

**MINUTES OF THE MEETING OF THE CORE GROUP OF NGOS HELD ON 26<sup>TH</sup> NOVEMBER 2010 AT 11.00 AM IN THE NATIONAL HUMAN RIGHTS COMMISSION, NEW DELHI.**

The meeting of the Core Group of NGOs was held in the National Human Rights Commission on 26<sup>th</sup> November, 2010 at 11.00 a.m. under the Chairmanship of Justice Shri K.G.Balakrishnan, Chairperson, NHRC. The Members of the Commission, Justice Shri B.C.Patel, Shri Satyabrata Pal and Shri P.C.Sharma participated in the meeting. The list of other participants is at Annexure-1.

2. The Chairperson welcomed the members of the Core Group. The Members confirmed the minutes of the last meeting of the Core Group of NGOs held on 20<sup>th</sup> May, 2010.

3. The action taken report of the last meeting was discussed and approved. Secretary General informed that number of psychiatrists seat in PG Medical courses have been increased. **Commission engaged NIMHANS in preparing a manual on mental health which has been received well by the stakeholders. He also informed that the Commission is in the process of formulation of final guidelines on silicosis and the same will be issued shortly.**

4. Member Shri P.C.Sharma stated that the Commission has sent its investigation teams to the affected areas to inquire into the complaints of the workers affected by silicosis and study the problems of the affected persons. He stated that NGOs can play an important role in this matter. However, the Commission has not received any specific information from NGOs on the medical record of the victims, place of their residence and name of the factory where the workers are exposed to this disease.

5. Member Justice Shri B.C.Patel stated that in Haryana and Punjab proper records are not maintained by the officers regarding bonded labourers. He informed that the officers from Uttar Pradesh and Haryana were called in the Commission and directed to ensure providing basic facilities and minimum wages to the labourers and to maintain proper records. The Commission is also organizing state-wise meetings which are attended by the concerned officers, NGOs and employers to discuss genuine difficulties in proper implementation of the provisions of the Bonded Labour System (Abolition) Act, 1976. However, more need to be done to solve the bonded labour problem and the people are required to be made aware about the provisions of the act and their duties.

6. Ms.Maja Daruwala stated that no erring officer has been punished till date and therefore there is a laxity on the part of the concerned officers in implementation of the Act. She suggested that some exemplary action is required against the erring officers. Mr.Babu Mathew stated that there is hardly any conviction in the cases being tried under the Bonded Labour Act.

7. Member Justice Shri B.C.Patel stated that convictions are in a very few cases. He informed that Commission has suggested amendments in the Bonded Labour System (Abolition) Act, 1976 to make it more effective. He said that there is the need to amend the provisions of the Act to hold the District officials responsible for failure in discharging their duties and this is to be done by the Parliament.
8. Secretary General informed that review meetings are held regularly and the District Magistrates are being directed to maintain the necessary records for getting conviction.
9. Ms.Maja Daruwala pressed that conviction is only one part that is usually of the persons who are employing the bonded labour. No disciplinary or administrative action is taken against the public servants for continuation of the practices of bonded labour in a district.
10. Registrar (Law) has stated that public servants should be penalized for breach of duty provided for in the Bonded Labour System (Abolition) Act, 1976 for not setting up of Vigilance Committees resulting in non-detection of bonded labour and non-functioning of Vigilance Committees. In this regard NGOs can certainly help the Commission.
11. As regards posting of the reports of Special Rapporteurs on the NHRC website, Secretary General informed that the reports of the Special Rapporteurs which have been approved by the Commission are being posted on its website and in future also this will continue.
12. He also informed that the Commission had already offered its comments on Prevention of the Torture Bill to the Government and the same was also conveyed to the Select Committee of the Rajya Sabha which is examining the bill.
13. Mr.Henri Tiphagne stated that NHRC has a specific role on the Prevention of Torture Bill as it is a follow up of the Universal Periodic Review (UPR) mandate and the Commission can make use of the minimum interrogation standards of the Advisory Council of Jurists (ACJ) reference on torture.
14. Chairperson suggested that there could be a wider definition of torture in the Bill. As regards Section 197 Cr.P.C. NHRC cannot take a stand that no sanction is required for prosecution of the public servants. But the Commission can suggest for modification of the relevant clause so as to include time bound action. The period of limitation should also be enhanced.
15. Ms.Maja Daruwala stated that there is no need of limitation in the Torture Bill for the people who themselves are in a position of power and have complete control over the victim. There is the requirement for command responsibility in the torture act and the provision for prior sanction should not be there in it.

16. Mr.Babu Mathew stated that we can get high standards of human rights protection by way of evolving guidelines after consultations with the diversified groups.

17. Member Justice Shri B.C.Patel informed that the Commission has ordered enquiry by independent agency by the State CB/CID in cases of doubtful investigation and recommended for disciplinary action or criminal prosecution and award of compensation in proven cases of violation of human rights of the victims.

18. Member Shri Satyabrata Pal stated that in cases of medical negligence, suicide in custody, encounter deaths and even in criminal/terrorist acts, the Commission has held the State responsible and compensation awarded. Commission may issue guidelines on torture and for the purpose the law passed by other countries who have ratified the CAT could be studied.

19. Regarding policy on Human Rights Defenders, the Core Group took note of the action taken by the Commission in nominating a focal point which can be accessed through phone, fax and email by the Human Rights Defenders. The Commission has already requested the Ministry of External Affairs, Government of India to consider inviting UN Special Rapporteur on Human Rights Defenders to India. Now UN SR on HRD is scheduled to visit India in January, 2011 and the Commission would extend an invitation to her for an interaction.

### **Agenda:**

1. Reports on Elder Abuse in India: Released by Help Age India.

The Members discussed the report and it was decided to place the report before the Core Group of Elderly Persons of the Commission for necessary action.

2. Prevention of Torture Bill, 2010.

The Members discussed the agenda on the Prevention of Torture Bill, 2010 as suggested by the Help Age India. It was decided to hold a national consultation with the NGOs, Civil Society, SHRCs and National Commissions to discuss the Prevention of Torture Bill, 2010 and solicit suggestions to further improve the draft Bill. It was decided that the consultation may be held on 15<sup>th</sup> December, 2010. All Core Group members would attend the same.

### **Additional Agenda**

The additional agenda points received from Mr.Henri Tiphagne and Mr.Kiran Kamal Prasad were taken up for discussion.

- a) The following issues were raised by Mr.Hneri Tiphagne and discussed:

1. The issue of fast unto death by Ms. Irom Sharmila and restrictions imposed by the state government to visit her was brought to the notice of the Commission. It was decided that Commission will call for a report on the issue.
  2. It was suggested that Commission should have an interaction with the UN Special Rapporteur on Human Rights Defenders along with NGOs and civil society during her visit to the country. It was decided that Commission will have an interaction with the Special Rapporteur which will be followed by a luncheon interaction with Commission and NGOs.
  3. The issue of the re-accreditation was raised by Dr.Tiphagne. It was informed that Commission has already finalized the proposal to be submitted to ICC Secretariat at OHCHR.
- b) Shri Kiran Prasad suggested to start a memorial lecture on the bonded labour in memory of Mr.Shankaran who was the chairman of the Expert Group which drafted the NHRC report on Bonded Labour.

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Represented from NHRC

1. Shri K.S.Money, Secretary General
2. Shri A.K.Garg, Registrar (Law)
3. Shri J.P.Meena, Joint Secretary (P&A)
4. Shri J.S.Kochher, Joint Secretary (Trg.)
5. Shri S.P.Singh, DIG
6. Dr.Sanjay Dubey, Director (Admn.)
7. Dr.Y.L.Tekhre, Director (Research)
8. Shri A.K.Parashar, Joint Registrar (Law)
9. Shri B.S.Nagar, Under Secretary (Coord)
10. Shri T.Raveendran, Section Officer (Coord)

NGO Representatives:

1. Shri Kiran Kamal Prasad
2. Shri Babu Mathew
3. Shri Mathew Cherian
4. Shri A.Mahaboob Batcha
5. Ms.Maja Daruwala
6. Shri Henri Tiphagne