

RECORD OF THE DISCUSSION OF THE NHRC WITH THE CHIEF SECRETARY, DMs AND CONCERNED OFFICERS OF MEGHALAYA ON PENDING HUMAN RIGHTS ISSUES

30 MAY 2012 – SHILLONG, MEGHALAYA

A Camp Commission Sitting of the National Human Rights Commission in the State of Meghalaya was held at Shillong, Meghalaya on 30 May 2012 to discuss pending cases and other human rights issues with the Chief Secretary, DGP, DMs, SPs and other State Officers.

The Camp Commission Sitting was chaired by Justice Shri K G Balakrishnan, Chairperson, NHRC, and attended by the Members, Director General (Investigation), Registrar (Law), and officials of the NHRC, and the Chief Secretary, DGP, DMs, SPs and other officials of the Government of Meghalaya.

The proceedings of the Camp Commission started with the sitting of the Full Commission, presided over by the Chairperson, Justice Shri K G Balakrishnan, and Members, Justice Shri G P Mathur, Justice Shri B C Patel, Shri Satyabrata Pal, and Shri P C Sharma. Nine cases were taken up for hearing in the sittings of the Full Commission and Division Benches.

The Commission took up the cases of child labour in the Jaintia Hills District of Meghalaya, abandonment of newly-born children and recovery of dead male and female foetuses, denial of supply of food grains to families living below poverty line, illegal mining, among others.

On the opening day of the Camp Sitting, the Full Commission headed by Justice Shri K G Balakrishnan, Chairperson, NHRC, heard five cases. The two Division Benches comprising Justice Shri G P Mathur and Shri P C Sharma, and Justice Shri B C Patel and Shri Satyabrata Pal respectively heard two cases each. The Division Bench comprising Justice Shri B C Patel and Shri Satyabrata Pal recommended compensation of Rupees Three Lakh in a case of death in police action.

**DISCUSSION WITH THE CHIEF SECRETARY, DGP, DMs, SPs ON VARIOUS
HUMAN RIGHTS ISSUES**

The Chairperson, Justice Shri K G Balakrishnan welcomed the State Government officials to the interaction. He stated that the NHRC has been holding Camp Commission Sittings in the states with a view to ensure speedy disposal of cases targeting towards better protection and promotion of human rights.

These Camp Commission Sittings provide a good opportunity to the Commission as well as the State Governments to understand each others' points of view, and also provides the Commission an occasion to take stock of the action taken by the State on important issues. The Chairperson informed that the Commission has so far held Camp Commission Sittings in Uttar Pradesh, Bihar, Karnataka (covering southern states of Andhra Pradesh, Kerala, Tamil Nadu, and Karnataka) and Odisha.

The Chairperson observed that there were not many complaints of human rights violations received from the State of Meghalaya. He added that the purpose of the Commission's visit to the State was to ascertain what action has been taken by the State Government on the recommendations of the Commission on various thematic issues and sensitize the State Government officials on various human rights concerns in the State.

The Chairperson asked the State Officials to explain the steps being taken by them on the issues listed in the discussion agenda.

(A) MENTAL HEALTH

Background:

It was brought to the notice of the Commission via various media reports (both print and electronic) that in many places the persons with mental illness are wandering in streets without proper care and treatment. They are subjected to ill treatment and even sexual exploitation in the case of women/girls.

The Commission was of the view that this is largely due to the poor implementation and limited knowledge of the existence and provisions of the Mental Health Act, 1987 by the law-enforcing authorities. Under the Section 23 of the Mental Health Act, the police have an obligation to take or cause to be taken into protection, a wandering or neglected mentally ill person and to wandering or neglected mentally ill persons and to produce such persons before the nearest magistrate for issue of reception orders within the stipulated period of time.

In this regard, a letter was sent to all the Chief Secretaries and Director General of Police of all States/UTs asking them to take appropriate steps to ensure the implementation of the Mental Health Act, 1987 in their respective State so that the rights of mentally ill persons are secured as per the provisions of the said Act.

Justice Shri KG Balakrishnan, Chairperson

What is the status of the implementation of the Mental Health Act in the State of Meghalaya?

State Government

Efforts are being made for the implementation of the Mental Health Act, 1987 in the state. To this end, the CID, Meghalaya has circulated the instructions received from the NHRC on the implementation of the said Act to all the districts. Further, all the Superintendents of Police (SPs) have been instructed to sensitize the field functionaries on the role and functions of the Police enumerated in the Mental Health Act.

Additionally, the Police Headquarters has also issued a circular to all SPs and other senior officers of the department with a view to sensitize them and raise awareness regarding the powers and functions of the Police outlined in the Act.

The Police registered certain cases with respect to the mentally disabled during the year 2011-2012, particularly in the East Khasi and West Khasi Hills Districts. While a total of 6 cases were registered in the East Khasi Hills District, 10 cases were registered in the West Khasi Hills District. There have not been any major cases of the violation of the rights of the mentally challenged in the State.

However, officers are being sensitized to handle such cases with care and understanding. From time to time, the State Police also issues circulars to all concerned police officials to comply with the Act and the guidelines and instructions issued by the NHRC.

DG (I), NHRC

It is observed that the DGP, Meghalaya has issued instructions to the officers to comply with the orders of the Commission. There should be zero tolerance for non-compliance with the Commission's orders.

SUMMARY/OVERVIEW

The Commission expressed satisfaction regarding the efforts of the State Police department to sensitize and raise awareness among its officials regarding the Police's role and functions under the Mental Health Act.

The Commission instructed the State to continue to sensitize the police to handle cases relating to the mentally disabled with sensitivity and strictly comply with the guidelines of the Commission on the issue.

(B) 28 DISTRICT PROGRAMME: WORKSHOP IN SOUTH GARO HILLS DISTRICT, 2008

Background:

The Commission has selected 28 districts in the country, one in each state, for direct interaction with their field level functionaries with a view to spread human rights awareness at cutting edge level in the administration

and also to facilitate better assessment of enforcement of various measures related to human rights.

In this effort, special attention is being paid to (i) food security, (ii) right to education, (iii) right to health, (iv) custodial justice, (v) human rights issues of scheduled castes (SCs) and scheduled tribes (STs), (vi) right to culture and protection of community assets and (vii) right to life, living conditions and nature of responsibilities of Government and Panchayats (unit of local self-government). The programme at South Garo Hills of Meghalaya was convened on 15-18 December 2008. The proceedings of the workshop containing recommendations and observations were conveyed to the State Government vide Letter dated 13 May 2009, which was asked to forward to the Commission a consolidated ATR.

(I) ANGANWADI CENTRES & MID-DAY MEAL SCHEME

Shri Satyabrata Pal, Member

In most of the visits of the Commission across districts, there is a common set of problems that have come to its notice. In its visit to the South Garo Hills District in 2008, the Commission found similar problems (outlined below):

- (i) The poor quality of food grain provided under the mid-day meal scheme and lack of attention to local needs;

- (ii) In several cases it has been observed that parents send their children to school only for the mid-day meal, following which these children go back to work in the fields or other occupations they are engaged in. Therefore, while on paper student enrolment rates have increased substantially, it is to be examined whether students actually attend school and are receiving an education;

- (iii) Almost every *anganwadi* centre visited by the Commission had no basic equipment such as weighing scales. In the absence of such equipment it is impossible to record data about children such as their height and weight. Weight, in particular, is a vital statistic almost directly linked to the state of health of the child and an indicator of malnutrition. This lack of equipment is indicative of the huge gap between ground reality and the reports being submitted by the *anganwadi* workers.

State Government

There are about 5000 *anganwadi* centres in the State, some of which do not have weighing scales. However, these have been procured recently for all the *anganwadi* centers in the State which will be handed over to them shortly.

Shri Satyabrata Pal, Member

This implies that there is no co-relation between the ground reality and what is being reported by the *anganwadi* workers. In the absence of such equipment, on what basis or by what means has data been collected so far by

the *anganwadi* workers and how long has this state of affairs persisted? What kind of supervision mechanisms exist to monitor the functioning of these centres?

State Government

It is not the case that all *anganwadi* centers do not have basic equipment such as weighing scales. The requisite finance for purchasing the equipment was obtained recently and the scales have since been purchased. These will be distributed shortly to all centres in need of the equipment.

As regards the monitoring of the *anganwadi* centres, certain problems have been encountered in the supervision and monitoring of these centres, particularly in all the four projects of the South Garo Hills district, as a single supervisor often has to monitor and supervise nearly 30-35 centres. The matter has been brought to the notice of higher authorities to create more supervisors' posts for the smooth functioning of the *anganwadi* centres. Further the PHE Department has been approached to provide drinking water to all *anganwadi* centres having their own building.

As per the recommendations of the NHRC, the honorarium of *anganwadi* workers has been enhanced under the ICDS scheme. Further, in respect of the Commission's recommendation that all *anganwadi* centres should have godowns, it is submitted that while *anganwadi* buildings constructed by the Department of Social Welfare have their own godowns to store foodstuff, those constructed by Blocks under EAS/SGRY etc. have no provision for the construction of godowns. Moreover, these buildings are in a dilapidated condition. The matter has been taken up with the Department to construct these buildings under the scheme of the Social Welfare Department.

Justice Shri B C Patel, Member

In 2008, the NHRC had visited the State as part of its 28-district programme and had subsequently requested for an Action Taken Report (ATR) from the State Government on the recommendations made by the NHRC. The current response of the Government is that action is 'being taken' on the Commission's recommendations. It is disappointing to note the ambiguous reply given by the State Government on many of the recommendations made by the Commission:

- (i) On the recommendation to construct kitchen sheds-cum-stores, the Government's response is that construction is still 'in progress'
- (ii) There is no satisfactory answer on the question of checking the quality of food grains being provided for the mid-day meal scheme in schools
- (iii) On the question of the appointment of cooks, the Government has stated that nearly 1534 cooks are yet to be appointed
- (iv) There is much delay on the issue of transport charges/costs
- (v) On the question of the issue of BPL/APL cards, the Government's response is that these 'will be' issued to the beneficiaries.

Member Justice Shri BC Patel enquired of the state government officials as to what concrete action, if any, had been taken by the State Government on the Commission's recommendations made as far back as 2008? He also wished to know when the State Government would submit an Action Taken

Report to the Commission on the actual action taken/completed by the State Government.

State Government

As regards the number of kitchen sheds-cum-stores, of the sheds sanctioned for 5768 schools by the Government, 4942 kitchen sheds have already been completed with 826 sheds remaining to be completed. The target for the current financial year 2012-13 is 224 kitchen sheds.

The Commissioner and Secretary, Food Civil Supplies and CA Department and all Deputy Commissioners have been requested to take necessary steps to ensure delivery and checking the quality of foodgrain supplied under MDMS and to ensure that the feeding programme is not disturbed.

Regarding inspection of the quality of food grains supplied for the mid-day meal scheme, the monitoring institution is the North Eastern Hill University (NEHU). NEHU conducted inspections across different parts of the

State and submitted its report stating that the quality of food grains being supplied for the mid-day meal scheme was good.

On the question of the appointment of cooks, the MHRD directed the State Government to appoint cook-cum-helpers on contract basis on the payment of an honorarium. Of the 17254 cooks approved by the MHRD, 15720 were engaged and 1534 cooks are yet to be appointed. While the process of making the remaining appointments is already underway, sometimes the process gets delayed or impeded by certain local difficulties.

Finally, on the issue of the transportation charges, for the period from 2002 to 2007, these could not be paid since the Central Government did not release central assistance due to an audit objection. Transportation charges for the year 2011 to 2012 have been paid up to the third quarter. Payment for the fourth quarter, amounting to Rs. 1.53 lakhs, could not be paid due to a shortage of funds. The State Government has taken up the matter with the Government of India, requesting it to release the funds to pay transportation charges.

Shri Satyabrata Pal, Member

In other Northeastern states, an evaluation of the mid-day meal scheme has shown that the usual practice is for children to be fed a heavy rice-based morning meal. Thus, the parents do not want their children to be served rice-based meals mid-day. Is this also an issue in the state of Meghalaya?

Additionally, in other states, enrolment of children in schools has increased substantially. However, these increased enrolment rates remain mostly on paper. In actual practice, it has been observed that parents send their children to schools just before the mid-day meals are served, following which these children go back to the fields or other occupations they are engaged in. Are children actually in schools, receiving an education? Is this particular aspect being monitored by state authorities?

State Government

As far as the issue of the preference of parents for non-rice based mid-day meals for their children is concerned, no complaints or representations have been received in this regard by the state authorities. Additionally, the

Government is monitoring attendance in schools and it is the case that the increased enrollment rates correspond to the actual number of children attending schools in the state. The situation continues to be monitored.

(II) MALNUTRITION

Shri Satyabrata Pal, Member

In a nation-wide survey conducted by the Planning Commission/ICDS, it was found that nearly 61 per cent of the money allocated for providing for the nutritional needs of the people in the state had been diverted. What measures has the Government taken to monitor this and ensure the proper utilization of allocated funds?

State Government

The State Government has its own internal system of the collection of data which is usually carried out by the Directorate of Social Welfare and Directorate of Health Services. The State Government has signed a

Memorandum of Understanding (MoU) with the *National Institution of Nutrition*, Hyderabad to study the incidence of malnutrition in the State and on its request has initiated the process of advertising for the recruitment of personnel for the conduct of the study. Once the study is complete, the Government will know exactly which areas in the state have a high incidence of malnutrition and will hence be able to focus its attention and efforts on these areas.

On the question of supervision, the State Government has instituted committees at the village level to supervise the functioning of the *anganwadis*. Last year, to ensure that all forms of financial diversion were stopped, the State Government launched a programme under District Programme Officers with a view to conduct awareness-building and promotional programmes. The Social Welfare Department has also requested for more health and medical officers for the effective implementation of the Supplementary Nutrition Programme (SNP) in the State. Once the programme is launched throughout the state, health awareness is bound to improve and through this, the diversion of funds will also be checked.

(III) DISTRICT JAIL

Shri Satyabrata Pal, Member

On the recommendation of the Commission for the building of a jail in the district, the State Government's response is vague and simply states that land has been identified and acquisition proceedings are to be initiated. What is the present status?

State Government

The State Government has identified the land for the construction of the district jail. However, since last year adequate funds were not available, work could not be carried out in this regard.

(IV) SPECIALIST DOCTORS IN DISTRICT HOSPITALS

Justice Shri BC Patel, Member

Another serious problem in the state relates to the lack of specialist doctors in district hospitals. To this, the State Government's response is again vague and states that the appointment of specialists in district hospitals is proposed and under process.

State Government

Appointment of specialist doctors such as Gynecologists, Anesthetists, Radiologists, Medicine Specialists and Surgeons, is a major challenge that confronts the Government of Meghalaya. The State does not have qualified specialist doctors. The posts for qualified specialists have been advertised several times in the past. Under the National Rural Health Mission (NRHM), special pay packages have been designed which are at a scale much higher than what the state generally offers, yet no qualified candidates have come forward to fill up these vacancies.

There are 109 public health centres in the state. Of these, in a 100, there are MBBS doctors (non-specialists). In the remaining 9 health centres since a

large number of doctors have left for higher specialization studies and training, there is a shortage of doctors. There is one national level medical college in Meghalaya which was recently established, and has now started taking students.

Justice Shri B C Patel, Member

The ATR states that two Rain Water Harvesting schemes which were submitted to the Government in 2010-2011 for approval for the Baghmara Community Health Centre and for the District Institute of Educational Training (DIET) Centre, Baghmara, are yet to be sanctioned. Why is there a delay in approving these schemes?

State Government

The Baghmara Community Health Centre has been upgraded to a 100-bed civil hospital and other measures to address the problem of water shortage have been adopted in the hospital. Therefore, the Rain Water Harvesting scheme is not being pursued any further at the moment.

(V) NREGA

Shri Satyabrata Pal, Member

What is the status of the functioning of the NREGA in the Garo Hills District of the State?

State Government

While there are no ready figures available at the moment on the functioning of the NREGA in the Garo Hills District, it is by and large functioning very well, with a considerable number of people having found employment under NREGA, so much so that often people are not available for other public works/projects undertaken within the state.

Shri Satyabrata Pal, Member

NREGA however, comes into picture only when alternative avenues for employment are not available to the people.

(VI) PUBLIC DISTRIBUTION SYSTEM (PDS)

Justice Shri K G Balakrishnan, Chairperson

The Commission receives several complaints from the Northeastern States regarding the supply of food grains through the Public Distribution System (PDS). What steps has the Government initiated to make the PDS more effective in the State?

State Government

During 2009-2011, a number of awareness campaigns on the management of the PDS and consumer awareness had been conducted in all block and district headquarters and other villages.

During 2009-2012 (up to 31.03.2012), a number of workshops had been conducted at the district and block headquarters for the members of the Price Vigilance Committee (PVC) of different villages. A number of meetings are also being called periodically at the district headquarters to hear public

grievances. Inquiries are being conducted on the basis of public complaints and strict action is being taken on the basis of the enquiry report.

The State Government has initiated a process of the computerization of the Public Distribution System, which is expected to make the entire system transparent and effective. In addition, the Government has also undertaken an evaluation programme to assess the number of BPL (Below Poverty Line) families within the State to ensure that benefits of various schemes reach the beneficiaries.

During the months of January-March 2012, the Central Government and the Government of Meghalaya jointly conducted a socio-economic and caste census to identify BPL/APL families. BPL/APL cards will be issued to the beneficiaries/families on the basis of this survey.

While the Planning Commission has estimated that there are over 1 lakh BPL families in the state of Meghalaya, the state government's figures reveal that there are at least 2 lakh BPL families across the state.

Shri Satyabrata Pal, Member

How does the State Government address the gap between families officially recognized as falling Below Poverty Line, and those that are yet to receive such official recognition?

State Government

The State Government provides both official and unofficial BPL families, food under the Public Distribution System.

In addition, a specific case was brought before the Commission regarding refusal by the owner of a Fair Price Shop to distribute PDS food grain to certain families in a village in the East Khasi Hills District and the subsequent ostracisation of these families.

Shri Satyabrata Pal, Member

The Public Distribution System is directly related to the people's right to food and the state should have a strong Public Distribution System. The

Special Rapporteur of the NHRC has given a report on the PDS system, but no action has been taken by the government.

Justice Shri G P Mathur, Member

The particular case of the refusal of the shop owner to distribute PDS foodgrain is a matter of serious concern and the license of the PDS distributor in question must be canceled with immediate effect.

State Government

The license of the said distributor has already been cancelled and the state authorities will further examine the issue to strengthen the PDS system in the state.

SUMMARY/OVERVIEW

The Commission expressed its sharp disappointment with regard to the State Government's sluggish implementation of the recommendations

made by the NHRC following the workshop held in South Garo Hills District in 2008 under the Commission's 28 District Programme.

The Commission noted with dissatisfaction that nearly four years since the workshop, action taken on several key recommendations was still "in process" and had yet to be completed by the State. The Commission observed that the response of the State Government on several issues of import was non-committal and ambiguous at best. While some progress had been made by the Government, it continued to remain far from satisfactory.

The Commission has directed the State Government to send to the Commission a Report on the Action Completed by the State Government of Meghalaya on the Commission's recommendations at the earliest.

The Commission directed the State to devise measures to ensure that the PDS functions smoothly and is not subjected to the arbitrary whims of particular individuals.

(C) LABOUR ISSUES

Background

The Commission on receiving complaints regarding the denial of minimum wages to the workmen employed in brick kiln industries, it sought information from all States/UTs on the notification of brick kilns as a scheduled employment, fixation of rates of wages for all categories, revision of rates of wages, mode of payment, weekly off, maintenance of records and settlement of claims etc. were requested from all States/UTs.

The responses received from some of the states were examined in the Commission. Not satisfied with these responses, the Commission decided to hold zonal conferences on minimum wages.

On 14.10.2011, the Commission in collaboration with the Government of Meghalaya had organized a workshop on fixation, review, revision and

enforcement of the Minimum Wages Act for in-depth review of the minimum wages scenario in the northeastern parts of the country.

Prior to that a national level seminar at New Delhi was organized on 30.09.2011 by the Commission for a thorough familiarization and sensitization of senior functionaries of the Central/State Governments, with the constitutional and legal provisions, judgments of the Supreme Court and international treaty provisions relating to the elimination of forced/bonded labour.

The Commission had sent certain recommendations that emerged during the Seminar and requested State Governments and all concerned to take necessary action and send action taken reports to the Commission.

(1) MINIMUM WAGES ACT

Justice Shri B C Patel, Member

On the issue of the Minimum Wages Act, the State Government's Action Taken Report merely states in three lines the following:

- (i) The labour enforcement machinery is making spot and surprise inspections
- (ii) Till date however, no prosecutions have been filed, but sustained inspections are being carried out
- (iii) Enhancement of minimum wages in the State is under consideration of the Government.

The Minimum Wages Act is a matter of serious concern particularly since it relates to the poor who, due to lack of awareness (particularly in the unorganized sector), remain oblivious of their basic legal rights. Further, no details have been mentioned about the inspections the state government has

carried out as mentioned in the ATR. The State Government must forward details of the said inspections to the Commission.

(II) ILLEGAL MINING & CHILD LABOUR IN JAINTIA HILLS DISTRICT

Justice Shri K G Balakrishnan, Chairperson

The Commission took suo motu cognizance of a news report which alleged that the mines of Meghalaya, particularly those in the Jaintia Hills District of the State, are worked by nearly 70,000 child miners brought in from Nepal, Bangladesh, Assam, Bihar and Jharkhand. That is a mind-boggling figure and a matter of the gravest concern. What have been the findings of the State Government in this regard? Apart from the violation of the right of these children, unscientific mining is causing a lot of damage to the environment and creating health hazards for the people in the area.

State Government

The figures in the news report are greatly exaggerated. The State Authorities have identified 222 children who have been working as child miners in the mines across the Jaintia Hills District. Additionally, the State Government has requested the Tata Institute of Social Sciences (TISS) to undertake a survey to ascertain the number of child labourers in the state and other key aspects of the issue, following which the exact figures will become known.

Justice Shri K G Balakrishnan, Chairperson

The State Government must forward a copy of the report of the survey to be conducted by Tata Institute of Social Sciences (TISS) after its conclusion.

Justice Shri B C Patel, Member

Child labour is by definition bonded labour since a child, being a minor, cannot give his/her consent to employment. No child must be engaged in any form of employment, hazardous or non-hazardous. Any form of engagement of children in employment contravenes the Right to Education Act.

Whenever a child worker is rescued, it is mandated by law that the employer has to contribute Rupees 20,000 for the child's rehabilitation and the State, Rupees 5000 for the same.

The State Government must therefore, take immediate steps to give monetary relief/compensation to the child miners/workers who have been identified, as per the provisions of the Bonded Labour System (Abolition) Act, 1976.

The State Government must submit an Action Taken Report in this respect within a period of eight weeks to the Commission.

Justice Shri G P Mathur, Member

While child labour is a matter of great concern, what is equally worrying is the rampant and unregulated mining that is taking place across the State of Meghalaya. What prevents the State government from exercising its jurisdiction of authority in controlling illegal mining in the State?

Shri Satyabrata Pal, Member

The state should study the issue of illegal mining not only from the vantage point of bonded/child labour, which in itself is a grave rights violation, but also the significant damage such unregulated mining is causing to the environmental and ecological health of the state and people.

Another aspect of equal concern is the issue of the trafficking of children across the borders from Nepal and Bangladesh to work in these mines and the sexual exploitation of women and young girls brought in to work from neighbouring states and across borders.

State Government

There is presently a PIL pending in the Gauhati High Court regarding illegal mining in the Jaintia Hills District. The State has been collecting royalty from private individuals who mine land for the purpose of resource extraction. Historically, the practice has been that those who reside on a given piece of land, have laid claim to the resources beneath the surface of that piece of land.

The public's contention has been that land (both over the surface and beneath it) belongs to the individual who resides on the land. The State has rejected this position and has taken the stand that the resources belong to the State. Therefore, the State Government collects royalty from those who mine and use such resources.

Shri P C Sharma, Member

The Supreme Court of India (SC) has recently held that resources beneath the surface of the land belong to the State and not private individuals.

Shri Satyabrata Pal, Member

Irrespective of the historical practice in the State, any commercial activity needs to be regulated. The fact that in the process of private mining a whole range of rights have and continue to be violated – child labour, environmental damage, health hazards etc., is reason enough for the State to act and put an end to such unregulated commercial activity.

Justice Shri G P Mathur, Member

The resources lying beneath the surface of the land belong to the State; it is not for private individuals to lay claim to what are essentially 'public' resources. Clause 9 of the Sixth Schedule of the Indian Constitution states the following:

9. Licences or leases for the purpose of prospecting for, or extraction of, minerals –

(1) Such share of the royalties accruing each year from licences or leases for the purpose of prospecting for, or the extraction of, minerals granted by the Government of the State in respect of any area within an autonomous district as may be agreed upon between the Government of the State and the District Council of such district shall be made over to that District Council.

(2) If any dispute arises as to the share of such royalties to be made over to a District Council, it shall be referred to the Governor for determination and the amount determined by the Governor in his discretion shall be deemed to be the amount payable under sub-paragraph (1) of this paragraph to the District Council and the decision of the Governor shall be final.

Shri Satyabrata Pal, Member

The critical point is that apart from the said District where due to a High Court order a ban has been imposed and mining stopped, it continues in other areas of the Jaintia Hills District and even other parts

of the state. The State Government must review its policy on illegal mining.

Shri P C Sharma, Member

The State Government does not even have with it a complete list of the various sites where illegal mining is being carried out by private individuals. The State Government must undertake an in-depth study to ascertain the problem in all its dimensions and more importantly to ascertain the exact number of illegal mining operations underway in different parts of the state and take urgent measures to stop these activities from continuing.

SUMMARY / OVERVIEW

The Commission expressed its strong reservation regarding the efforts of the State Government to implement its recommendations on the issue of the enforcement of the Minimum Wages Act, and described the ATR, particularly on this aspect, as ambiguous.

The Commission has directed the State Government to submit a detailed report regarding the action taken by the state to implement the Commission's recommendations on the issue of Minimum Wages, and also a detailed report on the inspections reportedly carried out by the state authorities.

The Commission expressed serious concern over allegations of the employment of child/bonded miners/labourers in mines in the Jaintia Hills District, Meghalaya and asked the State government to take immediate measures to stop child labour in all its forms.

The Commission directed the state authorities to conduct a survey of mines in the state to ascertain the number of child labourers employed in these mines and take measures for their rehabilitation. The survey, the Commission emphasized, must also study other related problems of trafficking, environmental degradation, and malnutrition in the Jaintia Hills District. The purpose of the study, the Commission maintained should also be to ascertain the illegal mining activities being undertaken across the state and take immediate measures to put an end to these.

The Commission has instructed the State Government to give monetary compensation to the child workers identified by the State as per the provisions of the Bonded Labour System (Abolition) Act, 1976. The Commission has given the State Government a time period of eight weeks within which to submit an Action Taken Report on the same.

The Commission also requested the State Government to forward to it a copy of the report of the survey to be conducted by the Tata Institute of Social Sciences (TISS) on the engagement of child workers in the mines across Meghalaya, on its completion.

(D) MANUAL SCAVENGING

Background

The inhuman and degrading practice of manual handling of night soil which is an affront to human dignity has been receiving the attention of the Commission. The Commission considered this to be a major social evil and ever since its inception, the Commission has been perusing regarding the end of this inhuman practice. It has taken up this matter at the highest echelons of

the Central and State Governments through a series of personal interventions by the Chairperson of NHRC.

The Chairperson of the Commission wrote letters in October 1996, January 1997 and August 2001 to the Chief Ministers of all the States and UTs requesting them to implement the Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 properly. This Act was notified by the Central Government on 24 January 1997.

The Commission had sent certain recommendations that emerged during the National Workshop on Manual Scavenging and Sanitation held on 11.03.2011 and requested the Central and State Governments to take necessary action and send an Action Taken Report to the Commission.

Justice Shri KG Balakrishnan, Chairperson

What is the status of manual scavenging in the state of Meghalaya?

State Government

Within Meghalaya, manual scavenging was mostly prevalent in Shillong. In 1995, there were approximately 3000 toilets (dry) in Shillong, which, by 2005, had been converted to sanitary toilets and the people engaged as manual scavengers (both regular and part-time), were rehabilitated by deploying them in other municipal works. Manual scavenging services were discontinued in 2006.

There were a total of 607 scavengers (including dependents) – 160 manual scavengers (both regular and part-time) employed by the Shillong Municipal Board and 447 dependents according to an official survey conducted during 1995-96. Of this number, 363 were above the age of 18. As per the recommendations of the NHRC, the State Government conducted surveys in rural and urban areas during 2007-2008 to update the list of erstwhile manual scavengers and their dependents in the State.

Following a series of advertisements placed by the State Government in the media, applications for rehabilitation were received from erstwhile

manual scavengers. 370 of them, together with their dependents were found eligible beneficiaries above the age of 18 and provided rehabilitation under the Scheme for Rehabilitation of Manual Scavengers (SRMS). Further, 130 manual scavengers, willing to undertake entrepreneurship projects, were provided requisite loans and subsidies for the same. So far, there have been 9 cases of default for which the Municipal Board has initiated a loan recovery drive.

Further, coordination and monitoring committees have been constituted in all Districts to monitor (i) the enforcement of the provisions of the Employment of Manual Scavengers and Construction of Dry Laterines (Prohibition) Act, 1993; (ii) programme for the construction of water seal latrines; and (iii) rehabilitation of scavengers.

Of the six Municipal Boards, a mechanized system of cleaning the septic tanks in three Municipal Boards has been introduced and in the remaining three Boards the mechanized system will be introduced by June 2012. The sewerage system is yet to be introduced in Meghalaya.

Further, in accordance with the recommendations of the NHRC, necessary safeguard equipment has been provided by the Municipal Boards to the *Safai Karamcharis* engaged in cleaning of septic tanks. Health check-up camps are also being organized regularly on a monthly basis for the *karamcharis*.

The State Government has also endorsed the recommendation of the NHRC that schemes such as the *Self Employment of Manual Scavengers (SRMS)*, *Sarva Shiksha Abhiyaan (SSA)*, *National Rural Employment Guarantee Scheme (NREGS)* etc. must be inclusive of this segment of the population and that the success of these schemes must be evaluated only in terms of the change they bring about in the quality of life of manual scavengers and *safai karamcharis*. The State will endeavour to extend the benefit available under different schemes to erstwhile manual scavengers and *safai karamcharis*.

Shri Satyabrata Pal, Member

The *Indira Awas Yojna* provides that any house built under this scheme must have provisions for adequate sanitation facilities, the most basic being

toilets. However, it has come to the notice of the Commission that in many cases such houses are being built without toilet facilities. Do the new houses which are being constructed under the *Indira Awas Yojna* have built-in toilets and other sanitation facilities?

State Government

So far as urban areas are concerned, the State does not allow any building to be constructed without provisions for toilets and other sanitation facilities.

As per the provisions of the Meghalaya Building Bye Laws 2001, no building permission for construction is granted without the provision of septic tank with soak pit. In rural areas, neither are there any dry toilets, nor any incidence of manual scavenging across the entire state.

Justice Shri G P Mathur, Member

In most hill towns manual scavenging is a major problem owing to the difficulty in ensuring running water supply. What is the experience in Meghalaya in this regard?

State Government

In Meghalaya, locals have never been engaged in manual scavenging. Historically, people have been brought in from Punjab as manual scavengers.

Under an Asian Development Bank (ADB) project, the State Government is set to introduce a sewerage system in some parts of the state in the near future; the pilot project is expected to kick start in 2013. The Government has undertaken work relating to the augmentation of the water plant for supplying running water under the JRM Scheme. For this purpose, the state has been divided into four zones and soon a decentralized sewerage system will be introduced, initially in one zone of the state.

(E) POPULATION POLICY

Background:

The NHRC has been deeply concerned about the Population Policy framed by State Governments. It has been observed that some of the State Governments had adopted the method of incentives/disincentives for adopting small family norms, which is a gross violation of human rights particularly women's reproductive rights. Further, being a signatory to the 1994 International Conference on Population and Development, it was mandatory for India to abandon targets and come up with a policy that moved away from the 'incentive/disincentive' approach. As a result, the National Population Policy, 2000 replaced the targeted approach with a target-free regime with focus on smaller families.

To examine the issue and chalk out a strategy in this regard, the Commission had constituted a Working Group which finally devised a Reporting Format to collect the information from all States/UTs in 2007. In the meantime, the new Census had been carried out in 2011, which revealed that the child sex ratio (0-6 age group) had decreased from 927/1000 in 2001 to 914/1000 in 2011 which was a matter of grave concern.

Besides, during a span of over four years, a number of developments might have taken place related to population issues in the States/UTs. Accordingly, the Commission requested all States/UTs to send required information as per the Reporting Format devised by the Commission to assess the present scenario relating to these important issues. The requisite information was requested to be sent to the Commission by 31 May 2012 vide DO Letter No. 3/1/2012-PRP&P dated 12 April 2012.

Justice Shri KG Balakrishnan, Chairperson

The required information as per the Reporting Format devised by the Commission to assess the present scenario relating to these important issues from the State of Meghalaya is awaited. The Government of Meghalaya is requested to send the requisite information to the Commission at the earliest.

SUMMARY/OVERVIEW

The State Government has been directed to send to the Commission the required information as per the Reporting Format devised by the

Commission to assess the present scenario relating to the Population Policy in the State.

(F) CHILD MARRIAGE, PRE-NATAL SEX SELECTION &
PCPNDT ACT

Background:

The Commission Vide DO Letter No. 8/3/1995-PRP&P dated 04 May 2012 had requested the Chief Secretaries of all States and UTs to send an ATR on the recommendations of the report from Shri Shivraj V Patil, Chairman, Core Committee for the Prevention of Child Marriage in the State of Karnataka, which are relevant to all States and UTs.

The Commission had also communicated to the Chief Secretaries of all State and UTS to take action on the recommendations of the Conference on 'Prenatal Sex Selection in India: Issues, Concerns and Actions', organized by the NHRC on 12 October 2012 at New Delhi.

The main objectives of the Conference had been to critically analyze the problem of pre-natal sex selection and the declining number of girl children in India; create awareness about related issues, concerns and actions among key stakeholders; share findings of the study titled “Research and Review of Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act’s Implementation Across Key States”, jointly undertaken by the NHRC and UNFPA; and discuss strategies for strengthening the implementation of the PCPNDT Act.

In order to achieve the objectives of the Conference, all States/UTs had been requested to issue necessary instructions to the concerned authorities for implementation of these recommendations, and also send an ATR to the Commission at the earliest.

Further, the Commission in collaboration with the UNFPA had undertaken a joint research project entitled “Research and Review of Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection)

Act's Implementation across Key States". The main objective of the study was to identify the impediments in the implementation of the PCPNDT Act in the States, and a copy of the National Report containing specific recommendations had also been sent to all States/UTs for action on the recommendations. The States and UTs had been requested to send an ATR to the Commission at the earliest.

Justice Shri KG Balakrishnan, Chairperson

What is the status of the action taken on the recommendations of the report by Shri Shivraj V. Patil, Chairman, Core Committee for the Prevention of Child Marriage on the issue of child marriage?

State Government

The District Social Welfare Officers of all seven districts have been notified as Child Marriage Prohibition Officers, entrusted to perform the duties of the Child Marriage Prohibition Officers in addition to their regular official duties. Further, the Social Welfare Department also implements the

Juvenile Justice (Care and Protection of Children) Act, 2000, the Child Marriage Prevention Act, as well as other policies and programmes of the Government relating to issues affecting women and children, such as the Integrated Child Development Scheme, the Integrated Child Protection Scheme, Kishori Shakti Yojana, the Rajiv Gandhi Scheme for Empowerment of Adolescent Girls, besides others.

Vocational training for girls is being provided through these development schemes. The Social Welfare department also co-ordinates with various other Line Departments for more effective implementation of these programmes and schemes.

As instances of child marriage have not been reported in the State, follow-up, documentation and time-to-time recommendations for suitable changes in the policies and programmes have not been undertaken. Mass marriages are also non-existent. Notwithstanding this fact, the Child Marriage Prohibition Officers are being sensitized to the perils of child marriage and the need for its prevention. Immediate reporting of occurrences of Child Marriage

is being stressed upon, besides creating awareness of the consequences of child marriage among the public.

Justice Shri KG Balakrishnan, Chairperson

There have been cases reported to the Commission of male and female foetuses having been found in Shillong, Meghalaya. Is pre-natal sex selection common in the State?

State Government

Pre-natal sex selection is not common in Meghalaya. It may be pertinent to point out that according to the 2011 Census, female population in the state is 1471339 and the sex ratio is 986. According to the 2001 Census, the female population was 1138229 and the sex ratio was 972. The state police have not received any report of the violation of the provisions of the PCPNDT Act. However, from various parts of the state cases have been reported regarding the abandonment of new born babies. The facts of these cases are as follows:

- (i) The majority of the cases referred to the Commission pertain to male babies, abandoned by young, unwed mothers, sometimes as young as 15-16 years of age who, owing to acute poverty and social pressures, ended up abandoning their new-born children.

- (ii) In the statements given by the accused mothers to the police officials, they stated that they were forced to abandon their babies given their own precarious financial condition, inability to fend for themselves and the babies, and more importantly, the acute social embarrassment and stigma these girls would have been potentially subjected to given the fact that they were not married.

- (iii) Thus, these cases relate to child abandonment and not gender-specific foeticide.

- (iv) Cases were registered against mothers who had abandoned their babies, following which the number of cases reported increased.

SUMMARY/OVERVIEW

The Commission noted with grave concern the issue of the abandonment of new born children, which leaves them unprotected and potentially vulnerable to grave danger and rights violations. The Commission also expressed reservations regarding the police's stand that arresting and initiating legal proceedings against women accused of abandoning their babies was a viable solution to the problem.

The Commission observed that the matter is tied in with larger issues of poverty, the status of women in society, their education, and livelihood and other life opportunities available to them. Therefore, there is an urgent need on the part of the State Government to undertake an in-depth study on the matter to analyse the root cause(s) of the problem and devise a holistic solution to address the issue, in concert with the relevant government department(s) and members of civil society.

(G) DEATH IN POLICE AND JUDICIAL CUSTODY

Background

The custodial deaths reported from the state of Meghalaya mainly relate to death due to illness, suicidal hanging and sudden deaths. In some cases the accused/victims were found dead due to drug abuse. In the cases relating to judicial and police custodial deaths, postmortem, viscera, medical, magisterial enquiry reports etc. are not sent to the Commission in time. This prevents the submission of the case before the Commission on time. Accordingly, the following points of import are to be discussed:

- (i) The post mortem reports in judicial death cases are received late in the Commission which should be sent immediately with the detailed report.
- (ii) It should be ensured that in all the post mortem reports, final cause of death should be clearly mentioned and in the case of viscera preservation, final cause of death should come along with the viscera reports and should not be delayed.
- (iii) Whenever any information is required by the NHRC over telephone, it should be promptly attended to on priority by the state authorities.

- (iv) A lot of inconvenience is experienced as the post mortem report and other documents received in the Commission are illegible.

FFC Cases: It has been observed that the Commission has received few cases from the State of Meghalaya regarding encounter death and death relating to other violence. In this regard the following issues are to be discussed:

- (i) It has been observed that though there are clear-cut guidelines related to death in police action for investigation of such cases by an independent agency but is not strictly followed in such cases.
- (ii) In some cases, 'One-man Commission' is detailed for enquiry by the state but the report of such an enquiry is not endorsed to the Commission for perusal resulting in delay in the disposal of cases.
- (iii) Inordinate delay is noticed in receiving the viscera report and histo-pathological report.

- (iv) It has also noticed that persons were brought to the police stations for interrogation regarding the cases of police encounter but no mention is made in the police diary.

Further, in the Commission, many cases are pending due to non-receipt of the reports. Inordinate delay is noticed in receiving the reports from the concerned authorities. If these issues are taken care of, the matters could be submitted before the Commission in time.

Justice Shri KG Balakrishnan, Chairperson

The Commission receives several complaints from NGOs regarding cases of death in police and judicial custody. In the revised guidelines of the NHRC on the issue, the Commission has clearly outlined the guideline on sending a post mortem report within 48 hours of the occurrence of the death in police or judicial custody to the Commission. However, it has been observed that not only are reports not received on time, but several cases go completely unreported.

Justice Shri G P Mathur, Member

The revised guidelines of the Commission dated 12 May 2010 must be strictly adhered to and all requisite reports sent promptly to the Commission.

State Government

The State Government is making sincere efforts to ensure that the Commission's guidelines and instructions are complied with. There exists a Human Rights Cell in the Director General's Office to ensure that such complaints are promptly examined and addressed.

As far as death in police action is concerned, there are a number of cases in which killings/deaths occur during militant action. Inter-group rivalry among terrorist outfits often leads to the killing of persons for which the police are held responsible by NGOs who might subsequently report such cases of death to the Commission, construing them as cases of death in police/judicial custody.

As regards the timely submission of post mortem reports and other legal documents, the police face certain challenges. The post mortem reports

get delayed because of which these cannot be submitted to the Commission on time. Further, there is an acute shortage of forensic experts in the state. Additionally, the FSL reports take time to be prepared. However, so far, there have not been any major instances of delay in sending these reports to the Commission. The State Government will ensure that henceforth, wherever delays occur, these are plugged and that reports are sent to the NHRC on time.

DG (I), NHRC

On the whole, Meghalaya has a good human rights record, especially with respect to the track record of its police. However, there are some cases where independent inquiries are required, especially in the case of death of persons in alleged fake/staged encounters.

Shri Satyabrata Pal, Member

The magisterial inquiry reports received by the Commission are usually very sketchy. This does not reflect well on the State for which the magisterial inquiry report is an authoritative view on the matter or case under consideration.

Justice Shri B C Patel, Member

The issue was also discussed at length in Assam and the Commission has proposed to send to the concerned state authorities copies of the report of the magisterial inquiries conducted by certain other states as an example of how such reports must ideally be drafted/written. The Commission will send the same to the Government of Meghalaya so that these reports may be circulated to the concerned officers to enable them draft reports effectively.

Another area of immense concern for the Commission is the issue of the post mortem reports which in a large number of instances are illegible and hence, create significant problems in pursuing a case to its logical conclusion. The state authorities must ensure that doctors responsible for preparing post mortem reports are instructed to write these legibly.

Justice Shri GP Mathur, Member

Post mortem reports play a very important role in the acquittal or persecution of an individual and therefore, the writing of these reports must be undertaken in all earnestness and be written legibly by the concerned

doctors. The Commission will send the state authorities a copy of the post mortem format to be adhered to when preparing post mortem reports, which can be circulated to all concerned.

Justice Shri B C Patel, Member

The State Government must compile and forward a list of the e-mails, telephone numbers and other contact details of the state DMs, prison authorities etc. to enable the Commission get in touch directly with the concerned officials as and when required.

State Government

The State Government continues to train and instruct its officials on the issues raised by the Commission and all guidelines of the Commission will be strictly adhered to by the State in this regard.

Registrar (Law), NHRC

It is often the case that people are left in the lurch after being displaced from their traditional dwelling spaces on account of development or other large projects. A recent report in the *Shillong Times* indicates that nearly 37 families will be displaced for the purpose of laying out a railway line. The Commission would like an assurance from the state government that in case of displacement, these families will be provided adequate means of livelihood and rehabilitation.

State Government

In the particular case of the laying of the railway line, the railways are in the process of conducting a survey to see if an alternate route can be devised for the proposed railway line, in which case the families will not be displaced. The survey is still under progress and one cannot say with certainty if these families will in fact be displaced.

SUMMARY/OVERVIEW

The Commission observed that while it has circulated the guidelines on the reporting of incidents of death of individuals in police and judicial

custody to all states, its guidelines continue to be flouted and not strictly adhered to in several cases.

A major problem, the Commission pointed out, was the illegibility of the post mortem reports received from states which causes considerable delays in concluding cases.

The Commission has therefore, offered to send to the Police Department, copies of the desired format of the post mortem report and also, copies of magisterial inquiry reports from other states as an example of how these must ideally be drafted.

The Commission has instructed the police officials to circulate the revised guidelines of the Commission on the issue to all concerned police officials and other concerned persons for compliance, and to provide necessary training and instructions to them in this regard.

The Commission has also directed the state government to compile and forward to it a list of the e-mails, telephone numbers and other contact details of the state DMs, prison authorities etc. to enable the Commission get in direct touch with the concerned officials as and when required.

**RECORD OF THE DISCUSSION OF THE NHRC WITH NGOs AND MEMBERS
OF CIVIL SOCIETY**

30 MAY 2012 – SHILLONG, MEGHALAYA

The interaction began with the Chairperson Justice Shri K G Balakrishnan welcoming representatives of NGOs and members of civil society to the interaction and encouraging them to raise any issues of concern regarding human rights vis-à-vis the state of Meghalaya. The Chairperson requested the participants to focus particularly on vital issues such as manual scavenging, bonded and child labour, the state Public Distribution System (PDS), mid-day meal scheme, and other pressing human rights concerns in the state.

NGO (President, CSWO)

Many NGOs were not invited by the State Government to the interaction with the NHRC, thereby reflecting the indifference of the Government to the large number of human rights concerns in the state.

Among the several human rights issues in Meghalaya, police atrocities are a cause of major concern. In the Jaintia Hills District for instance, Under Trial Prisoners (UTPs) are handcuffed, including even those incarcerated for petty offences. Further, complaints in this respect by NGOs are seldom taken seriously.

Fake police encounters are another crucial area of human rights concern in the state and in many cases, judicial magistrates are not informed of such incidents within the prescribed 24-hour limit. Incidence of torture and forced confessions are also prevalent in the state.

Often times, the police make arrests, but inform magistrates much later, a practice akin to illegal detention, which is proscribed under international law. Further, in an open court, NGOs are seldom allowed to sit through the court proceedings and are forced out on one pretext or another.

Justice Shri KG Balakrishnan, Chairperson

The NHRC always welcomes the participation of NGOs working in the field of human rights in the interaction meetings with the Commission. In the case of torture or other inhumane/degrading treatment by the police, the victim can inform the magistrate when he/she is produced before the magistrate. Even in the case of the handcuffing of UTPs, the individuals can inform the magistrate regarding the same. For any human rights violations, they can send their complaints to the NHRC.

Justice Shri B C Patel, Member

To enable the Commission to take cognizance of and act on a matter, it is important that a complaint is sent to the Commission. NGOs and other civil society groups can send the Commission specific details of specific cases, to enable it to take requisite action.

NGO (Mr. Dino D.G. Dympep, Meghalaya Peoples Human Rights Council)

Meghalaya faces different human rights challenges of different forms and magnitude. Some of the key human rights concerns in the state are as under:

1. Human rights abuses/violations by the Police
2. No mandatory human rights training for police personnel
3. Human rights abuses by the paramilitary forces including torture and sexual abuse
4. No definitive action against paramilitary forces and the police for the human rights violations committed by them
5. Lack of an independent human rights body such as a State Human Rights Commission (SHRC) to look into issues of human rights violations in the state. It has been suggested by many that there should be a common State Human Rights Commission for 2-3 States in North East. However, this idea could not materialize since the states of Assam and Manipur established their respective State Human Rights Commissions. The NHRC should take up the matter of the constitution of a State Human Rights Commission in Meghalaya, which will go a long way in addressing cases of human rights violations more promptly

6. High incidence of violence against women, including domestic abuse and rape
7. Overcrowding of prisons
8. Ethnic conflict resulting in displacement of large numbers of people

Justice Shri KG Balakrishnan, Chairperson

The NHRC has been pursuing with state governments to establish their own State Human Rights Commissions, at the earliest, and where SHRCs exist, to provide them with infrastructural facilities and requisite support to enable them function effectively. The Commission has already written to the Government of Meghalaya to initiate the process of the setting up of an independent SHRC in the state. The NHRC has also suggested that states could explore the possibility of setting up a common SHRC for 2 or 3 states.

NGO (Bethany Society)

There have been cases where young girls below 18 years of age, with disabilities, have been raped. NGOs often find it difficult to take such cases forward because in many instances, out of court agreements/settlements are made within communities by the families of the victim and the accused. However, it is an undeniable fact that the rights of these minor girls have been violated. It is difficult to take these cases forward especially in cases where the victimized girl is mentally challenged and is expecting a child following the incident of rape. What can NGOs do in such cases?

Justice Shri KG Balakrishnan, Chairperson

There are some customary laws in the Northeast, wherein, cases are settled out of court. Often times, due to social stigma and other pressures, such cases are withdrawn by the families. Although the Commission has not received any complaint of this nature so far, it may be pertinent to point out that a criminal case need not necessarily be initiated by the victim alone, but can be initiated by anyone on the victim's behalf.

Justice G P Mathur, Member

In such cases, social pressures/stigma prevents families from taking up these cases legally; they prefer to suppress such issues. Rape, under Section 376 of the IPC, is not a compoundable offence, which means that there cannot be any compromise among contending parties, out of court, on the matter. The NGOs working on these issues and in the know of specific cases, may send details of such cases to the Commission to enable it to give suitable directions to the police authorities to take appropriate action.

Registrar (Law), NHRC

Even though a minor, mentally-handicapped girl may not be able to depose herself, it does not mean that a case cannot be registered on her behalf. A case can be registered in such cases and scientific evidence can be collected during investigation; the fact of rape can be confirmed through scientific medical evidence.

NGO (Mr. Dino D.G. Dympep, Meghalaya Peoples Human Rights Council)

During the interaction of the NHRC with state government officials, was there any discussion on the Commission's guidelines issued from time to time on matters pertaining to arrests, detention, death in custody etc.? Are state police officials aware of these guidelines and are these being circulated at the lowest level, especially among field officers?

Justice Shri KG Balakrishnan, Chairperson

The State Government, in particular the DGP, has informed the Commission that NHRC guidelines have been issued to all SPs across the state.

Justice Shri B C Patel, Member

The Commission's Guidelines are sent to the DMs and SPs since it is these officers who have to send reports to the NHRC.

DG (I), NHRC

The NHRC has been actively engaged in providing human rights sensitization and training to civil servants, personnel of the army and paramilitary forces, the police, and judicial and prison officials. The NHRC has signed an MoU with the *Indira Gandhi National Open University* (IGNOU) to conduct training programmes using the University's distance learning facility for police personnel in the field.

NGO (Council of Garo Hills)

In three of the Garo Hills districts, it has become an unfortunate practice in schools for teachers not to attend school to teach the students, sometimes for several days/weeks on end, as a result of which the education of children has suffered in a big way. If NGOs report the matter, the truant teachers are simply replaced by new teachers, who sooner or later fall into the same pattern of absenteeism.

The Council of Garo Hills had reported the matter directly to the Deputy Commissioner who in turn instructed education inspectors to investigate.

Unfortunately, instead of enquiring from the students and/or their families, the education inspectors chose to question only the school authorities regarding the issue of teacher absenteeism, and consequently received a misleading picture on the issue, thus, resulting in no tangible change in the situation.

Shri Satyabrata Pal, Member

Are the teachers in question regular employees of the schools? Under the *Sarva Shiksha Abhiyaan* has the state appointed para teachers?

Justice Shri KG Balakrishnan, Chairperson

Habitual absenteeism on the part of school educators/teachers results in the denial of the right to education to the children and is therefore, a matter of serious concern. If this is a general practice in these schools, then the concerned NGO must make a complaint to the State Education Department and also the NHRC so that appropriate action may be initiated.

Justice Shri B C Patel, Member

The concerned NGO, which is in know of the facts of the matter, must send its complaint to the NHRC with all relevant details so that the Commission may inquire into the matter. If what is said earlier is being repeated, then it is a matter of a serious violation of the Right to Education (RTE).

Justice Shri G P Mathur, Member

In its complaint to the Commission, the NGO must mention details of the names of the schools, their addresses, and the name of the teachers, if possible.

NGO

In border areas where there is fencing, people face multiple problems. The Border Security Force (BSF) personnel threaten the people frequently, asking them to return before or by a certain time, failing which they will not be allowed to return. The security personnel close the area from night fall to sunrise during which no entry is allowed. To add to the woes of the common

people, there are instances when militants come into villages, harass and take money and other belongings of the villagers. This is usually followed by the police taking away the villagers for interrogation. The hapless people are thus, caught between these two sides, and have their rights violated by the militants and police.

There is also an acute problem of child labour within the state. It has been reported in certain quarters of the media that there are nearly 70,000 children employed in various hazardous and non-hazardous occupations across Meghalaya, the most notable example being that of child labourers employed in the Jaintia Hills District.

Shri Satyabrata Pal, Member

Unfortunately, the problems arising from fencing along borders are common across all border regions in India. From night fall to morning, these zones are called 'exclusion zones', wherein movement of people ceases. If however, this has resulted in people not being able to cultivate their lands or in turn, earn their livelihoods, then the Commission can be approached, by

sending it a complaint, following which the Commission will inquire into the matter.

Justice Shri KG Balakrishnan, Chairperson

As far as the issue of child labour is concerned, the matter was discussed in depth with the state authorities. The media report of which the NHRC took suo motu cognizance, stated that the total number of child labourers stands at 70,000 across the state of Meghalaya. The government however, maintains that the actual figure is 222. The State Government has requested the Tata Institute of Social Sciences (TISS) to undertake a survey to ascertain the number of child labourers and other key aspects of the issue, following which the exact figures will become known. The NHRC has asked the State Government to forward to it a copy of the survey report.

Justice Shri B C Patel, Member

The NGO which has studied the problem in depth may send the NHRC a copy of its key findings including a detailed data-based complaint of specific children engaged in various forms of employment.

Shri Satyabrata Pal, Member

In the Jaintia Hills district, in addition to the crucial problem of child labour, there are also other issues of concern such as trafficking (including cross-border trafficking), health, and environment, among a host of others. Thus, while child labour of itself is a major area of concern, one must not forget the other, equally important forms of human rights violations that are taking place.

The NGOs that wish to send complaints and representations to the Commission must ensure that their complaints and/or reports are well grounded in facts. NGOs must steer clear of making general, sweeping and unsubstantiated allegations, since such claims are difficult to investigate. Therefore, complaints must be as specific as possible.

NGO

There are no concrete state regulations in place to check the menace of child labour. When some children are rescued, within no time one finds that

they have been replaced by other children. There is an urgent need therefore, to devise effective preventive measures.

Shri Satyabrata Pal, Member

The Commission has asked the State Government to submit an ATR on the rehabilitation of children rescued from situations of forced labour. The Commission would also like to request NGOs working in the area of child labour/child rights to send to it their reports and findings. In addition, if such NGOs have at any point proposed to the State Government, recommendations on the issue of child labour, but have not received any response, the Commission would appreciate receiving a copy of the same.

NGO

There are children who are HIV positive and who will soon be orphaned since their parents will sooner or later succumb to the same disease. Can the NHRC play a part in speeding up the effective implementation of the Integrated Child Protection Scheme (ICPS) in Meghalaya, which at present, does not work well?

Justice Shri KG Balakrishnan, Chairperson

If a complaint is brought before the Commission, it can take up the specific case/matter with the State Government. The Commission discussed the ICPS with government officials in its interaction during the Camp Commission Sitting. The Government officials have cited certain problems and challenges in the effective implementation of the Scheme. These include infrastructural problems, lack of personnel etc. The Government however, has assured the Commission that it is working towards plugging the loopholes and making the scheme effective and beneficial for the State's children.

Shri Satyabrata Pal, Member

There are problems in the implementation of the ICPS throughout the country. If the NGO could give the Commission an idea of the exact nature of the problem faced and how the ICPS in particular could help in ameliorating the situation, the Commission will be in a better position to give its advice on the matter. The National Commission for the Protection of Child Rights (NCPCR) has done and continues to do a lot of work in respect of the Integrated Child Protection Scheme, and thus, it would be advisable for the NGO to also approach the NCPCR in this regard.

NGO

What is NHRC's opinion/stand on the Armed Forces (Special Powers) Act (AFSPA)?

Justice Shri KG Balakrishnan, Chairperson

The AFSPA is a matter of policy decision of the Central Government and it is for the Government to decide on the issue.

NGO

Crimes against women have increased persistently, at an alarming rate in the State of Meghalaya. In addition, conviction rates are abysmally low and the police are lax in filing charge sheets against the accused.

Justice Shri KG Balakrishnan, Chairperson

Unfortunately, despite the existence of a matrilineal society in Meghalaya and other parts of the Northeast, incidence of violence against women continues to be on the rise. In fact, Assam has reported the second

highest number of cases of violence against women. The NHRC has had detailed discussions with state officials across the country exhorting them to pay special attention to the violation of the rights of women in their respective states. The Commission is deeply concerned about the issue and stands committed to continue spreading awareness and sensitizing public officials in this regard.

The Chairperson, NHRC, thanked all NGO representatives and members of civil society for their participation. He further requested them to send their complaints to the NHRC. He also informed the participants that the Commission had already had detailed discussions with state government officials regarding all pending human rights cases of the state of Meghalaya.

INTERACTION OF THE NHRC WITH THE MEDIA (PRINT & ELECTRONIC)

30 MAY 2012 – SHILLONG, MEGHALAYA

Following the Camp Commission Sitting, the Commission held a Press Conference. The Chairperson Justice Shri K G Balakrishnan described the Camp Sitting as fruitful and invited media persons to field questions and other concerns regarding human rights issues in the State.

A host of issues were discussed during the Press briefing, with the media fielding questions on a whole gamut of rights concerns including the high incidence of child labour in Jaintia Hills, fake encounter deaths, crime against women, the ineffective functioning of the Public Distribution System (PDS), and the Armed Forces (Special Powers) Act, to which the Commission responded.

In particular, the Commission made detailed reference to the reports regarding the employment of thousands of child miners in the Jaintia Hills

District and a brief on the discussion on the issue with the State officials. It informed the media that the Commission had directed the state authorities to conduct a survey of the mines to find out the exact number of child labourers employed there and take immediate measures for their schooling and rehabilitation.

The Chairperson thanked the media persons for their time and participation, and encouraged them to continue bringing to the Commission's notice issues of human rights violations and concern from within the State.