

**SPEECH DELIVERED BY HON'BLE JUSTICE SHRI D. MURUGESAN,
MEMBER, NHRC AT ASIA PACIFIC FORUM MEETING HELD ON
5TH SEPTEMBER 2014 AT LEELA PALACE HOTEL, NEW DELHI**

**Respected Dignitaries on the Dais and off the Dais, Sisters and
Brothers,**

The National Human Rights Commission of India (NHRC, India) an autonomous and statutory organization established under the Protection of Human Rights Act, 1993 and an embodiment of India's concern for the protection and promotion of human rights including those of women and girls. It gives due importance to rights of women and girls in its work in all thematic areas. The composition of NHRC, India includes **Law Division, Investigation Division, Policy Research, Projects & Programmes Division, Training Division and Administration Division.**

2. With the above brief introduction, let me now come to the topic on task assigned to me. In India, as in many other parts of the world, women confront manifold violations of their human rights when –

- they cannot participate in the decisions that affect their lives or claim fair political representation,

- they face discrimination in employment,
 - they are denied entitlement to land and property,
 - they are deprived of health care,
 - they suffer violence within their own home, etc.
3. Similarly, girls, confront manifold violations of their rights; the most blatant being when –
- they are deprived of their education,
 - forced into early marriages,
 - forced into labour,
 - trafficked,
 - exploited,
 - abused more often sexually harassed, or
 - simply killed in the womb on the basis of sex-selection, etc.
4. In fact, the intergenerational cycle of multiple deprivation and violence faced by girls are amply clear by the adverse child sex ratio in children under six years of age. The ending of gender based inequities, discrimination and violence is an overriding

priority in the ongoing **Twelfth Five Year Plan of Government of India.**

5. Given the existing situation of women and girls, the NHRC, India continues to take prompt action on complaints of violence against women and girl children in all its forms, namely, :

- cases of abduction,
- rape and murder;
- violation of dignity;
- discrimination;
- sexual harassment;
- dowry deaths or its attempt;
- dowry demand;
- exploitation;
- custodial death and rape;
- indecent representation;
- atrocities on scheduled castes and scheduled tribes;
- bonded and child labour;

- child marriage;
- illegal arrest and detention;
- custodial violence, among others.

6. These complaints come from all segments of society and from all parts of the country, including those affected by terrorism and insurgency.

NHRC, India also takes ***suo motu*** cognizance of many incidents involving human rights violations.

From January 2011 to 31 August 2014, **29,935** cases on women related issues have been taken cognizance by the Commission.

7. NHRC, India, in compliance with the guidelines of the Supreme Court of India laid down in the landmark judgment in ***Vishaka vs. State of Rajasthan***, has also set up an internal Sexual Harassment Complaints Committee. However, acts of sexual harassment including sexual harassment of women at the workplace are still frequent and these acts take a variety of forms.

It has come to the notice of the Commission that the **Police too are** reluctant to register cases of sexual harassment, including rape cases. It is at the behest of the Commission that cases are now being registered by Police in Police Stations. The need of the hour is **to impart training** to Police personnel so that they are not only sensitized but are held responsible for not complying with the enforcement of existing laws and various courts orders for the protection of women and girls. **The national/state/district legal services** authorities need to be roped in for creating awareness among women and girls about enabling laws and their rights, which at present is not adequate. The NHRC, India is making all out efforts in this direction. Nonetheless, support of other agencies/institutions will definitely help in training all ranks of Police personnel. Due to **Commission's persistent perseverance and supervision with regard to the implementation of Vishaka guidelines and norms** prescribed by the Supreme Court on preventing and combating sexual harassment of women at the workplace across the country, the Government of India enacted the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act in April 2013.

8. It would be pertinent to mention here that in July this year, NHRC, India took *suo motu* cognizance of a media report about a six year old girl being sexually assaulted by two male staff in a private school at Bengaluru, Karnataka. The Commission, on observing the contents of the media report, felt that the given incident was nothing short of violation of human rights of a child who was allegedly sexually assaulted by none other than the Teachers of her school. Consequently, it issued a notice to the Chief Secretary, Director General of Police, Government of Karnataka and District Collector, Bengaluru calling for a report. Last month, the Commission issued a notice to the Commissioner of Police, Gurgaon calling for a report on increasing incidents of kidnapping, rape and murder of girls.

9. Normally, NHRC, India does not entertain cases relating to “**service**”. Considering the victims who are mostly widows, it entertains cases and recommends to the Government/governmental agencies for relief and payment of retirement benefits including pensions.

10. NHRC, India has also initiated and taken steps to promote and protect the rights of human rights defenders, many of whom are women. Their cases were given top priority and necessary relief, on merits, too was given. Importantly, NHRC, India's Annual Report for 2011-2012 introduced an additional chapter on **"Human Rights Defenders"** and has continued with it.

11. As mentioned in my inaugural address, organization of **camp sittings** and **open hearings** has been another important feature of the NHRC, India's work keeping in mind the speedy relief to the victims. During these Open Hearings it has come to light that even within the marginalized section of the Scheduled Castes, women and girls are particularly disadvantaged and susceptible to rights violations primarily because of the indifference of public servants. **The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989** seeks to protect people belonging to these communities. However, its implementation is ineffective, which results in the culprits not being punished even in cases of severe crimes like rapes. Complaints relating to **bonded labour** are also seen to have hidden aspects of gendered violence, including

sexual abuse against women and girls. This is in spite of the **Bonded Labour System (Abolition) Act, 1976** according to which no activity of bonded labour is permissible. The officials responsible for implementation of the Act are not only unaware of their provisions but indifferent too. As a result, not only male earning members but in many instances entire families including women and girls suffer bondage. **To protect the violations of bonded labourers**, the Commission has **constituted a Core Group** consisting of representatives from various institutions and NGOs.

12. The Commission is currently also overseeing human rights awareness and facilitating assessment and enforcement of human rights programme in **selected 28 Districts of India**. The main objective of the programme is to spread understanding among public functionaries and the people in those districts on focused human rights issues, prominent among which are women and child healthcare and nutrition, apart from other concerns such as education, food security, hygiene and sanitation, and custodial justice. Field visits are also undertaken to police stations, prisons, panchayats, ration shops, district food offices,

educational institutions, various Departments working for the empowerment of children, women, scheduled castes, scheduled tribes and other vulnerable sections of the society, etc. followed by a human rights awareness workshop.

13. Besides, the Commission **continues to review policies, laws, treaties, and other international instruments** for the protection and promotion of women and girls. It also undertakes and promotes research on human rights of women and girls and organizes conferences, seminars, and workshops on pertinent issues affecting them. Further, in all its training programmes on human rights which the Commission organizes for various stakeholders, there is an entire session dedicated to the 'Rights of Women and Children', including the UN Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child and their Optional Protocols.

14. The Commission has also commented on the **National Policy for Children**, three Draft Cabinet Notes for Amendments to the Juvenile Justice (Care and Protection of Children) Act, 2000, Dowry Prohibition Act, 1961 and Immoral Traffic Prevention Act,

1956. Last week, the NHRC, India organized a **National Workshop to discuss the Juvenile Justice (Care & Protection of Children) Bill, 2014** that was introduced in the just concluded session of the Lok Sabha (House of the People) for enactment of a new law. The main objectives of the Workshop was to formulate recommendations for making modifications in the 2014 Bill with regard to :

- age of criminal responsibility;
- core elements of juvenile justice; and
- emphasis on rehabilitation, reformation, reintegration and skill development.

15. The existing **Immoral Traffic (Prevention) Act, 1956** is inadequate and in need of a thorough review. Based on the Action Research on Trafficking in Women and Children in India that was conducted by NHRC, India in collaboration with UNIFEM way back in 2004, the Commission diligently continues to follow up with the Government of India to recast the Act in the light of the 2000 UN Protocol to Prevent, Suppress and Punish Trafficking in

Persons, Especially Women & Children supplementing the Convention against Transnational Organized Crime, which the Government of India ratified in May 2011.

16. The Commission has strongly supported and **advocated independent participation rights for A-status NHRIs at the United Nations Commission on the Status of Women (CSW)**. To this end, the Commission pursued with the Government of India to advise and support the participation of NHRIs in the meetings of the CSW as independent institutions. In addition, the Commission participated in the **advocacy efforts of the APF at the 57th Session of the UN Commission on the Status of Women** held in March 2013 in New York.

17. For India's **second universal periodic review**, the NHRC, India prepared a country paper based on the five regional and a national consultation which it organized with NGOs, academics, officials, State Human Rights Commissions (SHRCs) and other National and State Commissions. The Paper highlighted among other things, the gaps in the effective functioning of the Government's key flagship programmes, including physical,

sexual and structural violence against women. Besides, NHRC-India did a follow up with the Government of India on all the recommendations including those concerning women and girl children made in the first universal periodic review. Pertinent among these is the signing and ratification of the Optional Protocol to CEDAW and review the reservation to Article 32 of the Convention on the Rights of the Child. The NHRC, India has seconded these recommendations but received no response from the Government of India.

18. NHRC, India has now come up with a framework to monitor the implementation of the **67 recommendations, many of which relate to women and girls that Government of India accepted at the second universal periodic review.** The said framework was devised in consultation with representatives of non-governmental organizations, civil society organizations, officials from the Central Government and National Commissions who are deemed Members of NHRC, India. Representatives from the Planning Commission and the National Commission for Protection of Child Rights were also invited. The framework on finalization has been

forwarded to all the concerned Ministries/Departments of the Government of India for taking follow up action on the recommendation(s). This framework is posted on the website of NHRC, India (www.nhrc.nic.in).

19. In June this year, NHRC, India **made a written submission to the Committee on the Elimination of Discrimination against Women** in connection with the consideration of the Combined Fourth and Fifth Periodic Reports of India by the said Committee on the implementation of CEDAW in India. Furthermore, **an oral statement was made by Justice Shri K.G. Balakrishnan, Chairperson, NHRC, India before the said Committee on 30 June 2014.** In the said Oral Statement, the Chairperson, NHRC, India, highlighted among other things, the high incidence of trafficking of women and girls; harassment, including false implication and unlawful detention faced by human rights defenders, particularly women; poor maternal health; widespread misuse of diagnostic techniques leading to a skewed child sex ratio; as well as the gender gaps in child and adult literacy and school enrolment.

20. One of the important conferences organized by NHRC, India was a **National Conference on Violence against Women** in the wake of the brutal rape and death of a young woman in Delhi. A list of recommendations/suggestions that emanated from the deliberations of the Consultation were examined by the Commission and forwarded to the Justice Verma Committee constituted for purposes of bringing about amendments in the Criminal Law. In light of the Justice Verma Committee's report, the Government of India promulgated the Criminal Law (Amendment) Ordinance, 2013 and later brought out the Criminal Law (Amendment) Act, 2013 by amending the Indian Penal Code, the Code of Criminal Procedure, 1973, the Indian Evidence Act, 1872 and the Protection of Children from Sexual Offences Act, 2012.

21. This was followed by a **National Conference on Human Rights of Women** in February 2014. The Conference focused on four themes as follows : 'Women's Sexual and Reproductive Health and Rights including Provisioning of Incentives and Disincentives for Adopting Small Family Norms', 'Violence against Women and

Girls', 'Gender Equality and Women's Empowerment' and 'Trafficking in Women and Girls'. In this Conference, the complete text of the **Amman Declaration and Programme of Action, including the APF Action Plan on the Human Rights of Women and Girls: Promoting Gender Equality** was circulated. Prior to this, NHRC, India has forwarded a copy of each of these documents to the Ministry of Women & Child Development, National Commission for Women, National Commission for Protection of Child Rights and their corresponding State Commissions including State Human Rights Commissions.

22. Laying emphasis on monitoring the promotion and protection of the full range of human rights of women and girls at the national level, the Commission in November 2013 organized a **National Conference on Health Care as a Human Right giving due importance to women and child health concerns.** Based on the deliberations that took place in the Working Group that was especially constituted for the purpose, the Conference came up with some important recommendations like ensuring registration of all pregnancies, child births, child mortality and maternal deaths

and universal access to reproductive health by promoting full antenatal care of pregnant mothers, institutional deliveries, availability of Emergency Obstetrics Care (EmOC) and postnatal care irrespective of place of birth.

23. NHRC, India continues to give close attention to **education and human rights education** as per Section 12 (h) of the Protection of Human Rights Act, 1993. Education is primarily the responsibility of the States in India but the Commission continues to work with schools, colleges, universities and NGOs to promote human rights education. It organized a National Conference on Human Rights Education on 14 December 2012. The Conference came up with useful recommendations on human rights education at the school level and at the college and university level. One of the significant recommendations made was that human rights education should be an integral part of the right to education and there is a need to widen its scope at the school level by teaching it at all levels of the school system. Furthermore, human rights education at the college and university level should not be limited only to a formal degree in "Human Rights" at the

Bachelor's, Master's, M. Phil or Ph.D. level rather it would be appropriate to offer introductory courses on human rights for students of all disciplines at the college level. At the university level, advanced courses addressing human rights issues could be developed in different disciplines of study. These recommendations were forwarded to all the Chief Ministers of States and Union Territories by the Chairperson of NHRC, India and the status of its implementation is being monitored by the Commission.
