

**ACCOUNTABILITY FOR TORTURE AND ILL-TREATMENT**  
**A REPORT BY THE ASMT HINDU COMMUNITY**  
MAY 2021

## Introduction

1. The end of the Second World War was marked by an unprecedented realization at an international level for the need for world peace and protecting human rights. The developments that followed, in terms of various UN declarations<sup>1</sup>, multilateral and bilateral treaties<sup>2</sup> amongst several countries made conventional war impossible<sup>3</sup>. The inherent dignity and inalienable rights of every human being were internationally acknowledged through the 1948 Universal Declaration of Human Rights (UDHR). Article 5 of the UDHR proclaims that "*no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment*".
2. Despite the progress towards global peace, States continue to use violence as one of the primary instruments for the realization of internal and international objectives. The post-world-war era led to the creation of sophisticated justifications for this continued use of violence. Conventional war and war of aggression<sup>4</sup> became subtler in form of proxy wars.

### Justification of Torture and Ill-treatment

3. The most serious challenge for the universal and absolute prohibition of torture are narratives that justify the use of violence as a State instrument. Juan E. Méndez, a victim of torture and the former UN Special Rapporteur on Torture has said, "*There is a perception that torture is necessary, dirty, but someone has got to do it. In reality, there's never a scenario where you have to stop a terrorist exploding a bomb.*"<sup>5</sup> The torture of under-trials in the guise of information gathering for the prevention of terrorism is an example of one such justification that did not even exist until the last few centuries<sup>6</sup>.

### Ahimsa – non-violent way to eliminate the real enemy - animosity

4. A *jus cogen* recognition of the State's prime responsibility and obligation to Ahimsa<sup>7</sup> (अहिंसा) or non-violence, is the only counter-narrative that can check the unabated justification of torture in one or the other guise. Interpretation of law and application of State policies with an *Ahimsic* (non-violent) overtone, is a proactive strategy towards world peace and the end of torture. Hindu

<sup>1</sup> (i) 1948 UN-Res.-260 (III) Prevention of Crime of Genocide; (ii) 1949 Geneva Conventions (GC-I, GC-II, GC-III, GC-AP-I, GC-AP-II); (iii) 1968 Treaty on the Non-Proliferation of Nuclear Weapons; (iv) 1970 UN-Res.-26/25(XXV) Principles of International Law concerning Friendly Relations; (v) 1976 ICCPR; (vi) 1977 GC-AP-II; (vii) 1988 Rome Statute; (viii) 2005 ICRC; etc.

<sup>2</sup> (i) 1949 North Atlantic Treaty; (ii) 1949 Statute of the Council of Europe; (iii) 1952 Sino-Japanese Peace Treaty; (iv) 1955 Warsaw Pact; (v) 1957 Treaty of Rome; (vi) 1958 US-UK Mutual Defense Agreement; (vii) 1957 ASEAN Declaration; (viii) 1992 Maastricht Treaty; (ix) 2001 Sino-Russian Treaty of Friendship

<sup>3</sup> [www.weforum.org/agenda/2019/07/a-major-war-between-leading-military-powers-is-now-impossible-here-s-why/](http://www.weforum.org/agenda/2019/07/a-major-war-between-leading-military-powers-is-now-impossible-here-s-why/)

<sup>4</sup> Article 8, Rome Statute of the International Criminal Court of 1988

<sup>5</sup> <https://youtu.be/YC0GAVxoPs0> (00:18 to 00:27) UN Human Rights – 'Juan Mendez - campaigner against torture'

<sup>6</sup> (i) The term terroriste, meaning "terrorist", is first used in 1794 by the French philosopher François-Noël Babeuf - Palmer, R.R. (2014). "The French Directory Between Extremes". The Age of the Democratic Revolution: A Political History of Europe and America, 1760–1800. The Age of the Democratic Revolution. Princeton University Press. pp. 544–567.

[ISBN 9780691161280. JSTOR j.ctt5hrg5.29](https://doi.org/10.1017/9780691161280)

(ii) Bellamy, Alex J. "No Pain, No Gain? Torture and Ethics in the War on Terror." International Affairs (Royal Institute of International Affairs 1944-), vol. 82, no. 1, 2006, pp. 121–148. JSTOR, [www.jstor.org/stable/3569133](http://www.jstor.org/stable/3569133).

<sup>7</sup> [Mahabharata 13.117.37–38](https://www.mahabharata.com/13.117.37-38) - अहिंसा परमो धर्मस तथाहिंसा परो दमः। Ahimsa (non-violence) is the highest Dharma (cosmic law), Ahimsa (non-violence) is the highest self-control. अहिंसा परमं दानम अहिंसा परमस तपः। Ahimsa(non-violence) is the greatest gift, Ahimsa(non-violence) is the best practice. अहिंसा परमो यज्ञस तथाहिंसा परं बलम। Ahimsa(non-violence) is the highest sacrifice, Ahimsa(non-violence) is the finest strength. अहिंसा परमं मित्रम अहिंसा परमं सुखम। Ahimsa(non-violence) is the greatest friend, Ahimsa(non-violence) is the greatest happiness, अहिंसा परमं सत्यम अहिंसा परमं शरुतम॥ Ahimsa(non-violence) is the highest truth, and Ahimsa(non-violence) is the greatest teaching.

treaties on state policy recommend that when violence in all forms is prevented, condemned, or at least minimized, the real enemy – which is animosity in the perceived enemy – is destroyed, enabling sustainable peace in the long run.<sup>8</sup>

5. None of the ancient civilizations<sup>9</sup> such as the Egyptian civilization, Mayan Civilization, etc. are alive today. *Ahimsa* is a time-tested and proven state policy and is one primary reason that the world's most ancient civilization<sup>10</sup> – *Sanatana Hindu Dharma* (Hinduism) – is still alive and is continued by more than a billion people on planet earth.

### The Neo-Hindutva justification of violence in India

6. The Hindu civilization for the last five thousand years, especially the last millennia has gone through a massive Hindu Holocaust<sup>11</sup> which took the lives of more than 400 million humans and destroyed more than 10,000 communities<sup>12</sup> out of which only 2,000 Hindu communities are alive today. The neo-Hindutva<sup>13</sup> extremists attribute this Hindu Holocaust as a result of the *Ahimsic* (non-violent) Hindu lifestyle and use this propaganda as a political justification for State violence<sup>14</sup>.
7. The neo-Hindutva extremists want to homogenize<sup>15</sup> Hinduism and establish absolute State control over religion (especially Hinduism)<sup>16</sup>. The justification of violence by the neo-Hindutva extremists has resulted in a sharp deterioration of religious freedom and civil liberties in India especially in the past few years, with India being a 'Country of Particular Concern' in 2021 as per the US CIRF<sup>17</sup>. The neo-Hindutva extremists are targeting Hindu Gurus, such as the Supreme Pontiff of Hinduism (SPH), Jagatguru Mahasannidhanam (JGM), His Divine Holiness (HDH) Bhagavan Sri Nithyananda Paramashivam. For the past 27 years, the SPH has worked tirelessly and offered social services of Hinduism<sup>18</sup>. The volunteers of Kailasa led by the SPH serve more than 3 million<sup>19</sup> free organic meals per month in religious gatherings every month and have served over a billion<sup>20</sup> free meals in total. The volunteers of the Kailasa have saved millions<sup>21</sup> of

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<sup>8</sup> Mahabharata, Chapter 113 through 118 of Anusasana parva

<sup>9</sup> List of all known ancient civilizations: <https://www.britannica.com/topic/list-of-ancient-civilizations-2079395>

<sup>10</sup> (i) Kerr, Gordon (25 May 2017). *A Short History of India: From the Earliest Civilisations to Today's Economic Powerhouse*. Oldcastle Books Ltd. p. 17. ISBN 9781843449232 ; (ii) The Chronology of India: From Manu to Mahabharata, Ved Veer Arya, ISBN: 9788194321309

<sup>11</sup> <https://shrikailasa.org/persecution>

<sup>12</sup> Paramananda Agama (2nd chapter, Verse 7-10)

<sup>13</sup> <https://southasia.ucla.edu/social-life/various-articles/hinduism-versus-hindutva/>

<sup>14</sup> <http://www.thequint.com/voices/opinion/veer-savarkar-thoughts-on-rape-the-enemy-hindu-muslims>

<sup>15</sup> Prabhat Patnaik (1993). "Fascism of our times". *Social Scientist*. 21 (3/4): 69–77. doi:10.2307/3517631. JSTOR 3517631

<sup>16</sup> Sharma, Arvind (2002). "On Hindu, Hindustan, Hinduism and Hindutva". *Numen*. 49 (1): 22–23, 1–

36. doi:10.1163/15685270252772759. JSTOR 3270470

<sup>17</sup> (i) <https://www.uscirf.gov/sites/default/files/2021-04/2021%20Annual%20Report.pdf>

(ii) [www.washingtonpost.com/religion/2020/04/28/india-receives-low-rating-us-government-watchdog-religious-freedom](http://www.washingtonpost.com/religion/2020/04/28/india-receives-low-rating-us-government-watchdog-religious-freedom)

<sup>18</sup> [https://nithyanandapedia.org/wiki/Main\\_Page](https://nithyanandapedia.org/wiki/Main_Page)

<sup>19</sup> Anna Daan (Distribution of free organic meals) during festival such as Pournami (full moon day festival) - some instances - (i) [https://nithyanandapedia.org/wiki/April\\_17\\_2011](https://nithyanandapedia.org/wiki/April_17_2011) , (ii) [https://nithyanandapedia.org/wiki/January\\_08\\_2012](https://nithyanandapedia.org/wiki/January_08_2012) , (iii) [https://nithyanandapedia.org/wiki/November\\_10\\_2011](https://nithyanandapedia.org/wiki/November_10_2011) , (iv) [https://nithyanandapedia.org/wiki/December\\_08\\_2011](https://nithyanandapedia.org/wiki/December_08_2011) , etc. every full moon day for past 27 years.

<sup>20</sup> (A) Anna Daan during festivals (B) Anna Daan during Kumbh Melas serving 10 million free meals -

[https://nithyanandapedia.org/wiki/April\\_28\\_2016](https://nithyanandapedia.org/wiki/April_28_2016) ,

[https://nithyanandapedia.org/wiki/May\\_17\\_2016](https://nithyanandapedia.org/wiki/May_17_2016) [https://nithyanandapedia.org/wiki/September\\_10\\_2015](https://nithyanandapedia.org/wiki/September_10_2015) etc (C) Anna

Daan during natural calamities and disasters (*refer next footnote*) (D) Anna Daan during COVID-19 crisis aggravated by

human lives through various disaster relief works such as the 2012 Thane cyclone<sup>22</sup> and blood donation camps<sup>23</sup>. The SPH has provided self-employment<sup>24</sup> opportunities to help the needy and underprivileged. The SPH has made Hindu education along with contemporary academic education available free of cost through Nithyananda Hindu University<sup>25</sup> – the world's largest Hindu University.

## Challenges to the accountability of Torture

### A. State impunity

8. In India, between 2005 and 2018, there has not been a single conviction in the custodial deaths of 500 persons allegedly due to torture. Though 281 cases were registered, and 54 policemen were charge-sheeted, nobody was ever convicted.
9. In 2019, the National Human Rights Commission (NHRC) of India recorded 1,731 cases of death in custody of which 125 people died in police custody while 1,606 deaths were recorded in judicial custody.<sup>26</sup> Of the 125 deaths in police custody, 93 (74.4%) were due to alleged torture or ill-treatment. The remaining died under suspicious circumstances.<sup>27</sup>

### B. Suspicion as justification of torture

10. Unlike other countries where the need to torture terror suspects for information may be used as a justification for torture, in India, even under trials of minor offenses like theft<sup>28</sup>, begging or

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the lock down <https://fb.com/1499333043578701> , <https://fb.com/1504153646429974>  
<https://fb.com/1504152806430058> etc.

<sup>21</sup> (i) Tsunami Relief [https://nithyanandapedia.org/wiki/January\\_05\\_2005](https://nithyanandapedia.org/wiki/January_05_2005) ,(ii) Andhra Flood Relief [https://nithyanandapedia.org/wiki/October\\_11\\_2009](https://nithyanandapedia.org/wiki/October_11_2009) , (iii) Karnataka Flood Relief <https://sriparashiva.github.io/kailasaarchivedwebsites/services-dhyanapeetam/pages/flood-relief2009-KA.shtml> and Directly contributing to the Chief Minister's relief fund [https://nithyanandapedia.org/wiki/October\\_12\\_2009](https://nithyanandapedia.org/wiki/October_12_2009) , (iv) Phase two flood relief effort (Mahabubnagar & Kurnool) in Andhra Pradesh <https://sriparashiva.github.io/kailasaarchivedwebsites/services-dhyanapeetam/pages/flood-relief2009-AP2.shtml> , (v) Thane cyclone relief [https://nithyanandapedia.org/wiki/January\\_05\\_2012](https://nithyanandapedia.org/wiki/January_05_2012) etc.

<sup>22</sup> Thane cyclone flood relief, Anna Daan, medical camps etc. [https://nithyanandapedia.org/wiki/January\\_02\\_2012](https://nithyanandapedia.org/wiki/January_02_2012) , [https://nithyanandapedia.org/wiki/January\\_03\\_2012](https://nithyanandapedia.org/wiki/January_03_2012) , [https://nithyanandapedia.org/wiki/January\\_04\\_2012](https://nithyanandapedia.org/wiki/January_04_2012) , [https://nithyanandapedia.org/wiki/January\\_05\\_2012](https://nithyanandapedia.org/wiki/January_05_2012) , [https://nithyanandapedia.org/wiki/January\\_06\\_2012](https://nithyanandapedia.org/wiki/January_06_2012) , [https://nithyanandapedia.org/wiki/January\\_07\\_2012](https://nithyanandapedia.org/wiki/January_07_2012)

<sup>23</sup> (i) 365 day blood donation camps - [https://nithyanandapedia.org/wiki/August\\_15\\_2009](https://nithyanandapedia.org/wiki/August_15_2009) (ii) [https://nithyanandapedia.org/wiki/December\\_11\\_2011](https://nithyanandapedia.org/wiki/December_11_2011) etc.

<sup>24</sup> Donation of sewing machine for self-employment <https://nithyananda.org/photo-gallery/nithyananda-diary-12th-october-2014-inner-awakening-day-4-grama-seva-yojana-padukapuja> , Donation of tri-cycle [https://nithyanandapedia.org/wiki/August\\_16\\_2009#donation-cycle](https://nithyanandapedia.org/wiki/August_16_2009#donation-cycle) etc

<sup>25</sup> <https://gov.shrikailasa.org/embassies-university/>

<sup>26</sup> <https://www.thehindu.com/news/national/five-custodial-deaths-in-india-daily-says-report/article31928611.ece>

<sup>27</sup> <https://thewire.in/rights/custodial-torture-continues-unabated-in-india-amidst-culture-of-impunity-report>

<sup>28</sup> (i) <https://timesofindia.indiatimes.com/city/madurai/boy-dies-relatives-allege-custodial-torture-by-cops/articleshow/67679919.cms> (ii) <https://www.newsclick.in/Gujarat-12-Nomadic-Tribe-Men-Sexually-Tortured-Custody-One-Dies> (iii) <https://www.tribuneindia.com/news/ludhiana/man-dies-in-ludhiana-jail-kin-allege-torture-48213> (iv) <https://theprint.in/judiciary/sc-to-hear-plea-seeking-probe-into-brutal-torture-of-2-muslim-men-in-bihar-police-custody/255698/>

suspicion of theft are also tortured to death.<sup>29</sup> In April 2020, a ninety-year-old Hindu monk and two other junior monks were killed by police<sup>30</sup> and a mob on suspicion of theft.<sup>31</sup>

11. One of the most shocking acts of police brutality in India was in the Bhagalpur Blindings where the State police blinded 31 individual under-trials by pouring concentrated acid into their eyes.<sup>32</sup> The Supreme Court awarded the victims a compensation amounting to 500 rupees each, or about \$7.24 a month. The trial took almost 21 years to indict two policemen, a few others were suspended, the jail warden went on to become a member of Parliament.

### C. Colonial baggage as a justification

12. In a news article former Chief Justice Ajit Prakash Shah openly attests to the use of torture by police, "*During my tenure as Chief Justice of the Madras High Court, several cases in this regard were brought to the court. But this issue is not restricted to Tamil Nadu alone. Torture is, in fact, an integral part of police culture all over the country. Indeed, it would not be amiss to argue that this culture in India today is reminiscent of the brutality of the colonial police forces that we are so keen to forget.*"<sup>33</sup>

### D. Blind eye to torture by the judiciary

13. The matter in the case of illegal arrest and torture of the SPH Nithyananda Paramashivam in 2010 was not of mere Police brutality. The State executive kept prolonging the period of the arrest<sup>34</sup> of the SPH citing suspicion. The High Court took a serious exception for the fact that the State police fabricated charges of rape against the SPH dragging<sup>35</sup> the proceedings for six months<sup>36</sup>, after which the Police claimed that there were no witnesses or evidence to sustain the charges<sup>37</sup>. Additionally, the State Police published advertisements announcing monetary rewards (bribes) for witnesses<sup>38</sup> to come forward and make statements against the SPH.<sup>39</sup>

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<sup>29</sup> The Truth Machines: Policing, Violence, and Scientific Interrogations in India, Jinee Lokaneeta (2020), ISBN: 978-0-472-07439-6 <https://doi.org/10.3998/mpub.9729771>

<sup>30</sup> "Several video clippings have emerged on social media and news reports which very clearly demonstrate the active involvement of the police present, who can be seen handing over the three persons to the unlawful assembly of persons gathered", <https://www.freepressjournal.in/mumbai/palghar-lynching-case-sc-asks-maharashtra-police-to-place-fresh-charge-sheet-on-record>

<sup>31</sup> <https://timesofindia.indiatimes.com/city/mumbai/mistaken-for-thieves-three-lynched-in-maharashtras-palghar/articleshow/75196358.cms>

<sup>32</sup> <https://www.ozy.com/true-and-stories/these-brutal-blindings-shook-a-nation-and-theyre-still-happening/95240/>

<sup>33</sup> <https://www.thehindu.com/opinion/lead/indias-torture-culture-needs-to-end-now/article31973431.ece>

<sup>34</sup> "CID wants to cancel Nithyananda's bail" - <https://www.newindianexpress.com/states/karnataka/2010/sep/21/cid-wants-to-cancel-nithyanandas-bail-188685.html>

<sup>35</sup> 14 Sept 2010 – DNA – page 5 - "High court raps CID" <https://drive.google.com/file/d/0Bw8QWMIj0fYoNUcwekxOYVpTc0E/view>

<sup>36</sup> <https://www.newindianexpress.com/states/karnataka/2010/sep/22/hc-pulls-up-cid-for-incomplete-affidavit-189027.html>

<sup>37</sup> 11 Jun 2010, State Police Memo of Status Report submitted to the High Court of Karnataka in case CrI.P. 2328/2010 (C/W 2329/2010, 2344/2010) <https://drive.google.com/file/d/1IKCBZ5iRnN6pQDfjNNEZX6A1uTjsXXdG/view>

<sup>38</sup> <https://bangaloremirror.indiatimes.com/bangalore/others/paisa-feko-tamasha-dekho/articleshow/21848697.cms>

<sup>39</sup> (i) 30 Mar 2010, Times of India - 'Swami case: CID seeks more info' - "The sleuths have promised to protect the informants' identity. **Travel and other costs will be provided too.**" <https://drive.google.com/file/d/1-kvQyLHbFVXwMziZNRtARv9Qw49Csbu/view> (ii) <https://www.thehindu.com/news/national/karnataka/Karnataka-CID-seeks-information-on-Nityananda/article16627742.ece>

14. The High Court was aware of the police torture<sup>40</sup> done to the SPH Nithyananda Paramashivam. During a court hearing the judge asked the State executive, "*Under the guise of suspicion, how long can you (police) torture a person mentally*"<sup>41</sup>. Despite the knowledge of the police brutality the unwillingness or inability of the judiciary to prevent or condemn torture is apparent as the court never pointed out that torture (even mental) was inhumane, cruel, or even possibly illegal. Contrary to this, internationally, even the mental well-being of an under-trial is seen as a matter of great concern, one of the grounds citing which the US appeal to extradite Julian Assange was rejected by a UK Court in 2021.<sup>42</sup>

### E. Justification of Torture by the apex courts

15. It is not unusual for courts in India to justify torture.<sup>43</sup> High Courts have even accepted statements given in duress, despite witnesses giving testimony in an open court directly to the judge counter to the statement they gave after police beating.<sup>44</sup> Contrary to not just universally established international legal standards<sup>45</sup>, human rights<sup>46</sup>, but also contrary to Indian law<sup>47</sup>, even the Supreme Court has justified police beating of witnesses to '*shake-off their inhibition and fear*'.<sup>48</sup> Such beating and torture of children by the police was done to the ASMT community children also.

- a. On **17 Sep 2013**, the Karnataka State Department of Women and Children forcibly, cruelly, and illegally interrogated children in the ASMT school (Gurukul). The interrogation was done without the consent of the parents, with no video recording of the examiners, late-night beyond<sup>49</sup> the time permissible by law<sup>50</sup>. The State interrogators shamed and ridiculed the children, particularly girls for their dress, pressured them to quit their spiritual-religious lifestyle, and forced children to eat unhealthy substances avoided in the ASMT lifestyle. Many vexatious legal proceedings and orders were executed by the State to forcibly shut down the school.

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<sup>40</sup> Report to the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, about the torture inflicted upon The Supreme Pontiff of Hinduism (SPH) Jagat Guru Mahasannidhanam (JGM), His Divine Holiness (HDH), Bhagavan Sri Nithyananda Paramashivam (17 Feb 2021) <https://drive.google.com/file/d/1-jjFX2nzV9l7keg6EZ5V03uXQRyteY28/view>

<sup>41</sup> The court observed, "*Under the guise of suspicion, how long can you (police) torture a person mentally*" <https://www.daijiworld.com/news/newsDisplay.aspx?newsID=86153>

<sup>42</sup> <https://www.bbc.com/news/uk-55528241>

<sup>43</sup> High Court of Madras, CrI. Appeal No.895,896,897 of 1997 and Cr.M.P. 780,781,782 of 1998, order dated 12 Dec 2002, Point 68(f) para-3, <https://indiankanoon.org/doc/12253/> "*Therefore, the allegation cannot be taken out of context as if the police have tortured P.W. 14 to make a false accusation against A-1. Some of the girls could not come out of the fear created by the warnings of A-1.*"

<sup>44</sup> "The DNA Detectives" by Wilson J Wall (2005), ISBN-13 : 978-0709075042, (pg. 164): "*Although not prepared to appear as a witness the judge asked her a single question: 'was Premananda the father?'; to which she replied 'no'.*"

<sup>45</sup> ICCPR - Part III - Article 14, 15, and 16

<sup>46</sup> Universal Declaration of Human Rights - Article 10 - Right to a fair trial

<sup>47</sup> Section 26 in The Indian Evidence Act, 1872 <https://indiankanoon.org/doc/387768/>

<sup>48</sup> CrI. Appeal 611-612 of 2003, in the Supreme Court of India, order dated 5 April 2005, <https://indiankanoon.org/doc/192852/> , "*It is in that context the High Court holds that so called beating could have meant to shake-off their inhibition and fear, to make them free to say what they wanted to say.*"

<sup>49</sup> [http://shrikailasa.github.io/persecution\\_evidences/gurukul/CWC\\_Representatives\\_17-Sep-2013.png](http://shrikailasa.github.io/persecution_evidences/gurukul/CWC_Representatives_17-Sep-2013.png) - Letter from CWC representative Radhka. K acknowledging with a signed letter that she came to see gurukul with police beyond legally permissible time ([click here to see video evidence](#))

<sup>50</sup> [http://shrikailasa.github.io/persecution\\_evidences/gurukul/Letter\\_CWC\\_Representative\\_Radhka\\_K\\_17-Sep-2013.png](http://shrikailasa.github.io/persecution_evidences/gurukul/Letter_CWC_Representative_Radhka_K_17-Sep-2013.png)

- b. On 15 November 2019, the Gujarat State government (CWC) Child Welfare Commission officials raided the female monastery and molested the children studying there. The CWC officials were pulled up by the parents of these children in the High Court<sup>51</sup> but the High Court forced the parents to withdraw the case.<sup>52</sup>

## F. Popular justification of torture and ill-treatment

16. On 6 December 2019 four undertrials of a rape case were extra-judicially assassinated by the Police.<sup>53</sup> Policemen were publicly rewarded with *laddoos* (desserts) by political party workers to celebrate the killing.<sup>54</sup> A member of the legislative assembly incited State Police to carry similar extrajudicial murder of the SPH Nithyananda Paramashivam.<sup>55</sup> Similarly, former head of a UN Fund on contemporary slavery Swami Agnivesh<sup>56</sup>, an octogenarian Hindu monk, was beaten on multiple<sup>57</sup> occasions by party workers of the BJP and died shortly. Swami Agnivesh had even appealed to the Supreme Court<sup>58</sup> requesting protection citing the medical complications<sup>59</sup> which the beatings had caused which ultimately resulted in his death.<sup>60</sup>
17. A smear campaign running for over 14,000 hours of air-time, with titles such as “**Hang the Sin Swamis**”<sup>61</sup>, was used to incite hate, spread misinformation, and marginalize the SPH Nithyananda Paramashivam. This hostile ambiance was used to justify torture and ill-treatment done to the SPH by the State Executive and Police:
- a. April 2010, the State Police issued a work-order<sup>62</sup> for building a special interrogation room with CCTV camera, harsh lighting and other arrangements for torture. The CCTV cameras, captured the Police brutality. The police selectively leaked some of the clips (without audio) to television channels as part of the disinformation campaign. The channels aired these and even published them on their websites<sup>63</sup>. This dehumanization campaign of torturing the SPH was similar to that of how the clips of Swami Agnivesh being beaten was shared virally on social media. When questioned in the courts about the leaked CCTV footage, the

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<sup>51</sup> In High Court of Gujarat, R/SCR.A/10157/2019, R/SCR.A/26/2020, <https://indiankanoon.org/doc/74023602/>

<sup>52</sup> In the High Court of Gujarat, R/Special Criminal Application No. 10157,10158,10159,10160 of 2019 dated 28 Nov 2019 [https://drive.google.com/file/d/1naajRwPKaKRTYpUfnDb8QZV\\_780hp\\_OS/view](https://drive.google.com/file/d/1naajRwPKaKRTYpUfnDb8QZV_780hp_OS/view)

<sup>53</sup> <https://indianexpress.com/article/india/hyderabad-rape-murder-accused-shot-dead-how-the-encounter-with-telangana-police-unfolded-6153325/>

<sup>54</sup> <https://www.deccanherald.com/state/cm-dycm-defend-encounter-of-hyderabad-rape-accused-783355.html>

<sup>55</sup> Dec 2019: Jagga Reddy's poser to Police: Can cops kill Swami Nithyananda in encounter?

[www.thehansindia.com/telangana/jagga-reddys-poser-to-police-can-cops-kill-swami-nithyananda-in-encounter-588076](http://www.thehansindia.com/telangana/jagga-reddys-poser-to-police-can-cops-kill-swami-nithyananda-in-encounter-588076)

<sup>56</sup> (i) "Who is Swami Agnivesh?". The Indian Express. 18 July 2018. Retrieved 10 October 2018.

<https://indianexpress.com/article/who-is/who-is-swami-agnivesh-5264681/> (ii)

<https://indianexpress.com/article/india/swami-agnivesh-funeral-rites-of-rescue-bonded-labourers-6593836/>

<sup>57</sup> <https://www.ndtv.com/india-news/activist-swami-agnivesh-attacked-near-bjp-office-in-delhi-he-was-assaulted-in-jharkhand-in-july-alle-1901948>

<sup>58</sup> <https://economictimes.indiatimes.com/news/politics-and-nation/supreme-court-refuses-to-order-cbi-probe-into-attacks-on-swami-agnivesh-asks-him-to-approach-high-court/articleshow/65843167.cms>

<sup>59</sup> <https://www.timesnownews.com/india/article/arya-samaj-leader-swami-agnivesh-dies-after-suffering-multi-organ-failure/651247>

<sup>60</sup> <https://www.ndtv.com/india-news/social-activist-swami-agnivesh-dies-at-a-hospital-in-delhi-2294063>

<sup>61</sup> 5 March 2010 - Headlines Today - 8:20PM

[docs.google.com/document/d/1f7CEsZDNw5TI8wJX3fckhmEGqOyESHgy7GgXJiai8vo](https://docs.google.com/document/d/1f7CEsZDNw5TI8wJX3fckhmEGqOyESHgy7GgXJiai8vo)

<sup>62</sup> <https://drive.google.com/file/d/1uiHPNuyZ9b-UXNZkTgXmEksYm-Ai9fW7/view>

<sup>63</sup> [m.timesofindia.com/videos/news/Swami%20Nithyananda's%20interrogation%20on%20tape/videoshow/5890450.cms](https://m.timesofindia.com/videos/news/Swami%20Nithyananda's%20interrogation%20on%20tape/videoshow/5890450.cms)



Police claimed that CCTV was stolen and destroyed. The police escaped accountability by framing the technician of the CCTV company on trumped-up charges of theft and tortured him to give a false confession. The charges were proven false a decade later<sup>64</sup>.

have your...  
interrogation room behind simple glass with darker lighting in the viewing...  
a slightly tinted glass. Be careful of your lighting using this suggestion though, too much  
light passing into the viewing room from the interrogation room would give it obviously  
fake feel.

Also, remember that most interrogation rooms are small, and consist of nothing  
but a chair and maybe a table. Make the lighting real harsh, and make the room real drab,  
unless you're going for a freaky effect, like in *The Matrix*.

*Heidi E. Brown*  
*Heidi*  
Administrative Officer  
O/o. the Director General of Police  
C.I.D., Special Units and Economic Offences  
Carlton House, Palace Road,  
BANGALORE - 560 001

- b. **22 Apr 2010, 9 PM**, District Hospital Ramanagara, the SPH was subjected to the first medical torture under Police custody by inhumane arbitrary medical tests where witness accounts<sup>65</sup> record that an excessive amount of blood was withdrawn in the name of testing<sup>66</sup>. **26 April 2010**, morning, the SPH was forced into another medical torture done under police custody at an undisclosed location<sup>67</sup>. This was reported by the media, however, all such newspaper evidences were destroyed, and print copies of these are available only in some libraries in India. **26 and 27 April 2010**, the SPH was subjected to water-boarding in the guise of another medical examination<sup>68</sup> in Jayadeva Hospital.
- c. **14 June 2012**, the SPH was illegally arrested. The High Court termed the arrest as "illegal", "without any authority", "contrary to law", "without jurisdiction".<sup>69</sup> However, there was no accountability<sup>70</sup> for the State terrorism or police torture and ill-treatment, such as the fact that 600 policemen<sup>71</sup> brutally rammed on the

<sup>64</sup> Court of Addl. Cmm. Bengaluru, 11 July 2018, CC 19496/2011

<https://drive.google.com/file/d/1l4ggUW1WjSLxT0pWXUzCJ-f94mhZPKwS/view>

<sup>65</sup> Witness testimonial of the cook of the SPH - Sri Nithya Shantimayananda Swami

<sup>66</sup> CC 204/2010 Ramanagara District Court - Main chargesheet - District Hospital, Laboratory Report - Pg. 185 (Pg. 328 of pdf) <https://drive.google.com/file/d/1de-c8PuEweRn3ITUsGj17ywsI-MxR-Y/view>

<sup>67</sup> 27 April 2010 - The New Indian Express, Page 3 - Swamy Has Chest Pain

<https://drive.google.com/file/d/1QYAAQIMkZsmWoACYKJA-aVLhrr0GwryK>

<sup>68</sup> (i) 30 Apr 2010, Bangalore Mirror - "Don't put me under knife: Nithyanand"

<https://bangaloremirror.indiatimes.com/bangalore/others/dont-put-me-under-knife-nithyananda/articleshow/21880163.cms>

(ii) 28 Apr 2010, Bangalore Mirror - "Normal Swami back to jail"

<https://bangaloremirror.indiatimes.com/bangalore/others/normal-swami-back-to-jail/articleshow/21881456.cms>

<sup>69</sup> CRL.P. 3253/2012 <http://indiankanoon.org/doc/85011170>

<sup>70</sup> <https://www.deccanherald.com/content/262949/hc-disposes-nithyanandas-plea-seeking.html>

<sup>71</sup> (i) "Over 600 police personnel were stationed within the court premises in a two pronged **attack mode**." New Indian Express <https://www.newindianexpress.com/states/karnataka/2012/jun/15/600-police-deployed-for-nithyanandas-security-377299.html> (ii)



SPH and choked Him by the neck all of which was aired on television.<sup>72</sup>



- d. **8 September 2014**, the state police subjected the SPH to another medical torture in the guise of a potency test under the pretext of executing the vaguely worded Supreme Court of India order to SLP 5844/2014<sup>73</sup> wherein point 5 the court had described the scope of a medical examination as for *“limited purpose of taking his blood samples”*. The SPH was subjected to cruel and inhumane treatment such as – forced violent masturbation by medical staff (covered with ridicule in media reports), genital mutilation, barbaric anal examination (disguised in reports as a per-rectal test)<sup>74</sup> – all of which ended with the State medical team asking medical staff to kick the SPH in front of television and media.<sup>75</sup>



<sup>72</sup> [https://drive.google.com/file/d/1LTqDI8gikjZ5R5yua\\_7DImGu1XQeO1wf/view](https://drive.google.com/file/d/1LTqDI8gikjZ5R5yua_7DImGu1XQeO1wf/view)

<sup>73</sup> <https://www.lawweb.in/2015/05/whether-accused-is-duty-bound-to-co.html>

<sup>74</sup> See **Pg. 37 of State Hospital reports on medical test**

[https://drive.google.com/file/d/1bcB\\_6hUCfdjKTuxvSRK5mW029cA6bd1\\_/view](https://drive.google.com/file/d/1bcB_6hUCfdjKTuxvSRK5mW029cA6bd1_/view)

<sup>75</sup> <https://www.daijiworld.com/news/newsDisplay.aspx?newsID=263353>

## Recommendations

18. India has an extremely concerning track record in terms of torture and is one of only five countries that have yet to ratify the 1987 UNCAT<sup>76</sup>, which it signed in 1997. Even the Supreme Court of India has said that India has not even made a good faith commitment about its intention to legislate.<sup>77</sup> Member states of the UN should demand such countries to implement UNCAT before their extradition requests are upheld.
19. The medical examination ordered by the Supreme Court of India in SLP 5844/2014 was arbitrary and vaguely worded enabling the police to brutally torture the SPH Nithyananda Paramashivam. Court-ordered medical examinations should be done against a legislated standard defined by a State Medical Council to ensure scientific credibility, compliance with international human rights standards, and to prevent misuse and institutionalization of torture of victims.
20. Police interrogation should be done under video recording, and the records of these should be available to the victim for use in the court of law in case of violation of human rights. If the State fails to provide such footage, it should be seen as strong evidence of an attempt to conceal torture. Any statement of an under-trial obtained without corresponding video footage should be inadmissible in a court of law.
21. Internationally the media justification of violence needs to be checked. Media, which enjoys the right to freedom of speech, should remain neutral and free from state control, but at the same time be accountable internationally. This fair balance should be one of the pursuits of the UN, as media has become a tool for justification of violence.

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<sup>76</sup> <https://thewire.in/rights/custodial-deaths-india-convention-against-torture>

<sup>77</sup> <https://economictimes.indiatimes.com/news/politics-and-nation/india-behind-161-nations-in-ratifying-treaty-on-torture/articleshow/58558837.cms>