

**MINUTES OF THE MEETING OF THE STATUTORY FULL COMMISSION**  
**HELD AT 11.00 AM ON 07<sup>TH</sup> FEBRUARY 2012 IN THE NATIONAL**  
**HUMAN RIGHTS COMMISSION**

A meeting of the Statutory Full Commission was held in the National Human Rights Commission at 11.00 AM on 07 February 2012. Justice Shri KG Balakrishnan, Chairperson, NHRC; Justice Shri GP Mathur, Shri Satyabrata Pal, and Shri PC Sharma, Members, NHRC; Shri Wajahat Habibullah, Chairperson, National Commission for Minorities (NCM); Dr. Raj Kumar Verka, Vice Chairperson, National Commission for Scheduled Castes (NCSC); Smt K Kamla Kumari, Member, National Commission for Scheduled Tribes (NCST); and Dr. Charu WaliKhanna, Member, National Commission for Women (NCW), were present. Dr Yogesh Dube, Member, National Commission for the Protection of Child Rights (NCPCR), also attended the meeting as a Special Invitee.

A list of officers who attended the meeting is at Annexure.

The Chairperson, NHRC while welcoming the members of the Statutory Full Commission, stated that the meeting had been organized in keeping with the decision taken in the last meeting of the Statutory Full Commission on 14 June 2011, to meet more frequently to interact and discuss issues impacting human rights in the country and which are of mutual concern.

**Agenda 1: Confirmation of the Minutes of the meeting held on 14.06.2011**

The Minutes of the Statutory Full Commission meeting held on 14.06.2011 were confirmed.

**Agenda 2: Action taken report on the Minutes of the meeting held on 14.06.2011**

The Action Taken Report was discussed and taken note of by the Members.

**Agenda 3: Inter-linking the CMIS of NHRC with the National Commissions (Suggested by NHRC)**

JS, NHRC, stated there is a need to have a mechanism to ensure that there is no duplication in taking cognizance of the same complaint or in the registration of complaints/cases by various National Commissions. He further stated that the NHRC is presently assisting State Human Rights Commissions (SHRCs) to install the Complaint Management System (CMS) and linking them with NHRC to address the issue of duplication of complaint registration.

The Chairperson, NHRC stated that unless each National Commission and SHRC is inter-linked through a common complaint registration system, it would be difficult to address the issue.

Member Justice GP Mathur stated that it is often at a very late stage, that it is learnt that the same complaint has been taken up for investigation by two different Commissions with sometimes contradictory orders issued by each. This results in a tremendous waste of time and resources. This problem must be addressed and resolved to ensure that no contradictory orders are issued.

Dr. WaliKhanna, Member, NCW stated that on occasions when the NCW feels that a certain complaint pertains to the area of work/human rights concern of another Commission, it forwards such complaints to the Commission concerned.

Dr. Dube, Member, NCPCR suggested that there should be some software or mechanism which could inter-link all National Commissions.

Member Satyabrata Pal informed that under a Planning Commission project, the NHRC is already in the process of inter-linking its system with that of the SHRCs. He suggested that the NIC could be asked to assist the National Commissions to inter-link their respective complaint management systems with NHRC so as to address the problem of the duplication of complaint registration.

## **DECISION:**

**It was agreed that other National Commissions may consult the NIC to have a common complaint registration system as that of NHRC and inter-linking of the same with the NHRC.**

## **Agenda 4: Report on 'Prevention of Atrocities against Scheduled Castes by Shri KB Saxena - Suggested by NHRC**

The Chairperson, NHRC stated that among the major challenges in relation to atrocities against SCs and STs is that often when grievous crimes are committed against them, the cases registered by the police are for minor offences. As a result, both, the compensation to the victim and punishment to the perpetrator of the crime, get diluted. Inadequate action on the part of the police is not only due to certain biases towards SCs/STs, but also due to lack of proper training and sensitization to the specific problems and concerns of SCs and STs. He further stated that magistrates, prosecutors and judges must be trained and sensitized especially on the Act relating to the Prevention of Atrocities against SCs and STs, as part of their legal training.

Member PC Sharma stated that usually, dilution of appropriate action in the case of atrocities committed against SCs/STs occurs at two stages – first, at the police station when wrong sections are applied to the case, and second, at the prosecution stage, when there is an

improper evaluation of evidence. He suggested that the National Commissions for SCs and STs must write to the Chief Secretaries of States citing cases where proper investigation has not been undertaken and where there has been a dilution of the gravity of the offence committed and a resulting dilution of compensation and punishment awarded to the victims and perpetrators respectively.

Smt. Kamla Kumari, Member, NCST informed the Statutory Full Commission that in Karnataka nearly 200 cases in respect of Scheduled Tribes remain pending in courts.

Dr. Verka, Vice Chairperson, NCSC informed that the NCSC had taken the initiative to conduct Awareness Camps across the country and had till date, organized 2000 such camps. During the course of these camps, it had come to the notice of the NCSC that on an average, only in 2 per cent of the cases registered, offenders are prosecuted. The remaining cases are usually settled out of court by exerting considerable pressure/issuing threats etc to the complainants. The situation is particularly grim in the states of UP, Haryana and Punjab.

He further stated that the Members of the NCSC have undertaken to meet every Monday to dispose all pending cases, which at present stand at 17000. He also shared that the NCSC faces considerable roadblocks in its efforts to give relief to the affected. For instance, on many occasions, when the Commission decides on a particular case, the

accused often take a stay order from the court since the NCSC is only a recommendatory body. Dr. Verka inquired if in certain cases of a grave nature, the Statutory Full Commission could jointly hear and dispose of such cases?

Dr. Verka, Vice Chairperson, NCSC also brought to the notice of the Statutory Full Commission the case of the RBI, which is presently pending before the NCSC. He stated that 36 officers of the RBI belonging to the SC category have been denied promotion that they were due for. These officers, in their representation to the NCSC, have alleged that this act of denial of promotion on the part of the RBI was discriminatory. The NCSC has called for an ATR Report from the RBI on the issue, to which the RBI has responded by stating that it is investigating the matter.

Dr Verka, Vice Chairperson, NCSC further stated that apart from police and administrative apathy towards SCs, another major problem is the fact that fund allocations made to states for the welfare of SCs are seldom used for the purpose. Instead, such money is used for general development schemes such as building infrastructure, facilities such as colleges and hospitals in towns etc. Thus, collective pressure must be exerted at the level of the courts and the National Commissions to ensure that this state of affairs is corrected.

Dr. Verka, Vice Chairperson, NCSC also drew the attention of the Statutory Full Commission to the abominable condition in which manual scavengers are living across the country. While the government has initiated steps to gradually wean off individuals from the degrading practice of manual scavenging, there is little that has been done by way of rehabilitating such persons. The present government policy is confined to providing financial grants to those formerly engaged in the practice, a major proportion of which is often pocketed by middle men. Dr Verka suggested that the issue be debated at length and measures devised to provide these people with dignified lives and alternative employment opportunities.

Smt Kamla Kumari, Member, NCST pointed out that an important problem faced by ST women and their families in Tribal areas is the absence of female doctors, since they are reluctant to serve in such areas given the scarce facilities available for the education of their children etc.

Member Justice GP Mathur pointed out that this problem was related to the larger question of a lack of doctors in rural areas since the doctors also face problems of lack of basic facilities like proper labs, accommodation in rural areas, education for their children etc. There is a proposal to enact appropriate legislation to extend the duration of the MBBS course from 5 to 6 and a half years, making compulsory service in

rural areas a pre-requisite for successful completion of the course, which may help resolve the issue to some extent.

**DECISION:**

**The Members of the Statutory Commission took serious note of the RBI case and Member PC Sharma stated that it was a matter of grave concern if such blatant discrimination was taking place within the Government Sector. He requested Dr. Verka, Vice Chairperson, NCSC to send the details of the case to Registrar (Law), NHRC, for taking action by NHRC.**

**The Chairperson, NHRC suggested that the NCSC could appoint Experts or Special Rapporteurs to study issues pertinent to SCs in the county such as the need for basic facilities like water, electricity, education, housing etc.; identify the specific areas or localities where these facilities are most needed; and submit a report to the governments with these findings, requesting them to initiate suitable action. He also suggested that a common mechanism may be developed by all the National Commissions to work on the recommendations of Shri KB Saxena.**

**Agenda 5: Amendment to Child Labour Act to bring it in synchronicity with the Right to Education Act - Suggested by NCPCR**



The NCPCR has proposed that the Child Labour (Prohibition and Regulation) Act must be amended to bring it in line with the Right of Children to Free and Compulsory Education Act (RTE).

The Chairperson, NHRC pointed out that in view of the provisions of the RTE, it is clear that child labour in all forms is prohibited.

**DECISION:**

**It was decided to make detailed recommendations or present a comprehensive proposal to the Government of India to amend domestic laws regarding Child Labour in accordance with the RTE Act, Convention on Child Rights (CRC) and pertinent ILO Conventions.**

**Agenda 6: Uniform compensation to victims of communal riots, terrorist violence, landmines blasts, natural disasters etc. – Suggested by NCM**

Sh. Habibullah, Chairperson, NCM stated that the issue under consideration has two aspects – (i) compensation/reparations, and, (ii) accountability. At present there is no uniformity in awarding compensation to victims of communal riots, terrorist violence, natural disasters etc. Every victim and/or their next of kin must be eligible to an adequate amount of compensation in case of death/injury, irrespective

of the cause or nature of violence/disaster/accident – whether communal, caste, regional, natural, terrorist, or any other – the rationale being that the loss of life in any form must be treated equally, whether caused by natural disaster or human violence. Thus, in case of any loss of human life, the compensation awarded by the Government should be at a uniform rate. The purpose of the proposed ‘Revised Guidelines’ is the standardization of compensation or relief to the victims of any form of violence.

Accordingly, the NCM proposes that there should be uniform compensation or relief under the “Central Scheme for Assistance to Civilian Victims/Family of Victims of Terrorist, Communal and Naxal Violence”.

Member Justice GP Mathur suggested that the term “victim” was vaguely outlined under the proposed “revised guidelines” and that there was a need for clearly defining the same.

Member PC Sharma pointed out that the term “compensation” in the case of a natural calamity does not apply. In the case of natural calamities, the term “assistance” or “relief” would be more appropriate.

Member Justice GP Mathur and Registrar (Law), NHRC opined that there is a need to distinguish between cases where the government is guilty of direct involvement in violence or where it is responsible on account of negligence of its duties, and situations that are beyond the

control of governments, such as natural disasters/calamities. Accordingly, discretion must be exercised in the use of the terms “compensation” and “relief”.

The NHRC was of the opinion that minimum amount of compensation in case of death can be revised, but that the proposed revision to Rs. 15 lakh may not be agreed to by the Government.

Dr. WaliKhanna, Member, NCW expressed strong reservation regarding fixing compensation in the case of rape at Rs. 5 Lakh, as proposed, stating that each case must be considered on its own merit and a distinction must be made between cases where rape is committed by a police officer or government/state functionary and where it is committed by non-state actors.

**DECISION:**

**The proposal was discussed and deferred.**

**Annexure ‘H’: Witness Protection Programme to Cover All Segments of Society - Suggested by NCM**

The Chairperson, NHRC stated that while the identity of witnesses can be kept secret, it is not possible to have a blanket provision for providing protection to all witnesses. Witnesses however, can be

provided protection in specific cases, especially those of a grave nature which may have a bearing on the larger society. This however, will have to be evaluated and determined on a case-by-case basis.

Dr. WaliKhanna, Member, NCW added that the NCW determines the need for witness protection on a case-by-case basis, asking the Police to provide protection to witnesses in cases where it is felt necessary. Changes in this regard will have to be made in the CrPC.

Member PC Sharma stated that it is vital to have a witness protection programme in place since the success of any case depends on the protection of evidence. Protection to witnesses can be provided in cases of a serious nature or where someone is known to be a habitual offender.

Member PC Sharma added that in addition to such a programme, it is also important to address the issue of the pendency of cases in courts which contributes to the problem of witness protection.

Sh. Habibullah, Chairperson, NCM stated that if there was a consensus within the Statutory Full Commission on the issue, the matter could be referred to the Law Commission.

**DECISION:**

**It was decided that this issue may be examined and the Statutory Full Commission should make detailed recommendations to the Government of India, Law Ministry and the Law Commission on the drawing up a 'Witness Protection Programme' and making requisite legal amendments in this respect.**

**Agenda 7: Preventing and Combating Human Trafficking in India - Suggested by NCW**

Dr. WaliKhanna, Member, NCW informed the Statutory Full Commission that the Minutes of the Conference organized jointly by the NHRC and NCW on "Combating Human Trafficking in India" are under preparation and once finalized will be shared with NHRC. Further action in this matter may be taken as per these recommendations.

She further suggested that the NHRC, NCW, and the NCPCR should work collaboratively on the issue of child and women trafficking. To this end, a combined team of the three Commissions could visit states where the problem of trafficking is most acute.

**DECISION:**

**It was decided that the NCW will send the proceedings of the Conference to the NHRC for its consideration.**

## **(8.) Additional Agenda by Member, NCW**

### **(a) Education as Catalyst in Gender & Caste Sensitisation**

Dr. WaliKhanna, Member, NCW informed that during her visits to interior/rural areas as Chairperson of Inquiry Committee to investigate cases of atrocities against women, it had consistently emerged that there still exists a gender and caste bias in the minds of the people. It is not only a gender issue but a human rights issue of which both women and men are victims, and both have a stake in the struggle for gender equality.

It has been felt that despite money being spent on large publicity and awareness campaigns, very little dent has been made in the stereotyped thinking of men and the community at large. She stressed that mental attitudes cannot change overnight; change is intra-generational and can prove to be a remarkable catalyst for social change and reform, besides growth.

The long-term solution, Dr. WaliKhanna, Member, NCW added, lies in education. It is vital that citizens, especially young children in the age group of 6-16 years be imparted human rights education to ensure that they grow up into responsible and sensitive adults. The benefits of

education are not only economic, but also empower an individual to achieve basic human rights, including being sensitive to the rights of others. To this end, it is important to mainstream human rights education in schools and universities, introducing a human rights element into every subject.

It was recommended that in the education syllabus of all subjects, from Classes 1-8, the topic of 'gender and caste sensitisation' be included; whether in story/pictorial or any other form. The message should be consistently reinforced from when a child enters school at the age of 6, until he/she leaves at the age of 16 years.

She suggested that the NCW Expert Committee on 'Gender and Education' could collaborate with the NHRC to come out with a policy paper on the matter.

**DECISION:**

**It was decided that the NCW may send a proposal on the issue to the NHRC for its consideration.**

**(ii) Separate Chapter in IPC on Violence against Women**

NCW is deeply concerned about the rising violence and newer forms of atrocities against women and the inadequacy of legal

provisions to provide punishment. Women are subjected to brutal attacks due to their gender. Acts of violence/harassment against women include among others, touching a woman in full public view, forcible chopping off of the hair of a woman, parading a woman naked (in rural areas even the removal of the *saree* from a woman's head is considered equivalent to nudity/disrobing a woman), being called names etc.

It is pertinent to mention here that most of these women belong to the SC/ST sections of society. Finally, punishment and trial is as per the IPC and CrPC. In the IPC, there is no severe punishment for these crimes; but in rural areas these crimes result in serious law and order problems and can lead to communal/caste violence and tension.

Member NCW stressed that rape is not always a crime that is motivated by desire, but a hostile act, and attempted to hurt and humiliate the community or family to which the victim belongs. The simple truth is that women are targeted because of their gender. Dr. WaliKhanna suggested that there is a need for a separate chapter in the IPC titled 'Violence Against Women' to be inserted, as in other countries, for example the USA (Chapter 136, Subchapter III – Violence Against Women). Member NCW suggested that the NHRC and NCW can come out with combined paper on the matter with the assistance of the Law Commission of India.

**DECISION:**



**It was decided that the NCW may send a proposal on the issue to the NHRC for its consideration.**

**(9.) The Chairperson, NHRC has expressed the need for joint collaboration of all the National Commissions on important issues of common interest and concern. The issues relating to better infrastructure, working conditions etc. should be taken up with the Government jointly. It was decided that all the Chairpersons of the National Commissions may have a meeting with Hon'ble Prime Minister on common issues.**

**DECISION:**

**The Chairperson, NHRC will write to all the Chairpersons of the National Commissions to finalize issues of common interest and areas of concern, including infrastructural requirements, funding etc. It is proposed that under the leadership of the Chairperson, NHRC, all Chairpersons of the National Commissions will meet the Prime Minister to raise these issues/concerns with him.**