

A brief report on the two-day human rights sensitization programme for BSF personnel posted at Indo-Bangladesh Border at Kolkata on 16-17 February, 2012.

A two day programme for human rights sensitization of BSF officers posted on the Indo-Bangladesh Border was organized at Kolkata on 16 – 17 February, 2012. Two different sets of participants were covered on these two days. The programme covered participants from BSF Southern Bengal Frontier on the first day and Malda as well as Shillong Frontiers on the second day. The programme on 16th Feb., 2012 was inaugurated by the Justice Shri K.G. Balakrishnan, Chairperson, NHRC. The programme on 17th Feb., 2012 was inaugurated by Shri Satyabrata Pal, Member, NHRC. Director General (Investigations), Shri Sunil Krishna also participated in the programme besides other senior officers of the Investigation and Training Division of NHRC.

Chairperson, NHRC in his inaugural address on 16th February, 2012 conveyed that there have been complaints of human rights violations received from civil society by the NHRC. These cases largely pertained to District Murshidabad while some pertained to North 24 Paraganas, Cooch Bihar and Malda. According to him, the Commission believes that the adherence to human rights norms does not compromise on the effectiveness of the security forces. Rather, adherence to the human rights norms will raise the prestige of the forces internationally. He reminded the caution given by Supreme Court of India in D.K. Basu Vs State of West Bengal case where it observed that “the State must ensure that the various agencies deployed by it act within the bounds of the law and not become law unto themselves”. He further stated that as per the code of conduct for law enforcement

officials adopted by UN General Assembly in 1979, these officials shall respect and protect human dignity and maintain and uphold the human rights of all persons. He complemented the participants on the important services being rendered by them as part of the elite force but at the same time they should also uphold the highest standards of human rights.

On the second day (17th February, 2012), Shri Satyabrata Pal, Member, NHRC in his inaugural address mentioned about the impeccable record of BSF officers while being posted on foreign UN peace keeping assignments. According to him, similar high standards of human rights should be maintained by them in their dealings with people on the Indo-Bangladesh border. He further conveyed that the people on this border are poor people and they need to be dealt with in a humane manner. As regards BSF view that the complaints of human rights violations sent to NHRC by civil society being not genuine, he advised that the force should not shy away from criticism by the civil society. He also reminded them that as a border security force, when the BSF operates against enemy combatants, under the Geneva Convention, it is bound to refrain from violence, cruel treatment and torture while dealing with persons not taking active part in hostilities during situations of armed conflict. These, however, were the complaints made against it to the NHRC, and most of the victims were Indians. The BSF must not commit against its own citizens acts that would be forbidden even against enemy soldiers.

The other sessions included a presentation on the concept of human rights as well as the role of NHRC by Joint Secretary (Training) and presentation on the guidelines issued by Supreme Court and NHRC on important subjects like custodial death, torture, encounters, rapes etc

by the Investigation Division officers. A panel discussion by experts in the field on both days was also part of the programme.

In the panel discussion, Shri D.K. Arya, Ex-DGP, BSF spoke about the various gaps which are at present leading to human rights violations and which need to be filled in so that the security forces assigned at the Indo-Bangladesh border could carry out their duties more effectively and in a humane manner. These included the knowledge gap which requires to be filled with awareness creation and necessary training on human rights issue. There was also a commitment gap evident from the fact that there were frequent news regarding allegations of BSF personnel aiding in smuggling activities. The security gap also posed a challenge and needed to be filled. He stated that if there is an environment of impunity created by the attitude of senior officers towards human rights violations by jawans, it would lead to repetition of such instances. Hence, such impression of impunity should not be allowed to set in or tolerated by the leadership. He also reminded the participants about the code of conduct for the police in India developed by the Ministry of Home Affairs which serves as guidelines for the police force in the country and also communicated to the Heads of Central Police Organizations in 1985.

Shri Damodar Sarangi, Special Rapporteur, NHRC talked about the need to maintain rule of law. He stated that there is generally an attitude of disdain towards human rights institutions among the security forces because of the pressures under which they operate. Such an attitude should be avoided. He also mentioned about security being not a law and order problem but also a development problem and recalled that according to Kofi Annan, former UN Secretary General, “no security

is possible without development". He also mentioned that State terrorism is also responsible for some of these problems. According to him, BSF is a closed force and which sometimes, leads to suppression of facts. While being a closed knit organization is good, suppression of facts does not help as it leads to lack of credibility of the organization. Moreover, there should not be compromise with conscience. According to him, when sometimes, people involved in corruption were depriving the economy of huge sums of money but facing no reprisal, the poor people involved in petty thefts should not face harsh treatment from security forces.

Shri Ramakrishnan, Director, Regional Institute of Correctional Administration, Kolkatta observed that training requirements are different for the Eastern and Western Sectors and there is need for orientation of the BSF personnel while dealing with poor people in the Bengal Sector. He also mentioned about the need for addressing the issue of adequate border management which is a broader concept than the way it is understood and handled.

IG, South Bengal Frontier, Shri Ravi Ponoth stated that there are vested interests of the NGOs who are making complaints to NHRC. According to him, it was the bounden duty of the BSF to uphold the highest standards of human rights and the officers were committed to maintain these standards. However, he highlighted some practical difficulties faced by BSF personnel who were transferred from Western/Northern sectors to Indo-Bangladesh border because of the entirely different conditions in this area. While some orientation training is carried out, it is not sufficient for them to cope up with the change.

This could also be a reason for some of the inadvertent human rights violations on their part.

Shri Satyabrata Pal also took part in the panel discussions on second day and in reply to queries raised by participants, conveyed that each of the complaints received against BSF is examined in the NHRC based upon totally unbiased investigations into the reports obtained from the BSF authorities and carried out by police officers having professional expertise and using scientific methods before the Commission arrives at a decision on them.

Some of the important issues which emerged during the discussions which followed the panel discussions and presentation made by Investigation Division were as follows:

- i) Training of BSF officers does not adequately cover human rights issues. In this context, it was agreed that the NHRC will share the basic training module for police personnel prepared by NHRC for sub-inspector/constable level with the BSF. A copy of the module was handed over to IG, South Bengal Frontier for making necessary copies and distributing in the BSF battalions of the Frontier.
- ii) There is not good knowledge of laws among the BSF personnel. It may be stated that the handout as well as the presentations made during the programme conveyed the basic information about important components of International Law as well as the Supreme Court/NHRC guidelines on matters relating to police/judicial custody deaths, arrests, encounters and torture etc.

- iii) Most of the problems arise from cattle smuggling. If cattle trade is regularized most of the problems will be taken care of. It was observed, however, that the issue was more complex one and could not be settled by the NHRC.
- iv) It was stated that only two cases out of 81 reported were genuine. It was generally felt by the participating officers that the complaints were made by vested interests among the civil society and most of them were fabricated. The NHRC made it clear that this gravely understated the problem, and stated that BSF Staff Courts of Inquiry were often unable to take objective decisions. The NHRC carries out its own investigation and examine each and every case based upon the records placed before it before arriving at a decision. Accordingly, several complaints have been dismissed if not supported by conclusive evidence. It was also stated that the BSF personnel should not shy away from criticism and rather try to improve upon the shortcomings wherever brought to light.
- v) It was conveyed by BSF officers that the senior officers have to keep in view the morale of the jawans they command and hence need to protect them considering the situation they are placed in where sometimes, their actions inadvertently result in human rights violations. It was conveyed to them by the experts' panel that an environment of impunity cannot be allowed to set in and it is best for the officers to present the factual situation in their report so that the rule of law can prevail. In other words they need to be as close to the truth as possible in their reports.
- vi) It was conveyed by participating BSF officers that due to recent instructions given by the authorities against use of lethal

weapons/fire power, the number of killings on this border had dropped from 35 in 2010 to 7 in 2011. However, at the same time it was highlighted that the number of BSF personnel getting injured were on the increase. It was stated by the DG (I) that since no killing of infiltrators from across the border by BSF was reported in such cases, in spite of extreme provocation, how could killings of innocent people like that of a small girl on the fence where there was no such provocation be justified?

- vii) A suggestion was mooted by DG (I) that a system of self reporting by BSF authorities of cases of deaths/rapes/encounters could be put into place like the system of mandatory reporting as per NHRC guidelines for State police. BSF conveyed that since they have to follow the hierarchical system of reporting, it may not be feasible. It was conveyed to them by NHRC officers that even the police reporting is at the level of SP of District concerned and not at the local unit. Moreover, reports from higher formations or Headquarters level do not always reflect actual ground conditions and hence there were gaps in facts stated therein. This could be avoided.
- viii) Some of the BSF officers were of the opinion that civil administration does not take up the cases handed over to them seriously/properly. It was also mentioned by some that the border areas are extremely underdeveloped and there is need for NHRC to intervene for provision of basic services for the people in these areas. Joint Secretary (Training) also suggested if some NHRC Special Rapporteurs could visit these areas to take up matters relating to basic services for people.
