

Minutes – Meeting of the Delhi Based Human Rights Defenders

1. A meeting on the issues of Human Rights Defenders was held in the Commission on 22 December 2017 at 11:00 A.M. The meeting was chaired by Shri Ambuj Sharma, Secretary General, NHRC and was attended by Shri Surajit Dey, Registrar (Law), Dr. Ranjit Singh, Joint Secretary (P&A), Dr. Sanjay Dubey, Director (A), Shri Mahesh Bhardwaj, Senior Superintendent of Police and Shri Srinivasa Kammath, DR (Law) and Focal Point for Human Rights Defenders besides several Human Rights Defenders. The list of participants is attached at **Annexure – ‘A’**.

➤ Mr. Ambuj Sharma – Secretary General of NHRC

2. Mr. Ambuj Sharma noted how from receiving 400 odd number of complaints within a year or two of its establishment, the NHRC is now handling 1,20,000 complaints per year, which is still relatively a small number considering the size and population of the country. The Commission, which is celebrating its silver jubilee in 2018, plans to expand its outreach so as to reach the grass root levels of the society. He pointed out that people in the rural areas are still largely out of reach of the Commission. The NHRC also plans to work on issues of accessibility and spread human rights awareness and activism amongst people.

3. Secretary General noted that the objective of NHRIs is not to function as an adversary to the government or the HRDs but as a companion to the HRDs and to show a mirror to the government agencies. He further briefed the participants about the actions taken by the NHRC on the recommendations of the HRD workshop held in 2015, which is given below.

- a) **Convention against Torture:** The bill dealing with Convention against Torture has been laid down by the Ministry of Home Affairs

before the Parliament and the same is now before the Select Committee of Rajya Sabha but is yet to see the light of the day. The NHRC has been pursuing with the Government of India regularly.

- b) **Foreign Contribution (Regulation) Act** – A problem has arisen because many NGOs receiving foreign contributions are not complying with the basic conditionalities of FCRA. They fail to comply even with the basic requirement of Annual Reporting and audited accounts furnishing upon receiving foreign contributions, besides diversion of funds for some other purposes than for which they were approved. The NHRC is working with Ministry of Home Affairs for formulating guidelines to ensure compliance of FCRA by NGOs. In such cases of default, HRDs are required to sensitize the NGOs to comply with the existing scheme guidelines etc.
- c) **Status Report from various states ((a) on issue of sensitization of security as well as armed forces/law enforcement officials & (b) strengthening of Legal Aid Services Authorities)** – Nearly 50% of the states have sent the reports regarding steps taken in the matter. Other states are being sent reminders for the same so that the status report can be complete. Issues that emanated from the last meeting such as strengthening of legal aid system etc. are being appropriately dealt with.
- d) **Toll Free Number-** NHRC is taking steps for a toll free number for the focal point of the NHRC to make it more accessible and cost friendly. Efforts are being made to enable the facility of a 4-digit toll free number (rather than a caller pay number) for the purpose of easy accessibility to people in case of any human rights violations.
- e) **SHRCs-** It is seen that many SHRCs are not active and are not receiving many complaints. In turn, the state government is also not giving them adequate infrastructure citing this as a reason.

Currently, 26 states have SHRCs and NHRC is pursuing with other remaining states also to have SHRCs for protection of human rights in their respective states. Since the number of cases received by Union Territories is very small, their attachment to nearby States is also under consideration where cases would be legally taken care of, as in High Courts.

- f) **Capacity Building of the HRDs:** It was suggested that interactive courses can be organized by NHRC to build capacity of HRDs. The content of the same can be decided with collective efforts by the HRDs and the NHRC.
- g) **Monitoring of Universal Periodic Review recommendations:** The NHRC & government ministries/departments needs to take concrete actions for following up of UPR recommendation through effective implementation of policies and schemes. The NHRC is also holding regular meetings with various ministries for the same.
- h) **Sensitization of Parliamentarians and Legislators, IAS, IRS, IPS officials:** The NHRC has given the following proposal to various academies training senior administrative officials such as that of IAS, IPS and CBBT etc. to sensitize them about human rights.
 - Pledge: Annual Human Rights Pledge be taken by the officials to imbibe in them reverence for human rights of each individual. Suggestion was also made to introduce a column w.r.t. compliance with Human Rights in the Annual Confidential Report of these officials to check their sensitivity towards vulnerable groups such as SC/STs, Women etc. as to how these officials deal with human rights issues when on duty.
 - Orientation Course: The academies have also been requested to send the probationers for a half day attachment to the

NHRC so that the NHRC officials can give them "capsule orientation" regarding prevention of human rights violation.

4. He also welcomed suggestions of various topics on which NHRC can conduct collaborative research. Views and opinions of the HRDs present in the meeting were also taken, which were as follows:

➤ **Mr. Amit Kumar : National Alliance of People's Movement (NAPM)**

5. He cited recent examples of Kathputli Colony (Delhi) to highlight the misery of the people evicted arbitrarily by the government without any adequate notices. He urged that such evictions should be done in a rights based manner. The Secretary General suggested that in cases where slum displacement is done in the name of development, proper sensitization is needed as to what is development for the government and what is development for the people.

6. Mr. Amit also suggested that proper consent of the people needs to be taken as they are denied various basic facilities whenever any displacement takes place, such as denial of right to education, right to drinking water etc. It was also brought to the notice of the participants in the meeting that force used by the police officials during eviction, with lathis having nails on them seriously violated the rights of affected slum-dwellers.

7. Attention was also brought to the inappropriate use of funds by the government. Ms. Uma Kapari of NAPM stated how government spends crores on constructing shelters rather than using the funds judiciously and providing important facilities such as education and health services to the poor and needy, particularly in urban slums.

8. Participants strongly represented that any government planning evictions should give prior details of the same to the human rights

Commission which should be publicised so as to make people aware of the eviction. He further suggested that the NHRC should consider to release documents on the actions related to such evictions and there should be full disclosure of the government schemes and policies that affect the masses such as infrastructural and development projects, like smart cities projects etc.

9. The participants also discussed how State policies and Acts such as that of Tamil Nadu, are slowly diluting the procedures of Social Impact Assessment and Public Participation. For instance, in Rajasthan, the consent requirement has been reduced to 60%. Moreover, all the above stated procedures are marred by malpractices such as forgery of signatures to obtain consent. The legality of these State policies and legislations was also discussed. It was suggested that NHRC can carry out sample studies/research in some major cases.

➤ **Mrs. Kalyani Menon Sen – Women against Sexual Violence and State Repression**

10. Ms. Kalyani Menon Sen identified the following three issues faced by her while working with NHRC:

- (a) Issue of accessibility : The accessibility of HRDs with Members/Senior officials, except with HRD Focal Point, was highlighted as an issue. There is also a need for revamping the procedure for immediate response to complaints received by the Commission.
- (b) Issue of transparency: The whole procedure adopted by the Commission and each stage while disposing off the complaints including scrutiny, follow ups, spot enquiry etc. should be made available on the website.

(c) Systemic issues within NHRC for dealing with complaints: There is lack of interface between NHRC and HRDs. She also requested that provision be made for the complainants to search their specific cases by the diary number, alongwith the file number. It was highlighted as an issue that they are not intimated about the progress of their cases. It was suggested that the website of NHRC needs certain modifications in terms of disclosure of the status of the complaints filed by the complainants or HRDs including intimation of case numbers, file numbers and details of the course of action. Secretary General emphasized the need to revamp the procedure for immediate response whereby immediate attending to cases would be done eliminating the time taken in file approvals.

11. Ms. Kalyani Menon Sen put forth another significant issue of clubbing/attachment of cases. She mentioned that, in a case filed by her (Soni Sori's case), since the main complaint was dismissed, the whole bunch of complaints was dismissed as a result of clubbing. Hence, she brought to notice that sometimes, due to this lacuna in the attachment system, even grave cases such as sexual violence in custody get dismissed. She further requested that the complainants be updated of the status of the complaint filed by them.

12. The Registrar Mr. Surajit Dey stated that though further improvement could be explored in the NHRC website, right now, if one has the case number, status thereof can be readily checked. Regarding closure of the cases as a result of clubbing of cases, he stated that it is just an exception and will be looked into.

13. A suggestion was made that the focal point should be strengthened by providing more manpower including legally qualified/technical staff.

14. Special Rapporteurs are not responsive : It was pointed out that the Commission's Special Rapporteurs are not responsive when contacted. It

was suggested that the Commission should consider the appointment of Senior HRDs of proven record for the appointment of Special Rapporteur. Further, it was suggested that the visits of Special Rapporteurs should be uploaded on the website. It was clarified by Dr. Ranjit Singh JS P&A) that the tour programmes of the Special Rapporteurs are already being uploaded on the website.

15. The HRDs also requested that the NHRC should take up the cases in courts especially in cases where HRDs have been persecuted by falsely implicating them.

➤ **Mr. Bejwada Wilson – Safai Karamchari Andolan**

16. He requested the NHRC to have a toll free number, rather than a caller pay number, so that citizens from even the most vulnerable sections of society can have easy access to NHRC. He also drew the attention of the participants towards the important issue of Manual Scavenging. He noted that though the NHRC has been holding workshops regarding the issue, but no case has been yet filed on this grave human rights violation. To this the Secretary General requested him to give a few districts/States where there are rampant human rights violations in the form of manual scavenging so that they can be focused upon by the Commission by way of study and spot verifications.

17. Another suggestion was that the victim name be mentioned while sending SMS about Diary Number by NHRC when a complaint is filed on behalf of the victim by the complainant so that the case is distinct and identifiable.

18. He also put forth the issue of rejection of complaints by NHRC for being time barred and quoted a judgment by the Supreme Court delivered on March 27, 2014 for each civil death from 1993 onwards. The participants of the meeting then discussed that the complaints filed after

one year of the date of incident cannot be entertained by the commission under the PHR Act, 1993. Mr. Ranjit Singh, J.S. (P&A) also highlighted the dichotomy between a judgment on bonded labour in the year 1997 and Section 36 of the PHR Act, 1993.

➤ **Ms. Uma Kapari – National Alliance of People's Movement**

19. She has been a part of Narmada Bachao Andolan and thus, referred to the brutal Lathi Charge by the police officials on the 17th day of the Satyagraha. She suggested that the police officials should be sensitized to prevent human rights violations in such cases. She also explained that even though we have the Land Acquisition, Rehabilitation and Resettlement Act, 2015, yet people do not wish to relocate as they have no shelter or access to schools, jobs etc. The award of the tribunal is generally not enforced in full and the displaced persons are deprived of even basic facilities for a long time. The Secretary General suggested that a research project be taken up on this subject in identified 1-2 areas.

➤ **Mr. Rajeev Kumar Sharma**

20. He requested NHRC to be proactive for protection of life of HRDs as they are exposed to constant threat to life whenever they raise their voices for the protection of human rights. He also suggested that there should be issuance of identity cards to the Human rights defenders by the NHRC so that the authenticity of the HRDs could be validated.

➤ **Shri Radhakanta Tripathy**

21. Mr. Radhakanta Tripathy suggested that the procedure for allotment of diary number to the complaints be expedited. Even when a complaint is hand delivered, the Dy. No. is not given instantly. The Secretary General assured that steps for expediting the processing of physical complaints will be taken so that the diary numbers can be allotted to the complaints at the

earliest. He also requested the Commission to have counseling services as part of the Madad Counter.

22. A research study was suggested on the use of corpus of the Nirbhaya Fund and Child Labour and Welfare cum Rehabilitation Fund created pursuant to **Union of India v. M.C. Mehta** in child labor matters.

➤ **Mr. R.H. Bansal – Centre for Human Rights**

23. It was suggested that there should be uniformity in compensation being given to the victims of human rights violation by the NHRC. He also emphasized that there is a felt need for revision of the compensation amount also.

24. It was highlighted during the meeting that once the cases are transferred from NHRC to SHRC, the information on their disposal is not provided to the complainants. This was another issue that the HRDs are facing as they are not intimated about the status of their complaints once it is transferred to the SHRCs.

25. He also raised the issue of sexual harassment against males which is on the rise. Since, we all advocate the principles of equality, issues related to sexual harassment against men should also be effectively dealt with by proper implementation of laws.

26. He also referred to one Kalavati Hospital case whereby no representation was made in the High Court on behalf of the NHRC. He further suggested that Complaints pertaining to government hospitals and government homes need to be taken seriously.

➤ **Shri Hem Raj - Delhi Justice Resource Centre**

27. It was suggested that the information on 28 backward districts programme may be uploaded on the website of the NHRC for information of HRDs. Secretary General suggested that a few bonded labour prone

districts can be focused upon to make it bonded labor free within a short time frame of 1-2 years. These can then be a model for other districts as well. Further, suggestions were made that the NHRC may recommend State governments to depute/nominate State level officers to deal with the issues of bonded labor as well as formulate State Action Plans for the same. The NHRC may also recommend State Government of Delhi to constitute a State Level Monitoring Committee for ensuring accountability of government officials.

28. It was suggested that once the Commission plans to conduct a spot enquiry to validate the grave human rights violations occurring in any institutions/area etc., the inquiry should be commissioned within a period of maximum 15 days. The investigation team should comprise one senior officer from Law Division of NHRC also. He also urged the Commission not to disclose the identity of the victim labourers

➤ **Mrs. Kavita Srivastava – National Secretary, People’s Union for Civil Liberties**

29. Mrs. Kavita Srivastava emphasized on the need for an enabling law for the functioning of HRDs as jurisprudence for the HRDs is fast evolving. It was suggested that NHRC should initiate steps to develop separate jurisprudence on the HRDs. It was decided to scan and study any such model laws in other countries.

30. It was also requested that the NHRC recommend amendment in the Special Marriages Act so as to encourage the right of choice amongst the youth desirous of marrying either Dalits or individuals from a different religion which is occupying centre stage today.

31. She vehemently raised the issue of the shrinking democratic space in public areas for expressing dissent, citing the examples of Ajmer in Rajasthan and Jantar Mantar in Delhi. The Secretary General suggested

her to take her grievances in the open hearing scheduled to be held in Jaipur on the 18th and 19th January, 2017. The Registrar (Law) also suggested that this could be taken to court of law as it hits Article 19 of the Constitution.

32. She further expressed her displeasure at the rampant human rights violations taking place in the name of Swachh Bharat Abhiyan. She cited example of women in Pratapgarh and condemned whistling and shaming the name of the campaign. She said that one person has died in Rajasthan in a incident related to open defecation. Other participants also suggested that a letter be written to Ministry of Drinking Water and Sanitation, Government of India regarding photography and beating up of defaulters along with other malpractices being done in the name of this campaign.

33. Mrs. Kavita Srivastava drew the attention of the participants of the meeting towards rising number of attacks on Muslims (reference was made to recent lynching incidents and love jihad) and requested for a monitoring cell against such violent acts that target a particular community.

34. She implored upon the NHRC to take a proactive stand on various human rights issues such as those of right to dissent, freedom of speech, hate violence, intrusion of privacy through Aadhar, denial of entitlement, etc. She requested NHRC to embark upon a campaign mode in those and similar significant issues.

**LIST OF PARTICIPANTS WHO HAD ATTENDED THE MEETING OF
THE DELHI BASED HUMAN RIGHT DEFENDERS ON THE ISSUE OF
HUMAN RIGHTS DEFENDERS ON 22nd December, 2017 at 11:30 AM**

From NHRC

- 1) Shri Ambuj Sharma,
Secretary General
- 2) Shri Surajit Dey,
Registrar (Law)
- 3) Dr. Ranjit Singh
Joint Secretary (P&A)
- 4) Dr. Sanjay Dubey
Director (Admn.)
- 5) Shri Mahesh Bhardwaj
Senior.Superintendent of Police
- 6) Shri Srinivasa Kammath
Deputy Registrar & Focal Point for Human Rights Defenders

From Human Rights Defenders

7. Shri Bejwada Wilson
Safai Karamchari Andolan
8. Ms. Kavita Srivastava
People's Union for Civil Liberties (PUCL),
9. Ms. Uma Kapari &
10. Mr. Amit Kumar
National Alliance of People's Movement (NAPM),
11. Shri Hem Raj,
Delhi Justice Resource Centre,
12. Shri R.H. Bansal
Center for Human Rights

13. Ms. Kalyani Menon Sen &
14. Ms. Sudha Bhardwaj
Women Against Sexual Violence and State Repression,
15. Shri Rajiv Kumar Sharma
Human Rights Activist
16. Shri Radhakanta Tripathy
Advocate & Human Rights Defender