

RECORD OF DISCUSSION OF THE INTERACTION BETWEEN NHRC, INDIA AND THE DELEGATION FROM MYANMAR COMPRISING MEMBERS OF PARLIAMENT, GOVERNMENT OFFICIALS, NGOs AND CIVIL SOCIETY, HELD ON 16.05.2013 AT 1215 HRS. IN THE CONFERENCE ROOM, NHRC, NEW DELHI.

An interaction of the National Human Rights Commission with a delegation from Myanmar comprising of Members of Parliament, officers, NGOs and civil society members took place in the Conference Room of the Commission on 16.05.2013 under the Chairmanship of Justice Shri K G Balakrishnan, Chairperson, NHRC.

List of participants is appended.

Joint Secretary (P&A) initiated the discussions by warmly welcoming the delegation together with their Indian friends and informing them that the Chairperson and Members of NHRC were extremely happy to meet them as also similar delegations in the past. He hoped that the interaction would enrich their knowledge about India as a country and they would be in a better position to understand the role of the Commission at a time when Myanmar was in the process of getting democratized.

Dr. Ranjana Kumari, Chairperson, Centre for Social Research (CFSR) and coordinator of the visit thanked the Commission for agreeing to this interactive session. She explained in brief about the composition of the delegation and their purpose in visiting the country.

The Chairperson welcomed the members of the delegation, which was followed by an exchange of pleasantries and a round of introductions.

The Chairperson briefed the delegation on the establishment, role and functions of the NHRC, India in protecting and promoting human rights in the country and stated that among the several mechanisms the NHRC had adopted to protect and promote human rights, was the inquiry it conducted into the individual complaints of human rights violations.

The Commission, he added, had witnessed a phenomenal increase in the number of complaints, indicating not only a growing rights awareness among

the common masses but also the increased faith they have reposed in it for safeguarding their rights. While the Commission received a mere 496 complaints in 1993, during 2011-2012, same had risen to over One hundred thousand fresh cases. Action was completed in nearly 95,000 cases and a monetary relief of INR 10.67 crore was awarded.

The Chairperson also gave the Delegation a brief overview of various divisions – administration, investigation, law and training. He added that the NHRC, in the exercise of its quasi-judicial powers, monitors individual complaints and thematic human rights concerns, such as, bonded and child labour, silicosis, fluorosis, the right to food, right of women, children and other vulnerable groups, among others. It organizes workshops, review meetings, spot investigations and regular visits by its Members, Special Rapporteurs and officers across the country to monitor human rights.

The Commission has initiated *Open Public Hearings* to hear and decide cases of atrocities against persons belonging to the Scheduled Castes (SCs) and also was holding *Camp Sitzings* across various states to ensure speedy disposal of pending cases. It interacted with the officers of the state, NGOs, civil society and the media during such occasions to understand the key human rights concerns within a particular state from a close angle.

Miss Anna, a student of Delhi University and member of the Myanmar Delegation inquired about the role of the NHRC with regard to the **protection of the rights of women in the country**. Member Shri Satyabrata Pal stated that while the National Commission for Women had the lead responsibility in this regard, the focus on women's issues was also essential and intrinsic to the NHRC's work, given that its remit was to protect the rights of all citizens of the country. He added that during the *Open Hearings* initiated by the Commission to hear complaints of human rights violations against individuals belonging to the Scheduled Castes (SCs), it had come to light that even within this marginalized community of people, women and children (particularly the girl child), were particularly disadvantaged.

He further added that in the aftermath of the horrific incident of rape that occurred in Delhi in December 2012, the Commission had organized a National Consultation to discuss how punitive measures against sexual

violence against women could be further strengthened. The recommendations that emanated were sent to the High Powered Committee set up by the Central Government under the Chairmanship of Justice (Retd.) Shri J S Verma. While the recommendations went under the rubric of the NHRC, it brought together voices of various members of civil society. He also indicated that a large number of the complaints received by the Commission related to women. Nearly half of the 36,000 cases received by the NHRC until April 2013, for instance, pertained to women. Thus, the focus on women's rights was part of the Commission's ongoing work.

On a query from the delegation regarding **the nature of complaints received by the Commission**, the Chairperson stated that a large proportion of the complaints related to excesses committed by the police, including illegal arrests, detention and torture. He added that the Commission received a wide range of complaints including right to education, child rights, project-driven displacements, among several others. Member Pal added that the Commission could give to the Delegation, a copy of the classification of heads/categories under which the cases received by the Commission were registered, which could give the delegates an overview of the nature and range of complaints received.

Ms. N.N. Ngwe, MP, expressed the view that in Myanmar, most complaints received by the country's Human Rights Commission related to **the issue of land rights**. Therefore, she wished to know the NHRC, India's experience in this regard. The Chairperson stated that the NHRC, India was mandated to address human rights violations committed by the State and its various agencies, not by private individuals/parties. Since the issue of land rights involves largely private disputes, it was beyond the Commission's mandate to look into such complaints. The only exceptions, however, added Member Pal, were the cases relating to large-scale displacement of people due to industrial development projects, wherein issues concerning relief, rehabilitation, provision of alternate land holdings to those displaced etc. become important concerns for the Commission. In addition, the Commission has also taken up cases wherein members belonging to the Scheduled Castes (SCs) have not been provided title deeds for lands they have occupied for generations. Cases relating to the land rights of forest dwellers are also taken

up by the Commission from time-to-time. However, relative to the total cases received by the Commission, the number of cases relating to land rights, were by far, relatively small.

On a comment by Ms. M.M. Wai, Legal Advisor relating to the **autonomy and authority of the Commission**, the Chairperson stated that the NHRC, India was an autonomous and a statutory body, independent of the government.

On the issue of the **protection mechanisms available for children in India**, raised by Ms. Tin Tin Mar, MP, the Chairperson stated that in respect of children who are in conflict with the law, there exists the Juvenile Justice (Care and Protection of Children) Act, 2000. The Act essentially provides that if the accused is below the age of 18, the case will not be tried in ordinary courts, but in special courts provided for under the said Act. In addition, the punishment prescribed for children was different under the Act as also the procedure/provisions for detention of deviant children. In addition, states were also bound to constitute Child Welfare Committees.

Further elaborating, Shri Satyabrata Pal, Member stated that in India there are broadly two government schemes to ensure the protection and well-being of children. These are the (i) Integrated Child Protection Scheme (ICPS) and the (ii) Integrated Child Development Services (ICDS). While the ICPS outlines the responsibilities of law and public servants towards the protection of children against any form of victimization, the ICDS provides for a system through which the growth and developmental needs of children from the time of their birth till 5 years of age, were taken care of in special centres known as *Anganwadis*. He added that the ICPS has been further strengthened through the recent enactment of a legislation known as the Protection of Children from Sexual Offences (POCSO) Act, 2012.

In response to a query by Ms. N.N. Ngwe, MP regarding the **right to education**, the Chairperson informed the delegation that while earlier, the right to education was not considered a fundamental right, in 2000, an Article was inserted in the Indian Constitution, making the right to education a fundamental right of children up to the age of 14 years. In addition, in 2009, the Parliament of India had enacted the Right to Education Act under which

states are required to undertake a wide range of measures to ensure that all children can exercise their right to free and quality education.

On the issue of **women's political participation and representation in the Indian Parliament**, raised by Ms. S.S.S. Latt, Director, the Chairperson stated that there is a pending bill in Parliament which seeks to provide for at least 33.3 per cent reservation in the Indian Parliament for women. He added that while women's representation in the Indian Parliament at present was not very high, it was much higher in local bodies, such as, municipalities and panchayati raj institutions. In certain states, the Chairperson stated, it is mandated by law to have between 33 – 50 per cent representation of women in the local governing/administrative bodies at the village and municipal levels.

On another observation/query emanating from **Ms. M.M. Wai, Legal Advisor** regarding **how funds/financial resources were arranged and allocated at the panchayat/village levels**, Joint Secretary (P&A) stated that in recent times, there has been much emphasis on decentralization and devolution of powers to the grassroots levels. As such, the issue of the effective functioning of grassroot democratic institutions, such as, Gram Panchayats and Nagar Panchayats, is a high-priority area for the state and central governments. According to resource mobilization ability and expenditure capacity of a particular state (province), the Central Government was providing/supplementing funds for this purpose on an annual basis, he added.

JS(T) further supplemented that there were two bodies which are constituted every five years at the central and state levels respectively, namely, the Central and State Finance Commissions. These bodies were making recommendations in regard to spill overs of the five year plans, taking into consideration the factors, such as, level of poverty, under-development etc.

Ms Tin Tin Htwe, CEC desired to know **if India had any problem of child soldiers**. Member Pal responded that while there are no child soldiers in the police, army or any other paramilitary force since recruitment of child soldiers was prohibited by law, however, some extremist groups, particularly

left-wing extremists, have recruited child soldiers. Unfortunately, given that these are non-state actors, the central and state governments have no control over the recruitment of children by these deviant groups.

The meeting concluded with the Myanmarese Delegation thanking the Commission for the interaction which it felt was very useful in view of their purpose. The Chairperson expressed his appreciation to the delegates for visiting the Commission. He stated that the Commission had provided **training to the staff and officers of various NHRIs**, including those in Rwanda, Nepal, Afghanistan and Myanmar and added that the Commission would be happy to interact with and provide any assistance that the Myanmar Human Rights Commission may require in future.

Dr. Ranjana Kumari, Director, CFSR again expressed her gratitude to the Commission for having spared their valuable time to meet and enlighten the delegation. In her opinion, such people to people contacts were going to be beneficial for both the nations.

List of Participants

NHRC

Shri Satyabrata Pal, Member

Smt Kanwaljit Deol, DG (Investigation)

Shri A K Garg, Registrar (Law)

Shri A K Shrivastava, Joint Secretary (P&A)

Shri J S Kochher, Joint Secretary (Trg)

Myanmar

Ms. Nan Ngwe Ngwe, Member of Parliament

Ms. Khin Khin Si, Member of Parliament

Ms. Tin Tin Mar, Member of Parliament

Ms. Myint Myint Wai, Legal Advisor

Ms. Yee Yee San, Joint Secretary, CEC

Ms. Naw Sah Htoo, CEC Contested Candidate

Ms. Tin Tin Htwe, Secretary of Women Affairs, CEC

Ms. Ni Ni May Myint, Youth Member

Ms. Shwe Shwe Sein Latt, Director

Ms. Kay Zar Kyaw, Finance Officer

Ms. Rikje Crista Jansen, Program Officer, Burma Centre, Netherlands, an NGO working in Myanmar

Centre for Social Research (CFSR)

Dr. Ranjana Kumari, Chairperson

Dr. Mili Chatterjee

Ms. Sophie

Ms. Sonia