately in Chapter 4 of this Report.

A3. Forcible Return of Victim Survivors to Their Villages

The WILPF / WISCOMP report, based on the visit of a team to relief camps in January 2009, clearly indicated that state officials were attempting to return the victim-survivors to their villages with little regard for their security, and that there was a “very strong uneasiness” among victims to return to their villages according to this deadline. The report suggested that instead of arriving at one deadline, the government could work out different deadlines in different villages keeping in mind the prevailing ethnic tensions in respective villages.

²⁷⁵ NN College report, p. 72

²⁷⁶ MARG report, p. 36

²⁷⁷ MARG report, p. 65

²⁷⁸ NN College report, Case Study No. 61, p. 113

²⁷⁹ NN College report, Case Study No. 61, p. 113

²⁸⁰ MARG report, p. 72

²⁸¹ MARG report, p. 76

Some testimonies, like that of Subramonyu Nayak of victim-survivors, presented before the Tribunal, spoke of forcible return to their villages,:

“...Subsequently after staying at relief camp at Tikabali, Christians from Bodimunda village were forced to go back to the village by the district administration without arranging the safety and security of the Christian community...Till date there is tension in my village. The culprits are threatening the Christians...Those Christians who are staying in the village are in constant threat and under pressure.”

The MARG report, published in 2010, further reiterates the fact that many victim-survivors were duped into returning to their villages, while others were forcibly abandoned near their villages by state officials, with total disregard to their safety. The report states that this was probably a desperate attempt to reduce the number of relief camps, as the state government faced pressure to reduce the strength of the Central Reserve Police Force (CRPF), as 40 battalions had been deployed in Kandhamal especially around the relief camps. Moreover the closure of relief camps would signal the return to normalcy and peace, it said.²⁸² The MARG report identified it as culpable inaction and lack of due diligence on the part of public officials in the fulfilment of their constitutional duties.²⁸³

B. COMPENSATION

B1. Compensation for Loss of Life and Injuries

The Compensation Scheme: The state government had announced a compensation package that included an *ex gratia* payment of Rs. 1 lakh to the next of kin for the deceased persons. After the August 2008 violence, the *ex gratia* payment was announced as Rs. 2 lakhs per deceased person, to be paid from the Chief Minister’s Relief Fund. Compensation for injury caused during the violence does not feature in the compensation package announced. The central government announced an additional Rs. 3 lakhs per deceased person as *ex gratia* amount, entitling the next of kin of each deceased person to a total of Rs. 5 lakhs.

Referring to the compensation amounts announced, enhanced and awarded in other similar contexts including the Gujarat carnage of 2002, anti-Sikh violence of 1984 and the Bhagalpur violence of 1989, the MARG report concludes that there are substantial disparities between amounts awarded by the state and central governments in other contexts of communal violence with that of Kandhamal. It highlighted the fact that there are no uniform criteria or principles laid down for compensation to victim-survivors of communal violence, as a result of which the grant of compensation is determined arbitrarily by the concerned state governments.²⁸⁴

Status of Compensation for Loss of Life: The status of compensation for loss of life and injuries was explained to the Tribunal by a representative of Jan Vikas as follows:

“The government claims that 92 people died in the Kandhamal violence. Of the 92, only 39 have received compensation. In Raikia, only 10 of the 28 people who died were officially recognized by the Government of Orissa. 7 have received full compensation and 3 are still waiting for compensation. Most of the officially unrecognized deaths occurred not directly in the midst of the violence but as a consequence of the violence. For instance, 6 people died in the hospital, and 5 died after they were sent home. However, the government does not consider these deaths to be directly connected to the violence. Moreover, in the case of

²⁸² MARG report, p. 65

²⁸³ MARG report, p. 66

²⁸⁴ MARG report, p. 80

Gujarat, the central government provided compensation for the injured; in Orissa there is no compensation for the injured.”

In response to a query from the Jury of the Tribunal, the Jan Vikas representative clarified the basis on which the state government had awarded compensation only in relation to certain killings:

“Only 39 of the 93... were considered to be killed during the violence. The others were declared missing and their deaths are under dispute, or they died in relief camps or in hospitals. They are not considered to have been killed during the time of violence.”

In response to a query from the jury members if Jan Vikas had collected this information and given it to the authorities, the reply was as follows:

“The data has been collected. 91 cases have been filed before the Supreme Court regarding these deaths. However, the government finds reasons to claim that some of the deaths were not due to the communal violence. For example if a person is over the age of 65, the government claims that the person actually died of old age. In another instance, a woman died because she was bitten by a snake when she was hiding in the forest out of fear. The government claimed it was a natural death. They said the same thing when children hiding in the forest during heavy rain died.”

The testimonies of victim-survivors corroborated the contentious issues that have arisen with regard to compensation for loss of lives:

“I saw my husband being cut into three pieces and being thrown into the river by the attackers...I got Rs. 20,000/- only as compensation for destruction of my house, but no compensation from any authorities for the death of my husband.” (Runima Digal)

“My parents were chased and brutally beaten by rioters and my father received more beating and his condition was very bad. He fell down in a pit as he walked and could not come out of the pit...I took my father to a hospital at Barakhama, where he was treated for 6 days. Thereafter he was referred to Balliguda where he was treated for 7 days and referred to Berhampur. After treatment at Medical College at Berhampur, my father died. After the death of my father, I requested sub-collector for compensation. He refused to accept it as a death due to communal violence. The police also refused to register a case of murder. The sub-collector promised me compensation of Rs. 10,000 but he gave only Rs. 2000 for expenses on burial. I was not given any compensation.” (Hanaka Digal)

“The rioters shot and killed two Christians including my son Ajea who was about 21 years old...I have not got compensation for death of my son in the communal violence on 26/8/08.” (Dasaratha Digal)

“On 30 September 2008, when a violent mob attacked us, my old parents sustained grievous injuries. We took my father to a hospital at G. Udayagiri, from where we were referred to the Medical College at Berhampur. Soon after reaching Berhampur, my father passed away. Due to the injuries sustained, my mother cannot walk. We received the ex gratia payment for my father’s death. However, till date we have received no compensation for my mother’s injuries and live in a miserable condition.” (Umesh Chandra Nayak)

The National Commission for Minorities, in its report of September 2008, devoted a paragraph to the issue of compensation for loss of lives. In situations where the body of the deceased could not be recovered for post mortem, the NCM found it to be an insult added to injury when relief promised to the family members is denied for reasons beyond their control. The NCM suggested that the government adopt a more flexible

approach, and rely on testimony of eye witnesses or an indemnity bond from persons receiving compensation in such contexts, rather than an insistence on bureaucratic procedures.²⁸⁵

B2. Compensation Related to Housing / Reconstruction of Houses

The Compensation Scheme: Jan Vikas, in its presentation to the Tribunal, stated that the compensation scheme that the government followed was:

Rs. 30,000 was the contribution of the state government, and Rs. 20,000 by the central government for fully damaged houses (total of Rs. 50,000), and Rs. 20,000 was the contribution of the state government and Rs. 10,000 by central government (total of Rs. 30,000) for partially damaged houses.

Wide Disparities Between Estimates by Governmental and Non-governmental Sources: Jan Vikas, after undertaking a damage assessment to property, religious institutions, public institutions and public resources, highlighted to the Tribunal that there are wide disparities between its estimates and government estimates. While there is a difference of 276 houses in the total houses damaged according to the two sources, the disparity is extremely high in the category of partially-damaged houses. Many reports have quoted survivors as stating that although their houses were totally damaged, government officials categorized them as partially-damaged houses. An illustrative example is the two-floored house of John Pradhan, whose ceiling has caved in and all household items reduced to ashes, and yet the government assesses it as 'partially damaged', entitling him to a meager Rs. 20,000 compensation.²⁸⁶

Non-inclusion in Government's List: Many more, including testimonies of victim-survivors before the Tribunal, spoke of how they have not been included in the government lists at all:

"My and my son's names have not been included in the survey list of those who suffered loss in the violence, prepared by the government. We have not received any compensation or relief materials from the government or from any NGO. We approached the District collector for inclusion of our names in the survey list. Despite repeated assurances to us, this has not been done... the state authorities have taken no steps at rehabilitating us for the loss that we have suffered due to no fault of ours..." (Kamala Sahoo)

"My property worth atleast Rs. 2.35 lacs was looted and destroyed...Although the police from Tikabali police station, the Block Development Officer of Tikabali, tahsildar of Tikabali and Revenue Inspector of Paburia visited my house, they did not mention my name in the damage list...I feel these officials are against me as I am a Christian and I raise voices against the injustice and stand for the truth." (Premasila Digal)

"Despite several requests, our families have not been enlisted for relief or compensation for damage to our homes in December 2007. We have lived in a constant fear from the anti-national fundamentalists. The threat continued and in 2008, the said group's members looted all the household belongings, stolen valuables and finally burnt and destroyed everything. No adequate relief and rehabilitation measures have been taken by the authorities." (Gopabandhu Behera)

²⁸⁵ Report of the Visit of the Vice Chairperson NCM to Orissa, 11th to 13th September 2008, available at ncm.nic.in/doc/Tour%20Report%20VC%20Orissa%20Sep.%202008.doc, accessed on 1 March 2010, at para 15.

²⁸⁶ MARG report, p. 81

The experience of Sukunta, indicates the technical and callous approach of the state authorities in granting compensation. Sukunta and his family fled from Barakhama at the time of the violence. When they returned from the forest subsequently, he found that his house had been completely destroyed by the perpetrators, and all his certificates and documents had been burnt. Since he was unable to prove to the authorities that he and his family members were residents of Barakhama, the government denied compensation to them.²⁸⁷ Similarly, a woman from Hatipada Sahi village, Raikia taluka, told a team from NN College that her family was unable to reconstruct their house, that had been destroyed by a violent mob, as they were unable to prove that the plot of land was theirs – the sale deed had been burnt by the perpetrators.²⁸⁸

Improper Assessment of Damages: A representative of Janvikas explained to the Tribunal the reasons for the disparities in the data - the government has no standard procedure for carrying out assessments of houses or property. The assessments are done arbitrarily, without any objective criteria for declaring a house as partially or fully damaged, and are usually carried out by the panchayat secretary or the revenue officers. It was stated that the estimated figure of 4864 damaged homes (as per the Jan Vikas survey) had actually increased to beyond 6000 following the 2009 monsoon, after which many more houses have collapsed. It was further explained that in the government’s view, for a house to be fully damaged all four of its walls and its roof should have been razed to the ground. If there is one wall that remains standing, the house is considered partially-damaged. In the assessment by Janvikas however, a house was classified as fully damaged if it needed to be completely rebuilt. The classification of the damage as full or partial was vital as the amount of compensation paid by the government is dependent on the same.

“Till today the government has not made a proper assessment of damage to my house and household property and awarded adequate compensation. I don’t have any source of income to bring up my 4 children and also manage myself.” (Priyatama Nayak)

House Damage Report - Kandhamal

Damage Type	Survey of Janvikas	Government Survey	Difference
No. of Fully-Damaged Houses	3298	1215	2713
No. of Partially-Damaged Houses	1566	3373	1807
Total	4864	4588	276

The representative of Jan Vikas further explained to the Tribunal the callousness of the state administration in acknowledging damage to the houses of affected persons that had not been included in the government list:

“When we tried to file applications to the collector regarding 1000 houses that were damaged, the collector said that the period for declaring damages for houses was closed. Even when we asked whether we could give photographic evidence, they said no.”

²⁸⁷ Loyola College report, Case Study No. 9 on women

²⁸⁸ NN College report, Case Study No. 12, pp. 98-99

Grossly Inadequate Compensation Amounts: Almost all the victim-survivors who testified before the Tribunal spoke of the wide disparity between the actual financial loss suffered by them, the compensation they were entitled to and the compensation amounts paid. Some extracts are reproduced below:

“I have lost nearly Rs. 7 lacs in the attacks on my office and residential property, as well as movable assets. All my valuable documents, assets, money, ornaments, household and office items were either looted or destroyed. I perceive a danger to my life. I temporarily reside in Bhubaneswar and am not in a position to return to my village and re-construct my damaged house as I have neither money nor security... As a result, we continue to face financial difficulties...” (Paul Pradhan)

“I have lost over Rs. 25 lakhs which I spent in constructing my house and office, plus the valuables and documents looted, but the government has only provided me a compensation of Rs. 50,000... We are having a dialogue with the district administration, but the government is not interested in providing us with any rehabilitation schemes...” (Bijay Kumar Parichha)

“I have not been provided sufficient compensation from the government proportionate to my lost property.” (Rama Rao Nayak)

“We got a compensation of Rs. 30,000 though the loss is more than Rs. 3 lacs.” (Umesh Chandra Nayak)

Iswar Digal told the Tribunal that while his loss of property was approximately Rs. 3,42,000/-, he has been paid only Rs. 30,000/- as compensation by the government. Nalini Nayak had incurred a loss of properties worth approximately Rs. 4 lacs, but received a compensation for only Rs. 30,000/-. Runima Digal, resident of Mallikapada village, Sarangada taluka, and Pratap Chandra Digal, resident of Pirigada village, Sarangada taluka, told the Tribunal that they had each received Rs. 20,000/- as compensation for destruction of their respective houses though the loss suffered was more than Rs. 2 lacs.

Conditions Attached to Compensation for House Re-construction: The Loyola College report cites the situation faced by Sandhya Rani, resident of Rodangia village, who was given Rs. 10,000 as compensation from the government to build a house. After she started building it, she was required to take a photograph and show it to the government, to be entitled to the next instalment of Rs. 10,000/-. However, since the money was not sufficient to buy all the materials for the house, and as she had to buy essential commodities for her family’s day-to-day living, she was unable to collect the remaining compensation amount.²⁸⁹ The MARG report critiques the conditions attached to compensation granted by the government for destruction of / damage to houses, and observes that the punitive approach adopted by the Orissa government is contrary to the concept of victim’s inviolable right to reparations.²⁹⁰

Payment of Compensation for Damage to Houses – The Present Status: While on one hand, the government claims to have constructed houses for victim survivors and rehabilitated them, the testimonies of victim survivors and studies conducted on the ground level suggest the contrary.

“According to the government our house is partially damaged but we could not complete rebuilding it. So we are currently living in a partially-built house in the rain. I hope that if I can get a job I can finish the house and I hope that we can return to the peace and harmony which existed in Pulbani before the violence.” (Nalini Nayak)

“They looted all household articles, money, ornaments (gold and diamond), valuable assets, television, almira, official documents of my mother, utensils and then set our house on fire... I have received compensation for the killing of my parents, but have received no

²⁸⁹ Loyola College report, Case Study No. 14 on women

²⁹⁰ MARG report, p. 81

compensation for the damage to and destruction of my house, and the loss of household articles. (Narasingho Digal)

The present status on payment of compensation for damage to houses was explained by a representative of Jan Vikas to the Tribunal in the following words:

“In July 2010 we verified who had received government compensation for their damaged homes in Raikia block... Although we disagreed with the compensation process that the government was using, we decided it was important to embark on this survey to see just how many people received compensation. Most people hadn't received compensation; the only reason people got compensation was because of the work of 120 activists, who we monitored on a monthly basis... When we look at how many have gotten compensation, we see that 5 houses have not received anything. 515 families got Rs. 20,000, 10 families got Rs. 30,000, 3 families got Rs. 35,000, and 2 families got Rs. 50,000. A total of 564 families have gotten compensation.

The government data indicates that 1098 homes were damaged in Raikia, while our data shows the number to be 1182. Many of the damaged homes have yet to be brought to the government record because the government is unwilling to resurvey Kandhamal district.

The central government gives compensation money to the state government to deliver to the victim. The state government is not releasing this money.”

Obstacles to Re-construction of Houses: While destruction of and damage to their houses is devastating enough, victim-survivors narrated the further traumatic experience of attack on their re-constructed houses.

For example, Malaya Nayak of Dodingia village, Raikia taluka, works as a daily wage labourer. In August 2008, his as well as the houses of other Christian families in his village were extensively damaged. With the compensation amount received from the government, they started re-constructing their houses while staying in the village camp. When they were half way through the re-construction, the attackers attacked again in December 2009. They had lodged a complaint with the police after the first and second attack on their houses, but no action was taken. Hence Malaya Nayak and his co-villagers have now shifted to a government land on the outskirts of their village, where they have built their houses using tin sheets and mud huts. They do not have an adequate supply of water or electricity. They are ill-treated and verbally abused by the Hindu villagers if they approach the common wells for water. The socio-economic discrimination against the victim-survivor community continues.²⁹¹

Kamala Sahoo told the Tribunal that while she was re-building her house, all the construction material was looted.

Preliminary Findings of Survey on Construction of Houses for Victim-Survivors

Bijay Singh of SFDC presented to the Tribunal the preliminary findings of a survey undertaken by his organization on construction of houses for victim-survivors. The study was undertaken on 27 July – 10 August 2010, with the purpose of obtaining clarity on the present status of construction of houses for victim-survivors. While Kandhamal has 12 blocks / taluks, the survey could be undertaken in only two blocks – namely Daringbadi and Tikabali. Daringbadi was affected by the violence in December 2007 as well as August 2008, while Tikabali was affected only by the latter violence. To co-relate the response of the government and support agencies towards the construction of houses, government's list was first obtained and then a survey conducted.

The Tribunal was told that according to government's data, the total houses damaged in these blocks are 1308 houses, while a survey conducted by NAWO, Jan Vikas, CSNR and SFDC indicates that 1794 houses

²⁹¹ Loyola College report, Case Study No. 9 on livelihood

were damaged. Out of 1794 houses, 658 are fully-damaged (comprising 36%) and 1136 are partially-damaged (comprising 64%). Out of 1794 houses, 486 houses (comprising 27%) are not included in the government's list. Among the total houses that are fully and partially damaged, 1534 houses (comprising 85%) belong to members of the Christian community while 260 houses (comprising 15%) belong to members of the Hindu community.

The survey indicates that three main agencies have been active among the survivors of communal violence – the government, non-profit organizations and church agencies. The government has supported 1118 damaged households. All the support from government to the victim-survivors is in the form of cash/cheque. Organizations and church agencies have supported 30 and 207 houses respectively, but only in kind (by providing construction material such as asbestos, tin and cement). 439 houses (comprising 24.4%) have not received any support from any source.

Out of the 1355 houses which have received some support, the amount of assistance received is as follows:

- 396 houses received under Rs. 10,000
- 578 houses received Rs. 10001 - 20,000
- 381 houses received Rs. 20001 - 50,000
- No houses have received above Rs. 50,000

The present status of construction of the houses is as follows:

- 557 houses (31%) have been completed
- 885 houses (49%) are under construction
- 352 houses (21%) have not started construction at the time of the survey

The survey found that many houses have been re-constructed in the Daringbadi block that were affected by the December 2007 violence. However, a majority of re-constructed houses belong to members of other (including Hindu) communities, while the construction of houses of dalits and adivasis is yet to be completed.

Reasons for not completing or starting construction were stated as follows:

- 424 households (34%) said they spent the money for immediate necessities and therefore could not complete the construction
- 428 households (35%) said the assistance was inadequate to complete construction of the houses
- 193 survivors (16%) said they were not allowed to hire masons or labourers for construction of houses
- 178 families (14%) said they had land problems
- 14 households (1%) said they had been ousted from the village and now live in temporary sheds in other villages

The report of the survey concludes, through its preliminary findings, that construction of 1237 houses (comprising 69%) have not yet been completed, even 2-3 years after the violence. Only 381 houses (comprising 28%) have received the full payment of compensation as declared by the government. This illustrates clearly that victim-survivors' right to housing remains unfulfilled.

Manoj Pradhan, in his presentation to the Tribunal of a report titled 'Rapid Assessment of the Present Situation in Kandhamal', presented the following data on the status of construction of houses:

Status of reconstruction of houses

Completed	Under construction	Materials collected/purchased	Not started	Total
-----------	--------------------	-------------------------------	-------------	-------

926 (26%)	2961 (69%)	61 (1%)	317 (8%)	4265
-----------	------------	---------	----------	------

Reasons for not completing construction include:

- Compensation not received or was delayed (67%)
- Land problems (27%)
- Feeling of insecurity (6%)

While the two studies vary in terms of their details of data, they confer with one another in their finding that construction of a majority of houses has not been completed, and that predominant reasons for the same are non-payment / delayed / inadequate compensation received.

B3. Compensation for Places of Worship

The MARG report states that initially, the state government has been reluctant to compensate for damage to / destruction of religious institutions, stating that it was against the secular policy of the State to pay any compensation for the religious institutions.²⁹² Due to the insistence of the NCM, which advocated for monetary compensation to aid the work of repair / reconstruction of the buildings, and directions of the Supreme Court, it announced a scheme for compensation, stated below.

The Compensation Scheme: The Orissa government's scheme of compensation for damage to / destruction of places of worship is as follows:

Partially damaged church	Rs. 1 lakh
Fully damaged church	Rs. 2 lakh
Partially damaged prayer hall	Rs. 20,000
Fully damaged prayer hall	Rs. 50,000

Disparities Between Estimates by Governmental and Non-governmental Sources: During the violence, churches, prayer halls and church-based institutions came under attack. Many were desecrated, damaged and destroyed. Jan Vikas estimates that about 264 churches and prayer halls were damaged during the violence. Its report gives a detailed list of all the churches and prayer halls damaged and destroyed, along with names of the village, gram panchayat and taluka. However the government data shows only 196 structures as damaged.

In addition, as in the case of compensation for damage to / destruction of residential property, here too, the state reportedly laid conditions, making it difficult for the institutions to claim compensation. It called upon the representatives of the institutions to furnish an undertaking that in case the place of worship had been built on objectionable land, the building would be constructed at an unobjectionable site. The MARG report observes that it is difficult to imagine that the Orissa state government would not have known that in Kandhamal, due to severe restrictions on land transfer to non-tribals, many of the churches were built on tribal lands with the consent of the owners. The consequence of the directive is that all such churches which were damaged during the violence, would be eligible for compensation only if they were being built at an alternative place from the original structure. On the other hand, the compensation of Rs. 50,000 for a fully-damaged prayer hall and Rs. 2 lakhs for a fully-damaged church was highly inadequate to secure land and construct a church on it.²⁹³

²⁹² MARG report, p. 82

²⁹³ MARG report, p. 83

Based on this logic, out of 196 damaged structures (as per the government's list), it has declared 124 structures as not entitled to compensation as they were built on objectionable land.²⁹⁴ The MARG report further states that the government had earmarked Rs. 15.19 lakh as compensation to 60 churches and prayer halls free of legal impediments, while it has earmarked Rs. 26.6 lakhs to 135 churches and prayer halls provided they agree to relocate to non-objectionable land.

Present Status of Payment of Compensation to Places of Worship: The Jan Vikas representative summed up to the Tribunal the present status of payment of compensation to places of worship as follows:

“Of the 47 churches and prayer halls that were damaged in Raikia, 9 have gotten compensation. Most of the fully damaged churches have not gotten compensation. In Raikia, the situation is actually much better than in most other places, where people have not gotten any compensation.”

B4. Compensation for Damage to / Destruction of Other Institutions

The Compensation Scheme: The state government's scheme announced that it would provide Rs. 2 lakhs as construction assistance for damage of public institutions such as school, clinic, hostel and hospital.

Experiences of Victim-survivors: The victim-survivor testimonies indicate that the state government has paid no compensation for damage to / destruction of other institutions, including non-governmental organizations.

The office of Jan Vikas, based in K.Nuagam taluka of Kandhamal district, was attacked thrice, and the damage to the property estimated at Rs. 15 lakhs. Its representative told the Tribunal that the office had received no compensation till date from the government, despite following the prescribed procedures for compensation. The Tribunal was further informed that most non-profit organizations received no compensation at all. This is compensated by other victim-survivors who spoke to the Tribunal about damage to / destruction of the property of their non-profit organizations:

“The property of our NGO and my house, worth about Rs. 10 lakhs have been damaged by the accused persons. We have not been compensated by the trial court. Till now I have been given only Rs. 10,000 by the centre and another Rs. 10,000 by the state.” (Antaryami Digal)

“My office has been completely destroyed by the attackers but only my residence was listed as partially damaged and office building is not listed in the damage list.” (Kamal Digal, NGO activist heading an NGO named POHARA)

Fr. Basil Kullu, head priest of Madhupur church, which was looted, damaged and destroyed, along with residence of the priests, hostels, convent, dispensary etc., told the Tribunal as follows:

“I asked for help in reconstruction of the hostels and other houses. He (Collector) assured and asked me for my bank account number, which I gave, but till date, he has not given anything.”

A report of government assistance to extensive damages to St. Vincent ME School, Mondasur, contained in the Haq Centre's report, is perhaps indicative of the experience faced by other institutions in a similar situation too. The report stated that the construction and repairs of the school and the boys' hostel, including roofing and electrification, were not complete even two years after the violence. Basic infrastructure such as table, chair, beds, cupboards, and computers were absent. Desks were enough for just about the students of

²⁹⁴ Jan Vikas report, p. 16

class 6 and 7, while the rest have to sit on the floor. The common room is being used as the office room. Since the water pump was damaged, children were forced to use the well for everything. The school's supply of teaching aid material, including books, globes and maps all of which was burnt, is yet to be replenished. The government finally installed a hand pump in the school two months prior to the preparation of the report. It also provided some textbooks, seven chairs and one computer. The compensation money paid was Rs 1 lakh, while clearly the damage is much greater. Prior to the violence, three out of nine teachers in the school were reportedly receiving salaries from the government, while subsequent to the violence, surprisingly, all government aid to the school has stopped. More details in this regard are discussed in Chapter 5 of this Report, under sub-section C1.

B5. Exclusion of Moveable Properties from the Compensation Scheme

“The perpetrators snatched Rs. 5,000/- and 126 cattle from me and went away. No action has been taken against the accused, and I haven't got back the cattle, nor did I get any compensation.” (Monomohan Behera, resident of Totaguda village, Chakapad taluka)

The moveable properties of many victim-survivors were looted or destroyed, including cash, jewellery, agricultural produce, cattle, household articles, electrical and electronic appliances, office equipment and stationery, furniture and vehicles. More details in this regard are given in Chapter 2 of this Report. The looting and destruction of moveable property has caused a considerable financial loss to many victim-survivors. However, as stated by the Jan Vikas representative to the Tribunal, the government's compensation scheme does not include compensation for looting of / damage to / destruction of moveable properties. The MARG report states that the same has been excluded, irrespective of the scale of loss, “due to difficulties in making a realistic assessment at this stage.”²⁹⁵

C. REHABILITATION & RESTITUTION

Based on the presentation of Jan Vikas before the Tribunal, and a prolonged interaction of the jury members with Jan Vikas representatives on the rehabilitation policy and measures undertaken by the state government with regard to the violence in Kandhamal, the following facts emerged:

- ***Issues related to shelter / housing:*** After the Gujarat carnage, victim-survivors whose houses were damaged were able to move to places where a majority of Muslims lived and build relief colonies using private money. In Kandhamal, the victim-survivors do not have that recourse because there are no Christian localities. In addition, more than 86 percent of Orissa is government-owned forest land. Many of the houses had been built on this land. Now that they have been damaged or destroyed by the violent mobs, the government says that it cannot rebuild on this land because it is state-owned forest land. This problem is more acute for Dalit Christians, who are not recognized as forest-dwellers, than the adivasi Christians.
- ***Livelihood:*** In Orissa there are only two cases of victims being given jobs as part of rehabilitation. Livelihood is an issue that is completely ignored by the state government. For people who have lost their land, cattle and other agricultural produce, and whose crops have been destroyed, the government has given a compensation of Rs. 15,000 – Rs. 25,000, which is hardly adequate to restore their right to livelihood. Some had incurred loans from banks to purchase and cultivate agricultural land. After the violence, they are unable to repay the loans as their lands are destroyed or they have no access to those lands. The banks have issued notices asking them to repay the loan. There has also been a social boycott of dalit and adivasi Christians under the NREGA. There are no schemes for the victim-survivors to assist with education and training for developing new livelihood options.

²⁹⁵ MARG report, p. 83

- Compensation: the compensation amounts are only for loss of lives and do not include any form of injury – grievous or otherwise, including violation of the bodily integrity of women and children. In addition, residential and commercial property are not assessed and valued differently, as was done in Gujarat.
- Rehabilitation measures for orphaned children: Children who survive the death of their families/parents should receive Rs. 800 per month per child as per state policy. Applications have been forwarded to the administration but money has not been granted. The state government has also failed in providing children who study in Oriya medium schools with school text books.
- Rehabilitation measures for widows: There are no policies in place for widows of the Kandhamal violence, such as widow pension schemes.
- Medical and legal assistance: The provision of medical, psychological, legal and social services do not feature in any rehabilitation schemes of the state government.
- Non-restoration of land, non-recovery of looted property : For those who fled from their villages, leaving behind their land, the government has not taken any effort to restore their lands to them. Similarly there have been no attempts at recovering the looted movable properties of victim-survivors.
- Comprehensive rehabilitation package: A comprehensive rehabilitation package is missing, that includes a computation of the earnings lost through two years of living in forest, relief camps and other places, loss of earnings caused due to injury, loss of land, house and other property, provision for education and training.

Additionally, the NN College report found that women were facing financial difficulties due to problems with their means of livelihood, lack of any financial assistance or support and in some cases widows not receiving compensation.²⁹⁶ The Haq Centre's report highlights the fact that since there is no sure source of livelihood for about 2500 families of victim-survivors, education of the children in those families is hampered in most cases.²⁹⁷ One of its major findings is the lacunae in relief and rehabilitation of victim-survivor families, which is keeping them, especially the children, from being restored to a life of normalcy and a return to their school-going days.²⁹⁸

The MARG report observes that the state's duty towards restitution of property and reconstruction of houses of the victim-survivors leaves much to be desired. Further, in the Kandhamal context, state policies for livelihood opportunities and income-generating schemes, which ordinarily form a part of rehabilitation schemes, are conspicuous by their absence. The report further observes that though welfare schemes launched by the state government such as the 'Biju Kandhamal Yojana' focus on basic needs and livelihood initiatives in the district of Kandhamal, there is no guarantee that members of the Christian minority will not be discriminated against in the implementation of the scheme. Victim-survivors interviewed by MARG had earlier narrated the discrimination they have faced under the NREGA, where they were not provided jobs despite holding job cards, and the deprivation was allegedly due to their religious identity.²⁹⁹

²⁹⁶ NN report, p. 82

²⁹⁷ Haq Centre's report, p. 13

²⁹⁸ Haq Centre's report, p. 12

²⁹⁹ MARG report, p. 86

Jan Vikas recommended to the Tribunal a rehabilitation package of Rs. 5 lakhs per victim-survivor. The jury of the Tribunal suggested that the package should also calculate and include loss of earnings and livelihood opportunities, loss of access to their own land and common property resources since the time of the violence, education and loss of bodily integrity of women and children.

D. PEACE-BUILDING INITIATIVES

D1. The State Government's Peace Initiatives

Negative Role of Public Officials in Village Level Peace Committees

Reportedly, the Orissa government claimed before the Supreme Court that it had organized over 1000 village level peace committee meetings with the participation of both committees in order to facilitate the return of the displaced Christians to their villages. However in practice, the meetings of peace committees are said to have served as yet another avenue for laying down conversion to Hinduism as a precondition for living peacefully in the village. As Archbishop Cheenath stated in his affidavit before the Supreme Court, *“the purpose of the peace committee is to withdraw criminal cases by force, coercion and also to convert to Hinduism to return to their villages for peace. Very often the assailants or their political representatives are on the Peace Committees.”*³⁰⁰ It was brought to the notice of the Tribunal that some perpetrators, who were influential with the district administration, became members of the village level peace-committees sponsored by the administration, which gave them new opportunities to harass the victim-survivors, and coerce the victim-survivors to withdraw their complaints as a pre-condition for their return to the village.³⁰¹

“There is peace committee only for namesake. The inaction of the district administration is encouraging the culprits to commit more crimes in this village.” (Subramonyu Nayak, resident of Bodimunda village, Tikabali taluka)

“A peace meeting was held in September 2008, wherein the SP and Collector were present. In that meeting Mr. Narayan Pradhan and Mr. Maharaj Pradhan declared that no Christians would be allowed to live in their panchayat. Though the collector scolded them, no legal action was taken against them for their anti-national statements. No compromise could be reached in that peace meeting due to the insistence of the above-mentioned persons that we should become Hindus.” (Manyabar Nayak, resident of Kritingia village, Sarnagada taluka)

The WILPF-WISCOMP report too was critical of the peace-building initiatives made by the government and observed as follows:

“In order to facilitate the return of victims to their respective villages, Peace Committee Meetings are organised by the government. We learnt from the victims who took part in peace committee meetings that Hindu majority population of their villages had placed many conditions (from 9-19) in order to let these victims enter their villages. These conditions include reconversion to Hinduism, vote for BJP, commitment not to eat beef, not to indulge in cow slaughter and often abide by everything that Hindu villagers want them to do. Victims were asked to withdraw First Information Reports (FIR) that they have lodged against the perpetrators of violence. In such cases, victims have resisted the decision of going back to their villages. In some cases, we were told few victims were re-converted to Hinduism and they returned to their homes in the villages.

In some Peace Committees people were asked to move to their houses and no conditions were laid down. It was reported that these committees were attended by Collector and other

³⁰⁰ MARG report, p. 36

³⁰¹ MARG report, pp. 99-100

officers. Such Peace Committees and their outcome are most welcome. To continue this atmosphere, it is proposed that psycho-social inputs were made in those villages for some months to come. This could help reconciliation between the communities.”

As stated in a report by the Haq Centre presented to the Tribunal, the local administration started two major peace initiatives to help the healing process but none of them were a success. The Antaranga scheme involved the young people in building trust by forming clubs and organising programmes, games, libraries, etc. NGOs were also involved in this. The HAQ team visited some of the clubs run by Banabasi Seva Samiti in Balliguda block, and interacted with club members in Jakikia (Bataguda GP) and Mediakia (GP Mediakia). The report states that many clubs are now inactive and aimless, and that though the youth has shown interest, there was no one to guide them as the NGO involvement has not been consistent.³⁰²

The second initiative is of the Peace Committees, which were formed with wide representation, to facilitate the return of the people from the relief camps and smoothen the process of rehabilitation and resettlement. A few meetings were held but they did not succeed in removing the fear from the minds of the people and failed to convince them to return to their villages. This was also because the rioters who are yet to be punished disrupted these meetings and threatened the people.³⁰³

The NCM, in its report of September 2008, emphasized the need for state responsibility to initiate and undertake confidence-building measures in order to build bridges between estranged communities, in order to maintain lasting and durable peace between neighbours. It emphasized that such an initiative must be taken at a time when people are receptive to such ideas, and when “things settle down in Kandhamal.”³⁰⁴

D2. Peace Initiatives of the Catholic Archdiocese, New Delhi

Peace initiatives related to the Kandhamal violence have also been undertaken by religious authorities. One of the other initiatives taken by the Catholic Archdiocese, as narrated to the Tribunal, was by holding a dialogue between members of the Sangh Parivar and the Church leaders led by the Archbishop, through the mediation of Dr. J.K. Jain, at a hotel in Bhubaneswar on 2 September 2008, a week into the ongoing violence. The delegation of 5 Christian leaders met for a dialogue with a group of Sangh Parivar members.³⁰⁵ On the deliberations held, the Archbishop stated as follows:

“Both the sides spoke about the grievances they had against the other community. It was a five-hour long non-stop marathon session. The major concern of the Christian delegation was immediate restoration of peace and harmony and punishing of those engaged in violence, whereas the other side kept harping on the issue of conversion. No sooner was the meeting over did we hear the news that another 84 houses and one church was set on fire and that Christians were being threatened to either convert to Hinduism or face death.”

³⁰² Haq Centre’s report, p. 11

³⁰³ Haq Centre’s report, pp. 11-12

³⁰⁴ Report of the Visit of the Vice Chairperson NCM to Orissa, 11th to 13th September 2008, available at nem.nic.in/doc/Tour%20Report%20VC%20Orissa%20Sep.%2008.doc, accessed on 1 March 2010, at para 18

³⁰⁵ The members of the Sangh Parivar who participated in this dialogue were Mr. Ashok Das - Orissa chief of the RSS, Mr. Ashok Sahu - Hindu Jagaran Manch, Bipin Achari Rath – state president of the VHP, Laxmikant Das – state general secretary of Vanvasi Kalyan Ashram, Prof Gopal Chandra Mohapatra – general secretary of RSS and Gauri Prasad Rath – state general secretary of VHP.

Despite this, the two sides agreed to issue a joint statement, which, among other issues, agreed that peace and harmony should be the top priority for all and that truth and justice must be the basis for all further decisions and actions, and to put an end to hostilities and violence immediately. He further stated:

“In reality, our ‘dialogue’ bore absolutely no fruit. The rampage against the Christians continued for another 35 days and stopped only after Archbishop Raphael Cheenath of Bhubaneswar, Fr. Dominic Emmanuel and I met, for another ‘dialogue’, BJP leader Mr. L.K.Advani at his residence, this time mediated by Swami Chidanand Saraswati of Rishikesh. After a three hour meeting attended by Mr. Chandan Mitra, Mr. Sudheendra Kulkarni and for a while Mrs. Sushma Swaraj, and a joint press statement later, the fires and embers in Kandhamal began to cool down. But it is established clearly the symbiotic relationship between the rioters and the BJP leadership.

All I can say is that we have persistently tried to work towards peace, going much out of our way to even meet people whose workers and agents are responsible for the violence.”

10 OBSERVATIONS AND CONCLUSION

A. Communal Violence in Orissa

1. Orissa has had a horrific history of violence against the Christian community, which increased in intensity and scale with the spread of communal forces in the State. The carnage in Kandhamal is an act of communalism directed mainly against the Christian community, a vast majority of who are dalit Christians and adivasis; and against those who supported or worked with the community. Members of Hindutva organizations including the Bajrang Dal, Vishva Hindu Parishad (VHP), Durga Vahini and the Rashtriya Swayamsevik Sangh (RSS) were identified as the perpetrators in all victim-survivor testimonies as well as fact-finding reports and studies. Mass mobilization of women to perpetrate the violence is a distinctive feature of the violence in Kandhamal and a matter of deep concern.
2. The targeted violence against the minority Christian community violated the fundamental right to life, liberty and equality guaranteed by the Indian Constitution, and affirmed by the ICCPR, ICESCR and other international covenants. The attacks were widespread, spread across several villages in the district of Kandhamal, and were executed with substantial planning and preparation, as indicated by the meetings held by the perpetrators prior to the violence, the financial and other forms of assistance secured months prior to the violence. The violence meets all the elements of 'Crimes Against Humanity' as defined in applicable international law. The brutality of the violence also falls within the definition of 'torture' under international law, particularly the Rome Statute of the International Criminal Court. That some victims was forced to drink cow urine and shave their head amounts to cruel, inhuman and degrading treatment under the United Nations Convention Against Torture.
3. Communal forces have used religious conversions as an issue for political mobilisation and incited horrific forms of violence and discrimination against the Christians of SC origin and their supporters in Kandhamal. The Presidential Order of 1950, insofar as its definition of a Scheduled Caste excludes those who convert to Christianity or Islam. Since the SC status is directly related to entitlements and benefits in government policies and schemes, a loss of the status deters conversion to Christianity and thus furthers the objective of the communal and divisive forces. The targeted violence against dalit Christians and the continued discrimination against them also amount to a serious violation of all provisions of the UN Convention on the Elimination of Racial Discrimination (CERD) – a Convention ratified by India.

B. Violence in Kandhamal

4. In 2008 the attacks were widespread, across several villages in the district of Kandhamal, and were executed with substantial planning and preparation. Victims-survivors testified about the meetings held by the perpetrators prior to the violence, the financial and other forms of assistance sought to support the violence. Apart from meetings held, the availability of weapons with the perpetrators, the large numbers of the mob, the availability of kerosene and other burning material to burn moveable and immovable property, and the arrangement of vehicles to carry away looted property also indicate the planning and preparation involved in these attacks.
5. Christians who refused to abandon their faith and convert to Hinduism were brutally killed or injured. Burning and destruction of property (residential, official and religious / charitable institutions) was also a predominant form of violence. Human rights defenders have been targeted for their role in assisting victims with aid, relief, rehabilitation and process of justice. Such attacks have not been coincidental but are deliberate acts, intended at cutting off assistance to the victim-survivor community and isolating them. Victim-survivors have testified with regard to the destruction of personal and official property, attacks and damage to the offices of such organizations. These are

contrary to the United Nations Declaration on Human Rights Defenders that calls upon the State to protect Human Rights Defenders and their work.

6. Moveable property, including valuables, agricultural produce, cattle, jewellery, money, household equipment and utensils were looted to lower the socio-economic status of the victim-survivors. Valuable documents and certificates related to educational qualifications, ownership of land and property were destroyed to economically impoverish the victim-survivors. Churches, prayer halls and other institutions established by Christian missionaries were attacked to 'avenge' their alleged forceful conversion of dalits and adivasis. Evidence of the attacks, particularly of murders and rape were systematically and meticulously destroyed in order to scuttle the processes of justice and accountability.

C. Gendered Impact

7. During the attacks, women and girls were targeted for sexual violence, humiliation, brutal physical assaults or threats thereof. The jury observes, with deep concern, the silence that prevail in matters of sexual assault, at various levels including documenting, reporting, investigating, charging and prosecuting cases. Though witness testimonies indicate that sexual violence was rampant during the attacks, there are very few reported cases, and an even smaller number that have been registered and are pending in the courts for prosecution. It is the duty of the State and members of civil society to document incidents of violence against women and seek legal redress for them.
8. The threats of sexual violence against women and their daughters continue, heightening women's sense of vulnerability. Both at the relief camps and outside, women, particularly young, unmarried and single women, were vulnerable to trafficking for commercial and sexual exploitation and for cheap labour. The attacks on women violates constitutional guarantees of equality, non-discrimination on the ground of sex; and other international standards, including the UN Convention on Elimination of Violence Against Women (CEDAW).
9. The relief measures undertaken by the government have been marked by gender blindness and did not address the need for women's privacy, or their medical, nutritional and psychological needs. The government-announced compensation package does not specify sexual and gender-based violence as a type of injury entitling survivors to compensation, thereby disregarding women's experiences of the violence altogether. Affected widows, single women and women survivors of violence have been generally neglected in the compensation schemes announced by the government. Women survivors have also not been included in village level peace committees violating UN Security Council Resolution 1325 and other relevant resolutions that mandate women's participation in peace processes.
10. Many women have not been provided jobs under the NREGA or have been employed for payment of lesser wages as compared to men for same / similar job. Though many women have suffered financial losses, their names have not been included in the government lists for compensation. There is no implementation of government schemes such as free / subsidized education, job on compassionate grounds, interest-free loan for rebuilding of houses etc. by which widows, single women and women survivors of violence can be restored to a life with dignity.

D. Impact on Children

11. The impoverishment of the victim-survivor community after the violence has had an adverse impact on the children jeopardizing their physical, psychological and intellectual development. The inability

of the families to provide for their children has worsened the nutritional and health status of children and infants in Kandhamal during the period of the violence and thereafter, as reflected in statistics compiled by the government. Many children have witnessed horrific violence to their close family members and suffer from acute trauma with no access to services of socio – psycho support and healing.

12. Many children have dropped out of school due to the inability of the families to bear the expenses or due to fear. Others dropped out due to discrimination by the school authority. Some had to enter the labour force to supplement the family income and work in hazardous conditions. There are cases of children being forced into construction work, domestic work and rag-picking, that have been brought to the attention of the Tribunal. As in the case of child labour, instances of trafficking in children for the purposes of forced labour, sexual exploitation and abuse have also been brought to the attention of the Tribunal.

E. Impact on socio-economic and cultural rights

13. The violence against Christians has caused large-scale displacement leaving the victim-survivors with a sense of rootlessness. Fear, insecurity coercion to convert to Hinduism, threat and intimidation to disengage in legal proceedings, and socio-economic boycott are major deterrents preventing the affected families from returning to and reintegrating in their villages.
14. The destruction of many churches and prayer halls, and the failure to reconstruct them has deprived the victim-survivors of their right to religious practice. Further, the fact that the victim-survivor community does not freely practise their faith or celebrate Christian festivals and observe Christian rituals due to a fear of violence, indicates that the community is reduced to a state of secondary citizenship – an anathema in a democracy like India with a constitution that guarantees fundamental rights.
15. The violence has had an adverse impact on the livelihood of the affected people. Since most IDPs lost their property and valuables while fleeing from the violence, the financial implications on the affected families has been enormous. Having lost their life savings, house, land and other property as well as a source of livelihood, many families have been forced into a state of impoverishment or a considerably reduced standard of living.
16. Daily wage earners, persons in government jobs, persons working as human rights defenders and associated with non-profit organizations, persons engaged in small businesses, as well as those engaged in agro-based livelihoods have been unable to return to their work due to displacement, discrimination, social boycott, physical injuries and mental trauma. Socio-economic boycott of the Christian community is implemented in variety of ways including refusal to use their labour, their services, refusal to employ them, refusal to share common village resources of access to road, forests and water thereby effectively reducing them to a state of isolation, frustration and impoverishment. The provisions of NREGA too do not benefit them as it is implemented in manner that discriminates against persons on grounds of religion, caste and gender.

F. Role of State administration and public officials

17. The testimonies make it clear that the public officials have played a variety of negative roles during the violence, ranging from being silent spectators and bystanders to the violence, refusing to protect or assist the victim-survivors when the latter sought their intervention, delaying substantially in assisting the victim-survivors even in contexts of brutal killings, failing in sending adequate police protection and reinforcements to protect religious and educational institutions, and failing to take

stringent action against sub-ordinate public officials who committed acts of commission and omission.

18. The state government failed in its responsibility to prevent the violence in Kandhamal in August 2008. Testimonies of victim-survivors indicate that the police and the district administration had prior knowledge of the impending attacks but did very little to prevent the violence or protect persons and property. The factors that contributed to such failure include non-implementation of the recommendations of the NCM in its January 2008 and April 2008 reports, failing to prevent the funeral procession of Swami Lakshmananda, and the non-exercise of a political will to prevent hateful rumours against Christians that incited violence and taking other preventive action.
19. Subsequently, the public officials failed to take action against the perpetrator, thereby making the victim-survivors vulnerable to intimidation and threats from them. By refusing to register FIRs or the act of registering delayed / faulty FIRs, and by being indifferent to threats to / intimidation of victim-survivors, the public officials failed to discharge their responsibilities as mandated by law. The jury members therefore observe, with grave concern, the deliberate dereliction of constitutionally mandated duties by public officials, their connivance with communal forces, participation in and support to the violence and a deliberate scuttling of processes of justice through acts of commission and omission. The State agencies have blatantly failed to extend much-needed institutional support to victim-survivors and protect them from attacks to their persons and properties, ostracism, socio-economic boycott and subjugation by non-state actors.

G. Justice process

20. The jury observes, with deep concern, that the criminal justice system has been rendered ineffective in protecting victim-survivors and witnesses, providing justice and ensuring accountability for the crimes perpetrated. Intentional sabotage of processes of justice and accountability by public officials by refusal to register / faulty or delayed registration of FIRs, shoddy and biased investigations, diluted charge sheets, failure to appreciate the available evidence in the context of realities on the ground, and a rampant intimidation of victims and witnesses, has created a situation where justice and accountability through the criminal justice system appears remote and illusive.
21. The testimonies and reports have pointed towards the complicity of the police – senior officers as well as the constabulary – during the violence, and their collusion with the perpetrators during the phase of investigation and prosecution. Based on the testimonies, the jury concludes that this was not an aberration of a few individual policemen, but evidence of an institutional bias against the targeted Christian adivasi and dalit community.
22. Testimonies point, on the one hand, to a refusal to arrest or an inordinate delay in arresting the perpetrators. On the other, victim-survivors were arrested or threatened with arrest under fabricated charges in order to silence and deter them from pursuing processes of justice contributing to an overall climate of impunity. The deliberate destruction of evidence, particularly of killings, through the burning or disposal of bodies, has resulted in the absence of forensic evidence in many cases. Investigations were marked by a neglect of the basic requirements of gathering evidence, which severely impaired the efficacy of the prosecution.
23. Victims and witnesses who have dared to lodge complaints and courageously given evidence in court have been threatened and intimidated and are unable to return to their homes. There is no guarantee of safe passage to and from the courts. Guidelines on witness protection, issued by the Supreme Court and various High Courts, are not followed by the Fast Track courts.³⁰⁶ Women witnesses face

³⁰⁶ *Zahira vs. State of Gujarat* (Best Bakery case) (2004) 4 SCC 158, *Neelam Katara vs. Union of India*, *State of Maharashtra vs. Dr. Praful B Desai* (2003) 4 SCC 601 and *Sakshi vs. Union of India* 2004 (6) SCALE 15 are some judgments that elaborate on aspects of witness protection, including permissibility of evidence by video link.

the additional danger of sexual violence against themselves and their daughters. The use of children as witnesses in criminal trials related to the Kandhamal violence has placed all such children under extremely vulnerable conditions exposing them to threats to their physical safety and psychological well-being. The police, investigating and prosecuting agencies do not deal with child witnesses in a sensitive manner nor with due regard to their age, situation and specific needs, and protect their rights.

24. The jury observes that clear gaps exist in substantive, procedural and evidentiary law to prosecute and punish those responsible for targeted mass violence. These include the absence of laws that differentiates between everyday crimes from mass crimes in extraordinary circumstances, lack of investigative procedures and evidentiary rules relating to mass crimes, such as punishing for murder even in the absence of the body of deceased. The protections guaranteed by law to public servants, such as through the requirement of prior sanction for prosecution, obstruct their accountability.³⁰⁷ Such gaps make dispensation of justice in contexts of mass violence extremely difficult. International jurisprudence in this regard has potential relevance for filling the gaps in Indian criminal law.

H. Reparations

25. The jury is appalled to note that after the violence in Kandhamal, rescue and relief work by non-profit, charitable and humanitarian organizations was prohibited through a government notification. By preventing rescue and relief work, the State government abdicated its constitutionally-mandated duty to protect the lives and human rights of vulnerable populations, to remedy the violations without any delay and to prevent further violations. The dismal conditions in the government-run relief camps are clearly indicative of the indifference of the State government to the plight of victim-survivors. They are violative of the right of victim-survivors to a life with dignity and equality, as guaranteed by Articles 14, 19 and 21 of the Indian Constitution; and the right of all IDPs to an adequate standard of living, as recognized UN Guiding Principles on Internal Displacement, 1998. The testimonies of victim-survivors as well as the reports presented to the Tribunal indicate that victim-survivors were forcibly sent back to their villages, or abandoned near their villages, with total disregard to their safety and failed to protect the victim-survivors from any form of punitive action upon return to their home community.
26. The award of meagre compensation to some victim-survivors for loss of lives, damage / destruction of houses, places of religious worship and institutions, and its denial to many defeat the very purpose of awarding compensation - to repair the harm and loss caused to the victim-survivors. The exclusion of moveable properties, injuries sustained during the violence including violation of the bodily integrity of women, from the purview of compensation are without any rationale, and is unjust to the members of the affected community. Wide disparities exist in the assessment of the value of the damaged and destroyed houses, and their classification, by governmental and non-governmental sources. The conditional and grossly inadequate amounts of compensation for repair and reconstruction of damaged houses, have impeded the housing rights of the affected families. Further, the lack of uniform criteria has led to an arbitrary determination of compensation amounts by State authorities whose acts are coloured by institutional bias against the Christian community.
27. The absence of a comprehensive rehabilitation package, consisting of aspects including source of livelihood, provisions of soft loans, income-generating schemes, education schemes, training and skill-building for new options for livelihood, special benefits to widows and orphaned children, medical, psychological, legal and social services assistance, have prevented the victim-survivors from being restored to a life of dignity.

³⁰⁷ S. 197 of the Cr PC states that no court can take cognizance of an offence alleged to have been committed by a public servant in the discharge of his official capacity, except with the previous sanction of the state or central government, as the case may be.

28. The negative role of public officials in the peace committees and the infiltration of perpetrators in such committees indicate that the state government's peace initiatives have been a dismal failure. The jury reiterate that while confidence-building measures are of prime importance, these cannot be undertaken in the absence of or as a substitute for processes of justice and accountability, which are the tool for long-lasting peace in the region.

The jury acknowledges the active role of the National Commission for Minorities to document the violations where other State and National commissions were found wanting. We also acknowledge the role of various local and national non-profit organizations in providing assistance to the victim-survivors to access reparations and participate in processes of justice and in peace-building initiatives.

11 RECOMMENDATIONS

Recommendations in this chapter are generally made to the State government of Orissa unless otherwise recommended to other authorities.

A. Socio-economic and Cultural Rights

1. Apply National Rural Employment Guarantee Act (NREGA) and other livelihood schemes of the state and central government to the affected community, without any discrimination on the basis of caste, religion or gender. Act against those engaging in such discrimination.
2. Implement widow pension schemes and provide government jobs to individuals from families that lost their members in the violence on compassionate grounds. Reinstate/reappoint victim-survivors engaged in government jobs prior to the violence and transferred to areas that they perceive to be safe and secure. Soft loans should be provided for commencement of small businesses.
3. Ensure that relief camps meet the minimum international standards of health, hygiene and privacy for IDPs; and has facilities to meet the nutritional needs of children, lactating mothers and pregnant women; the education needs of children whose education has been disrupted; the health needs of all in the camps with regular on-site health checkups. Provide medical and psychological, particularly trauma counselling to the victims/ survivors, with a special attention to the needs of women survivors of sexual and gender-based violence.
4. Incorporate a separate section in the State policy on relief and rehabilitation that conforms to Article 3 of the CRC, as the guiding principle for all relief and rehabilitation work.
5. Recommend that the National Commission for Protection of Child Rights and the National Commission on Scheduled Castes and the National Commission on Scheduled Tribes assess the needs of children, dalits and adivasis respectively from the affected Christian community in Kandhamal, and make recommendations to appropriate agencies at the state and central levels for ensuring their rehabilitation at the earliest.
6. Address educational needs of the children who have suffered displacement as a result of the violence with measures such as bridge schools under the *Sarva Siksha Abhiyan*, *Kasturba Balika Vidhyalaya* for SCs and STs girls; and residential ashram schools.
7. Address as the long-standing problem of landlessness and land alienation of the dalits and adivasis in a comprehensive manner through land reform and redistribution.

B. Legal and Judicial Process

8. Identify unreported cases of sexual and gender-based violence and include the offence of sexual assault in FIRs, in cases where it has been ignored and ensure that they are effectively investigated and prosecuted.
9. Enquire into the acts of all public officials named in this Report, and pursue stringent disciplinary, administrative and other legal action against them for grave dereliction of duty, and for collusion and complicity in the crimes committed by the perpetrators.

Comment [VG1]: VG

10. Strictly enforce sections 153 A and B of the Indian Penal Code³⁰⁸ to proactively prevent programmes planned by Hindutva forces within the state, that are divisive, propagate hate and incite violence against religious minorities.
11. Constitute a Special Investigation Team (SIT) to re-examine the already registered FIRs for accuracy, examine registrations of fresh FIRs, the trials that resulted in acquittals due to intimidation and/or lack of evidence and recommend the trials that need be transferred or fresh trials be conducted outside Kandhamal.
12. Appoint Special Public Prosecutors who discharge their duties with professional competence and integrity. At the appellate stage in the Orissa High Court a special panel of lawyers to represent the victims of Kandhamal violence be constituted.
13. Recommend that State Legal Services Authorities set up a legal cell to assist victims in their legal cases and interactions with the police and courts.
14. Provide protection to victims and witnesses before, during and after the trial process according to the guidelines provided in the judgments of the Delhi and Punjab and Haryana High Courts.³⁰⁹ Take pro-active measures to prevent threat of sexual and gender-based violence to women survivors and their daughters and pay attention to the needs of the child witnesses involved in various proceedings related to the Kandhamal violence. The State Legal Services Authority lawyers to also ensure, that witnesses depose freely and without fear in the fast Track Courts and to bring any incident of intimidation to the notice of the concerned authorities including the Court . State Legal Service Authority to assist the victim- witnesses to initiate appropriate legal action in this regard.
15. Accord special protection to Human Rights defenders and adequately compensated the damage to their residential and organizational properties so that there are no impediments to their work in assisting victim-survivors with processes of justice and reparations.

Comment [VG2]: APS

C. Reparations

16. Adopt, at the very minimum, the 1984 anti Sikh and 2002 anti Muslim Gujarat compensation package to enhance the compensation already announced. In addition, victims of sexual and gender-based violence should be included as a ground eligible for compensation and employment.
17. Recognize the right of the Internally Displaced Persons to return homes and create enabling conditions to facilitate such safe return in accordance with the UN Basic Principles and Guidelines on Development based Evictions and Displacement, 2007 and UN Guiding Principles on Internally Displaced Persons should be effectively implemented.
18. Facilitate the return and reintegration of the affected families back in their villages of habitual residence, or resettle them in safe and secure alternative places of residence that is near to agro-based or other livelihood possibilities.
19. Formulate and implement policies to provide victim-survivors full reparations, which include compensation, restitution, rehabilitation, guarantees that the crimes committed will not be repeated,

Comment [VG3]: VG

³⁰⁸ S. 153A of the IPC makes promoting enmity between different groups on grounds of religion, race, place of birth, residence, language etc. and doing acts prejudicial to maintenance of harmony a punishable offence. S. 153B focusses on imputations and assertions prejudicial to national integration.

³⁰⁹ *Neelam Katara vs. Union of India*, judgment of Delhi High Court dated 14 October 2003 and *Bimal Kaur Khalsa's case*, AIR 1988 P & H 95

and forms of satisfaction such as restoration of their dignity and a public acknowledgement of the harm that they have suffered; meeting national and international human rights standards.

20. Include movable properties into the scheme of compensation, and adequately compensate loss of valuables, cash, agricultural produce and cattle, essential documents, household articles and vehicles towards restoring the victim-survivors and their families to the standard of living that they enjoyed prior to the violence.
21. Focus on revival of dignified livelihood options for the affected families, and facilitate a resumption of the livelihood they had pursued prior to the violence. Make a concerted effort at recovery and return of lands that the victim-survivor families had abandoned at the time of the violence, in order that they may pursue agro-based forms of livelihood.
22. Include members of the affected community, particularly women in all confidence-building and peace-building initiatives by the state and district administration should have the participation of. Substantive participation of women in village level peace committees should be facilitated, rather than a token representation.

D. Minority Rights

23. Protect the right to religious freedom and clarify that this freedom means and includes the right to remain animist, areligious and/or atheist, and make any form of forced conversion or reconversion illegal.
24. Formulate a policy / programme to urgently address the issue of institutional bias against the minority Christian community in Kandhamal and other parts of Orissa, through a combination of perspective-building and stringent action that is intended at upholding the rule of law.
25. Review OFRA to ensure that it does not violate the right to religious freedom as guaranteed by the Indian Constitution and international law.
26. Review the definition of the Scheduled Castes in The Presidential Order of 1950, on the basis of the discrimination experienced by members of schedule castes even after conversion.
27. Implement the recommendations of the National Commission for Minorities, issued in their reports of January, April and September 2008 with immediate effect.

ANNEXURE A
DETAILS OF VICTIM-SURVIVORS WHO
DEPOSED BEFORE THE TRIBUNAL

	Name of the Deponent	Name of the Deceased Person (if any)	Permanent Residence	Crimes Subjected to
1.	Antaryami Digal	-	Jiginagam village, PO Kainjhar, Tikabali taluka	Human rights defender attacked, threat to life as deposed in the court as a witness to the crimes, has received no protection from the authorities
2.	Ashis Naik	Lalji Naik, Mandakini Naik	Godoguda village, G. Udayagiri taluka	Attacked; witnessed killing of a couple in the village and burning of Christian houses by a mob
3.	Basil Kullu	-	Madhupur, P.S. Sohela, Bargah district	Deponent was priest-in-charge of Madhupur church; church and hostel attacked and severely damaged; he and his staff had to evacuate 224 boys and 146 girls residing in the hostels, including 20 physically handicapped children. Public officials offered no protection to the children. Collector ensured that evidence of the attack was destroyed
4.	Bidyadhar Digal	Jubaraj Digal	Kanjamendi village, K. Nuagam taluka	Deponent witnessed the brutal killing of his father; case closed as false case as body had been disposed of by perpetrators
5.	Bijay Kumar Parichha	-	Beredakia village, Raikia taluka	House and office of a human rights defender looted, ransacked and destroyed, deponent attacked
6.	Bipin Nayak	Vikram Nayak	Budedipada-Mdinaju, Tiangia, Raikia taluka	Deponent, his wife and children witnessed the brutal torture and killing of his brother, whose body was cut into pieces. Severe threats against giving evidence in court
7.	Bisweshwar Nayak	Gobind Nayak (father), Sulochana,	Tatasahi village, Barakhama, Balliguda taluka	Deponent witnessed the brutal killing of his father, attack and killing of Sulochana by cutting her head with a dagger, the sexual assault and burning of a 14-year old girl; deponent's house looted and destroyed by fire
8.	Chanchla Nayak	Prafulla Nayak	Barakhama village, Balliguda taluka	Deceased – the husband of the deponent - was severely assaulted and killed, their house looted, burnt down

9.	Christodas Nayak	Ramani Nayak	Ganjuguda village, G. Udayagiri taluka	Deponent witnessed the brutal attack on his wife with a sword, cuts on her palms, skull and backbone. She subsequently died in the hospital
10.	Dashrath Digal	Ajea Digal	Barakhama village, Balliguda taluka	House looted and destroyed by fire; Deponent witnessed the brutal killing of his son Ajea and one another
11.	Debendra Nayak	-	Lingagada village, G. Udayagiri taluka	Attack, house ransacked, looted and destroyed by fire
12.	Deobhanja Pradhan	-	Sulesoru village, Tikabali taluka	Property looted, destroyed by fire; faces social and economic boycott; deponent has given evidence against two perpetrators in court and hence faces threat to life
13.	Gajana Digal	-	Shankarakhol village, Tikabali taluka	House looted, burnt totally, subjected to threats and intimidation for testifying in court
14.	Gopabandhu Behera	-	Nandini village, taluka	Forcibly converted to Hinduism
15.	Hanaka Digal	Kajura Digal	Nehrupada village, P.O. Barakhama, Balliguda taluka	Deponent witnessed the brutal assaults on his aged father, who subsequently died in hospital; deponent's house was looted, destroyed by fire;
16.	Indira Digal	Niranjan Digal	Jharna Sahi, P.O. Barakhama, Baliguda taluka	Witnessed the brutal assault on her husband, who subsequently died. House looted, destroyed by fire;
17.	Issac Digal	-	Valiatota sahi village, G. Udayagiri taluka	Attack on human rights defender, looting and damage to property
18.	Iswar Digal	Padista Digal, Sidheswar Pradhan (local RSS leader)	Sulesoru village, Tikabali taluka	Mother-in-law of deponent killed; a local RSS leader also killed when trying to protect Christians. Deponent's house looted, ransacked and destroyed by fire a two wheeler repairing and welding workshop of the deponent; danger to his and family members' lives
19.	Jirimiya Sunamajhi	-	Badagaon village, Tumudibandha taluka	His uncle was falsely implicated and arrested, kept in jail along with 7 others, for Laxmanananda's killing
20.	Kamala Sahoo	-	Paburia village, Sarangada taluka	House and property ransacked of a dalit activist
21.	Kamal Digal	-	Battaguda village, Balliguda taluka	Human rights defender whose residence and office looted, completely destroyed by fire, faces threat to his life
22.	Kanaka Rekha Nayak	Parikhita Nayak	Budedipada-Madinaju village, Raikia taluka	Deceased was severely assaulted, cut into pieces in the presence of family members
23.	Keshamati Pradhan	-	Pitairpi village, Raikia taluka	She has witnessed violence at Barakhama village in December

				2007 and August-September 2008, and made observations to the Tribunal as a social activist belonging to Kui Dina Forum for Peace and Justice.
24.	Manomohan Behera	-	Totaguda village, Chakapad	Livelihood (business) badly affected, 126 cattle snatched away
25.	Manyabar Nayak	-	Kritingia village, Sarangada taluka	Community leader forcefully converted to Hinduism; arrested by the police on false charges
26.	Mohini Nayak	-	Hata Poda Sahi village, Raikia taluka	Threat to life of a women's rights activist, as she has testified against Manoj Pradhan (MLA) in court
27.	Moses Nayak	-	Hata Poda Sahi village, Raikia taluka	House looted, destroyed and his life is in danger
28.	Nalini Nayak	Fidem Nayak	Berka village, Tikabali taluka	Deceased, a pastor, was severely assaulted and killed along with two other pastors in the jungle, all three bodies burnt by perpetrators
29.	Narahari Kanhar	-	Uparkhole village, Tikabali taluka	Witnessed destruction of church and his house
30.	Narasingho Digal's brother	Meghnath Digal & Priyatama Digal		Woman raped and killed along with husband, in the presence of their children
31.	Naresh Digal	Ramesh Chandra Digal	Dakarpathga village, Raikia taluka	Deponent helplessly witnessed the brutal killing of his brother
32.	Nicholas Barla	Rajni Majhi	Padampur, Bargah district	Hindu adivasi girl burnt alive, possibly sexually assaulted prior to death
33.	Paul Pradhan	-	Dupepada village, Sarangada taluka	Forcible conversion and arson on property of a human rights defender
34.	Prafulla Chandra Pradhan	-	Padangi village, Sarangada taluka	Former adivasi panchayat samiti chairman attacked and his life is in danger
35.	Prakash Kumar Nayak	-	Medical Sahi village, P.O. Barakhama, Balliguda taluka	Community leader, falsely implicated in cases
36.	Pratap Chandra Digal	Nicholas Nayak & Abraham Nayak	Pirigada village, Sarangada taluka	Two friends were severely assaulted and killed; deponent was forcibly converted to Hinduism along with 13 other families
37.	Premasila Digal	-	Katadi village, Tikabali taluka	Deponent was an anganwadi worker who has not been reinstated in her job after the violence
38.	Priyatama Nayak	Abhimanyu Nayak	Barapalli village, Tikabali taluka	Deceased was severely assaulted, burnt alive in the presence of wife and children; dogs ate half of his body
39.	Rama Rao Nayak	-	Lingagada village, G. Udayagiri taluka	Looting, destruction of house by fire
40.	Runima Digal	Iswar Digal	Mallikapada village, Sarangada taluka	Deceased was severely assaulted, cut into 3 pieces in the presence of

				his wife
41.	Sebika Digal	-	Tengadapathar village, Tikabali taluka	Hindu dalit husband and children of the deponent – a lone Christian in the family - attacked
42.	Sisir Pradhan	Fr. Bernard Digal	Mallipada village, Sarangada taluka	Deponent witnessed the Catholic priest, whom he had accompanied to Sankarakhole village, being brutally assaulted, subsequently died in hospital
43.	Subramonyu Nayak	-	Badimunda village, Tikabali taluka	Postman attacked, house destroyed, threat to life and pressure to convert to Hinduism; faces socio-economic boycott
44.	Umesh Chandra Nayak (son)	Lalaji Nayak	Godaguda village, G. Udayagiri taluka	House looted, ransacked and destroyed by fire; aged parents brutally attacked and killed
45.	AB*	-	-*	Hindu woman, sexually assaulted, repeatedly raped by a mob in revenge for her uncle's refusal to convert to Hinduism

* Name and residential details withheld to provide anonymity to the deponent

ANNEXURE B
DETAILS OF REPORTS / STATEMENTS
PRESENTED TO THE TRIBUNAL

	Title	Organization / Institution (if any)	Presented by	Contents
1.	Orissa's Violent History	Jan Vikas, Orissa	Fr. Ajay Singh	Chronology / time line of attacks on Christians, Christian places of worship and religious leaders
2.	The Politics of Kandhamal	National Campaign on Dalit Human Rights (NCDHR), New Delhi	Prasad Sirivella	Impact of violence on adivasis and dalits, nature of the violence and the perpetrators
3.	Kandhamal: The Law Must Change its Course	Multiple Action Research Group (MARG), New Delhi	Saumya Uma	Presentation of a summary of the published work, which critically examines the patterns of impunity in the Kandhamal violence, the shortcomings in existing law and the need for law reform to ensure accountability for mass crimes by extending culpability to those who sponsor and profit from the carnage. The publication includes a summary of interviews and focussed group discussions held with victim-survivors in May-June 2009
4.	Observations of the team of WILPF and WISCOMP	Women's International League for Peace and Freedom (WILPF) & Women in Security, Conflict Mitigation and Peace (WISCOMP), New Delhi	Illa Ben Pathak	Fact-finding report of January 2009 on the conditions of women in relief camps and the role of the government in addressing their needs. The report is based on a visit to 3 relief camps – one each in Tikabali, G. Udayagiri and Mandasur – in January 2009.
5.	Kandhamal in Chaos: An Account of Facts	Jan Vikas, Gujarat	Vijay Parmar	Damage assessment report of Kandhamal – data related to fully and partially damaged houses and places of worship, issues related to

				assessment of damage, government surveys and compensation claims.
6.	A study on the impact of communal violence on women, dalits and their livelihood	Loyola College, Chennai	Prof. Ashok Gladstone and 3 students	Findings of study that involved an interview of 150 victim-survivors across 40 villages
7.	Freedom of Religion in Orissa	Roman Catholic Archdiocese of Cuttack-Bhubaneswar, Bhubaneswar, Orissa	Archbishop Raphael Cheenath	Hate campaigns, religious conversions and the law in Orissa
8.	Preliminary Findings of the Survey of House Construction for Survivors of Communal Conflict of Kandhamal District	Solidarity for Developing Communities (SFDC), Orissa	Bijay Singh	A survey of the extent of damage of houses, assistance received and the status of construction of houses. The study covered 101 villages in two talukas of Kandhamal district – Daringbadi and Tikabali – and was undertaken in July-August 2010
9.	Rapid Assessment of Present Condition in Kandhamal	Integrated Rural Development of Weaker Sections in India (IRDWSI), Orissa	Manoj Pradhan	Present status of people affected by the violence in Kandhamal – including violence-induced migration, the present status of house reconstruction and the status of return of migrants. It involved a study of 23088 families in 274 villages, in 7 talukas of Kandhamal district
10.	Kandhamal's Forgotten Children: A Status Report	HAQ: Centre for Child Rights, New Delhi	Madhumita Purkayastha and Shabaz Sherwani	Study of violence-affected children, their experiences and impact of the violence on them. The study is based on interviews of several children, their families, government officials, missionary staff, school teachers and non-profit organizations, across 18 villages in 6 talukas of Kandhamal district in June – July 2010
11.	Child Labourers: A Byproduct of Kandhamal Riots	Integrated Rural Development of Weaker Sections in India (IRDWSI), Orissa	Mahendra Parida	Case studies of child labourers from violence-affected families. Contains 9 detailed case studies of child survivors of the violence, living in two slums of

				Bhubaneswar – Ishaneswar and Bisheswar.
12.	Statement before the National People's Tribunal on Kandhamal	-	Archbishop Vincent Michael Concessao, Archbishop of Delhi	Peace and reconciliation efforts at the national level, including the attempts of the church leaders to dialogue with members of the Sangh Parivar
13.	Study of the Conditions of Women Affected by Communal Violence in Kandhamal District, Orissa	Nirmala Niketan College of Social Work, Mumbai	Dr. Geeta Balakrishnan	Impact of violence on women in Kandhamal – forms of violence faced, perceived causes of violence, extent and impact of the violence; current situation. The study is based on an interview of 355 women survivors across 68 villages in 7 talukas (blocks) of Kandhamal district in May 2010
14.	Expert deposition on Communalization of Orissa, by Dr. Angana Chatterjee, (Professor, California Institute of Integral Studies)	-	John Dayal	Testimony on Hindu nationalism's violence in Kandhamal – culpability, mobilizations, Kandhamal violence 2007 & 2008, the Sangh Parivar in Kandhamal, funding for Hindu nationalism
15.	Revisiting Kandhamal – a dossier compiled for the National People's Tribunal	Vikas Adhyayan Kendra (VAK), Mumbai	Durang Basu Mullick (Compiled by)	A document submitted to the jury, containing a compilation of documents on the following topics: chronology of communal violence in Orissa, spread and role of Sangh Parivar, report of the National Commission for Minorities, peace initiatives in Kandhamal, reports on conditions in relief camps, role of the state, responses of the government, memorandums by an association of victims of communal violence in Kandhamal, role of the judiciary, rehabilitation of the victims, conditions of women, role of Maoists, role of media, some

				recommendations by Angana Chatterji and case studies of people who were killed for refusal to convert to Hinduism
--	--	--	--	---

ANNEXURE C

THE ORGANIZING COMMITTEE:

MEMBERS OF THE NATIONAL SOLIDARITY FORUM

	Name of Organization
1.	Action Asia
2.	AKHRA, Ranchi, Jharkand
3.	All India Secular Forum, Mumbai, Maharashtra
4.	Bharatiya Muslim Mahila Andolan, Ahmedabad, Gujarat
5.	Centre for Study of Society and Secularism (CSSS), Mumbai, Maharashtra
6.	Centre for Environment and Development (CED)
7.	Church of North India (CNI-SBSS), Delhi
8.	Common Concern, Bhubaneswar, Orissa
9.	CPSW, Bhubaneswar, Orissa
10.	CRENIEO, Chennai, Tamil Nadu
11.	CSNR, Bhubaneswar, Orissa
12.	Delhi Forum
13.	EKTA, Mumbai, Maharashtra
14.	FCFC, Kolkata, West Bengal
15.	Focus on Global South, Delhi
16.	FORUM
17.	HAQ - Centre for Child Rights, Delhi
18.	Human Rights' Law Network, Delhi
19.	Indian Social Institute, Delhi
20.	Indian Social Institute, Bengaluru, Karnataka
21.	Indian Social Action Forum (INSAF), Delhi
22.	Institute for Peace Studies and Conflict Resolution (IPSCR), Mumbai, Maharashtra
23.	Integrated Rural Development of Weaker Sections in India (IRDWSI), Koraput, Orissa
24.	Jana Vikas, Kandhamal, Orissa
25.	Kandhamal Survivors Association, Kandhamal, Orissa
26.	Kerala Swathanthra Malsya Thozilali Federation (Kerala Independent Fishworkers' Federation - KSMTF)
27.	KRITI, Delhi
28.	Kuidina Forum for Peace and Justice, G. Udayagiri, Orissa
29.	LAYA, Vishakapatnam, Andhra Pradesh
30.	Lok Adhikar Manch, Bhubaneswar, Orissa
31.	Multiple Action Research Group (MARG), Delhi
32.	Moving Republic, Bengaluru, Karnataka
33.	National Adivasi Alliance
34.	National Alliance for Women (NAWO),

	Bhubaneswar, Orissa
35.	National Campaign for Dalit Human Rights (NCDHR), Delhi
36.	National Federation of Indian Women, Delhi
37.	National Fishworkers' Forum (NFF), Kerala
38.	New Socialist Alternative, Bengaluru, Karnataka
39.	Orissa Citizens' Initiative, Bhubaneswar, Orissa
40.	Orissa Concern, Bhubaneswar, Orissa
41.	Orissa Development Action Forum (ODAF), Bhubaneswar, Orissa
42.	Orissa Manaviya Surakhya Abhiyan (OMASA), Bhubaneswar, Orissa
43.	PEACE, Delhi
44.	People's Watch, Madurai, Tamil Nadu
45.	Posco Pratirodh Sangram Samiti (PPSS), Jagatsinghpur, Orissa
46.	Pollishree, Kandhamal, Orissa
47.	Samajika Vikas Kendram (SVK), Gajapati, Orissa
48.	Samuha Vikas, Malkangiri, Orissa
49.	Seva Bharati, Kandhamal, Orissa
50.	Solidarity for Developing Communities (SFDC), Behrampur, Orissa
51.	South India Cell for Human Rights Education and Monitoring (SICHREM), Bengaluru, Karnataka
52.	South Asian People's Initiative, Delhi
53.	Vikas Adhyayan Kendra (VAK), Mumbai, Maharashtra
54.	Visthar, Bengaluru, Karnataka
55.	Visual Search, Bengaluru, Karnataka

ANNEXURE D

National People's Tribunal on Kandhamal

22nd, 23rd and 24th August, 2010

Venue: Speaker's Hall, the Constitution Club, New Delhi

PROGRAMME SCHEDULE

22.08.2010 (Sunday)

10.00-11.00 Registration

12.00-1.00 Inauguration of the Exhibition (Deputy Chairman Hall, 2nd Floor) -By Javed Akhtar

1.00-2.00 Break

2.00-02.10 Welcome and Introduction- Ram Puniyani, Member Secretary , NPT

2.10- 4.00 **Session -1**

Testimonies by Victims from Kandhamal Testimonies by experts

Study Report on 'Impact of Violence on Adivasis and Dalits' by NCDHR

4.00-4.30 BREAK

4.30-6.30pm **Session -2** (Police, Administration and Criminal Justice System)

Testimonies by Victims from Kandhamal, Testimonies by experts

Study Report 'Law Must Change its Course' by Ms. Saumya Uma

Role of NHRIs in the context of Kandhamal violence by Mr.Henri Tiphagne, People's Watch

23.08.2010 (Monday)

09.30-11.00 **Session -3** (Housing, Compensation, Relief & Rehabilitation, Food and Livelihood Issues, Displacement/Migration)

Testimonies by Victims from Kandhamal

Fact Finding Report on Status of Women and Children in Relief Camps by Ila Ben Pathak

Damage Assessment Report by Jan Vikas, Ahmadabad

Case study on Livelihood Status of Victims by Prof. Ashok Gladston

State of Housing to Violence Affected Persons by Bijay Singh, SFDC, Orissa

Report on Rapid Assessment of Present Situation in Kandhamal by Prof.Nirakar Mallik

11.00-11.30 BREAK

11.30-1.00 **Session - 4** (Children and Education)

Testimonies by Victims from Kandhamal, Testimonies by experts,

Study Report on State of violence affected Children and their Rights by HAQ: centre for Child Rights

Case Study on Child Laborers from Violence Affected families by Mahendra Parida on behalf IRDWSI

1.00-2.00 BREAK

2.00-3.30 **Session -5** (Women, gender violence and Human Rights)

Testimonies by Victims from Kandhamal,

Study Report on Impact of Violence on Women in Kandhamal by Nirmala Niketan College of Social Work

3.30-4.00 BREAK

4.00-6.00 **Session -6** (Role of Media, Political Parties, Civil Society, Peace & Reconciliation)

Testimonies by Victims from Kandhamal, Testimonies by experts

Peace Training and Efforts after Kandhamal Violence by Irfan Engineer, IPSCR

24.08.2010 (Tuesday)

9.00-1.00PM JURY FINALISES THE RECOMMENDATIONS

1.00-3.00 LUNCH & GETTING THE PRESS STATEMENT READY

3.00PM PRESS CONFERENCE / RELEASE OF RECOMMENDATIONS BY THE JURY

GLOSSARY & ABBREVIATIONS

1.	Adivasi	Literally means “original dwellers / inhabitants” and refers to indigenous people
2.	Anganwadi	Literally means “court yards”, anganwadi workers are employed by the Department of Social Welfare to distribute nutrition supplements to pregnant women and children, and to provide non-formal education for children upto 6 years of age, under the Integrated Child Development Scheme (ICDS).
3.	Anganwadi Kendra	Centres where anganwadi workers are employed
4.	Ashram	A house of a Hindu spiritual guide
5.	Asur / Asura	Super-natural, power-seeking being with negative qualities, as per Hindu mythology
6.	Ayah	Maid / nurse
7.	Bujali	Sharp and lethal weapon
8.	Bajrang Dal	A militant organization of the Hindu Right wing which takes its name from the monkey god
9.	Bandh	Literally means ‘closed’ in Hindi; a form of protest often organized by political parties, where business activities are stopped, and public and private transport cease to operate.
10.	BDO	Block Development Officer
11.	Bharatmata	Mother India
12.	BJD	Biju Janata Dal – a political party in India based in Orissa, and led by Chief Minister Naveen Patnaik
13.	BJP	Bharatiya Janata Party – political party of the Hindu Right
14.	Brahmin	The upper most caste in the Hindu caste hierarchy
15.	CAT	U.N. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984
16.	CEDAW	U.N. Convention on the Elimination of All forms of Discrimination Against Women, 1979
17.	Chivda	Crispy beaten rice, a snack
18.	CRC	U.N. Convention on the Rights of the Child, 1989
19.	Cr.PC	Criminal Procedure Code, 1973
20.	CRPF	Central Reserve Police Force
21.	Dal / Daal	Preparation of pulses; is an essential dish for most Indians
22.	Dalal	Refers to a vendor, salesman or agent. In the context of trafficking / sex work, the term refers to a pimp
23.	Dalit	The term means “broken people” and refers to persons belonging to a category at the lower end of the caste system, who are considered “untouchables” and treated in an inhumane manner.
24.	DCP	Deputy Commissioner of Police
25.	DGP	Deputy General of Police
26.	DIG	Deputy Inspector General of Police
27.	District Collector	Administrative head of the district
28.	DM	District Magistrate

29.	DSP	Deputy Superintendent of Police
30.	Durga Vahini	A militant Hindu Right wing women's organization
31.	Ex gratia	Literally means 'out of grace or kindness'; in law, an ex gratia payment is one made without recognition of any liability / obligation on the part of the person / institution making the payment
32.	FIR	First Information Report
33.	Ghar Vaapasi	Literally means "return home"; it refers to rituals conducted by Hindutva forces in relation to converting or re-converting a person back into the Hindu fold
34.	Gobar Pani	The urine of the cow, considered sacred in the Hindu religion
35.	Hindu Rajya / Hindu rashtra	Hindu nation
36.	Hindutva	Ideology and political formation of the Hindu Right
37.	ICC	International Criminal Court
38.	ICCPR	International Covenant on Civil and Political Rights, 1966
39.	ICESCR	International Covenant on Economic, Social and Cultural Rights, 1966
40.	IDPs	Internally Displaced Persons
41.	In camera	Closed proceedings in court where spectators are excluded or their entry is restricted
42.	IO	Investigating Officer
43.	IPC	Indian Penal Code, 1860
44.	IPS	Indian Police Service
45.	IPT	Indian People's Tribunal – is an initiative of civil society aimed at investigating issues concerning human rights and the environment.
46.	Jai Bajrang Bali	Victory to Bajrang Bali (monkey god) – used both as a greeting and in slogans by the Hindu Right Wing
47.	Jai Hanuman	Victory to Hanuman (a Hindu god) – used as a greeting but also used in slogans by the Hindu Right Wing
48.	Jai Sriram	Victory to Ram – used as greeting but converted to a slogan by the Hindu Right Wing
49.	Kalashyatra	Journey carrying the ashes of the body of a deceased person in an earthen pot
50.	Kandhas / Kandhos	One of the oldest tribal communities of Orissa, mostly belong to Scheduled Tribes
51.	Kasturba Balika Vidhyalaya	Is a project of the Indian government of setting up residential schools with boarding facilities for girls belonging to scheduled castes and minorities in areas identified as educationally backward blocks
52.	Lok Sabha	House of the People; Lower House in the Indian Parliament
53.	Mahila samiti	Women's forum
54.	Mataji	Mother
55.	MLA	Member of the (state) Legislative Assembly
56.	NCM	National Commission for Minorities
57.	NGO	Non-governmental organization
58.	NCW	National Commission for Women
59.	NHRC	National Human Rights Commission
60.	NREGA	National Rural Employment Guarantee Act 2005
61.	OSAP	Orissa State Armed Police
62.	Panas / Panos	Community consisting mainly of dalits, many of whom are Christians
63.	Panchayat	Village level elected body
64.	Pharsa	Axe-like lethal weapon

65.	PIL	Public interest litigation
66.	Post mortem	Also called autopsy, refers to a medical examination of the body of a deceased person, to determine the cause of death
67.	P.S.	Police station
68.	Puja	A Hindu ritual performed as an offering to deities
69.	Rajya Sabha	House of Representatives; Upper House in the Indian Parliament
70.	Ram / Rama	Name of a Hindu god
71.	RSS	Rashtriya Swayamsevak Sangh – National volunteer corps, the ideological organization of the Hindu right
72.	Sampradhayik Hinsa Prapidita Sangathana	Association of Victims of Communal Violence in Kandhamal
73.	Sangh Parivar	Refers to the collective Hindu Right Wing organizations – including RSS, VHP, Bajrang Dal and BJP
74.	Sari	Garment worn by Indian women
75.	Sarpanch	Democratically elected head of the gram panchayat (village level statutory institution)
76.	Sarva Siksha Abhiyan	Is a programme of the Indian government for universalizing elementary education
77.	SC	Supreme Court
78.	Shakhas	Branches / units
79.	Shiv Sena	A political party, based in Maharashtra, with a Hindu nationalist ideology
80.	Shraddhanjali	Literally means 'Offering of faith' – is a Hindu ritual consisting of remembrance prayers offered to dead persons
81.	Shuddhikaran	Literally means "purification" – consists of rituals for conversion or re-conversion to Hinduism
82.	Shuddhi movement	A movement for converting and re-converting persons into the Hindu fold
83.	Shudras	The lower most caste in the Hindu caste hierarchy
84.	Sindur	Vermillion powder smeared on the forehead – a symbol of Hinduism
85.	SIT	Special Investigation Team
86.	SP	Superintendent of Police
87.	ST	Scheduled Tribes
88.	Swami	Religious teacher in Hinduism
89.	Tahsildar	A gazetted officer of the Government of India, in charge of governance of a district in a state
90.	Taluka / tehsil	Block – divisions of a district in the administrative structure of India
91.	Tangia	Sharp-edged axe-like weapon
92.	Trishul	A bladed, sharp weapon, often used as a violent Hindu symbol
93.	UDHR	Universal Declaration of Human Rights
94.	UN	United Nations
95.	UNDP	United Nations Development Programme
96.	Vanvasi Kalyan ashram	A welfare trust of the Hindutva forces for mobilizing tribals
97.	VHP	Vishwa Hindu Parishad (World Hindu Council)
98.	Wadhwa Commission	A Commission of Inquiry established by the Orissa state government, headed by Justice D.P.Wadhwa, to inquire into the killing of Graham Staines and his two sons by a mob in Manoharpur village in Orissa
99.	Yagnya	Hindu ritual of sacrifice, with a fire in the centre of an offering

		ground, and items offered to the fire
100.	Yatra	Procession / journey
101.	Zilla parishad	Literally means 'District Council'; is the local government body at the district level