

RECORD OF THE DISCUSSION OF THE STATUTORY FULL COMMISSION MEETING HELD AT 1100 AM ON 07.12.2012 IN THE NHRC CONFERENCE ROOM

A meeting of the Statutory Full Commission chaired by Justice Shri K.G. Balakrishnan, Chairperson was held in the National Human Rights Commission at 11.00 AM on 07 December 2012. Justice Shri BC Patel, Member, NHRC; Shri Satyabrata Pal, Member, NHRC; Smt Shamina Shafiq, Member, National Commission for Women (NCW); Shri B L Meena, Member, National Commission for Scheduled Tribes (NCST); and Dr. Ajaib Singh, Member, National Commission for Minorities, participated.

2. Smt Nina P Nayak, Member, National Commission for the Protection of Child Rights (NCPCR), also attended the meeting as a Special Invitee.

List of members and officers is appended.

3. The Chairperson, NHRC welcomed the Members and stated that much progress had been made since the last meeting held on 7/2/2012 which had focused on important issues of mutual concern. He emphasized the importance of such meetings as they provide an opportunity to all National Commissions to deliberate on several important issues .

4. He further stated that unless joint efforts by all the National Commissions were made, it will be difficult to address and resolve certain serious human right problems. He added that it was encouraging to note the considerable faith that government and civil society had reposed in the National Commissions, thus, making their role in addressing rights violations and creating an enabling environment for human rights, even more important.

5. With this background, agenda wise discussion began.

Agenda I: Confirmation of the Minutes of the Meeting of the Statutory Full Commission held on 07.02.12

6. The Chairperson, NHRC indicated that since the last meeting of the Statutory Full Commission, substantive work had been done by the NHRC and other National Commissions. He, however, added that the overlapping of complaints and multiplicity of proceedings continue to cause concern to all the Commissions. It was also noticed that often victims send separate complaints to two or more Commissions and sometimes individuals other than the victims also file complaints on behalf of the victims/aggrieved.

7. The Chairperson informed that suggestions regarding issues to be raised during the proposed meeting with the Prime Minister on the strengthening of Commissions through improved infrastructure, resources etc., had been received from the NCM, NCW, NCST and NCPCR. He also requested the NCSC to send their suggestions at the earliest so that all the suggestions could be consolidated and the proposed meeting may be requested for on priority.

8. The Chairperson, NHRC, further was of the view that National Commissions were in need of better-equipped legal cells, ready access to expert opinion on various human rights issues, and the ability to react immediately in certain situations. He also added that State Human Rights Commissions (SHRCs) were much worse off compared to the National Commissions in terms of their overall infrastructural capacity. Some of the SHRCs are forced to manage with only part-time staff and resource crunch situations.

9. Member, NCPCR stated that the NCPCR had been nominated to act as the monitoring body for both the Right of Children to Free and Compulsory Education (RTE) Act, 2009 and the recently notified Protection of Children from Sexual Offences (POCSO) Act, 2012. She stated that in the absence of adequate infrastructure, finances and other resources, it had become extremely challenging for the NCPCR to carry out its responsibilities effectively.

10. The Minutes of the Statutory Full Commission meeting held on 07.02.2012 were thereafter approved and confirmed.

Agenda II: Action taken report on the Minutes of the Meeting of the Statutory Full Commission held on 07.02.12

1. Inter-linking the CMIS of NHRC with the National Commissions (Suggested by NHRC)

11. Shri JS Kochher, J.S., NHRC informed that the NHRC had addressed letters and even sent reminders to the National Informatics Centre (NIC) and National Commissions to interact and collaborate to bring about the inter-linking of these Commissions. However, the NHRC had not received the expected response from the National Commissions.

12. Members of NCPCR and NCW, responded by stating that both these Commissions were stretched beyond capacity, especially administratively, owing to vacant posts of officers and staff, including the Member Secretary, Joint Secretary etc.

13. Shri Justice B C Patel, Member, NHRC pointed out that the problem of duplicity of registration of complaints was not only being faced by the National Commissions, but also SHRCs. To address the issue effectively, he suggested that when a Commission took cognizance of a complaint, copies/information of the same must be sent to all other National Commissions.

14. JS(T), NHRC informed that the NHRC uploads complaints or cases of which it has taken cognizance on a daily basis on its website and thus, the other Commissions could check the NHRC's website for information regarding complaints, with a view to avoid duplicity.

15. Member, NCPCR, stated that it was vital for all National Commissions to coordinate their activities. She suggested that working groups be constituted to look at ways in which the National Commissions can cooperate and work more closely with each other. She further suggested to the Chairperson, NHRC that a meeting of all Registrars of the National Commissions be organized together with representatives of the NIC to discuss the issue in detail and suggest remedies.

Decision:

16. It was decided that a meeting of the Registrars of all National Commissions would be organized together with representatives of the NIC to discuss the issue of the inter-linking of the CMIS.

2. Report on Prevention of Atrocities against Scheduled Castes submitted by Shri KB Saxena, former IAS & Secretary to Govt. of India.

17. The Chairperson, NHRC informed the Statutory Full Commission that on the basis of the recommendations of the KB Saxena report, the NHRC had conducted Open Hearings in four states on complaints regarding atrocities committed against persons belonging to the Scheduled Castes and that it proposed to organize the next hearing in Maharashtra shortly.

18. He inquired if the Members of the Statutory Full Commission had any suggestions to implement the recommendations of the said Report more effectively. He added that at the last meeting, the NHRC had requested the National Commission for Scheduled Castes (NCSC) to study the Report and send its suggestions. While reminders were sent to the NCSC, its response was awaited.

3. Amendment to Child Labour Act to bring it in Consonance with the Right to Education Act

19. Member, NCPDR informed that their Commission had sent suggestions regarding the amendment of the Child Labour Act to the Law Commission with a view to bring it in consonance with the Right to Education Act, the International Convention on the Rights of the Child (CRC) and pertinent ILO Conventions.

20. She further added that the Government was yet to revise its Child Policy of 1974. While the Government was planning to bring in a new Act for children, it was equally important for the country to have in place a National Policy on the issue. The National Commissions, therefore, in her opinion, must collectively pursue with the Government to finalize a draft.

21. The Chairperson, NHRC stated that the Juvenile Justice (Care and Protection of Children) Act [JJ Act], was not intended for the welfare of children and thus, it would not help to amend the JJ Act alone. He added that children face a multitude of challenges and potential right violations including child labour, lack of education, malnutrition, child marriage, physical and sexual abuse etc., so it was high time that the Government devised a Child Policy for the country. Most countries, especially in the West, look at their children with great respect and same was evidenced by the wide range of policies, programmes and legislations to protect them and promote their overall growth.. The Government of India, should, therefore, also take up the matter of the protection of its children in all seriousness.

22. JS(T) informed that the Government had referred its Draft Child Policy to the NHRC, India, on which the NHRC had given its comments. Member, NCPDR stated that the NCPDR too had given its comments on the said policy.

4. Witness Protection Programme to Cover all Segments of Society

23. Member, NCPDR stated that Section 357A of the CrPC provides that victim assistance schemes for providing compensation to victims of crimes and/or their dependents, shall be prepared by State Governments in coordination with Central Government and that compensation will be released to victims through the District/State Legal Service Authority. So far only 22 states had developed/adopted such schemes. In practice, however, victim assistance/compensation was not being provided. Member, NCPDR added that children hardly ever file FIRs and in the limited number of cases

that such FIRs were filed, they turn hostile due to the considerable costs, time and complexities (presence of adults) involved in court cases.

24. Member, NCPCR accordingly emphasized that there was a need to set up children's courts in accordance with the provisions of the Commission for Protection of Child Rights Act, 2005 and the recently notified Protection of Children from Sexual Offences (POCSO) Act, 2012.

25. Justice B C Patel, Member, NHRC, however stated that even under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (which makes it mandatory to provide victim assistance) such assistance was not provided. He was of the view that there was lack of awareness among people regarding these provisions and various entitlements.

26. Member, NCPCR further suggested that the Home Department in every State must have a Corpus for victim assistance, through which disbursement at District level and further down could be possible.

5. Preventing and Combating Human Trafficking in India

27. Member, NCPCR informed that as on date, anti-human trafficking units existed in nearly 350 districts across the country and these were further strengthened by the vigilance committees set up at the Panchayat and block levels.

28. Shri Satyabrata Pal, Member, NHRC enquiring about the toll-free anti-trafficking help lines, asked if these were functioning effectively.

29. The Member, NCW responded by stating that even where these help lines exist, awareness among the people regarding these is very low, so much so that sometimes even police officials and various human rights commissions are unaware of the existence of these provisions.

30. The Member further added that human trafficking had become a major problem with large numbers of women migrating from Rajasthan to Gujarat and other states for work. She added that women were also being trafficked from Bangladesh into Indian states with a skewed sex ratio.

31. Shri Satyabrata Pal, Member, NHRC stated that tribal girls are trafficked from Jharkhand, Odisha and certain other states to get them married to men in Gujarat, Rajasthan, Haryana, Punjab and states having a low sex ratio with the sole objective of producing sons. If these trafficked girls and women were unable to bear sons, they were trafficked onwards. He went on to add that a large number of young girls and women are trafficked from Sundergarh in

Odisha and that while those responsible for trafficking have been identified, no action has been initiated against them since these men are purportedly very powerful and politically well-connected.

32. JS(T), NHRC stated that one of the recommendations which emanated from the Conference on 'Combating Human Trafficking in India' (organized jointly by the NHRC and NCW) was developing an *Integrated Plan of Action to Prevent and Combat Human Trafficking with Special Focus on Children and Women*. He added that so far, the NHRC had not received the draft recommendations on rescue and prevention aspect of human trafficking from the NCW.

33. Member, NCPCR inquired if the NHRC could arrange a meeting of representatives of the Ministry of Women and Child Development and the NCW and NCPCR to discuss the recommendations of the said conference.

Decision:

34. It was decided that the NHRC would arrange a meeting of representatives of the Ministry of Women and Child Development and the NCW and NCPCR to discuss the recommendations of the Conference on 'Combating Human Trafficking in India'.

35. It was also decided that the NCW would send a copy of the draft recommendations on rescue and prevention aspect of human trafficking to the NHRC.

6. Additional Agenda

(i) Education as a Catalyst in Gender and Caste Sensitization

36. Member, NCW informed that the NCW had set up an Expert Committee on Gender and Education. It was requested that the NCW should inform the NHRC regarding the next meeting of the said Committee.

37. JS(T), NHRC invited the members of Statutory Commission to the day-long Conference on Human Rights Education on 14th December 2012 at the Vigyan Bhawan Annexe.

Decision:

38. It was decided that the NCW would inform the NHRC regarding the next meeting of the NCW's Expert Committee on Gender and Education.

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

39. Member, NCW informed that their Commission had sent a letter to the Chairperson, Law Commission of India requesting for a Joint Meeting on the issue. The Ministry of Law and Justice had also requested the MHA to take necessary action.

40. The Member, NCW also informed that it has recommended a scheme to the Ministry of Women and Child Development in which it was suggested to fix a compensation of Rs 5 Lakhs in the case of rape. Also, each case must be considered on its own merit and should be distinguished when rape is alleged to have been committed by a police officer or Govt. /State functionary or by non-state actors.

41. The Chairperson, NHRC stated that the amendment of the IPC was an important matter, the recommendation for which will have to come from the Law Commission. The Law Commission, however, had not been re-constituted since the expiry of the term of the last one in October 2012. In his opinion, therefore, it will take at least 3-4 months for the Commission to be re-constituted and for these matters to be taken up.

7. Joint collaboration of all the National Commissions on important issues of common interest and concern.

42. Member, NCPCR stated that the National Commissions should jointly demand that State Human Rights Commissions (SHRCs) be set up in all the states and that these commissions be provided with adequate resources and staff to enable them to function effectively.

43. The Chairperson, NHRC added that these concerns will be raised jointly in the meeting with the Prime Minister after the current Parliament Session. He indicated further that there was already a Committee set up under the Chairmanship of Member Justice Shri B C Patel to look into the problems of SHRCs. This Committee, the Chairperson added, could also look into the challenges and problems faced by the National Commissions. It was suggested that the said Committee could co-opt members from other National Commissions as well and prepare a detailed report to be given to the Prime Minister.

44. Member, NCW stated that the NCW was planning to initiate a dialogue with the State Commissions for Women to understand the various challenges they face. She added that there is no uniform or universal legislative Act for the state women commissions, each of which has been set up under separate Acts, which have resulted in limiting their capacity and power to function effectively.

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

ANNEXURE III: Issues Relating to Common Interest and Concerns Received from the Deemed Members

(i) Issue of Malnutrition (Suggested by the NCPCR)

45. The Member, NCPCR stated that the issue of malnutrition is a cause for great concern and is all pervasive, cutting across scheduled castes, scheduled tribes, classes, minorities and other vulnerable groups across the country. Effective interventions would entail decentralization in principle and in practice that tracks every child's nutritional intake and health status, crèches for working mothers among other interventions. It was important to have a legal framework guaranteeing children under six years of age their entitlements and formalizing the gains made under the various directives issued by the Supreme Court under the Writ of Mandamus dealing with the Right to Food.

46. Shri Satyabrata Pal, Member, NHRC pointed out that almost every *anganwadi* centre visited by the NHRC had no basic equipment such as weighing scales. In the absence of such equipment it was 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 therefore an indicator of malnutrition. This lack of equipment implies that there is no co-relation between ground reality and what is being reported by the *anganwadi* workers.

47. Justice Shri B C Patel, Member, NHRC stated that given the varying degree and nature of the problem, the issue of malnutrition will have to be addressed differently across rural and urban areas.

48. Member, NCPCR stated that their fellow Member Dr. Vandana Prasad was doing remarkable work with respect to enquiring into the implementation and effectiveness of the ICDS as also the issue of malnutrition across the country.

49. Member, NCW opined that Kerala had a unique model to ensure better implementation and monitoring of the ICDS. The state government had proposed to house the *anganwadi*, old age home and *anaathalaya* (orphanage/child care centre) in one building to ensure monitoring of services to children and to keep a vigil on their health and nutritional needs.

50. Member, NCPCR further indicated that six core components/services must be prominently displayed on boards inside *anganwadi* centres etc. so that women and children are aware of their entitlements under the scheme.

51. Shri Satyabrata Pal, Member, NHRC informed stated that the Government of India had scrapped the Fourth National Family Health Survey, since the third such survey had brought to light extremely embarrassing and damning figures with respect to malnutrition and other health indicators in the country. He described this development as unfortunate since the same was an important source of information on the status of malnutrition.

52. Member, NCPCR also submitted that the NHRC, NCW and NCPCR should pool in their expertise, experience and the work undertaken in regard to the ICDS and the larger issue of malnutrition and meet and work together to chalk out a future course of action to ensure greater effectiveness of the ICDS system.

Decision:

53. The NHRC, NCW and NCPCR will meet to discuss the work done by each of the National Commissions on the ICDS and the larger issue of malnutrition and chalk out a future course of action in the matter.

(ii) Protection of the rights of children in the age group 14-18 years (Suggested by NCPCR).

54. Member, NCPCR stated that there was a lack of clarity on both programmatic and legislative framework for securing the rights of adolescent children, especially in the 14-18 years age group. They were vulnerable to trafficking, labour, child marriage as also getting involved in illegal nexuses and armed conflict. It was, therefore, necessary that all human rights institutions come together to examine and review their plight.

55. The Member further added that the Right to Education Act provided for compulsory education to children up to the age of 14 years alone. This was needed to be extended to the age of 18 years to ensure greater chances for the employment of the children.

(iii) Independence and Autonomy of Human Rights Institutions (Suggested by NCPCR).

56. Member, NCPCR stated that the independence and autonomy of the human rights institutions must be respected and maintained. Further, there was a need for a mandatory consultation with the human rights institutions.

When laws and policies are framed, their views are to be sought at all stages of their formulation.

57. The Chairperson, NHRC suggested that the NCPCR may also set up a Budgetary Committee, along the lines of the NHRC's Steering Committee, to look into matters concerning their budgetary requirements. The Chairperson added that these issues will be taken up in the representation to the Prime Minister for a uniform status with respect to salaries, staffing etc. to ensure better functioning of these Commissions.

Decision:

58. It was decided that once the suggestions from all the National Commissions are received, these will be finalized by the Chairperson, NHRC and the proposed meeting with the Prime Minister will be organized on priority.

Additional Issues.

1. Reporting Obligation to CEDAW

59. Shri Satyabrata Pal , Member, NHRC stated that the Government of India's report to the Committee on the Elimination of Discrimination against Women (CEDAW) was due in August 2010. He enquired about the status of the said report. He added that India's reporting obligations to the CEDAW were not being upheld and that the same must be pursued with the Government.

60. Member, NCW responded by stating that the NCW had organized regional consultations with NGOs, but not with Ministry officials on the issue.

Decision:

61. It was decided that the NCW would pursue the matter of submission of India's country report to CEDAW, with the Government. The NHRC will also press the Government for an early submission of the said report.

2. Reporting Guidelines for the Media (Suggested by the National Commission for Minorities {NCM})

62. Dr.Ajaib Singh, Member, NCM referring to the recent arrest of an individual from the *Namdhari* sect in UP stated that the media instead of using the name of the concerned individual was always referring to him as '*Namdhari*'. This, the Member, NCM pointed out can have wide and serious ramifications for the entire *Namdhari* community. Same was likely to send

wrong signals about the community. The Member, NCM also gave similar examples from the State of Punjab and called upon the Statutory Full Commission to take suitable remedial steps.

63. The Chairperson, NHRC agreed that the matter was indeed of serious concern and suggested that the NCM should take up the matter with the Press Council of India.

64. A copy of booklet entitled "A Guidebook for the Media on Sexual Violence against Children" published by NHRC was circulated thereafter to all the Members and participants.

Decision:

65. It was decided that the NCM would take up the said matter with the Press Council of India for the drawing up of a set of guidelines for the print and electronic media on the issue.

3. Acid Attacks against Girls and Women (Suggested by the NCW)

66. The Member, NCW stated that there had been a disturbing rise in the incidence of acid attacks against young girls and women and that nearly 10 such cases had been reported to the NCW last year alone. It was also noted that a substantial number of cases are not reported. As on date, there are no set guidelines for district authorities on how to deal with such cases and the special needs of the victim, in the absence of which the victim is forced to run from pillar to post for medical and other assistance.

67. The suggestion to restrict the sale of acid has been regarded by various governments as untenable on the grounds that acid is used for a whole range of domestic and industrial purposes. The Karnataka High Court has passed an order regarding victims of acid attacks. There is an urgent need for the National Commissions to look into the matter and devise guidelines.

68. The Chairperson, NHRC stated that the Commission had not received any cases/complaints regarding acid attacks. It is an important human rights concern and one that must be addressed in all earnest.

69. The Statutory Full Commission meeting concluded with the Chairperson, NHRC stating that the discussions on various issues had been very useful. He thanked all the Members for their active participation and valuable contributions.

LIST OF PARTICIPANTS

(A) National Human Rights Commission

Justice Shri B C Patel, Member

Shri Satyabrata Pal, Member

(B) National Commission for ST

Shri B.L.Meena, Member

(C) National Commission for Women

Ms.Shamina Shafiq, Member

(D) National Commission for Minorities

Dr.Ajaib Singh, Member

(E) National Commission for Protection of Child Rights (Special Invitee)

Ms.Nina P.Nayak, Member

OFFICERS OF NHRC (In Attendance)

(1) Dr. Shri Ashok Sahu, Secretary General

(2) Shri Alok K. Shrivastava, Joint Secretary (P&A)

(3) Shri J S Kochher, Joint Secretary (Trg.)

(4) Shri A K Parashar, Joint Registrar (Law)

(5) Smt. Shoba George, Deputy Secretary (Admn)