



It has always been a mystery to me how men
can feel themselves honoured by the humiliation
of their fellow beings.

-Mahatma Gandhi



Achievements of NHRC 2007-2011



National Human Rights Commission
Faridkot House, Copernicus Marg, New Delhi-110 001 India



Steps
towards
protection
and promotion
of human rights

ACHIEVEMENTS OF NHRC Vol.-II

2007-2011

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National Human Rights Commission, India



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Vol. - II
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FOREWORD

Eighteen years is not a very long time in the life of an institution. It is, however, a time span enough to introspect and, more importantly, chronicle the journey thus far. A journey that has been a myriad of emotions alternating between anguish, anger, frustration, satisfaction and almost always, deeply moving. The Commission has tried its level best to steadfastly remain focused on the fulfillment of its mandate.

Human Rights flow from the very fact of being born a human being. They are essentially distinguished from other rights inasmuch as their violation in any way, damages almost irreversibly, the subliminal processes that go to make up a total, ideal, human being. They lend dignity to the human form. Human rights are sacred; therefore, any act even construing to violate it in any manner has to necessarily be of concern to every civilized human being.

The pages of this book not only reflect the Commission's working but also, seen from a broader perspective, the evolution of the paradigm of human rights in the 65 years of the Republic. It cannot be seen otherwise. Every issue that the Commission has taken up, every problem that it has taken cognizance of, traces its roots to a distant past. Therefore, the issues written in the publication are in many ways a sum total of the efforts of the Commission in the way of realization of the aspirations of the people.

As I glance through the contents of the book, a thought crosses my mind. What the reader sees in the book are issues tackled by the Commission over the years, condensed for the sake of brevity and readability. But, what it camouflages is the fact that when the Commission considered these issues, there were human beings behind the tragic incidents; gut wrenching stories of poverty, heart rending tales of starvation and malnutrition, horrifying details of custodial violence and deaths, wounds on the psych'e of the victims as much as on their physical being, inflicted by callous and insensitive people, both, of the State and society, by their

acts of omission and commission. Try as one might, words will not give out the real picture of the reality of these incidents. The Commission had been tormented and anguished while considering the issues. The views, opinions, guidelines and directions passed, which are reflected, in their essence, in the following pages, are only a mute testimony to the cries of those victims. The Commission stands for those voiceless and faceless millions who look up to the Commission for succour. In a way, this book should be seen as a tribute to all the victims of human rights violations, whose pain and suffering this Commission has resolutely and relentlessly endeavored to alleviate.

The issues dealt with, reflect the varied problems still facing the citizens. There was a time when Civil and Political Rights dominated the agenda of national institutions, both, nationally and globally. With the passage of time, it has now been accepted that the realization of Economic, Social and Cultural Rights, was as important as that of the Civil and Political Rights. In various judgments, the courts too have emphasized the obligations of the State in giving effect to the Directive Principles of State Policy, which reinforce the importance of ESCR.

The path ahead for the Commission is strewn with thorns and thistles no less difficult. It has to contend with issues that have been rendered more complex with the impact of globalization. In the quest for prosperity, both, the state and society have to be on their guard that the poor and the vulnerable are not isolated, neglected, and dehumanised. The quest for an egalitarian society should be a continuing one. Both, the society and the State have to be eternally conscious of the inequalities that keep occurring and take appropriate steps to address and resolve them.

While it is accepted that the primary obligation to protect the human rights of the citizens is, undoubtedly, of the State, the NHRC as a watchdog body under the mandate has to fulfill its responsibilities and endeavor relentlessly in facilitating the protection of human rights of the citizens as well.

The saga of the Commission is a result of the tireless efforts of all its Chairpersons, Members, officers and staff, both, past and present, all of whom have striven tirelessly in the task of 'better' protection and promotion of human rights.



Justice KG Balakrishnan
(Former Chief Justice of India)
Chairperson, NHRC



PREFACE

For the Commission, the protection and promotion of human rights means protecting democracy itself, a democracy that is inclusive in character and caring in respect of its citizens. In approaching diverse human rights concerns, including vexed issues such as the protection of human rights in the face of terrorism, the Commission has always been guided by the principles laid down in the Constitution which, in its Preamble, has inter alia propounded two core values that must always be protected and advanced; the life, liberty and dignity of the individual, and the unity and integrity of the nation. There is, in fact, no incompatibility between the two; instead, they reinforce each other. A strong nation requires, as sine qua non, the strong protection of human rights of its citizens. To act otherwise, is to injure both.

This work is a biographical reminiscence to record the major events since the inception of the Commission. All the issues covered in the publication directly flow from the mandate of the Commission under Section 12 of the Protection of Human Rights Act, 1993 (as amended in 2006). It is clear that this range and quality of work is possible only if the members of the NHRC are men and women of stature and are independent thinkers, committed to the cause of protection of human rights. Appointments to the NHRC are made by a committee consisting of the Prime Minister as the Chairperson, the Speaker of Lok Sabha (House of Representatives), the Union Home Minister, the Leaders of Opposition in the Lok Sabha, the Rajya Sabha (Council of States) and the Deputy Chairman of the Rajya Sabha.

The Chairman of the NHRC should have been a Chief Justice of the Supreme Court of India, one of the members should have been a judge of the Supreme Court and the other one should have been the Chief Justice/Judge of a High Court. Two members have to be appointed from amongst persons having the knowledge or practical experience in matters relating to human rights. When all members of the Appointing Committee have been vigilant and committed to the protection of human rights,

excellent appointments have been made. It is important that the high level Committee remains concerned about the protection of human rights. It is equally important that those working in the field of human rights, as well as the public, remain alert about the appointments made to the NHRC, so that the people continue to get the benefit of quality work from this institution.

The topics chosen for the book essentially reveal the concern of the Commission over the years. The human rights issues covered in the publication come within the broad spectrum of Civil and Political Rights and Economic, Social and Cultural Rights. The concerns of the Commission in the area of Criminal Justice system are well documented in the various Annual Reports of the Commission. It is a crying area for reform. The activities of the Commission have broadly focused on the crisis, the NHRC interventions and the longterm initiatives required in the area of Criminal Justice system.

The sequencing of the equally important area of Economic, Social and Cultural Rights (ESCR), immediately after the inclusion of Civil and Political Rights should be seen as a policy concern of the Commission that deems a full realization of ESCR as a necessary precondition for the achievement of all human rights.

The rights of women and children, food security, health related rights, have been especially focused in the book as a special category of human rights. In fact, each of the issues is as serious and closely interlinked as it could be. The problems of the child are linked to the rights of the women and, both, are linked to the issue of food security through the problems of malnutrition. The Commission has, therefore, looked into all these issues, in a holistic manner. Some overlapping of the contents of these topics was unavoidable as each of these topics is closely intertwined and deeply connected.

The issues of Dalits and tribals have been, are and will always be a prime focus of the Commission. Again, the Commission has sought and received expert advice from reputed people. The Commission's interventions have been after careful consideration of the reports produced by experts.

Disability is yet another a critical area warranting decisive and effective action by the government. However, the Commission is clear that the problems faced by the disabled have to be the responsibility of all sections of society. Only a concerted action will make for a just society. The Commission's efforts have been in this direction.

Rights of the elderly is another area wherein the Commission has undertaken some serious initiatives. These have been covered in the chapter on Enhancing Access to Economic, Social and Cultural Rights.

All these efforts have to be further strengthened and disseminated further by an alert civil society. The significance of education on human rights cannot be overemphasized in this context. A notable effort of the Commission has been that of working with the Ministry of Human Resource Development, the National Council for Educational Research and Training, and the National Council for Teacher Education, to prepare material for human rights education at all levels of schooling.

The role of investigation in the functioning of the Commission is critical to its independence and effectiveness. It enables the Commission to arrive at conclusions in a fair, just, equitable and sensible manner.

In all such efforts the Commission has maintained a synergy and reciprocal relationship with the Judiciary. The various remits received by the Commission from the highest court of the land have been a testimony to the credibility of the Commission.

The Commission has found able support from the non-governmental sector too. They form the eyes and ears of the Commission because it is through them that the counterpoints to an issue are brought to the fore enabling a public debate.

The remarkable work done by the Commission has been appreciated often. Mary Robinson, former United Nations High Commissioner for Human Rights, described the Indian NHRC as one of the best in the world, to be emulated by others. If we desire to maintain this premium position, nationally and internationally, those interested in the protection of human rights in the country must come together, to ensure that the independence, integrity and the calibre of the NHRC is not compromised. Also, the public needs to be more vigilant and take an active interest in the functioning of the NHRC to make it more effective.

Any omission in the book, in not mentioning a particular issue or effort, is inadvertent and not wilful. The Commission hopes the publication serves its dual purpose, as a chronicle of a journey and as a publication, which will spread the human rights message.



P. C. Sharma

Former Member, NHRC

CRIMINAL JUSTICE SYSTEM AND RULE OF LAW

During the year 2006-2007, the Commission in collaboration with the National Law School of India University, Bangalore had organized two sensitization workshops for judicial officers on human rights.

In continuation of these workshops, one more workshop was conducted by the Andhra Pradesh Judicial Academy at Hyderabad for judicial officers on 6 and 7 April 2007.

Prison Reforms

Section 12 (c) of the Protection of Human Rights Act, 1993 empowers **The National Human Rights Commission** to visit any jail or any other institution under the control of the State Government, where persons are detained or lodged for purpose of treatment, reformation or protection to study the living conditions of the inmates and make recommendations thereon.

The approach of the Commission has been *two-fold*

- *First*, to study the factors responsible for over-crowding in jails and the steps needed to reduce that over-crowding,
- *Second*, to encourage such measures as may be necessary to develop or improve the skills of inmates, with a view to enabling their re-orientation and facilitating their reintegration into society upon release from jail.

The Commission supports NGOs and the State Legal Aid and Advice Boards to intervene on behalf of convicts in suitable cases for moving the appropriate courts.

The specific issues related to *Human Rights in Prisons* which the Commission has been addressing over the years, are-

OVERCROWDING

Overcrowding in Indian prisons is seen as the root problem that gives birth to a number of other problems relating to health care, food, clothing and poor living conditions.

Due to overcrowding, inmates have to live in extremely unhygienic conditions, with little concern for health or privacy. Often cells built to house one or two persons now accommodate twice or three times the number. Most toilets are open, denying the prisoner his basic right to privacy and human dignity, and are also dirty. Water shortage being the rule than the exception the toilets prove to be the ideal breeding grounds for health hazards and epidemics. Potable drinking water is another issue which needs to be handled in entirety.

Overcrowding affects the attempts of the prison administration to empower prisoners with skills that would involve them in gainful employment after release. These attempts come in the form of workshops where prisoners are taught carpentry, printing, binding, doll-making, typing, etc. however, due to the pressing need for space, more and more workshops are being used to house prisoners.

A serious and long-term solution to the problem of overcrowding in prisons needs a review of the functioning of the entire criminal justice system, including the system of arrests, sentencing policies and notions of crime.

The National Police Commission had pointed out that 60% of all arrests were either unnecessary or unjustified². The police often look upon imprisonment as an easy solution and use preventive sections of law, like 151 of the Criminal Procedure Code indiscriminately. Indiscriminate arrests contribute significantly to the problem of overcrowding, also leading to increased expenditure on jails.

Delay in completing cases is responsible for overcrowding in jails. An important factor responsible for delaying trials is the failure of the agencies to provide security escort to the undertrials to the courts on the dates of trial hearings.

Prisons are also being used as multipurpose institutions, to house not only those convicted of crimes but also those who do not need incarceration but medical and psychiatric treatment. This issue has been of special concern to the Commission as it has noticed, during its inspections, that this distressing practice is by no means rare: prisoners languish in jail beyond the dates for their release, often because of the negligence of the authorities and sometimes because of their mala fides. In other instances, prisoners are not released despite bail orders from the courts, or re-arrested on other charges immediately after being released. In light of this situation, the

² The National Police Commission: *The Third Report*, Chapter XXII, 1980

Chairperson of the Commission considered it essential to address a letter on 1 December 1994 to all Chief Ministers/Lt. Governors reminding them of the decision of the Supreme Court in the Rudul Sah case (1983, 4 SCC 141) requiring **the payment of compensation to those detained unlawfully.**

To ease the gross overcrowding and to accelerate trials, the Commission inter-alia interacted with the Chief Justice of the Delhi High Court, the Lt. Governor and others in consequence; ten special courts have been constituted to dispose of *Narcotic Drugs and Psychotropic Substances Act*, (NDPS) 1985 Act cases. Similar action is being taken in regard to NDPS Act cases languishing in Maharashtra and elsewhere. In Madras and Madurai Central Jails, where prisoners from Sri Lanka had serious complaints, interventions on behalf of the Commission eased the situation. The Commission acted upon receiving grave reports regarding rioting and death of inmates.

In Srinagar, where detention and interrogation centers were functioning under the control of the security forces, the Commission recommended that the centers be redesigned as jails and be administered under the relevant rules and regulations governing the latter. Further, in view of widespread complaints in Jammu & Kashmir concerning the whereabouts of persons taken into custody by the Administration, the Commission undertook a detailed review of the situation with the Governor, urging greater transparency as a necessary condition for the respect of human rights in the State. **In consequence, the Governor made available to the Commission in early 1995 a list of 3007 persons detained under TADA and the Public Safety Act.** At the instance of the Commission, that list, once received, was opened to the public, and the State Government was requested to publish it at district and taluka headquarters. This has since been done.

The Commission has, accordingly, requested all Inspectors General of Prisons to send monthly reports to it giving details of the numbers of prisoners/undertrial prisoners in their jails. The recent report, prepared on the basis of the details received by the Commission, is annexed with the paper. (Annexure 1)

UNDERTRIALS AND LEGAL AID

As observed by the Mulla Committee, most prison inmates belong to the economically backward classes and this could be attributed to their inability to arrange for the bail bond. Legal aid workers need to help such persons in getting them released either on bail or on personal recognizance. Bail provisions must be interpreted liberally in case of women prisoners with children, as children suffer the worst kind of neglect when the mother is in prison.

CUSODIAL TORTURE

Noting that a permissive approach towards the use of third-degree methods led

to the violation of the fundamental rights of citizens it was urged that the use of third-degree methods and torture in investigation should be banned and eliminated. The Commission looks forward to the early accession by the country to this important instrument, designed to safeguard human life and dignity.

In the past years, the Investigation Wing of the Commission has looked into nearly a hundred cases that appeared, on the face of it, to be suspicious in circumstances or lacking in transparency of approach. These included cases of death in custody or in questionable circumstances, illegal arrests or detention, collusive action by the police with law breakers e.g. land grabbers, fake-encounters, kidnappings, implication in false cases, inhuman conditions in jails and the like.

The Commission believes that there is need for greater care in the observance of the UN Body of Principles for the Protection of All Persons under Any Form of Detention and Imprisonment.

POST-MORTEMS

When examining reports on custodial death, the Commission was struck by the often-unsatisfactory manner in which the post-mortems were conducted. The Commission reached the dismaying conclusion that, on occasion, the doctors concerned were bowing to pressures when writing their reports. The Commission therefore decided to gather detailed information from all the States regarding the manner in which postmortems were being conducted, asking a series of pointed questions in this regard. The picture that emerged was bleak: there was often a substantial time-gap between the postmortem examination and the writing of the report; facilities in many mortuaries were abysmal; there was a lack of trained and qualified personnel.

The Commission's has prepared guidelines on post-mortems examinations, in respect of deaths in police or jail custody to be video-filmed and the cassettes have to be sent to the Commission together, with the written reports of the post-mortem examinations.

A **Model Autopsy Form** that had been devised by the Commission after discussions with concerned officers in the States and experts around the country. In elaborating the form, which is tailored to the special circumstances prevailing in our country, the Commission took fully into account the work of the United Nations on this subject. The Model Autopsy Form and the Procedure for Inquests has been transmitted to the States, has been put to use and reports are received by the Commission.

MEDICAL EXAMINATION OF PRISONERS

Mulaizha or the first medical examination of the individual when he is admitted

to the prison is generally regarded as a mere routine and done perfunctorily. Though the prison rules make it mandatory that upon admission of a person into prison, a medical examination should be conducted, it was noted, in many prisons, this has remained a mere procedural formality, presumably because of a lack of adequate medical staff, on the one hand, and an equal lack of concern on the part of the prison administration to follow the required procedure, on the other.

Alarmed by reports of the frequency of deaths occurring in prisons, the Commission issued directions asking for details from each of the States. An analysis of the causes of death revealed that 76% of such deaths in prisons were attributed to tuberculosis. In a significant number of cases, the disease appears to have been noticed and diagnosed after the point of no return had been reached. The situation represented not only a denial of the rights of those in custody to adequate medical care, but also a grave source of infection to other inmates who suffered unsuspecting exposure to the disease.

The Commission has devised a format, and revised it recently, as to benefit from modern techniques that are used in the preparation and maintenance of medical data and dossiers. It places particular emphasis on the metabolic, nutritional and general medical status of the prisoner, particularly in relation to communicable diseases. The format also includes an indication by the examining medical officers as to the nature of the medical and diet regimen that should receive particular attention. (Ref: Annexure 2)

MENTALLY DISABLED PRISONERS

A number of other serious problems relating to the management of jails in the country has received the attention of the Commission. One such issue was about innocent persons with mental disabilities, who were sometimes held in prisons; in addition, prisoners with mental disabilities were being treated, as were other prisoners, **with no effort being made to deal with their distinctive problems.**

In this connection, the Commission strongly recommended that Rule 82(1) of **the United Nations Standard Minimum Rules for Treatment of Prisoners** be followed. This requires that "Persons who are found to be insane shall not be detained in prisons and arrangements shall be made to remove them to mental institutions as soon as possible." Further, Rule 82(4) requires that "the medical or psychiatric service of the penal institutions shall provide for the psychiatric treatment of all other prisoners who are in need of such treatment." The Commission endorses the recommendations made earlier by the Mulla Committee which stated that if a convict undergoing imprisonment became mentally ill, he should be accommodated in the psychiatric wing if such wing exists in the prison hospital, or he should be sent to the nearest mental hospital for treatment. Further, if the prisoner fails to recover from mental

illness even after completing half of the maximum term of conviction, the State Government for release from prison should consider his case.

The Guidelines for Protection of Human Rights of Persons with mental illness facing trial, issued by the National Human Rights Commission are annexed with the paper. (Annexure 3)

Case of Charanjeet Singh

Deeply concerned about the need to protect the human rights of the undertrial prisoner, the Commission filed an application before the Delhi High Court under section 482 Cr.P.C seeking the quashing of the trial in view of the inordinate delay in the case undertrial prisoner **Charanjeet Singh** who had continued to remain in judicial custody since 1985, without facing trial on account of unsoundness of mind. The High Court allowed the intervention application. As the result of the initiatives by the Commission, offers were made by VIMHAMS for extending medical facilities and treatment free of cost and by the Help Age India to take over the patient and accommodate him in their half way home or old-age home after the VIMHANS certified that the condition of the patient was stable. Accordingly, orders for shifting of the patient to VIMHANS were pronounced by the High Court on 31st July 2003.

During the course of hearing the High Court requested the Commission to suggest guidelines to ameliorate the hardships faced by accused persons of unsound mind, and to ensure that their human rights are respected. The Commission accordingly submitted draft guidelines to be followed by all officials concerned. The High Court, while observing that it had become clear that the undertrial prisoner cannot be tried as there was no chance of reversal of his deteriorating mental and physical condition and no scope of improvement in his condition, quashed the chargesheet against Charanjeet Singh.

The National Human Rights Commission has been involved in the supervision of the functioning of the Agra, Ranchi and Gwalior mental health institutions, besides Agra protective homes, as directed by the Supreme Court. The Commission has over the years expanded its mandate to supervise the conditions pertaining to mental health institutions across the country.

WOMEN PRISONERS

Many of the women who were held in jail informed Members of the Commission or its officers of their plight. In the Nari Bandi Niketan of Uttar Pradesh, for instance, a number of women prisoners told the Director General (Investigation) that they feared that their husbands would no longer accept them after their release from prison. Others complained that they rarely heard from their families or children.

In the view of the Commission, there is great need for frequent opportunities for women prisoners to meet or unite with their families. The Commission also feels it essential to stress that certain key recommendations of the National Expert Committee on Women Prisoners, which met under the Chairmanship of Shri Justice V.R. Krishna Iyer in 1986-87, should be followed up with greater diligence. Summary of the recommendations is annexed with the paper (Ref: Annexure 4)

The Commission is in the process of finalizing the **Guidelines on Women Prisoners**, for the Prison Officials.

INSPECTION OF JAILS

The Commission has prepared a checklist, in consultation with experts, of the issues to be kept in mind while inspecting the jails.

OTHER CORRECTIONAL INSTITUTES

Apart from conditions in prisons, the Commission has increasingly focused its attention on the conditions prevailing in other institutions under the control of State Governments "where persons are detained or lodged for purposes of treatment, reformation or protection." Following reports of the death of a young boy in a juvenile home in Delhi in early 1996, the Commission has held a series of meetings and hearings on the conditions in such homes. These were accompanied by periodic inspections and reports on the juvenile homes in Delhi by the Investigation Division of the Commission.

In pursuance of this intent, the Commission dispatched detailed questionnaires to all State Governments seeking information, by 1 July 1997, on conditions in five categories of institutions: Observation/ Juvenile/Special Homes set up under the Juvenile Justice Act, 1986; Probation Homes set up under the Probation of Offenders Act, 1958; Short Stay Homes/Nari Niketans set up under the Immoral Traffic (Prevention) Act, 1956; Reception Centres/ Beggars Homes set up under the Prevention of Beggars/Begging Act, 1959; and Borstal Institutions set up under the Borstal Act, 1926. The data received was analyzed to enable the Commission to determine the best manner in which it should itself act, or stimulate others to act, to remedy the situation in these institutions.

The Commission organized a National Workshop on Detention in New Delhi on 11-12 October 2008 as a part of activities to commemorate the 60th Anniversary of the Universal Declaration of Human Rights, 1948. Based on the deliberations in the Workshop, the following recommendations were made by the Commission.

DETENTION IN PRISONS AND POLICE CUSTODY

1. It is important to understand that a person in custody is under the care of the State

and it is the responsibility of the State to ensure protection of his or her basic human rights. It should not be confused as advocacy for rights of criminals and terrorists.

2. The Convention against Torture *inter alia* seeks to prohibit torture in custody. Though India has signed the Convention against torture, it has not yet ratified it. The Central Government must take immediate steps in this regard.
3. India may have a low rate of just 32 persons being in jail per every 100,000 population but a high proportion among them are undertrial prisoners languishing in jails. To overcome the situation, speedy trial should be ensured through the following measures :
 - a. Establishment of more courts and filling the vacant posts in the judiciary.
 - b. Expedite the process of recording of evidence and examination of the police officers and medical practitioners who are witnesses in certain cases as transferable nature of their services compounds any delay in this regard.
 - c. In addition, provisions for keeping undertrial prisoners and convicts separately should be strictly enforced.
4. Section 436-A of the Cr.P.C provides for the release of a person in custody on personal bond, in case he has been in custody for more than half the period of the sentence he would have undergone in case found guilty. However in spite of this, the number of undertrial prisoners is still very high. Strategies and modalities should be worked out to ensure that the undertrial prisoners get expeditious relief under this provision.
5. As per Section 62(5) of the Representation of People's Act, a person confined in a prison or a lawful custody of the Police except those under preventive detention under any law is not allowed to vote although except for convicts, they are eligible to contest election. The provisions related to right to vote in the Representation of People's Act be suitably amended to ensure this right for undertrial prisoners.
6. There is a need for implementing prison reforms including Model Prison Code. This should *inter alia* cover vocational training of prisoners and providing them opportunity to work which besides keeping them engaged can also be a source of supplementary earning for them as well as a source of revenue for prison administration.
7. There is a need to pay special attention to orientation and training of prison staff to change their mindset from custodial to correctional approach. More training institutions should be set up for such staff. Mere sensitization of police or prison

officials is not enough. The prisoners are equally under stress and therefore sensitization programmes should also focus on prisoners as target group.

8. Suitable strategies and modalities should be worked out for ensuring the protection of rights of children between the age group of 0 to 6 years of mothers in prisons and for implementation of Supreme Court judgment in *R.D. Upadhyay vs. State of Andhra Pradesh*.
9. In case of deaths in custody, as per the present practice, the Police Administration is required to send the report within 24 hours of its occurrence to NHRC. In accordance with the amendment made to Cr.P.C. (Section 176 (1) of Cr.P.C.) an inquiry by a judicial magistrate is made. There is a need for scrupulous implementation of procedure established under Section 176 (1) of Cr.P.C. In addition, forensic experts and laboratories must be involved as their expertise and scientific manner of investigation can assist in providing accurate and reliable evidence.
10. It was also suggested that the penalty inflicted on a delinquent police official responsible for torture should be in proportion to the degree of torture by such officials rather than a mere reprimand or transfer.
11. Government should take steps to separate the investigation wing from law and order wing, as decided in the case of *Prakash Singh vs Union of India* (2006 (8) S.C.C.1).
12. The UN Minimum Standard Rules for the Treatment of Prisoners should be enforced and monitored from the Human Rights perspective.
13. There is a need to make the prison more transparent and open to the civil society.
14. All sorts of unlawful detentions should be severely dealt with.

PREVENTIVE DETENTION

15. The difference between "preventive" and "punitive" detention must be clearly understood. Preventive detention is aimed at preventing the possibility of an activity by a person which may be detrimental to public order or national security. Preventive detention should not be resorted as a substitute for the normal procedure established by law. There is a need to sensitize the authorities concerned that it should be resorted to as an exception in rare cases.
16. Certain safeguards are provided under law to the detainee under preventive detention. These include detailed recording of facts leading to satisfaction of authority, conveying the grounds of detention to the detainee, right to make

representation to State or Central Govt. or to advisory board etc. These norms for detention should be strictly followed and all authorities should be sensitized about observance of these safeguards. People also should also be sensitized about various personal liberties.

17. Preventive detention laws need to keep a balance between human rights of liberty on the one hand and security of the nation or maintenance of public order.
18. In case the detainee is found unlawfully detained, there is a need to have provision for interim relief/ compensation.

DETENTION IN JJ HOMES

Juvenile Justice

UN Minimum Standards for Treatment of Juveniles [Beijing Rules] should be strictly adhered to.

19. All the States must formulate rules under the Juvenile Justice Act, 2006 and constitute necessary institutions as required under the law. Constraints if any in implementing the provisions must be removed either by amendment to the law or by adopting a suitable strategy.
21. Juvenile Justice System should be distinct from criminal justice system in adjudication and terminology.
22. Effective implementation of the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006, requires need based analysis on part of the State Governments to streamline their approach.
23. Juvenile Justice should move up in the list of priorities for the State Governments to ensure that the financial, administrative and infrastructural needs are met, keeping in view the best interests of the child.
24. The authorities must comprehend the distinction between children in conflict with law and those in need of care and protection. The specific welfare needs of both the categories must be addressed.
25. The adjudicatory bodies (JJB) should ensure that the enquiries are completed within the stipulated time of 4 months as laid down in the Act.
26. Adequate number of qualified and trained personnel should be recruited under the JJ system. In cases of alleged abuse, strict action should be initiated against officers and staff responsible and pending such action, they should be immediately transferred.

27. Rehabilitation and repatriation of the children should be the ultimate aim. Institutional care must include proper educational facilities and vocational training in order to ensure sustainable options for child after he/she is sent back.
28. Health care needs of all the children must be looked after. The specific requirements of children ailing from diseases like HIV, scabies, mental disability must be addressed.
29. Basic standards of hygiene and nutrition should be adhered to in the Juvenile Justice/observation homes.
30. It must be ensured that regular inspections of the homes be undertaken by the Inspection committees that have been set up under the Act.

Mental Health Issues of Detainees

31. World over, on an average, 32% of all prisoners require psychological help. If one includes substance abuse, the figure goes beyond 60%. Hence there is a need for focused attention on mental health. There is a need for early identification of mental illness among prisoners and for taking consequential steps.
32. There is hardly any documentation of the problems of the psychiatrically ill prisoners, problem of escorts for referrals/ discharge, inadequate followup and care while in custody, follow-up of psychiatric treatment after discharge from custody, arrangements be made for periodic visits of psychiatrists, etc.
33. In view of little formal training of prison staff in mental health, there is a need for corrective measures.
34. A psychiatrist must be posted in jail hospitals. If the same is not possible due to shortage of psychiatrists, arrangements should be made for visits of a psychiatrist on periodic basis, atleast once a week.
35. Normally prisoners having mental problems should be kept separately, preferably shifted to mental hospitals. However, due to overall shortage of trained manpower in mental health care both in district hospitals or mental hospitals, this may not become possible. Thus there is a need to augment the Mental Health Care system, both in terms of manpower and infrastructure. Some general recommendations in this regard are as follows:
 - a. There is a need to move from custodial care to community mental health care approach and also integrate mental health care with general health care system through District Mental health programme.
 - b. The diet scale of persons in mental hospitals needs to be fixed based on 'minimum calorie terms' rather than monetary terms to offset inflation.

- c. Mental health care audit of all institutions of child care may be taken up by NHRC.
- d. There is no formal after care services available. The Ministry of Social Justice and Empowerment may set up facilities for mentally ill who are treated but have nowhere to go.
- e. There is a tendency to leave the mentally ill people in mental hospitals even in cases where the treatment can be done as outpatient. This mindset to treat the mental hospitals as a defacto detention place for mentally ill must change. For this social awareness programmes must be taken up.

Human Rights Awareness and sensitization for Police Personnel

The **On-line training programme on human rights for the Police Personnel** is one of the most ambitious programmes of the Commission which began in 2010 in collaboration with IGNOU. The details have been covered in the chapter on Engagements of the Commission in Training.

The Commission also released a **booklet Various Human Rights Issues for Police Personnel** on Human Rights Day 2010.

The Commission organized a day-long **National Seminar on Prison Reforms** on 15th April, 2011. The following recommendations emerged from the seminar, on various issues.

I. PRISONERS' RIGHTS

Overcrowding

1. To reduce overcrowding, provisions in the statutes (in terms of parole, bail, furlough, short leave and appeal petitions, etc.) should be exercised liberally by the concerned officers in each of the jails.
2. A jail committee may be constituted, having representatives from the inmates, to assist the jail authorities in the cases of paroles, completion of bail documents, release of the inmates who have completed punishments and filing of the bail applications by the inmates in the court etc.
3. Financial status of the prisoners should not go against them. Legal assistance to prisoners must be provided-particularly for those who are not in a position to bear the cost.
4. Availability of time for prisoners to discuss their cases with their lawyers must be ensured.

5. Repatriation of cross-border prisoners, especially in case of Bangladeshi Prisoners, should be ensured as well.

Skill Enhancement/Capacity Building

6. The energies of the prisoners, should be channelized into constructive work. The educational programmes could be upgraded for both male and female prisoners. Student prisoners may be encouraged to continue their studies and take on examinations.
7. Vocational training should be enhanced by imparting computer skills, training in horticulture, agriculture, etc.
8. The model of skill training and campus placement of inmates initiated by Tihar Jail Administration recently, may be replicated in other jails.

Health and Sanitation

9. The health care system in jails should be improved. There should be medical examination of the prisoners at the time of their entry to the jail in the prescribed format and thereafter, a regular checkup may be undertaken by the jail authorities. The records of the prisoners may be maintained properly.
10. Better sanitation facilities, hygiene and potable drinking water should be provided in all the prisons.
11. The prison conditions should be made more humane for women, the aged and the mentally ill prisoners. Regular medical check-ups should be ensured and provisions should be made that the mentally ill prisoners and high risk prisoners are kept separately.
12. The jails should be provided with mechanical cleaning, treatment and maintenance of sewage plants so that the septic tanks do not have to be manually cleaned by the prisoners.
13. Meditation and yoga may be conducted on a regular basis for the benefit of all prisoners. Assistance may be sought from NGOs in this regard.
14. Proper sanitation facilities and construction of new toilets may be taken up at the earliest.

Women

Women Prisoners

15. Women Prisoners should be escorted by women staff only.

16. Frequent opportunities may be provided for women prisoners to meet or unite with their families to address their concern.
17. The Guidelines of the Supreme Court for the children of women prisoners mentioned in the case of RP Upadhyay vs. State of AP and Ors should be followed strictly.

Prison Visits

18. Closing time for the prisoners may be advanced/increased, to allow them some time to spend in the open.
19. Timings in supply of meals should also be revised as these are mostly based on the Old Prisons Act, 1894.
20. The Mulakat time may be fixed on phone, so that people may not have to come personally and wait for longer hours.
21. The family members of the prisoners should be allowed to meet on Sunday's so that they do not have to take an off, on working days.

II. PRISON MANAGEMENT

22. Every jail must have an effective grievance redressal system.
23. Process of Modernisation of Prisons, as devised by BPR&D should be given the highest priority.
24. For an appropriate functioning of the prison administration and for the protection of the rights of the prisoners, it must be ensured that sanctioned posts (officers and medical staff) in the prisons are filled-up on priority.
25. Selfsustainability of prisons should be encouraged by strengthening the prison industries. The model of Tihar Jail may be followed in this regard.
26. State Jail Manuals should be reviewed on a periodical basis to confront the new challenges.
27. Public private partnership model (in many countries) in prisons may be encouraged and followed in jails across the country. However, the experiment should be exercised with caution in view of their profit making objective.

III. PRISON SERVICE/OFFICERS

28. Creation of a National Cadre of jail service and training/refresher courses for the prison officers on priority.

IV.NHRC SPECIFIC

29. NHRC may undertake review of the status of implementation of recommendations and guidelines issued by it on Prison Reforms, so far.
30. Micro studies may be conducted by organizations to unearth the ground reality and to procure evidences with an intention to bring about a substantial change in the conditions of prisons.
31. NHRC may re-initiate its interventions on prison visits/Board of visitors'.

V.MISCELLANEOUS

32. Arrests under NDPS, Section 498-A, and preventive detention should be exercised by the police with restraint and with the right intent, to reduce the further impact on already crowded prisons.
33. Classification of prisoners may be done in terms of age, type of crime committed, and health, for better handling of prisoners and improved prison management.
34. The nomenclature of Prisons may be changed to Correctional Homes to emphasize that the focus is on reformation rather than punishment.
35. Sharing of best practices should be encouraged, to learn and follow from each other, in terms of computerization of prison records, prison panchayats, mobility, infrastructure, education, connectivity, reorganization of jail industries, safety and security of prisoners, modernization and mechanization of kitchens and providing hygienic food, electronic surveillance, cultural programmes, fixing the Mulakat time on phone, health care facilities, etc.
36. Privatization of some of the duties like catering and escorting of prisoners may be considered to reduce the burden on prison administration. This is followed in advanced countries.
37. Presence of prisoners in courts may be done through Video Conferencing.
38. Wages to the prisoners for the work done by them in prison industries be paid in accordance with the Minimum Wages Act.

Chapter 2

ENHANCING ACCESS TO ECONOMIC, SOCIAL AND CULTURAL RIGHTS

To effectively implement economic, social and cultural rights, we need to adopt a rights based approach. While Legislative policy, Judicial directions and Executive action are the three main requirements of the conceptualization of social, economic and cultural rights, there is a sacred duty vested with the State in the realization of these rights. There should be no doubt, dispute or ambiguity on this account.

The Commission has handled a wide range of human rights issues in the field of social, economic and cultural rights. The task of enforcing Vishakha guidelines for prevention of sexual harassment of women at the work place, fell on the Commission. It succeeded in getting Complaint Committees established in a large number of government departments and public sector undertakings and in persuading the Government to treat such harassment as misconduct. The Commission was entrusted by the Supreme Court with supervision of over 3 institutions for the mentally challenged—at Ranchi, Agra and Gwalior, as also with supervision over Protective Homes for Women. Under such supervision, in which the Commission involved all officers connected with these institutions and experts, it brought about substantial improvements through its reports to the concerned States. Similarly, members of the Commission systematically inspected homes for widows at Vrindavan. Through the Commission's intervention, the State was required to make some effective improvements in the condition of widows, such as providing regular health care, securing pension from the concerned State Governments or ensuring receipt of the full amount of pension through providing facilities, which enable widows to withdraw their pension from the bank without the help of middle men.

The following chapters on Rights of Women, Rights of Children, Human Rights of Dalits, Human Rights of Tribals, Human Rights of the Disabled, Internally Displaced Persons, Rights of Refugees, Food Security, Health and Human Rights, Human Rights Education deal with the subject in detail.

One issue wherein the Commission's involvement increased substantially since

the year 2000 is the rights of the elderly (a comparatively new yet significant socio-economic human rights issue) when it participated in the work of the National Council for Older Persons and commented on the Action Plan (2000-2005) prepared by the concerned Ministry. From that year onwards, the Commission has kept close contact with groups involved with the rights of the elderly persons and has been transmitting suggestions to the Union Government as and when necessary.

The Commission constituted a Core Group on Elderly people in November 2010 consisting of 13 members. The first meeting of the Core Group was held on 9th June, 2011 in NHRC which was attended by Shri KR Gangadharan, Director, Heritage Hospital and Chairman, Heritage Foundation, Hyderabad, Dr. S Siva Raju, Professor and Chairperson Centre for Development Studies, Tata Institute of Social Sciences, Mumbai, Shri MM Sabharwal President Emeritus, HelpAge India, Delhi, Dr. Vinod Kumar, MD, Emeritus Professor, St. Stephen's Hospital, New Delhi, Managing Trustee and Chairperson, Development, Welfare and Research Foundation (DWARF), New Delhi, Prof. Sugan Bhatia, President, Indian University Association for Continuing Education, New Delhi, Dr. SD Gokhale, Hony. President, International Longevity Centre, New Delhi, Dr. Aabha Chaudhary, Chairperson, ANUGRAHA, New Delhi, Prof. PV Ramamurti Hony. Director (emeritus), Centre for Research on Aging, Department of Psychology, Tirupati, Shri RN Mittal, President, Andhra Pradesh Senior Citizen's Confederation, Hyderabad, Prof. (Dr.) PKB Nayar, Chairman, Centre for Gerontological Studies, Thiruvananthapuram, Ms. Anupama Datta, Director, (Policy Research & Development), HelpAge India, Shri RN Mahlawat, Advocate, President, Janta Kalyan Samiti, Rewari and Dr. Mala Kapur Shankar Dass, Chairperson of Development, Welfare and Research Foundation(DWARF). The meeting was chaired by Shri PC Sharma, Member NHRC.

The Commission organized a National Seminar on, ' Protecting Human Rights of Older Persons,' in Dehradun, Uttarakhand on 20th January 2011 in collaboration with ANUGRAHA, a Delhi based NGO. The seminar was supported by Oil and Natural Gas Company Ltd. Smt Margaret Alva, Governor of Uttarakhand, was the Chief Guest in the inaugural session of the Seminar which was presided over by Shri PC Sharma, Member NHRC.

Shri Sharma said that the biggest tragedy of modern society is that the people are going away from their roots and the chasm between the young and old generation is growing. He stated that NHRC is committed to protecting the rights of the older persons and supported any effort which is directed towards understanding and recognizing their needs and sentiments. He added that the Universal Declaration of Human Rights, other international conventions and the Constitution of India recognized the rights of the older persons. The Govt of India had enacted the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. However, it is a point of concern that the provisions of this Act are not been implemented properly. He urged that that it is time we revive our culture of respecting and honouring senior citizens as a habit and this should not be limited to mere theory.

Chapter 3

RIGHTS OF WOMEN

2007-2011

Reproductive Rights

At the 13th Annual Meeting of the Asia Pacific Forum(APF), convened in Kuala Lumpur, Malaysia in July 2008, the APF Forum Councillors had considered and formally approved a proposal to undertake joint activities with the United National Population Fund(UNFPA) in the area of reproductive rights. The principal activity agreed between the APF and UNFPA related to the development of a publication on integration reproductive rights into the work of APF member institutions. For this purpose, a detailed questionnaire on reproductive rights in the actions of national human rights institutions was framed and circulated to all the APF Member Institutions including NHRC-India during 2010-2011. The information provided by NHRC- India covered issues dealt by it to protect and promote reproductive rights, including problems encountered; and the manner in which reproductive rights can be more effectively integrated in its work. This was followed up with an interview on telephone. Based on the information provided by NHRC-India and other NHRIs, the APF and UNFPA have published a report entitled, "Integrating Reproductive Rights into the Work of National Human Rights Institutions of the Asia Pacific Region." It would be pertinent to mention here that reproductive rights are based upon and cover already existing rights. As such, there is no standard definition of the term, "reproductive rights." The United Nations Conference on Population and Development that was held in the year 1994 has defined -

"Reproductive rights embrace human rights that are already recognized in national laws, international human rights documents and other relevant United Nations Consensus documents. These rights rest on the recognition of the basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health. It also includes the right of all to decisions concerning reproduction free of discrimination, coercion and violence as expressed in human rights documents."

The United Nations human rights system has linked reproductive rights to other rights - for example, the right to health. In 2003, the then Commission on Human Rights noted that, 'sexual and reproductive health are integral elements of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.'

The Committee on Economic, Social and Cultural Rights and the Special Rapporteur on the right to health have explained that the right to health includes both freedoms and entitlements. In the context of sexual and reproductive health, freedoms include a right to control one's health and body. This encompasses the right to be free from any form of sexual violence, harmful practices, forced pregnancy and non-consensual contraceptive methods. Entitlements include access to a system of health protection and universal access to services, including family planning, pre- and post-natal care and other maternal health needs. Another important entitlement is the right to reproductive decision-making, including voluntary choice in marriage, in family formation and in determining the number, timing and spacing of one's children; and the right to have access to the information and the means needed to exercise voluntary choice. In this context, the State's obligations include the obligation to refrain from limiting access to contraceptives, and to prevent harmful social or traditional practices from interfering with reproductive rights. Non-discrimination is another essential aspect of reproductive rights. Freedom from discrimination on any basis, including sex, age, sexual orientation, ethnicity, language, religion, culture, physical and mental disability, is essential to ensure the enjoyment of the right to sexual and reproductive health.

Elements of the right to sexual and reproductive health may include the following:

- Reproductive decision-making including voluntary choice in marriage, family formation and determination of the number, timing and spacing of one's children; access to the information and the means needed to exercise voluntary choice.
- Universal access to reproductive health services, including family planning.
- Appropriate reproductive education, information and services to adolescent girls and boys.
- Freedom from harmful practices such as early marriage, sale in marriage, female cutting/female genital mutilation, sex-selective birth practices (both pre-and post-natal).
- Access to and respect for non-harmful cultural reproductive practices, for example the right to choose safe home birth, choice of female medical practitioners.
- Freedom from sexual violence.

- Freedom from forced sterilization, forced abortion, forced contraception.
- Freedom from discrimination on any basis, including sex, age, marital status, pregnancy, sexual orientation, ethnicity, language, religion, culture, physical and mental disability, HIV status, to ensure the enjoyment of reproductive rights.
- Maternal health, particularly access to services to promote maternal health and to reduce maternal morbidity (disease/poor health) and mortality (death), including pre-and post-natal care.
- Right to confidentiality with respect to reproductive health information and services.
- Reproductive rights associated with the right to work and to participate in the community.

5. Formulation of an Integrated Plan of Action to Prevent and Combat Human Trafficking with Special Focus on Children and Women

The National Human Rights Commission, Ministry of Home Affairs, Ministry of Women and Child Development, National Commission for Women and the UNICEF, took a collective decision in September 2006 to work in unison and draw up an Integrated Plan of Action to Prevent and Combat Human Trafficking with Special Focus on Children and Women.

Correspondingly, based on the field experiences of all concerned, a draft Integrated Plan of Action to Prevent and Combat Human Trafficking with Special Focus on Children and Women was evolved and it was collectively decided that before the same was finalised, it needed to be discussed with all stakeholders in the field. For this purpose, three regional workshops were held in Guwahati, Hyderabad and Goa. These workshops also helped to identifying qualitative and quantitative targets that would enable implementation of the Integrated Plan of Action, once the same was finalized.

Human Trafficking with special focus on Women and Children

The Task Force constituted for finalizing the Integrated Plan of Action to Prevent and Combat Human Trafficking with Special Focus on Children and Women (INPoA) had not completed its task. The Commission therefore on its part approved the draft INPoA and forwarded the same to the Ministry of Women and Child Development (MWCD), Government of India on 12 January 2009 for taking further necessary action in the matter. A copy of the same was also forwarded to the National Commission for Women, the National Commission for Protection of Child Rights and the Ministry of Labour, Government of India, for appropriate action.

Subsequently, the MWCD had convened a meeting on 11 June 2009 inviting the concerned representatives of the Ministry of Home Affairs, Ministry of Labour, NHRC and NCW for a discussion whereby the INPoA is formally adopted by the Government of India. The participants in principle agreed to the adoption of the INPoA and suggested that:

- ◆ The INPoA should be in line with the Standard Operating Procedures (SOP) developed for the implementation of the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution.
- ◆ The INPoA should also include the action points provided in the Gender Convergence Action Plan which is being formulated separately.
- ◆ The matrix developed should clearly identify the Ministry which would be responsible for implementation of that particular action point. Also, the serial numbers followed in the INPoA and that of the matrix should tally with one another.
- ◆ The INPoA should identify monitorable indicators wherever possible.
- ◆ The issue of child adoption leading to trafficking should be incorporated in the INPoA.
- ◆ A study may be undertaken in high source areas to find out whether poverty alleviation programmes under NREGA have had any effect on the incidences of trafficking and its reduction.

A National Seminar on "*Preventing and Combating Human Trafficking in India* " was jointly organized by National Human Rights Commission and National Commission for Women on 24th Nov 2011 at Vigyan Bhawan, New Delhi. Three panel discussions were held on the issues - human trafficking-vulnerability Mapping, Dealing with Human Trafficking: Legal Framework, Programmes/schemes for Empowerment of Trafficked Victims and integrated plan of Action to combat Human Trafficking. Some of the important observations and recommendations of the Seminar are as follows:-

- Rehabilitation, Reintegration and Repatriation of Trafficked Victims with Special Focus on Child Victims
- Witness Protection and Support to Victims
- Training, Sensitization, Education and Awareness
- Need of convergence with various stakeholders.
- Linking the source to destination- the need for Inter-State investigation.

- Need for a National nodal agency
- An important observation is that the age of victim is coming down.
- Trafficking has become a high profit and low risk venture with enormous earnings for the traffickers and brothel- keepers
- Trafficking of human beings does not get that much attention as that of drugs and arms.
- Information is lacking at different stakeholders level; there are no policies available to provide that information. Hence need for more awareness and sensitization.
- It is non-consensual nature of trafficking which distinguishes it from other form of migration.
- Regional initiatives are required to establish a central database and regional seminars at vulnerable areas to assess the nature of the problem.
- Finalizing the Draft Integrated Plan of Action

6. Sexual Harassment

Sexual harassment of women at the work place and in trains is another area that has engrossed the attention of the Commission ever since the Focal Point on Human Rights of Women was constituted in 2001. Sexual harassment is an insidious form of violence against women's rights that not only harms a woman physically but also finishes her soul. While dealing with complaints of sexual harassment, the Commission observed that the guidelines issued by the Supreme Court in its landmark judgement in the case of Vishaka v. State of Rajasthan [1997 (6) SCC 241] were not being implemented adequately in institutions, whether falling under the public sector or the private sector. It also observed that many institutions had not yet set up the complaints mechanism, required under the judgement, to deal with complaints of sexual harassment at the work place. In order to consider and clarify these issues, the Commission convened several meetings with various Departments of the Government of India like the Department of Personnel and Training (DoPT), educational departments/institutions, such as the Department of Secondary and Higher Education, Department of Elementary Education and Literacy of the Ministry of Human Resource Development, University Grants Commission, Central Board of Secondary Education, Directorate of Education of the NCT of Delhi, besides meetings with the legal fraternity. It is with the intervention of the Commission that the role of the Complaints Committee prescribed in Vishaka Guidelines has been redefined. Complaints Committees are now deemed to be an inquiry authority for the purposes of the Central Civil Services (Conduct) Rules, 1964 and the report of the Complaints Committee shall be deemed to be an inquiry report under those Rules. The Commission has also been continuously monitoring the

implementation of the Vishaka Guidelines in all States and Union Territories. Except for the State of Manipur, all the States have amended the Conduct Rules for their employees. Likewise, except for Sikkim, all the States and Union Territories have also constituted Complaints Committees to deal with complaints of sexual harassment against women. The Commission in 2005, also organised a workshop in New Delhi to sensitise the members of the Complaints Committees that have been constituted in the government departments to enable them to deal with the issue effectively.

With regard to preventing and combating sexual harassment of female passengers in trains, it is working in close collaboration with the Ministry of Railways and a Delhi based non-governmental organisation. Through our collective efforts, FIR forms are now available in Hindi, English, Tamil, Telugu, Marathi, Kannada and Malayalam languages with the mobile and stationary staff of railways. To enhance gender-sensitivity among the railway officers and staff, a new capsule course of five-days duration has been evolved and training based on this new module has been imparted to different personnel of railways.

The Commission has taken a keen interest with regard to the implementation of the guidelines and norms prescribed by the Supreme Court on preventing and combating sexual harassment of women at the workplace (AIR 1997 SC 3011), popularly known as the Vishaka Guidelines. The Commission is pleased to note that due to its persistent perseverance and supervision, all the States and Union Territories have forwarded their compliance reports confirming thereby the constitution of complaints mechanism and the required amendments in the Conduct Rules for their employees.

7. Rehabilitation of Destitute/Marginalised Women

The Commission has also been focussing on the plight of a large number of destitute/marginalised women, especially widows languishing in peripheries of various temples in Vrindavan. In December 2000, two Members of the Commission visited Vrindavan and made an on-the-spot assessment of their situation which was found to be horrific. The Commission then took up the issue with the Union Government (Ministry of Women and Child Development) and the State Government of Uttar Pradesh. It has held several meetings with their representatives so that the basic necessities could be provided to these women for their sustenance in a dignified manner. In July 2003, a delegation led by the Focal Point of the Commission visited Vrindavan to review the situation. Though there was marked improvement in their situation, their overall situation was far from satisfactory. After this, a team led by the Joint Secretary of the Ministry of Women and Child Development visited Vrindavan in 2004 to see the overall progress made with regard to the sustenance of these women. Some of the notable achievements worth reporting are that a shelter home at Chaitanya Vihar Phase II for providing accommodation to about 500 destitute women is on the verge of completion. It is learnt that another NGO will also construct a shelter home in Vrindavan with

assistance under the SWADHAR Scheme of Government of India. Regular medical camps are being held in Vrindavan to look after the medical needs of these women. Pension, though meagre, is being provided to most of these women. Ration cards have been provided to most of these women. LPG connections have also been provided for group cooking.

In 2007-2008, a three-member team from the Commission once again visited Vrindavan on 13 March 2008 to review the status of implementation of its recommendations made by the Commission. The team noted enormous discrepancies with regard to the implementation of its recommendations. It reiterated the Commission's directions regarding grant of pension, accommodation, LPG connections, ration cards, health care and sanitation, cremation fund, vocational training, social security cards and recreational facilities, to the concerned officials, for rehabilitation of destitute women in Vrindavan, and urged them to expedite taking follow-up action.

A report, elucidating the team's observations concerning the prevalent status of the implementation of recommendations was forwarded to the Chief Secretary, Govt of Uttar Pradesh so that expeditious action is taken in the matter.

8. Population Policy and Women's Rights

In the light of the National Population Policy 2000 (NPP) and population policies framed by State Governments, the Commission decided to initiate a dialogue on them from the perspective of both development and human rights. Thus, in 2003, in collaboration with the Department of Family Welfare, Ministry of Health and Family Welfare and the United Nations Population Fund, organised a two-day Colloquium on Population Policy - Development and Human Rights. The participants of this Colloquium were administrators, policy-makers from State and Central Governments, human rights experts and representatives of non-governmental organisations working in the field. The Colloquium concluded by expressing concern that the population policies framed and rigorously implemented by some of the State Governments reflected a coercive approach through use of incentives and disincentives, which was inconsistent with the spirit of the NPP. Such an approach violated the rights of a large section of the population, especially the marginalised and the vulnerable, including women. The Colloquium therefore recommended that the State Governments/Union Territories exclude these discriminatory and coercive measures from population policies.

2007-2011

The report submitted by the Working Group constituted by the Commission to examine the issue, made the following two recommendations:

- solicit comments and suggestions on the implementation reports submitted by the State Governments and UTs from different stakeholders; and
- select a few states every year for detailed discussions on the implementation of their health and population policies (using as a basis the implementation report submitted by the State Government) in order to ensure that in practice the policies enforced do not violate the dignity of women and the rights of individuals.

These were also noted by the Statutory Full Commission. The report submitted by the Working Group included a reporting format for ascertaining information from each State/ Union Territory with regard to the status concerning the implementation of their respective population policy. The Commission circulated this reporting format to the Chief Secretaries/Administrators of all States and UTs, with a request to submit the required information so as to enable it to take further necessary action in the matter.

RIGHTS OF CHILDREN

1. Child Labour

The Commission, first and foremost, concentrated on issues of child labour, especially those employed in hazardous industries. In order to provide suitable remedies to the problem of child labour, it made a special effort to study the plight of these children employed in the glass work and carpet making industries of Uttar Pradesh, the beedi, match-sticks and fireworks industries in Tamil Nadu and the slate-pencil making industry in Madhya Pradesh. NHRC studied the glasswork industry in the district of Ferozabad, Uttar Pradesh, where some 50,000 children were reported to be working. The rehabilitation of these children was evolved as an integrated programme, involving the coordinated efforts of a number of Central Ministries and the Government of Uttar Pradesh, and non-governmental organisations. The programme was based on three interrelated concepts: income-support for the families from where children went to work in the glass work industry; schooling for the children, creation of new facilities for children weaned away from employment; and rigorous implementation of the Child Labour (Prohibition and Regulation) Act 1986. On the issue of child labour, the Commission has consistently laid emphasis on the provision of free and compulsory education for children upto the age of 14 years, and the allocation of an appropriate level of resources to achieve this objective. The Right to Education, if fulfilled, would in itself be a strong weapon in the battle to end child labour.

The issue was of such critical significance to the Commission that the then Chairperson of the Commission addressed a letter on 11 January 1996 to the Presidents of all the major political parties in India. In it, he observed that despite the promise of Article 45 of the Constitution, 45 years after that noble document came into effect, one incontrovertible fact faces the nation: the number of those who are illiterate in the country exceeds the entire population of India at the time of independence. This grim reality enfeebles the country in every way, whether civil and political, or economic,

social and cultural. It affects the dignity and self-esteem of countless Indians and exposes them to constant violations of their human rights. In its most aggravated form, this finds painful expression in tens of millions of our youth working as child labour, or even as bonded labour, in hazardous or utterly demeaning circumstances. The Chairperson thus urged that definite steps be taken to give comprehensive legislative backing to the Directive Principle contained in Article 45 of the Constitution.

In response Department of Education deliberated on this matter and instead of an all-India legislation on free and compulsory education, it chose to adopt a different strategy to achieve the goal of the "universalization of elementary education". It is due to Commission's continued efforts that education has today become a Fundamental Right for the children between the age group of 6 and 14 years through the 86th Amendment of the Constitution.

It also undertook a study on the 'Impact Community Response and Acceptance of Non-formal Education under the National Child Labour Project' in the carpet weaving districts and glass bangles region of Ferozabad in Uttar Pradesh.

To end the scourge of child labour from the country, the Commission's efforts have also been directed towards generating greater awareness and sensitivity in the District Administration and Labour Departments of concerned States. Based on the feedback of the Special Rapporteur entrusted with the task of monitoring the issue of child labour, the Commission has from time to time issued specific directions to the State Government in respect of the detection and withdrawal of children employed in hazardous occupation/processes, the admission of such children into the formal and non-formal system of schooling, particularly the schools established under the National Child Labour Project, the economic rehabilitation of the affected families, and the prosecution of offending employers.

2007-2011

- **The State reviews on the subject continued in 2007-2008 when NHRC, through its Special Rapporteur, focused its attention on Karnataka, Orissa , Jharkhand and Chattisgarh.**
- **The Commission held a National level Workshop on Bonded Labour and Child Labour under the chairmanship of its Chairperson on 27th June 2007 with the objective of establishing conceptual and definitional clarity on bonded and child labour, as also about the strategy and methodology of identification, release and rehabilitation of bonded labourers/ working children and also exchange of ideas and experiences amongst States.**

The Commission organized a *National Seminar on Elimination of Bonded Labour* on the 30th Sept 2011, in New Delhi. Mr. Justice K.G. Balakrishnan, Chairperson,

NHRC said that the response of States to the NHRC is not very encouraging towards identification, release and rehabilitation of bonded and child labourers. He said that this practice, in all its forms, must be eliminated from society. There are laws in place and also guidelines and recommendations issued by the NHRC and a number of orders of the Supreme Court which, if implemented in letter and spirit by the administrative authorities, can go a long way in reducing instances of bonded labour, if not completely removed.

Justice Balakrishnan said that the NHRC would continue to pursue the issue of elimination of bonded and child labour with the concerned authorities in the States and Union Territories and looks up to civil societies and NGOs for their help in this regard.

Mr. Justice B.C. Patel, Member, NHRC and in-charge of bonded and child labour issues said that in most of the states, it has been found that the employees of labourers do not maintain proper records and clandestinely shift them to other places to confuse the investigating authorities. He regretted that most of the District Magistrates and Collectors are overlooking this aspect and have been found submitting wrong reports to the NHRC, making difficult identification, release and rehabilitation of bonded labourers.

Mr. Chaman Lal, former Special Rapporteur, NHRC said that the provision of minimum wages has to be in the spirit of fair wages. There has to be a provision of fixing the accountability of the District Magistrates and Collectors in the Bonded Labour (Abolition) Act. He said that the political leadership should also be made accountable for elimination of bonded labour.

Dr. Lakshmidhar Mishra, Special Rapporteur, NHRC highlighted bottlenecks in the identification of bonded labour, their release and issue of certificates; role of vigilance committees; and law enforcement agencies. He said that during his extensive tour across the country and interactions with the State authorities, most of them, contrary to the fact, did not acknowledge the existence of bonded labour. He said that the contents of release certificates should be simple and understandable by the freed labourers so that they could take benefit out of it.

The meeting was attended by the senior officers of the States and Union Territories, representatives of State Human Rights Commissions and NGOs. A number of state representatives acknowledged that interventions by NHRC guided them to identify, release and rehabilitate several bonded labourers. However, it was unanimously felt that a more concerted effort is required at various levels of governance, in particular, to not only identify various forms of bonded labour, but also abolish them. Senior officers of the Commission also attended the national seminar.

5. Sexual Violence against Children

Sexual violence against children is another sensitive issue in which the Commission took concrete measures. Pained with the plight of child victims, vis-à-vis the manner in which the issue was being reported by the media, the Commission decided to intervene in the matter in the year 1998, when a two-month campaign was launched in New Delhi in collaboration with the Department of Women and Child Development, UNICEF and non-governmental organisations. A mid-term appraisal of the campaign revealed that irrespective of the medium, message or location, the campaign effectively raised awareness about sexual violence against children. The respondents were however of the view that in order to further bring about awareness among the people at large, the electronic media too would have to be involved and mobilised. As a result, the NHRC, in partnership with Prasar Bharati and UNICEF held four workshops for radio and television producers. The participants for these workshops were drawn from 20 States. It was during the course of these workshops that an idea of bringing out a guidebook for the media to address the issue of sexual violence against children emerged. Based on the deliberations of these workshops, the Commission and the Prasar Bharati, with support from UNICEF, jointly prepared *A Guidebook for the Media on Sexual Violence Against Children*. The main objective of the guidebook is to encourage media professionals to address the issue of sexual violence against children in a consistent, sensitive and effective manner, consonant with the rights and best interest of children.

2007-2011

Guidelines for Speedy Disposal of Child Rape Cases

The task of evolving guidelines was taken by the Commission when it was apprised about three incidents of sexual assault and rape of minor girls in Kerala by an NGO in Thiruvananthapuram. The Commission was facilitated in the task of preparing these guidelines by Home Secretaries and Directors General of Police of all the States/Union Territories. The final guidelines approved by the Commission are detailed below. They have been forwarded to the Home Secretaries and Directors General of Police of all the States/Union Territories for information and compliance.

- Complaints relating to child rape cases shall be recorded promptly and accurately. The complaint can be filed by anyone - the victim, an eyewitness or a representative of an NGO, which has received information about the offence. The case should be taken up as per the following guidelines:
- The Officer (Recording Officer) should not be below the rank of Sub-Inspector (S.I.) and should preferably be a woman police officer.

- o The recording should be verbatim.
- o Person recording to be in civil dress.
- o There should be no insistence on recording at the police station; it can be carried out at the residence of the victim also.
- o If the complainant is a child victim, then it is of vital importance that the Reporting Officer must ensure that she is made comfortable before proceeding to record the complaint. This would help in ensuring accurate narration of the incident. If feasible, assistance of a Psychiatrist should be taken.
- o The Investigation Officer shall ensure that medical examination of the victim of sexual assault and the accused is done preferably within 24 hours in accordance with Section 164 A of the Cr. PC. Instructions should be issued that the Chief Medical Officer must ensure that the examination of the victim is done immediately on receiving the request from the Investigation Officer. The Gynaecologist, while examining the victim, should ensure recording the history of incident.
- o Immediately after the registration of the case, the investigation team shall visit the scene of crime to secure whatever incriminating evidence is available there.
- o The Investigation Officer shall secure the clothes of the victim as well as the clothes of the accused, if arrested, and send them within 10 days for forensic analysis.
- o The forensic laboratory should analyze on priority basis and send their report immediately.
- o The investigation of the case shall be taken up by an Officer not below the rank of S.I. on priority basis and, as far as possible, investigation shall be completed within 90 days of registration of the case. Periodical supervision should be done by senior officers to ensure proper and prompt investigation.
- o Wherever desirable, the statement of the victim under section 164 Cr. PC shall be recorded expeditiously.
- o Identity of the victim and the family shall be kept secret and their protection must be ensured. Investigation Officers/NGOs must exercise utmost caution on the issue.

Guidelines for Trial Court

- Fast Track Courts, preferably presided over by a woman judge.
- Trial to be held in camera.
- Atmosphere in the court should be child-friendly.
- If possible, the recordings should be done by video conferencing and/or in a conducive manner so that the victim is not subjected to the trauma of being in close proximity of the accused.
- The Magistrate should commit the case to session within 15 days after the filing of the charge sheet.

6. Female Foeticide and Infanticide

Faced with the widely prevalent misuse of sex determination tests to commit female foeticide, the Commission approached the Medical Council of India during the year 1995-96, to take a position on the ethical aspects of such tests. After reviewing the matter, the Council decided to suggest suitable amendments to the regulations governing the code of medical ethics, in order to enable undertaking of disciplinary proceedings against errant doctors. Thereafter, the issue of 'discrimination' as a cause of human rights violations was examined in great detail in the Commission's Annual Report for 1999-2000, especially in relation to gender and caste-based discrimination. In the light of recommendations made by the CRC Committee in its concluding observations with regard to the report on children submitted by the Government of India, the Commission reiterated that there was an urgent need to ensure that free and compulsory education was provided as a fundamental right to all children until they completed that age of 14 years. It also emphasised the need for undertaking a vigorous and comprehensive national campaign against female foeticide and infanticide. During the course of regional and national consultations on Public Health and Human Rights that were held during 2002-03, the Commission again took up the issue of combating female foeticide and infanticide. The issue featured again when the Commission organised a Colloquium on Population Policy - Development and Human Rights in January 2003. To counter this problem, the Commission has maintained that vigorous and comprehensive measures be taken by all States and Union Territories to put an end to the gruesome problem of female foeticide and infanticide.

2007-2011

Research and Review to Strengthen Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act's Implementation across Key States

The NHRC had undertaken this research project in collaboration with the United Nations Fund for Population (UNFPA). The main objective was to review the cases registered by the States/UTs under the Pre-Conception and Pre-Natal Diagnostic Techniques Act including the hurdles in filing of such cases, the overall process by which the cases reach the final stage of conviction, i.e. the court proceedings and orders passed on these cases, thus focusing on the impediments in the implementation of the Act.

A one-day Conference on, 'Prenatal Sex- Selection in India: Issues, Concerns and Actions,' was organized by the NHRC in collaboration with the National Commission for Women (NCW) at New Delhi on 12th Oct, 2010.

The main objectives of the Conference were to:

- critically analyse the existing problem of prenatal sex selection and declining number of girl children in India;
 - create awareness about related issues, concerns and actions among key stakeholders;
 - share the findings of the study mentioned above and discuss strategies for strengthening the implementation of the PCPNDT Act
 - Some of the significant recommendations made by the participants to prevent the practice of prenatal sex selection in the country are -
- A. NHRC will review the governance of PCPNDT Act and plan its actions accordingly. It will also review the actions taken by the concerned States/UTs to address the issue.
 - B. The Ministry of Health and Family Welfare should be made accountable for non-implementation of the PCPNDT Act.
 - C. Specific attention is required to check malpractices in registration of clinics under the Act and to ensure scrutiny-based renewal of registration of facilities.
 - D. NHRC should ensure that mechanisms mandated by law are functional at the Union and State levels.
 - E. NHRC in partnership with the Medical Councils should ensure proper implementation of the PCPNDT Act and medical practitioners violating the Act must be dealt with severely. NHRC should also work with medical colleges and teachers' education programme to ensure that gender issues are included in their curriculum.

- F. There is a need to sensitise the judiciary and other stakeholders about the Act and its implementation.**
- G. NHRC will hold discussions with the judiciary in key states to expediate pending cases. Specific judicial colloquiums on the issue may also be held.**

These recommendations were forwarded to all the State Governments/UT Administrations for necessary action.

National Conference on Juvenile Justice System in India

A National Conference on 'Juvenile Justice System in India' was held from 3 to 4 February 2007 in New Delhi. The main objectives of the conference were:

- a) To analyze the existing situation of children in especially difficult circumstances
- b) To analyze the existing status of juvenile justice in India with regard to human rights standards
- c) To critically appraise the emerging issues in the juvenile justice system and suggest alternate measures in terms of investigation, adjudication, disposition, care treatment and rehabilitation
- d) To develop appropriate linkages and coordination between the formal system of juvenile justice and voluntary agencies engaged in the welfare and development of children in need of care and protection or those in conflict with law.

It was strongly recommended that there is a need to prepare Bench Books/Manuals/ Hand books containing guidelines about::

- Process of Institutionalization
- Role of professionals/ other cadres involved in the juvenile justice system
- Child as a witness
- Case Management of juvenile before trial.
- Case Management of juvenile during trial.
- Child as a victim/plaintiff
- Child as an accused
- Release, rehabilitation and reintegration
- Role of Advisory Boards/visitors
- Community Based Practices, etc.

These recommendations were later endorsed by the Commission and forwarded to the Secretaries of Departments of Social Welfare/Social Defense/ Social Justice in all States/Union Territories for compliance so as to bring about quality improvement in the juvenile justice system.

Missing Children

The National Human Rights Commission (NHRC) has been concerned about the problem of missing children ever since it was constituted in October 1993. It has sent notices and called for action taken reports from many State governments/Union Territories.

However, the manner in which young children went missing from one of the neighbouring villages of the National Capital Territory of Delhi, namely, Nithari in NOIDA, which falls under the overall jurisdiction of the State of Uttar Pradesh, had a deep impact on the Commission too. While taking suo motu cognizance of the matter on the one hand, the Commission noticed, "the phenomenon of missing children is not confined to Nithari or Uttar Pradesh alone. The Commission has come across media reports of similar incidents from other parts of the country as well. The problem of missing children has thus become an issue of grave concern to the nation and more so, to the National Human Rights Commission of India. It is deeply concerned and it has mandate for better protection and promotion of human rights and also to deal with cases of human rights violations that come to its notice and make appropriate recommendations in that regard, including giving relief to the victims.

Accordingly, on 12 February 2007, the National Human Rights Commission constituted a Committee to examine the issue of missing children in depth and give its suggestions so that appropriate guidelines may be evolved by the Commission and forwarded to the concerned authorities across the States/Union Territories as well as to the Government of India that would facilitate in tracing and restoring missing children back to their families or to agencies/support systems where they could be taken care of and protected.

The recommendations/suggestions put forth in the report by the Committee were endorsed by the Commission and forwarded to the Chief Secretaries and Directors General of Police of all the States/Union Territories, as well as to the National Commission for Women, National Commission for Protection of Child Rights and the Ministry of Women and Child Development, Government of India for their compliance.

HUMAN RIGHTS OF THE DALITS

Eradication of Manual Scavenging

India takes pride in a Constitution which guarantees a free and dignified existence to all its citizens. However, this vibrant face of India has an ugly stain - the practice of manual scavenging. Manual scavenging involves the removal of human excreta using brooms and tin plates. The excrement is piled into baskets which scavengers carry on their heads to locations sometimes several kilometers from the latrines. The fate of a manual scavenger has barely changed over the years. Caste discrimination and social taboos perpetuate this ugly stain. It renders the community (of manual scavengers) invisible and powerless.

Manual scavengers have an absurd existence. Officially, they don't exist but in reality they do. There has been controversy regarding the actual number of people currently engaged in this occupation. Government data and figures provided by other sources do not concur. According to government estimates there are around 3.42 lakh manual scavengers remaining to be rehabilitated out of the total 7.73 lakh that existed in 2006 (Annexure 1).

In 1993, through the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, India prohibited employment of manual scavengers and construction of dry latrines. Many states denied existence of manual scavenging and thus they did not notify the Act.

Provisions in the Constitution of India

Article 15: Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth:

- (1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

- (2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to-
 - (a) access to shops, public restaurants, hotels and places of public entertainment; or
 - (b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.
 - (3) Nothing in this article shall prevent the State from making any special provision for women and children.
 - (4) Nothing in this article or in clause (2) of article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.
 - (5) Nothing in this article or in sub-clause (g) of clause (1) of article 19 shall prevent the State from making any special provision, by law, for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes or the Scheduled Tribes in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of article 30.
- *Article 21: Protection of life and personal Liberty:* No person shall be deprived of his life or personal liberty except according to procedure established by law.
 - *Article 17: Abolition of Untouchability:* "Untouchability" is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of "Untouchability" shall be an offence punishable in accordance with law.
 - *Article 23: Prohibition of Traffic in Human Beings and Forced Labor*
 - (1) Traffic in human beings and begar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.
 - (2) Nothing in this article shall prevent the State from imposing compulsory service for public purposes, and in imposing such service the State shall not make any discrimination on grounds only of religion, race, caste or class or any of them.
 - *Article 42: Provision for just and humane conditions of work and maternity relief:* The State shall make provision for securing just and humane conditions of work and for maternity relief.

- *Article 43: Living wage, etc., or workers:* The State shall endeavour to secure, by suitable legislation or economic organisation or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and, in particular, the State shall endeavour to promote cottage industries on an individual or co-operative basis in rural areas.
- *Article 46: Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections:* The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.
- *Article 47: Duty of the State to raise the level of nutrition and the standard of living and to improve public health:* The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.

The practice of manual scavenging is a violation of human rights, a grave infringement of people's dignity, and the worst form of caste-based discrimination. A manual scavenger lies at the bottom of the Indian society and his/her upliftment can be poignantly described as the Antodaya or the awakening of the last person.³ The sad plight of women who constitute 80% of the manual scavenger workforce lends an extra degree of deprivation and exclusion.

A national policy on sanitation that addresses the issue of manual scavenging on a priority basis is desirable. Provision of drainage systems and facilitating construction of flush toilets will go a long way in getting rid of dry toilets. The civil society and the government need to change their mindset towards this practice, and the people involved in it. If they put their act together, with their own approaches and effort, an end to this practice can become a reality.

Special Report on Atrocities Against Scheduled Castes

Deeply concerned about the atrocities against persons belonging to Scheduled Castes the Commission therefore requested Shri K B Saxena, senior retired civil servant, to go into this issue. Shri Saxena has completed the study and submitted a comprehensive report with a number of recommendations. Based on Shri Saxena's Report, the Commission has made certain recommendations to the Prime Minister, 11 Union

³*Antodaya being the flagship anti-poverty programme of Government of India which later got merged into a much larger IRDP (Integrated Rural Development Programme).*

Ministers, Deputy Chairperson, Planning Commission and Chief Ministers of all the States and Union Territories for taking effective steps in that behalf. Some of the recommendations of Commission to the States are to:

- Identify atrocity and untouchability prone areas and prepare a plan of action;
- Appointment of exclusive special courts where volume of atrocity cases is large and appoint competent and committed special public prosecutors
- A 3-tier Training programme for police and civil functionaries;
- An annual workshop of District Magistrates and Superintendents of Police on implementation of laws in this regard;
- Women officers should be assigned to all atrocity prone areas, with cells established to entertain complaints;
- Self-help groups of Scheduled Caste women should be given elementary legal training along with sessions on confidence building;
- Identify in each district a NGO which can be approached in case of custodial violence or any other atrocity;
- Panchayats may be sensitized about the issues concerning the Scheduled Castes and various De-Notified Tribes;
- Institute annual awards for the police stations and districts, which emerge as the most responsive to the complaints of the Scheduled Castes.

In order to monitor the implementation of these recommendations, the Commission set up a Dalit Cell in 2003 and placed it under the charge of the Member of the Commission. The Cell is looking into policy issues such as responses of the States on K.B. Saxena Report. The Commission has drawn up a calendar of activities to be taken up by the Dalit Cell in the year 2004-05. These include, among others, the entry of dalits into temples, setting up of an expert group to prepare a manual and to monitor investigations besides holding meetings with NGOs and media persons. The Cell has also coordinated the printing of the Report submitted by the Shri K.B. Saxena in English. It is also being printed in Hindi and other Indian languages. **In the year 2011 the Commission has re-enforced the functioning of the Dalit Cell and also sought the implementation of the KB Saxena report from the States.**

Workshops and Seminars

The Commission is also holding seminars and organising sensitisation camps and

workshops to spread awareness amongst police personnel, other State functionaries, media persons and NGOs in this regard so that the human rights of this vulnerable section of the society are protected and promoted.

A meeting on Dalit issues was held in the Commission on 28th June, 2006 under the Chair of Hon'ble Member of the Commission and it was resolved that for the year 2006-07 the focus would be:

I. Eradication of Manual Scavenging and

II. Elimination of atrocities against Dalits

Furthermore, in this connection, areas would be identified where maximum atrocities are taking place against SC/ST population. As a pilot project the Commission may pickup one district having largest dalit population from North, South, East, West and Central region of the country and would sensitize on eradication of manual scavenging in these districts.

The Commission is fully aware that the journey to end discrimination, injustice and inequality will be long and often frustrating. But it is convinced that, in this mission, the Constitution of the Republic has shown the way. Legislative and affirmative action programmes are firmly in place, but unquestionably need to be far better implemented

The Commission holds the view that the instruments of governance in our country, and the energetic and committed non-governmental sector that exists, can unitedly triumph over the historical injustices that have hurt the weakest sections of our country, particularly Dalits and Scheduled Tribes. This is above all a national responsibility and a moral imperative than can and must be honoured.

Following are the recommendations that emerged from the *National Workshop on Manual Scavenging and Sanitation* organized by the Commission on 11th March 2011 :

1. The implementation of the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 should be done on a rigorous basis and the abolition of the practice should be taken up as a national mission.
2. The States need to ensure that the data provided by them on the abolition of dry latrines and rehabilitation of Manual Scavengers is commensurate with the data of the Ministry of Social Justice and Empowerment. In case of any discrepancy, the State Governments should take up the matter with the Ministry, to get the data rectified.

3. Till date, there is no single window to address the problems of the manual scavengers. A single window should be created in every district with a nodal officer, where manual scavengers have been identified, to facilitate and fast track the process of rehabilitation.
4. Technological advancements should be utilised for the cleaning of septic tanks, instead of getting it done manually. The Municipal Corporations of the metropolitan cities need to adopt high-skilled technology/mechanized system for manhole operations with adequate safety measure and skilled training.
5. The guidelines for cleaning work/manhole operation by the Supreme Court/ High Court (Gujarat) should be implemented by the concerned agencies/ employer so that the Safai Karamcharis are protected from health hazards.
6. The employers must provide necessary safeguard equipments, uniform, safeguard measures to the manhole workers to avoid fatal accidents, including death of workers in some cases. Also, the structure of wages should be same for Safai Karamcharis all over the country.
7. Special health check-ups through mobile vans should be done in the Malin bastis and all Safai Karamcharis permanent, part time and contractual, should be provided with medical facilities like regular health checkups, followed with medical aids.
8. In case of death or disability of Safai Karamchari, the dependent should be provided with immediate employment in accordance with their qualification. Compensation of at least Rs. 3 lakh should be given to the family of the deceased person.
9. The schemes like Self Employment of Manual Scavengers (SRMS), Sarva Shiksha Abhiyan (SSA), National Rural Employment Guarantee Scheme - 2005 (NREGS), etc. must be inclusive, and not exclusive, of this segment of population. The success of these schemes must be evaluated only in terms of change they bring about in the quality of life of manual scavengers and safai karamcharis.
10. To encourage and facilitate the schooling of children of this class, residential good quality schools should be established where they should be provided with free education and study material, boarding and lodging etc. The financial component for the children of manual scavengers needs to be enhanced substantially as they have been lagging far behind, and need regular assistance for their higher education.

11. There have been instances wherein those appointed to do the cleaning work have sublet the task to the erstwhile manual scavengers. The exploitation therefore continues, albeit indirectly. The trend should be discouraged. This should be made an offence and those responsible for doing it should be given severe punishment.
12. To address the gender component of the issue (most of the Safai Karamcharis are women), comprehensive measures should be taken to address their specific needs like safety, health and education issues.
13. Pension should be provided to the widows of manual scavengers.

HUMAN RIGHTS OF THE TRIBALS

Derogatory Name Given by Revenue Officials to a Village Inhabited by People of Berwa Community in Rajasthan

(Case No.1251/20/2006-2007)

In this case, the villagers of "Chamaron Ka Vas" situated in Hingota Village Panchayat, Dausa District of Rajasthan sent a complaint to the Commission wherein it was communicated that in the year 1987 the name of their Village "Kuwan Ka Vas" was changed to "Chamaron Ka Vas" by a Lekhpal (Revenue Record Keeper) of the area due to ill-will. The village was inhabited by people belonging to Berwa community. On 12 September 2006, the villagers had made a request to the concerned authorities to look into the matter and change the name of their village.

The Chief Secretary, Government of Rajasthan vide communication dated 9 September 2009 informed the Commission that alternative names received from the District Collector of Dausa in Rajasthan had been sent to the Ministry of Home Affairs, Government of India for approval.

While considering the matter, the Commission observed that the name assigned to the village "Chamaron Ka Vas" was highly derogatory. In a democratic country like India, the continuance of such a derogatory name was certainly a blot to the society. The Commission took up the matter with the Ministry of Home Affairs, Government of India and the State Government of Rajasthan. Accordingly, the Revenue Department of Government of Rajasthan issued a notification on 30 June 2010 changing the name of the village from "Chamaro Ka Bas" to "Kuan Ka Bas".

Discrimination of Scheduled Castes and Scheduled Tribes in Jhabua, Ujjain, Katni and Sheopur Districts of Madhya Pradesh

(Case No.186/12/0/2009-2010-FC)

The Commission took suo-motu cognizance of a news report which appeared in the

Hindustan Times on 5 and 6 May 2009, highlighting discrimination against the Scheduled Castes and Scheduled Tribes in four districts of Madhya Pradesh, namely, Jhabua, Ujjain, Katni and Sheopur by the State health functionaries. It called upon the Chief Secretary, Government of Madhya Pradesh to give explanation on the said incident. The Director General (Investigation) of the NHRC was also asked to depute a team to visit the places mentioned in the news report for an on-the-spot inquiry and submit its report.

In response to the explanation sought by the Commission, the Additional Secretary, Scheduled Caste Welfare Department, Government of Madhya Pradesh, Bhopal, denied all the allegations as baseless. Nevertheless, he informed that their Department had sought reports from the respective District Magistrates and other concerned Departments about the alleged incident.

A team from NHRC's Investigation Division was simultaneously deputed to carry out on-the-spot inquiry in the districts of Jhabua and Ujjain from 25 May to 3 June 2009. During the course of their spot investigation, the NHRC team discovered that the school children of a particular village in Ujjain district were being served mid-day meal after queuing them up on caste basis. When this was brought to the notice of the district administration by the NHRC team, disciplinary proceedings were initiated against the concerned teachers.

The Commission too considered the matter on 20 June 2009 and took a serious view of the entire issue. It directed the State to send the report of action taken against the concerned school teachers expeditiously. Subsequently, a report was received from Government of Madhya Pradesh, Bhopal but the same was merely a copy of the report already collected by the NHRC team from the office of the State Chief Secretary.

In the light of the above facts, another team from the Investigation Division of NHRC was sent for conducting spot investigation in the other two districts of Madhya Pradesh, namely, Katni and Sheopur from 7 to 11 September 2009. The team in its report submitted that caste based discrimination existed in primary and middle schools in some of the villages. The team, however, disproved the allegation that the Scheduled Caste and Scheduled Tribe students were allowed to take food only after the upper caste students had taken their food. The team also did not find any truth in the allegation that Scheduled Caste and Scheduled Tribe students were not provided meals in plates.

Nevertheless, the NHRC team found that in some places the Scheduled Caste students were not allowed to enter the school kitchen and they were also not allowed to drink water from the pot kept in the kitchen. The spot investigation report also highlighted an incident wherein upper caste students of a certain school had stopped taking meals once they learnt that it had been prepared by Scheduled Caste women. In another incident, it was discovered that due to mounting pressure from upper castes, two Scheduled Caste women cooks had to be replaced.

The allegation that doctors and nurses discriminated against Scheduled Caste and Scheduled Tribe patients was not found to be true by the NHRC investigation team during the spot investigation. But it observed that some of the Self-Help Groups operating at the village level differentiated persons belonging to the Scheduled Castes and Scheduled Tribes and many of the officials working at the grassroots lacked sensitivity towards them and their problems.

The team from the Investigation Division recommended that the District Magistrates of Katni and Sheopur may possibly be directed to take measures to prevent caste-based discrimination existing in some of their schools as well as among the Self-Help Groups. Despite continuous reminders by the NHRC, the Government of Madhya Pradesh seems to have taken no action.

Consequently, the Commission on 5 March 2010 directed the Chief Secretary, Government of Madhya Pradesh to submit an action taken report on the incidents which came to light during the spot-investigations conducted by the Investigation Division team.

The action taken report from the Chief Secretary, Government of Madhya Pradesh is awaited by the NHRC.

Deplorable Condition of Tribal Schools in Parvathipuram Region of District Vizianagaram, AP

(Case No. 543/1/22/07-08)

In August 2007, the Commission received a complaint from Dr DVG Shankara Rao about the deplorable condition of tribal schools in Parvathipuram region of Vizianagaram District, and asked the Govt of AP for a report. After several notices, the Commission eventually received a report from the Principal Secretary, Social Welfare, in which the complaints were dismissed, and it was informed that adequate arrangements had been made to provide proper sanitary, dietary and medical facilities to all students and residents of the tribal schools in the region. Dr. DVG Shankar Rao to whom the report received from the State Government was sent, challenged its contents. The Commission thus decided to find out the true facts for itself relating to the prevailing conditions in these schools, through an inspection by one of its officers.

The Inspection report submitted by the concerned officer of the Investigation Division of the Commission confirmed that conditions in the schools were appalling. Most of the buildings were not habitable at all. The buildings had no toilet facilities, or facilities that could be used in the absence of water. There were no beds, no mosquito nets, no school furniture and, though the food prepared for children was found to be adequate, the hygiene in the kitchens was deplorable.

In view of the facts stated by the depute officer, the Commission observed that the report sent by the Principal Secretary was completely misleading and further pointed that under section 13(5) of the Human Rights Act, "every proceedings before the Commission shall be deemed to be a judicial proceedings with the amendments of Sections 193 and 228, and for the purposes of Section 196, of the Indian Penal Code for all the purposes of Section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973." Accordingly, it directed the Chief Secretary, Govt of AP, to make a note of a whole range of human rights implicit in the conditions physically inspected by its officer and to take immediate corrective action as it deemed fit and also called for a report on the corrective steps taken.

HUMAN RIGHTS OF THE DISABLED

The Commission played a major role in the drafting of the United Nations Convention on Rights of Persons with Disabilities (CRPD) and advocated for inserting Article 33 which relates to national implementation and monitoring mechanisms. It also advocated for earlier ratification of CRPD with the Government of India, which has since been ratified. The Government of India ratified the CRPD on 1 October 2007. As reported in the last Annual Report, the Commission as a follow-up measure, constituted a Core Group on Disability and organized five regional review meetings on the issue of disability during the year 2008-2009 across the country from the point of view of making an overall assessment of the existing programmes and policies relating to persons with disabilities.

The reconstituted Core Group on Disability has the following Members on panel. The Chairman of the Group is Shri PC Sharma, Member NHRC.

1	Shri Prasanna Kumar Pincha, Special Rapporteur, NHRC	Member
2	Dr (Smt.) Uma Tuli, Founder and Managing Secretary, Amar Jyoti Rehabilitation & Research Centre, New Delhi	Member
3	Dr G.N. Karna, Honorary President, Society for Disability and Rehabilitation Studies, New Delhi	Member
4	Major General (Retd.) Ian Cardozo, Chairman, Rehabilitation Council of India, New Delhi	Member
5	Shri S.K. Rungta, General Secretary, National Federation of Blind, New Delhi	Member

Shri P.K. Pincha, Special Rapporteur, Disability visited the States of Uttar Pradesh, Madhya Pradesh and Tamil Nadu in the year 2010-2011 to identify gaps in the implementation of Equal Opportunities, Protection of Rights and Full Participation Act, 1995 and submitted his observations to the Commission. The Govt. of Uttar Pradesh must be complimented on four counts, according to his report, namely unlike any other state of India, UP has a separate full-fledged ministry/department dedicated for the welfare of the disabled, the state has been rated well by the Chief Commissioner (Persons with Disabilities); that the state is well ahead of many other states in the matter of issuance of Govt. orders pursuant to the various provisions of the existing Act; and, that the state extends a range of concessions to persons with disabilities.

The Commission has been advocating for the harmonization of Indian laws with the UN Convention on Rights of Persons with Disabilities. The Commission has recommended to the Ministry of Social Justice and Empowerment that the new legislation being prepared in place of existing Persons with Disabilities. (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (PWDs Act, 1995) should take into account the following:-

1. The Preamble of the new Act or the amended Act as the case may be, should among other things, explicitly state that the Act is intended to give effect to the provisions of the UNCRPD which India has since ratified.
2. The definition of "persons with disabilities" should be both enumerative and inclusive so as to conform to the human rights based model of disability.
3. Explicit inclusion of the civil and political rights in addition to the social, economic and cultural rights of persons with disabilities must figure in the new Act or the amended Act as the case may be.
4. Explicit provision on legal capacity and property rights must also figure in the new law or the amended law.
5. The new Act or the amended Act as the case may be must include the following over-riding clauses:
 - [1] Notwithstanding anything contained in any law for the time being in force, any act or omission done or committed in contravention of the purpose, spirit, and values of the UN Convention on the Rights of Persons with Disabilities to which India is a party shall be void in law.
 - [2] Any law for the time being in force which is inconsistent with the UN Convention on the Rights of persons with disabilities to which India is a party shall, to the extent of such inconsistency be void.
- 6 The scope of affirmative action measures should both be expanded and diversified.

- 7 There should be a separate chapter on equality and non-discrimination and another separate chapter on accessibility and personal mobility.
- 8 The new Act or the amended Act must envisage all the general principles which figure in Article 3 of the UNCRPD.

Further, the Commission reviewed the working draft of the Persons with Disability Act, 2011 prepared by the drafting Committee constituted by Ministry of Social Justice & Empowerment. This Committee is deliberating to prepare a new law to replace the existing PWD, Act 1995. The Commission observed that although Part III of the draft legislation provides for legal capacity, it does not refer explicitly to property rights, as recommended by the Commission earlier. The Commission has asked the Ministry of Social Justice & Empowerment to ensure that explicit provisions on property rights for persons with disabilities be incorporated in the draft legislation.

Under the UN Convention on Rights of Persons with Disabilities, the Government of India has an obligation to submit the First Country Report before the UN Committee on the Rights of Person with Disabilities. During the reporting period, the Commission engaged with the Union Ministry of Social Justice and Empowerment to know when it is planning to submit the report and whether the persons with disabilities have been closely consulted and actively involved in the preparation of the Country report. The response of the Ministry is awaited.

It was brought to the notice of the Commission that the Department related Parliamentary Standing Committee on Human Resource Development is considering "The Copy Right (Amendment) Bill, 2010" and invited suggestions on the proposed Bill. The Commission reviewed The Copy Right (Amendment) Bill, 2010 from Human Rights perspective and noted that it does not meet the demand of print disabled person. As such the Commission recommended amendments in the proposed Bill to protect and promote the rights of persons with disabilities.

The Commission has sent these recommendations to the Department related Parliamentary Standing Committee on Human Resource Development and to the Ministry of Human Resource Development to consider the proposed amendment in "The Copy Right (Amendment) Bill, 2010" in the interest of print disabled persons.

The Commission has observed that the persons with disabilities have to incur higher expenses in terms of assistive devices, medical, transport and other expenses to carry out their activities effectively, which has a negative effect on their disposable income. In this regard, the Commission has recommended to the Union Finance Minister to make special provisions in the income tax laws to provide for higher exemption limit or extend any other benefit to persons with disabilities to enable them to maintain same level of well being as any other tax payer.

It came to the notice of the Commission that insurance companies are charging extra premium from persons with disabilities in relation to certain health and life insurance policies. The matter was taken up with the Union Ministry of Finance conveying the concerns of the Commission. The Commission is of the view that such act of charging extra premium from the persons with disabilities is a violation of Articles 14 and 21 of the Constitution of India and also runs counter to the letter and spirit of Articles 25 and 10 of the United Nations Convention on the Rights of Persons with Disabilities. The Commission urges the Government of India to issue necessary instructions to all nationalized insurance companies/corporations not to charge additional, extra or higher rates of premium from persons with disabilities.

It was brought to the notice of the Commission that in many States the Commissioner for Persons with Disability are having dual charges of the Disability Commissioner as well as Secretary in the State Government. The Commission has recommended to all the State Governments to post full-fledged Disability Commissioner, without any additional responsibility, to protect and promote the rights of persons with disability, as envisaged under the PWDs Act, 1995

In order to create awareness and sensitize various stakeholders regarding the various provisions of CRPD, the Commonwealth Secretariat published a book entitled *Convention on Rights of Persons with Disabilities - A guide by Commonwealth Secretariat*. This book was released by Hon'ble Chairperson, National Human Rights Commission, Justice Shri K.G. Balakrishnan on 3rd September 2010 at a function in the Commission.

The Commission in coordination with Commonwealth Secretariat organized a Seminar on the Rights of Persons with Disabilities in the Commonwealth on 14th January 2011 at New Delhi. The seminar was inaugurated by the Union Minister for Social Justice & Empowerment and attended by representatives of Commonwealth countries dealing with the issue of disability in their respective countries. Mr. Shuaib Chalklen, UN Special Rapporteur on Disability of the Commission for Social Development also attended the seminar. After detailed discussions, it was decided to increase ratification of the UN Convention on Rights of Persons with Disabilities, improving the role and voice for disabled people in shaping initiatives, addressing areas of employment and education and strengthening of advocacy network.

The 'Know your Rights' series brought out by the Commission has proved highly useful in spreading human rights awareness. In light of the ratification of UN Convention on Rights of Persons with Disabilities by the Government of India, the booklet on Rights of Persons with Disability was revised and released on human rights day, i.e. 10th December 2010.

Chapter 8

INTERNALLY DISPLACED PERSONS

The National Human Rights Commission organised a National Conference on Relief and Rehabilitation of Displaced Persons on 24-25 March 2008 in New Delhi. The following important recommendations and suggestions emerged from the Conference :

1. Pre-displacement, displacement, relief and rehabilitation should be viewed from a rights based perspective rather than as an administrative/ governance issue that focuses on needs of beneficiaries. For instance, the lexicon of welfare/ charity ("gratuitous relief" "beneficiary") should be jettisoned for language that respects human rights of the displaced or to-be-displaced people. In all instances of displacement, there should be minimum non-negotiable human rights standards that should be adhered to for all and especially for vulnerable and marginalised groups such as women, children, elderly and disabled.
2. As part of relief and rehabilitation, authorities provide food, potable water, clothing, shelter, basic health care, education, etc. It is important to note that access to these basic minimum services is not a matter of welfare or charity but is a human right. Basic minimum standards for such facilities /services should be defined.
3. There is a need for Central and State Governments to re-examine and amend laws, policies, plans, regulations and practices to mainstream and integrate human rights concerns on issues related to pre-displacement, displacement, relief and rehabilitation. For instance, human rights principles should inform the relief manuals of various states.
4. Authorities concerned with pre-displacement, displacement and post-displacement activities should be sensitized about human rights through capacity building.
5. All affected and displaced persons have the right to be treated with dignity. In

particular, no arbitrary decision, without reasoning should be taken in the matters that affect their source of food, shelter and livelihood. Furthermore, before any such decision is taken, they should have the right to be heard/consulted. They should also have the right to appeal against such decisions in appropriate forums.

6. All affected and displaced persons have the right to be treated without any discrimination in matters relating to rescue, relief and rehabilitation.

In respect of vulnerable groups among them such as women, disabled, elderly persons and children, the appropriate authority shall take special measures to protect their rights. Displaced persons who have returned to their homes or places of habitual residence or who have resettled in another part of the country shall not be discriminated against as a result of their having been displaced. They shall have the right to participate fully and equally in public affairs at all levels and have equal access to public services.

7. All affected persons and displaced persons have the right to information regarding all aspects related to immediate humanitarian assistance, relief and rehabilitation. This includes, but is not limited to the following:
 - (a.) Adequate measures to guarantee to those to be displaced full information on the reasons and procedures for their displacement and, where applicable, on compensation and relocation;
 - (b.) Proper publicity by the State Government so as to enable the affected people to become aware of their entitlements in the form of relief and compensation;
8. All displaced persons, in particular displaced children, have the right to receive education, which shall be free and compulsory at the primary level. Education should respect their cultural identity, language and religion. Education facilities should be made available as soon as conditions permit. Special efforts should be made to ensure the full and equal participation of women and girls in educational programmes.
9. All displaced persons have the right to an adequate standard of living. At the minimum, regardless of the circumstances, and without discrimination, competent authorities shall provide displaced persons with and ensure access to:
 - a. Essential food and potable water;

- b. Basic shelter and housing;
- c. Appropriate clothing; and
- d. Essential medical services and sanitation.

(Explanation:- The term "adequate" means that these services are (i) available, (ii) accessible, (iii) acceptable, and (iv) adaptable: (i) Availability means that these goods and services are made available to the affected population in sufficient quantity and quality; (ii) Accessibility requires that these goods and services (a) are granted without discrimination to all in need, (b) are within safe reach and can be physically accessed by everyone, including vulnerable and marginalized groups, and (c) are known to the beneficiaries; (iii) Acceptability refers to the need to provide goods and services that are culturally appropriate and sensitive to gender and age; (iv) Adaptability requires that these goods and services be provided in ways flexible enough to adapt to the change of needs in the different phases of emergency relief, reconstruction. During the immediate emergency phase, food, water and sanitation, shelter, clothing, and health services are considered adequate if they ensure survival to all in need of them.

Chapter 9

RIGHTS OF REFUGEES

Definition

According to the Convention Relating to the Status of Refugees, 1951 ["Refugee Convention"], a refugee is a person who flees across an international border because of a well founded fear of being persecuted in his country of origin on account of race, religion, nationality, membership of a particular social group, or political opinion

Therefore, refugees and asylum seekers are externally displaced people (EDPs) who have a well-founded fear of persecution in their countries of origin and hence cannot return. Refugees and asylum seekers share their well-founded fear of persecution with internally displaced people (IDPs) who, although they have not crossed an international border, also cannot return to their homes.

Migrants, on the other hand, cross international borders in search of better socioeconomic conditions and so do not possess a well-founded fear of persecution upon return.

India's International Commitments to Refugee Protection

With the addition of the 1967 Protocol giving the Refugee Convention a global appeal and with the collapse of the Cold War's eastern bloc, India's real and current reasons for not joining the Convention are more apparent. Bound by the compulsions of realpolitik and the constant fear for national security, India does not want to be tied down by an international legal obligation that impinges upon its discretion to regulate the entry of foreigners into its territory.

This concern must be understood in the context of South Asia's unstable geopolitics, not to mention its volatile ethnicities.

Constitutional Protection

In the absence of a specialised statutory framework, India relies on the Foreigners Act, 1946 to govern the entry, stay and exit of foreigners in India.

The Foreigners Act gives the executive wide powers to remove foreigners from India that have generally been exercised free from judicial review. This power is given to the Central Government by Section 3(2)(c) of the Foreigners Act, 1946. This is in addition to the power to refuse entry for non-fulfilment of entry conditions that invites instant deportation.

The unrestricted power of the executive to remove foreigners was first confirmed by the Supreme Court in 1955, where it held that: "The foreigners Act confer the power to expel foreigners from India. It vests the Central Government with absolute and unfettered discretion and, as there is no provision fettering this discretion in the Constitution, an unrestricted right to expel remains."

The foreigners are however, entitled to some degree of constitutional protection while in India. These include the protection of the equality clause [Article 14] and the life, liberty and due process provisions [Article 21] of the Indian Constitution.

While Article 14 guarantees equality before the law and the equal treatment of the law, classifications of persons into separate and distinct classes based on intelligible differentia with a nexus to the object of the classification are allowed.

Thus, the executive may distinguish between classes or descriptions of foreigners and deal with them differently. It follows that a foreigner discriminated by state action as against another foreigner of the same class or description has a valid constitutional cause of action 11.

Article 21 protects any person from the deprivation of his life or personal liberty except according to procedure established by law. Foreigners enjoy the protection of Article 21 in two ways: (a) they are equally entitled to the right against deprivation of life or bodily integrity and dignity, and (b) to a certain extent, the right against executive action sans procedural due process accrues to them. However, cases which suggest a due process for deportation have to be confined to their own facts. Indian courts have generally upheld deportation orders passed in contravention of the audi alteram partem principle.

In addition, foreigners are also entitled to the protection of some of the rights recognised in Article 20 [the right against prosecution under retrospective penal law; the right against double jeopardy; and, the right against self-incrimination]; Article 22 [rights upon arrest or detention]; Articles 25 - 28 [the right to freedom of conscience and the free practice and propagation of religion]; and, Article 32.

National Human Rights Commission and the Rights of Refugees

Significant pressure to accede to the Refugee Convention and enact refugee protection

legislation for the country is exerted on the Indian Government by the National Human Rights Commission (NHRC). The NHRC is a statutory body established under the Protection of Human Rights Act, 1993, and is mandated by Section 12(f) of that Act to "study treaties and other international instruments on human rights and make recommendations for their effective implementation".

In its various Annual Reports, the NHRC consistently highlights the need for an effective Indian refugee protection regime, by joining the Refugee Convention and enacting protective national legislation.

Within the NHRC, a committee of experts examines matters of Indian refugee law and policy. In its Seventh Report, the NHRC addressed the need for domestic refugee protection law, which was repeated in its Reports.

The NHRC continues to push the Indian Government for failing to meet its international law responsibilities. A meeting was held in the Commission in Dec 2007 on enacting a national legislation on refugees and ratifying the Convention relating to status of refugees.

While security aspects are important in relation to a convention that deals with cross-border migration, the human rights aspects of migration should not be overlooked. Refugees and asylum seekers suffer a range of human rights violations in India (including for instance, the arbitrariness in visa extensions, police brutality and lack of right to work etc.)

Year	Initiatives taken by Commission
1994-1995	<p>The rights of other vulnerable groups increasingly demanded the time and attention of the Commission: these included the rights of children, especially of the girl child, and of those working in hazardous industries, of bonded labour and refugees, to mention but a few.</p> <p>Conditions of Chakma & Hojong refugees settled in Arunachal Pradesh</p> <p>The Commission, in a communication to the State Government on 29 September 1994 stated that it was the obligation of that Government to accord protection to the person and property of the members of the two communities and to ensure that their human rights were not violated. In addition, the Commission called upon the State Government to take prompt action to restore normalcy. It also urged the Ministry of Home Affairs to ensure prompt and necessary action by the State Government.</p>

Year	Initiatives taken by Commission
1995-1996	<p data-bbox="410 329 1385 405">Commission moves the Supreme Court on Chakma Refugees in Arunachal Pradesh</p> <p data-bbox="410 443 1385 566">The Commission's petition sought to enforce the right to life of about 65,000 Chakma/Hajongrefugees, which they have a right to enjoy under Article 21 of the Constitution, whether they be citizens or not.</p> <p data-bbox="410 602 1385 1144">The Supreme Court allowed the petition by its judgement dated 9 January 1996, and directed the Arunachal Pradesh State Government to ensure that the life and personal liberty of each and every Chakma residing within that State be protected. The Court further ordered it to repel any attempt to forcibly evict or drive Chakmas out of the State by organised groups such as the All Arunachal Pradesh Students Union (AAPSU), if necessary by requisitioning the services of the paramilitary or police force. The State Government was directed to ask the Centre to provide such additional force as was necessary to protect the lives and liberty of the Chakmas. The apex court further held that the Chakmas shall not be evicted from their homes and shall not be denied domestic life and comfort therein except in accordance with law.</p> <p data-bbox="410 1182 1385 1518">The Supreme Court further directed the Arunachal Pradesh Government to deal with the quit notices and ultimatums issued by AAPSU and any other group which was tantamount to a threat to the life and liberty of each and every Chakma, in accordance with law. The Supreme Court also gave directions to State Government in regard to issues relating to citizenship. The State of Arunachal Pradesh has moved an application for modification of this judgement and the Commission has filed its objections thereto.</p> <p data-bbox="410 1556 1267 1592">Non-supply of relief materials to Kuki refugees in Manipur</p> <p data-bbox="410 1630 1385 1753">The complainant asked that the kuki refugees be provided with homes and supplied foodgrains, clothing, utensils, medicines and other essential commodities.</p> <p data-bbox="410 1789 1385 1993">Upon receiving notice from the Commission, the State Government reported in detail on the steps that it had taken to redress the suffering of the Kuki refugees. These measures included the construction of 2183 houses for the Kukis. Further, substantial allocation of money was also made to meet the requirements of the refugees. As a result</p>

Year	Initiatives taken by Commission
	<p>of the special efforts made by the State Government, clothes received by way of gifts, had been distributed in the affected areas.</p> <p>The Commission, therefore, suggested that serious attention should be devoted to the task of bringing about reconciliation between the two ethnic groups --Nagas and the Kukis--and called upon the State Government to work to this end.</p>
1997-1998	<p>Consideration of UN Convention relating to the status of refugees</p> <p>On 2 October 1997, the Commission initiated a dialogue with senior officers of the Ministry of External Affairs requesting them to examine afresh the possibility of India becoming party to the 1951 United Nations Convention relating to the Status of Refugees and the 1967 Protocol on this subject.</p> <p>The Ministry of External Affairs subsequently informed the Commission that the matter is being re-examined in consultation with other concerned Ministries/Departments.</p> <p>The Commission noted this development with appreciation and recommended that the Ministry of External Affairs constitute a small group of experts to go into the matter expeditiously.</p> <p>Cases related to refugees, members of a particular caste, tribe, community, etc. to be put on fast track.</p>
1999-2000	<p>During the period under review the Commission received a complaint from a Sri Lankan Tamil refugee lodged in Melur Refugee Camp about conditions prevailing in that camp. The main grievances of the petitioner were that 25 Sri Lankan refugees including 5 women and 2 children had been detained in the Melur Camp without any indication being given about their future fate or their release.</p> <p>They also complained of an insufficient allowance, excessive restrictions over their movements even within the compound during the day, and the lack of arrangements for visitors to meet them. They requested that there should be regular visits of a medical officer and medical check-ups, when needed outside the camp.</p> <p>Following directions of the Commission, the Director General (Investigation) paid a visit to Melur Refugee Camp in June 1999 and submitted a report. The Commission considered his report and</p>

Year	Initiatives taken by Commission
	<p>directed the State Government to make immediate arrangements to ensure that inmates at the refugee camp, including women and children, are allowed greater freedom of movement within the premises of the camp so that they can exercise properly and keep in better health.</p> <p>The Commission also directed the State Government to increase their daily allowances from Rs. 20/- to Rs. 35/- per adult and Rs. 14/- to Rs. 20/- per child. It recommended that steps be taken for expeditious disposal of various court cases pending against certain of the inmates and also directed that regular visits be undertaken by medical and revenue officers so that prompt action can be taken to look into their condition and resolve their difficulties.</p> <p>The Government of Tamil Nadu complied with the Commission's directions and submitted a detailed action taken report.</p> <p>The Commission's views in regard to the need for India to develop a national policy and possibly a National Law, fully in consonance with the 1951 United Nations Convention relating to the Status of Refugees and the 1967 Protocol on the subject have been recounted earlier. It remains the opinion of the Commission that the drafting and adoption of such a law is essential.</p> <p>The Commission was represented at a Judicial Symposium on Refugee Protection, held in New Delhi on 13-14 November 1999 by Member Shri Virendra Dayal. The symposium dealt with the status of refugees the world over and the available means to protect them. Special emphasis was placed on the problems of refugees in India and the constitutional provisions and role of the courts in helping them.</p>
2000-2001	<p>Convention and Protocol on the Status of Refugees</p> <p>In the course of the year, the Commission received a number of communications from non-governmental organisations stating that there was evident need for India to adopt national legislation, consistent with the Convention and Protocol, to protect refugees in the country in a better manner.</p> <p>Numerous complaints were received alleging inconsistency and discrimination in the handling of different groups of refugees, it also being asserted that, on occasion, acts of 'refoulement' or the forced repatriation of refugees against their will, were occurring.</p>

Year	Initiatives taken by Commission
	<p>The Commission considered such communications carefully and, on each occasion, sought the response of the Ministries of External Affairs and of Home Affairs. Both denied that 'refoulement' had occurred. The Ministry of External Affairs added that a legal framework to deal with refugee issues already existed in the relevant provisions of the Indian Constitution, the obligations undertaken by India under various international human rights instruments, particularly the International Convention on Civil and Political Rights (ICCPR) and a series of judicial pronouncements. In addition, there had been refugee-specific legislation enacted whenever considered necessary, such as the legislation dealing with refugees from Pakistan in the period 1947 - 50 and the Foreigners from Uganda Order, 1972.</p> <p>The Commission is firmly of the opinion that a comprehensive national law ought to be devised, keeping in view the decisions of the Supreme Court as well as international instruments on the subject.</p>
2001-2002	<p>There is a need, the Commission feels, especially in a time of growing population movements and demographic pressures, to establish a system that works uniformly and systematically to distinguish between the bona fide refugee and the economic migrant, between those who seek asylum in our country because of a fear of persecution, and those who would seek to enter it to cause harm, even through acts of violence or terrorism.</p> <p>The Commission therefore hopes that the action initiated by the Central Government will be completed within a time-frame that is clear and reasonable, so that this important matter, touching upon the human rights of an extremely vulnerable group of persons, is expeditiously acted upon in a manner that is consistent with the dictates of our Constitution, the decisions of our Supreme Court and the international instruments on this subject.</p>
2003-2004	<p>The Commission's views on the need for a comprehensive national legislation to deal with refugee situations facing the country have been recounted in detail in the previous reports. The Commission continued to pursue this matter during the year under review.</p> <p>The Ministry of Home Affairs, Government of India sought the Commission's views and comments on the Model National Law on Refugees which was prepared by Justice Shri P.N. Bhagwati in his capacity as Chairman of the 'Eminent Persons Group' set up by the</p>

Year	Initiatives taken by Commission
	<p>UN High Commissioner for Refugees. The Commission decided to set up an Expert Committee on Refugees with the following composition:</p> <ol style="list-style-type: none"> 1. Shri Fali S.Nariman, Member of Parliament 2. Shri Arun Kumar Jain, Joint Secretary, Ministry of Home Affairs. 3. Dr. Narinder Singh, Joint Secretary, Legal and Treaties Division, Ministry of External Affairs 4. Dr. O.P. Shukla, Joint Secretary and Legal Adviser, Department of Legal Affairs, Ministry of Law and Justice 5. Shri Muchkund Dubey, President, Council for Social Development, New Delhi 6. Dr. Rajeev Dhavan, Senior Advocate, Supreme Court 7. Prof. B.S. Chimni, School of International Studies, JNU 8. Prof. Mahendra Lama, School of International Studies, JNU <p>The Expert Committee has been requested to go through the Model National Law on Refugees clause by clause and give its comments thereon to the Commission. The Chairperson requested the Members of the Expert Committee to give their individual comments on Model National Law on Refugees and other general aspects as well as specific issues to be addressed in this regard.</p>
2004-2005	Recommended that NHRIs should promote and ensure the national implementation of international standards on migrant workers, refugees, asylum-seekers, internally displaced persons (IDPs) and victims of trafficking.
2006-2007	An Expert Group has been set up on Refugees by the Commission with a view to have an expert opinion on the subject before formulating its views on the Model Law on Refugees.

The Ministry of Home Affairs informed the Commission that an Inter-Ministerial Committee constituted for the purpose has prepared a draft bill which is being examined by the Ministry of External Affairs. On receipt of comments from the concerned Ministry, the Committee will finalise its report. The Commission then asked the Ministry of Home Affairs to forward to it a copy of the draft bill.⁴

⁴ Annual Report, NHRC, 2009-2010

Chapter 10

FOOD SECURITY

1. A meeting was convened under the chairmanship of Justice Shri G. P Mathur, Member, NHRC on 6 May 2008 to discuss Food and Agriculture Organization's (FAO) initiative of preparing a guide on legislating Right to Food. The participants to this meeting were representatives of FAO, senior officers of NHRC and Members of NHRC's Core Group on Right to Food.

The meeting deliberated upon the question of providing legal remedy at affordable cost and simple mechanism; enforcement of right to food; regulation of private sectors; monitoring the implementation of right to food at micro and macro level; defining the standards of food security; and research and resource support for addressing the issue of right to food.

2. A meeting of the Core Group on 'Right to Food' was convened in the NHRC on 10 September 2009 under the chairmanship of Shri P.C. Sharma, Member, NHRC. In the meeting, it was decided to reconstitute the existing Core Group so as to include representatives from the Department of Food & Public Distribution, Ministry of Consumer Affairs, Food & Public Distribution, Government of India.
3. The 18 member Core Group met on Nov 2, 2010 under the chairmanship of Shri PC Sharma, Member NHRC, in New Delhi.

In the said meeting several issues pertaining to right to food were taken up for discussion. One of them was about food and nutrition security. Low and stagnating incomes among the poor has meant that low purchasing power remains a serious constraint to household food and nutrition security, even if food production picks up a result of interventions in agriculture and creation of rural infrastructure. The other concerns raised were about child malnutrition, maternal anemia, reporting of starvation deaths and farmers suicide from different States of the country, food procurement policy, sustainable food security and the public distribution system.

5. Human Rights Awareness and Facilitating Assessment & Enforcement of Human Rights Programme in Select 28 Districts

The 28 districts, one from each State, have been selected from the list of identified Districts availing the, 'Backward Regions Grant Fund,' of the Ministry of Panchayati Raj, Govt. of India. The parameters on which these backward districts have been identified are - rate of illiteracy, percentage of Scheduled Caste and Scheduled Tribe population, infant mortality rate, etc.

From 2008 to 2010, the Commission has visited fourteen districts. These districts are Chamba(HP), Ambala(Haryana), North Sikkim(Sikkim), Jaipur(Raj), Dhalai(Tripura), South Garo Hills(Meghalaya), Sonbhadra(UP), Dang (Gujarat), South Goa(Goa), Wayanad(Kerala), Jamui(Bihar), Hoshiarpur(Punjab), Kalahandi(Odisha) and Mizoram(Mizoram).

In the year 2008- 2009, the following five districts were visited by different teams of NHRC as a part of this programme: Wayanad Kerala 15-18 September 2009, Jamui Bihar 17-19 November 2009, Hoshiarpur Punjab 27 November-1 December 2009, Kalahandi Orissa 24-26 February 2010 and Mizoram 15-17 March 2010.

Wayanad District

The visit to Wayanad District in Kerala was led by Shri Satyabrata Pal, Member, NHRC. The Joint Secretary (Trg.) and Senior Research Officer of NHRC assisted the Member during the visit. The team visited the local police stations; primary, secondary and senior secondary schools; ration shops; the office of the public distribution system; primary and community health centers; hospitals; Scheduled Caste and Scheduled Tribe communities; hostels for students belonging to deprived sections; panchayats and various other Departments working for the empowerment of women, children and disadvantaged populations.

The main objective of these visits was to review the implementation of various programmes of the government as well as directions passed by the NHRC concerning food, education, custodial justice, health and hygiene. Following this, a one-day workshop was also organised in the District in which there was a fairly good participation of the complainants whose rights had been violated but no respite had been given; panchayat members, representatives of NGOs, senior state government officials and functionaries working in different Departments and media persons.

Few of the major recommendations/suggestions that emerged out of the deliberations of the one-day workshop in Wayanad District were as follows:

- BPL ration cards to be issued only to Scheduled Castes/Scheduled Tribes beneficiaries. It should be ensured by the District authorities that all the beneficiaries are issued uniform and identical BPL ration cards. This would enable the beneficiaries to take their rations on regular basis and in the process prevent the pilferage and diversion of rations meant for them. Moreover, the State should ensure that the beneficiaries also have the required economic means to purchase their rations.
- It was highlighted that many tribals did not take-up work under the NREGA scheme on account of long distances. It was therefore recommended that the Collectorate should find out projects for them that are closer to their settlements. Other than this, payment to the tribals under the NREGA scheme should be made instantly.
- There being a dearth of hostels for post-matric students belonging to Scheduled Castes and Scheduled Tribes, it was recommended that the State Department of Education be directed to look into the matter so that suitable number of hostels are constructed for them in the District and more number of students are accommodated from the nearby villages. Furthermore, the State must give utmost priority to upgradation of schools.
- As the primary and community health centers located in Wayanad did not have the required minimum basic facilities, it was recommended that these be equipped with latest super-speciality facilities with regard to medical care. This would facilitate patients to avail all health related facilities in the District itself.
- It was pointed out that the only jail, in Vythiri, was extremely overcrowded. As such, it was recommended that the Manantavadi jail under construction, needs to be made operational at the earliest.
- It was deliberated that the prescribed budget concerning food given to inmates in Vythiri jail was grossly inadequate in the light of escalating prices of essential food items. It was thus recommended that the sanctioned budget needs to be looked into and revised.

Jamui District

The visit to Jamui District in Bihar was again headed by Shri Satyabrata Pal, Member NHRC. Other officials from NHRC who assisted the Member were Joint Secretary (Trg.) and Senior Research Officer (Trg.). One of the Special Rapporteurs of the Commission was also a part of the entourage. The NHRC team in Jamui District visited the local police station; primary, secondary and senior secondary schools; ration shops; the office of the public distribution system; primary and community health centers, hospitals, Scheduled Caste and Scheduled Tribe communities; panchayats and

various other Departments working for the empowerment of disadvantaged sections. The main objective of these visits was to review the implementation of various programmes of the government as well as directions given by the NHRC concerning food, education, custodial justice, health and hygiene. After these visits, a one-day workshop was also convened in the District. The workshop was attended by members of the District Council and the Panchayat Committee, academicians, journalists. NGOs, and officers of the District administration.

Some of the major recommendations/suggestions that emanated out of the one-day workshop organized in Jamui District were :

- NGOs alone should be made responsible for distribution of the mid-day meal scheme in the District. The identified NGOs should be directed to pay special attention to the overall nutritional quality of the food to be served under the scheme as well as its related aspects in terms of maintaining cleanliness when the food is cooked and its transportation to the respective schools for distribution.
- The District police should carry out proper investigations on complaints lodged in the police stations and in no way should illegally arrest innocent persons on false accusations. Other than this, undertrials and convicts need to be treated in a humane manner. Complaints of torture against undertrials and convicts should be looked into instantaneously.
- The District authorities should immediately recruit teachers in all the schools as per the prescribed student-teacher ratio. The policy relating to transfer of teachers also needs to be reviewed by the District authorities. The services of teachers should only be used for work concerning education and not for non-educational work.
- There is also an immediate need to fill up all the vacant posts in primary and community health centres and hospitals and facilities being provided therein must have all the required essentials.

Hoshiarpur District

The NHRC team in Hoshiarpur District of Punjab was led by Justice Shri G. P. Mathur, Acting Chairperson, NHRC. Other officers in the team were the Secretary-General and Director (Admn.) The NHRC team during its visit assessed the situation of anganwadi centres; schools; police stations and community health centres functioning in the District. The team also visited the District jail in Hoshiarpur. Thereafter, a workshop was convened in the District which was attended by representatives from various Departments like the police, prisons, food, women and child development, panchayati raj and functionaries of NGOs.

Some of the major recommendations/suggestions of the workshop organized in Hoshiarpur were as follows :

- It was observed during the workshop that some wealthy people had been issued BPL cards. It was thus recommended that there is a need to scrutinize all the BPL cards issued by the District authorities so far and in future it should be ensured that these cards are given to people only as per the required eligibility criteria failing which strict action would be taken against the concerned officials.
- Similarly, there is a need to constitute Vigilance Committees in the District as the same had not been constituted in the last two years.
- There is an immediate need to fill-up all vacant posts of school teachers in all the schools as per the prescribed qualifications and experience.
- As the Hoshiarpur jail hospital had maintained two different types of registers - one as per the jail manual and another as per instructions and guidelines issued by the NHRC from time to time, it was recommended to merge the two registers to avoid duplication of work.
- It was emphasized that the guidelines and instructions issued by the NHRC on different human rights issues/concerns since 1993 must be adhered to strictly by all concerned in the District.
- It was reported that few juveniles of foreign origin were in the District Juvenile Home. It was recommended to look into those cases so that immediate relief is provided to them by the authorities concerned.
- It was stated that the procedure for issuing of disability certificates in the hospital needs to be simplified. The new procedure adopted should ensure that disability certificates are issued in a reasonable time-frame.
- It was mentioned that there is a need to deploy sufficient staff at the tehsil/district level so as to facilitate checking of drug adulteration.

Kalahandi District

The visit to Kalahandi District was directed by Justice Shri B. C. Patel, Member, NHRC. Others who assisted the Member from NHRC were Director (Admn.) and one of the Special Rapporteurs. The team during the visit reviewed the functioning of local police stations, schools, health facilities in primary/community health centers, hospitals, anganwadi centres and a home for destitutes in the District. The team also visited the District Jail at Bhawanipatna. On the last day of the visit, a workshop was organized at Bhawanipatna under the chairmanship of Justice Shri B. C. Patel, Member,

NHRC. The District Collector along with other senior officials from various Departments participated in the said workshop.

Few of the significant recommendations/suggestions emerging out of the workshop were as follows :

- There is a need to recruit more number of doctors and para-medical staff in the District Hospital. The medical record of all the prisoners undergoing treatment in the District Hospital needs to be properly maintained as well.
- Similarly, there is a need to provide mobile dispensaries and multi-service mobile units to the tribal and rural population living in the far-flung parts of the District.

This would ensure the health rights of all the tribal and rural population in the District.
- The District authority should ensure that the medical examination of all the undertrials is carried in a speedy manner.
- The teachers and supporting staff of all the schools in the District should focus only on work related to education. In no way, they should be directed to carry out work related to census, election and surveys.
- In order to ensure greater transparency in the implementation of existing schemes, there is a need for the District Authority to evolve a reporting mechanism that takes care of both physical and financial performance.

Siaha District

Siaha District in Mizoram was led by Shri Satyabrata Pal, Member, NHRC. The other two officers who assisted the Member were Director (Research) and Senior Superintendent of Police-I. The objective of the visit was to take stock of the facilities available in the District and the implementation of various policies/programmes/schemes of the State and Central Government designed to promote and protect civil, political, economic and social rights. The team visited various organizations, institutions including the offices of the District Magistrate, Superintendent of Police and public distribution system. Besides, the team visited the local police station and the District jail, anganwadi centres, schools, an orphanage and the District hospital.

After the field visit, a workshop was convened on 17 March 2010 which was attended by senior officials of the District, representatives of various NGOs and members of Mara Autonomous District Council.

Some of the major recommendations/suggestions of the workshop were:

- The quantity and quality of food supplied through the public distribution system,

as well as to the beneficiaries of the integrated child development services scheme and mid-day meal programme needs to be monitored regularly.

- Qualified teachers in all subjects must be appointed in sufficient numbers in all the schools, particularly in rural and tribal areas of the District.
- The infrastructure and quality of services being provided in the district hospital needs to be improved, including the availability of medical supplies and equipments.
- Vacant posts of medical and para-medical staff needs to be filled-up in a timebound manner. The primary health centers in the District must function '24x7', that is, round the clock on all the days.
- Undertrials and convicts must be medically examined at the time of their admission in the district jail, and all their tests should be carried out in the district hospital itself.
- In the district jail, the convicts need to be segregated from the undertrials.

In the year 2010-2011, the following two districts were visited by the NHRC as a part of the aforesaid programme - District Chatra, in Jharkhand from 22-23 Sept 2010, and District Thiruvannamalai, TN from 26-28 Oct 2010.

The NHRC team in Chatra District headed by Shri Satyabrata Pal, Member visited the local police stations, schools, fair price shops to assess the public distribution system, health centres and hospitals, panchayats and various other departments working for the empowerment of disadvantaged sections. The main objective of these visits was to review the implementation of various programmes of the Centre and State Governments. After these visits, a one-day workshop was also conducted in the District. The workshop was attended by MLAs, district officials, police officials, representatives of non-governmental organizations and the civil society at large.

The NHRC team in Thiruvannamalai District was headed by Shri PC Sharma, Member NHRC. The objective of the visit was to take stock of the facilities available in the District and the implementation of various policies, programmes and schemes of the State and the Central Government designed to protect and promote civil, political, economic and social rights. The team visited hospitals, police stations, sub-jails, anganwadi centres, schools and fair price shops. After the field visit, a one-day workshop was conducted in the District to discuss the current status of human rights situation with all the concerned officials of the State and the District, representatives of non-governmental organizations and the civil society. The Workshop was attended by over 150 State functionaries and included the Commissioner, Social Welfare and Deputy Secretary, Govt of TN, District officers from the Departments of Revenue, Education, Health, Welfare, Agriculture, Police, Prison and Public Works. Public representatives such as the MLAs, Members of municipality and District Panchayat and representatives of local NGOs also attended the Workshop.

Chapter 11

HEALTH AND HUMAN RIGHTS

In order to address the shortage of doctors in rural areas, the views of the Commission with regard to one year of compulsory rural service for MBBS students was conveyed to the Sambasiva Rao Committee constituted by the Ministry of Health and Family Welfare, Government of India for examination. The Sambasiva Rao Committee in its report had suggested that instead of extending the internship of MBBS students for another year to facilitate rural posting, rural work up to one year should be made mandatory for candidates who want to pursue their post-graduation. For this purpose, the students will be appointed by their respective State Governments/ Union Territories on contractual basis for a period of one year. In the meantime, the Government of India too has proposed to introduce one year of mandatory posting in rural areas for purposes of employment.

Being deeply concerned about the illegal medical practices of doctors having fake certificates/degrees in tribal areas as well as to ensure that people in the country have access to quality health care, the NHRC organized a one-day Meeting of the Health Secretaries of all the States/Union Territories on "Illegal Medical Practices and Health Care Facilities in the Tribal Areas" on 29 January 2010 at the National Institute of Health and Family Welfare (NIHFW), New Delhi.

Silicosis

Silicosis is an occupational disease caused by inhalation, retention and pulmonary reaction to crystalline silica during mining, stone crushing, quarrying and such other activities. It profoundly affects the work productivity, economic and social well-being of workers, their families and dependents. The NHRC has adopted a two-pronged approach to tackle the issue of silicosis. On the one hand, it is considering individual cases, and on the other hand, it is devising preventive, rehabilitative and remedial measures to deal with the issue of silicosis.

The NHRC is of the view that the occupational hazard of silicosis is preventable if the working conditions are properly regulated, proper warning is given and protective

equipments are used. Once a worker or any other person is afflicted by silicosis, it becomes a constitutional obligation on the part of the State to take appropriate short-term and long-term measures from the point of view of providing medical facilities and rehabilitation to the victims. However, by and large, NHRC's observation has been that neither the Central Government nor any of the State Governments have come out with a comprehensive policy which encompasses preventive, curative and rehabilitative measures for the benefit of silicosis victims.

The Commission had earlier requested the Ministry of Labour to collect relevant information from all the States/Union Territories. The Ministry, on its part, informed that they had directed the Directorate General of Factory Advice Service Labour Institute (DGFASLI) to collect the requisite information from all the States/Union Territories. At the time of writing of this Annual Report, it was reported to the Commission that responses had been received from 26 States/Union Territories.

With a view to assist in devising strategies for dealing with the problem of silicosis and evolving necessary preventive, remedial, rehabilitative measures to solve the problem of silicosis in the country, the NHRC has constituted an Expert Group on Silicosis under the chairmanship of one of its Member (Shri P. C. Sharma). The following are the other Members:

1. Director General, Directorate General of Factory Advice Services Labour Institute, Mumbai (Ministry of Labour & Employment, Government of India).
2. Director General, Directorate General of Mines Safety, Dhanbad (Ministry of Labour & Employment, Government of India).
3. Director, National Institute of Occupational Health, Ahmedabad (Ministry of Health & Family Welfare, Government of India).
4. Representative of Ministry of Commerce & Industry, Government of India.
5. Representative of Ministry of Environment and Forests, Government of India.
6. Shri S.A. Azad, People's Rights and Social Research Centre (PRASAR), New Delhi.
7. Ms. Anita Shenoy, Advocate, Supreme Court of India, New Delhi.
8. Joint Secretary (P&A), National Human Rights Commission, New Delhi.

The first meeting of the Expert Group was convened in the NHRC on 5 January 2010. The Expert Group identified the silicosis-prone industries and decided to evolve preventive, remedial, rehabilitative measures to deal with the problem of silicosis. Moreover, it opined payment of compensation to the affected persons.

The silicosis-prone industries identified by the Expert Group were:

- a. All stone quarries and crushers
- b. Quartz mining
- c. Foundries
- d. Sand blasting
- e. Ceramics
- f. Gem cutting and polishing
- g. Slate/pencil
- h. Construction
- i. Glass manufacture
- j. Other mining industries.

Silicosis Disease a Health Hazard to the Workers of Sand Stone Quarries Located Around Jodhpur in Rajasthan (Case No. 1573/20/19/09-10)

An NGO named Mine Labour Protection Campaign brought to the notice of the NHRC a grave health hazard issue prevailing in areas around Jodhpur in Rajasthan. According to the NGO, 40,000 odd workers in about 7,000 sand stone quarries were working in extremely polluted working conditions having a very high stone dust level. All these workers in due course of time would become victims of a deadly disease silicosis, which is a fibrotic lung disorder caused by inhalation, retention and pulmonary reaction to crystalline silica during mining, stone crushing and quarrying. A list of 53 workers suffering from silicosis and 7 others died. Since the workers were unorganized and had not even been issued identity cards, they were not in a position to file any claim for compensation under the workmen Compensation Act.

Taking cognizance of the matter, the Commission deputed a team from its Investigation Division for an on the spot inquiry. The team visiting the area from 12 to 15 January 2010 confirmed the gravity of the problem and found that 21 persons had died and 44 others had become victims of silicosis disease. The recommendations made by the team were sent to the Chief Secretary calling for a report as to: (i) whether next of kin of the 21 persons who had died due to silicosis had been given any monetary relief ; and (ii) the steps taken for medication and rehabilitation of those who had contracted the disease. It also directed the Chief Secretary to convene a meeting on the issue with the officers of Mines and Geology Department and Labour Enforcement

Department of Government of Rajasthan; Pollution Control Board, Labour Enforcement Department and Mines Safety Department of Government of India.

Subsequently, the State Government informed that a proposal for compensating the next of kin of the 21 workers who died on account of silicosis was under consideration. So far, only Rs. One lakh had been paid as interim relief from the Chief Minister's Relief Fund. It was also informed the affected persons were being treated by the Primary Health Centers and Regular Health Check-up Camps were being organised.

The Commission called for comments from the complainant NGO on the report received from the State Government. The complainant NGO stated that there was no mechanism for registration of workers and they were still working without any identity card and proof of payment. In view of the alleged inaction by the State, the Commission called upon the Chief Secretary, to submit an additional report. The report is awaited and the matter is under consideration of the Commission.

Endosulfan

The Commission took cognizance of media reports of the adverse effects aerial spraying of the pesticide Endosulfan on the local population in the Kasaragod district of Kerala. The Commission sent its own team for an independent investigation, which confirmed a continued high incidence of the medical disorders recorded among people and that the relief provided by the Government of Kerala has made very little positive impact. An urgent meeting of the NHRC's Core Advisory Group on Health was organized on 24.12.2010 seeking the views of expert on the issue. The Expert Group suggested that the Commission should recommend ban on the use of Endosulfan based upon available evidences. It was also decided to recommend immediate compensation for the affected people and that rehabilitative efforts should cover all areas including provision of complete medical facilities for the affected people.

The Commission in its proceedings dated 31.12.2010 considered the views of Core Group on Health and made detailed recommendations to the Union Government and Government of Kerala including recommending to Government of India to take administrative and legislative action to ban the use of Endosulfan, to conduct a nationwide survey of population and establishment a palliative care Centre/hospital for Kasaragod District. The Commission has also recommended that the Government of Kerala should pay at least Rs. Five Lakhs to the next of kin of those died and to those who are fully bedridden or mentally retarded and Rs. Three Lakhs to those who have got other disability.

Further, with a view to review the steps being taken by the Government(s), the Commission organized a series of meetings with Secretaries of concerned Union

Ministries and Chief Secretary of State Government of Kerala. In these meetings, the Government of Kerala was conveyed the need to pay more adequate compensation to 178 confirmed cases of death who have been paid Rs. 50,000/- each only. Other 5,000 odd affected should also be paid adequate compensation as recommended by the Commission. The need to provide greater awareness to public through widespread media campaigns on safe way of using the pesticide was also recognized.

The Commission is continuously monitoring the steps taken by the concerned Governments for the relief of affected population.

Mental Health

During the year 2008-2009, the NHRC organised a meeting of the Health Secretaries and State Mental Health authorities at NIMHANS, Bangalore on 8 and 9 May 2008. The Commission requested the Medical Council of India (MCI) to increase the intake of number of psychiatrists in the country. The MCI has granted permission for the commencement of MD degree course in Psychiatry in 18 institutes by 2008 as well as launch DPM course in 7 institutes. In addition, it had granted permission for increasing the number of seats in 4 institutes by 2008 which would result in additional 25 seats in MD (Psychiatry) and 28 seats in DPM. The NHRC again urged the MCI and the Ministry of Health and Family Welfare, Government of India, to intensify its efforts in order to meet the demand for adequate manpower in the field of mental health.

On 20 January 2009, another meeting was convened under the chairmanship of Justice Shri G.P. Mathur, Member, NHRC at NIMHANS in Bangalore. Based on the discussions held in the meeting, to overcome the shortage of Psychiatrists in the country the MCI was urged to inform their views on relaxation of its standards from the present 1 : 1 (one Professor : one student) to 1 : 2 (one Professor : two students) for a 10 year period .

During 2008-2009, apart from visiting the three hospitals of Agra, Gwalior and Ranchi, a Special Rapporteur of the Commission also visited five other mental health hospitals/institutions in the country, namely - Mental Health Hospital in Bareilly, Uttar Pradesh (April 2008), Institute of Mental Health in Kilpauk, Tamil Nadu (July 2008), Yerwada Regional Mental Hospital in Pune, Maharashtra (July 2008), Mental Health Hospital in Cuttack, Orissa (December 2008) and Government Hospital for Mental Care in Visakhapatnam, Andhra Pradesh (March 2009).

Based on the reports of the visits made by the Special Rapporteur, the issues relating to physical structure and infrastructure of mental hospitals, shortage of professionals and other staff therein, medical records of mentally ill patients and incarceration of cured mentally ill patients require immediate attention. The observations made by the Special Rapporteur during the course of visits to these Mental Hospitals/Institutions

were considered by the Commission and the same were subsequently forwarded to the concerned State Governments for taking required necessary action. The concerned State Governments were also requested to send in their action taken report to the NHRC.

With the growing consciousness about the right to mental health (RMH) both at the national and global level, the NHRC has renewed its efforts in the direction of creating a better understanding and awareness about the RMH in the country. Its intent is to equip doctors with the knowledge of psychiatry. It is of the firm view that in the light of inadequate human resources in the field of mental health, it is essential that whatever human resources are otherwise available their capacities should be built-up to the extent that they are able to deal with problems relating to mental health. It has addressed this issue to the Ministry of Health & Family Welfare as well as to the Medical Council of India. In response, the Ministry has informed to the Commission that in a meeting of the Central Mental Health Authority, it has been decided to prepare a proposal for introduction of compulsory medical examination in psychiatry as part of medicine examination in both theory and clinical examination.

The Commission organised a day long conference on Mental Health on Oct 10th, 2011. Member NHRC Hon'ble Justice BC Patel, Member Shri PC Sharma and Member Shri Satyabrata Pal attended the Conference apart from Sri RC Deka, Sr Prof AIIMS, representatives of Govt, members of student community, civil society and other professionals. The Minutes and the recommendations of the Conference are in the process of being finalized.

Chapter 12

THE INVESTIGATION OF CASES

The Investigation division has formulated the following action plans for the implementation of efficient performance of the functions of Commission.

- I Systemic reforms in the police and prisons by documenting case studies of grave violations of Human Rights in the following fields:
 - (a) Police custody death.
 - (b) Police encounter death
 - (c) Death in police action
 - (d) Custodial torture
 - (e) Custodial rape
 - (f) Suicidal deaths in police lock up
 - (g) Death in jails due to medical negligence in T.B, AIDS and other diseases.
 - (h) Suicidal deaths in jail.
- II The Investigation Division has prepared 'Standard Operating Procedures' for Investigations in the following types of human rights violations in India:
 - (a) Police custody death.
 - (b) Police encounter death
 - (c) Illegal detention
 - (d) Custodial torture
 - (e) Child labour

- (f) Suicidal deaths in police lock up/ jail
- (g) Death due to medical negligence
- (h) Bonded labour/child labour
- (i) Environmental issues
- (j) Illegal mining
- (k) Female infanticide
- (l) Human organ transplant
- (m) Starvation death
- (n) Caste clashes
- (o) Political/Communal clashes
- (p) Domestic violence
- (q) Manual scavenging
- (r) Trafficking of women and children

III The Investigation Division followed the following procedure in order to inform and track the outcome of the amendment u/s 176(1) of CrPC pertaining to conduction of MER by Judicial Magistrates into the custodial deaths.

- The first letter sent to the district authorities instructs about the conduction of MER by Judicial Magistrates into the custodial deaths.
- The enquiry teams during their spot investigations interact with the district authorities and apprise them about the requirement of section 176(1) of CrPC.
- Officers of Investigation Division also conduct regular training programmes at various training centres of BSF, Delhi police etc apprise them about the requirement of section 176(1) of CrPC.

IV The Investigation Division has already prepared a model training Power Point presentation for Armed forces/ CPOs and state police forces. However, some training modules from these organisations are collected to incorporate them in the 'Compendium of NHRC for Investigation Officers'. The complete Module can be completed shortly.

V Following are some of the prominent cases taken up for investigation by the Investigation Division of the NHRC.

1. Drug Implanation Case, UP.

One old widow Smt Rafiqan sent a complaint to the Commission had alleged that police of P.S Kotwali, Hapur, District Ghaziabad had falsely implicated her son Shakir in a narcotic case under a fake name of Raju s/o Kailash. He was tortured in the lock up and was refused for admission by the jail staff due to his critical condition. Her son Shakir died outside the jail on 20-11-2002. She requested for an independent investigation and justice.

The Commission directed DG(I) to investigate the matter. The investigation team found the allegations substantive and met the District authorities conveying the concern of the Commission. Despite prior intimation, none of the policemen appeared before the team. The matter was reported to the Commission and the Commission directed the Chief Secretary of Uttar Pradesh to ensure the presence of following senior officer for deposing before the Investigation Team.

(a) Shri Sanjiv Mittal, IAS, the then DM/Ghaziabad (2002)

(b) Shri Chander Prakesh, IPS, the then SSP/Ghaziabad (2002)

(c) Shri Santosh Yadav, IAS, the then DM/Ghaziabad (2005)

(d) Shri Deepak Aggarwal, IAS, the then DM/Ghaziabad (2009)

2. Manual scavenging in the state of Tamil Nadu:

In another incident, the Commission received a complaint in the Commission on 16-3-2010 from Bezwada Wilson, National Convener, Safai Karamchari Andolan in which complainant has drawn the attention of the Commission towards the existence of manual scavenging in the state of Tamil Nadu despite assurance by the authorities.

The Hon'ble Commission vide proceeding dated 21-4-2010, requested DG(I) to depute a team for a spot enquiry and submit a report. An Investigation team visited Chennai, Madurai and Tirunellveli in Tamil Nadu to enquire into the complaint. The team recommended that Government of Tamil Nadu should take immediate steps to construct new public toilets and also provide necessary cleaning and safety equipments to the sanitary workers for clearing the drains and sewerages

3. Lok Tak Lake: Manipur

A complaint was referred to NHRC by Manipur State Human Rights Commission (SHRC) who took Sow-motu cognizance of reports in national and local newspapers,

T.V news etc., alleging that the State Government of Manipur and its agencies were misappropriating colossal amounts of money at the cost of protection of environment and human life, particularly on the award of the contract work of removal of phumdis from the Loktak lake. The Hon'ble Commission vide proceeding dated 11-4-2010, requested DG(I) to depute a team for a spot enquiry and submit a report. An Investigation team headed by DIG visited Loktak lake and Imphal in Manipur to enquire into the complaint. The team found that the characteristic feature of the lake is the presence of floating islands covered with vegetation, locally known as phumdis. They float on lake water with about one-fifth of thickness above and four - fifth under the water surface. The phumdis play an important role in the ecological processes and functions of the lake. They provide a biological sink to the key nutrients and govern the water quality and nutrient dynamics of the lake. They harbour several plant species and support a rich biological diversity.

The change in the hydrologic and hydraulic characteristics of the Loktak wetland due to construction of the Ithai barrage on the Imphal river is believed to have greatly impacted the growth and spread of phumdis in the lake. Another cause for the proliferation of phumdis is the considerable increase in the practice of athaphum fishing.

The team concluded that the entire process leading up to the award of the Rs. 224.39 crore (negotiated) contract for 'Management of phumdi in Loktak lake' is full of instances of breaches of CPWD norms. The entire process seems to have unduly favoured a particular contractor. This important contract, having a widespread ecological and environmental impact, has been awarded to a dubious start up firm, without any apparent technical capability for this work. After consideration of the report the Commission is of the view that the matter requires a detailed investigation by CBI. Therefore, Chief Secretary, Government of Manipur, was directed to entrust the matter to the CBI for a detailed investigation.

4. Slaughter House: Meerut

In another case, the complainant Shri Ajay Kumar Aggarwal, Advocate has alleged that about 10 times more animals are being slaughtered in the Slaughter House at Meerut, U.P., than its capacity. He has further alleged that the bones of the slaughtered animals are brought from other cities also to Meerut and processed to obtain fat, which is used for adulteration in Ghee. These illegal practices, going on in the city, are causing environmental pollution and health hazards to its residents. On the directions of the Commission vide proceedings dated 9-2-2009 an Investigation Team under supervision of DIG/NHRC visited Meerut, took photographs and videographed the whole spot enquiry.

The Hon'ble Commission accepted the enquiry report and directed as under: The issue of water and air pollution caused by excessive slaughter of animals and operation of illegal furnaces for extraction of fat from animal bones, was taken up by the Commission with the Govt. of Uttar Pradesh. Shri Atul Kumar Gupta, Chief Secretary, Govt. of U.P. and other officers of the State Government appeared before the Commission on 25th August, 2009 and assured the Commission that there would be no compromise on public health and all necessary steps would be taken to check pollution. Later on, the State Government submitted an action plan spelling out the Long Term, Short Term and immediate measures to be taken at various levels. The Commission was informed that a modern abattoir with necessary infrastructure for pollution control was proposed to be set up at village Ghosipur. For immediate supply of meat to the local residents, the existing abattoir was to function under the supervision of the Municipal Corporation after obtaining a No Objection Certificate from the Pollution Control Board and the animal remains were to be disposed of either by composting or by a private rendering plant. As regards demolition of furnaces, the State Government conveyed that the process of demolition would start on 20th October, 2009 with the assistance of police.

A team headed by Shri S.P. Singh, DIG (Investigation) visited the site of the slaughter house and the illegal furnaces in Meerut in the first week of November, 2009. The team found that the slaughtering was going on unabated not only in the slaughter house, but also in dozens of godowns and there was no check on the number of animals being brought to the city. It was also found that the Municipal Corporation had failed to make any satisfactory arrangement for disposal of animal waste. The Investigation Team also observed that although most of the illegal furnaces had been made non-functional by the District Administration in a special drive, some of the furnaces had been re-constructed and were in use. It was further noted that the Administration had not even taken any step for construction of link road to provide access to the proposed abattoir in Ghosipur. The report submitted by the Investigation Team presented a very dismal picture. It indicated that the assurance given by the State Government and the District Administration of Meerut had not been sincerely kept.

A copy of the report of the Investigation Team was sent to Chief Secretary, Govt. of Uttar Pradesh, Commissioner of Municipal Corporation, Meerut and District Magistrate, Meerut for appropriate action in the light of observations made by the Investigation Team in its report. They were asked to submit an action taken report by 4th February, 2010. None of the aforesaid authorities has, however, cared to submit the report.

It is a matter of regret that the issue of water and air pollution which may adversely affect the health of the citizens of Meerut has not received the attention it deserves from the State Government. It appears that the concerned authorities lack the will to take effective action in the matter. If the concerned authorities had been serious, the illegal furnaces which were made non-functional would not have been allowed to function again. In such a situation, the Commission cannot remain a mute spectator. Considering the apathy of the State Government and the District Administration, the Commission is left with no alternative but to take appropriate legal action in the matter. Registry is directed to take appropriate proceedings in a Court of law.

5. Condition of Inmates:

In another case Investigation by Anchal Vohra, Special Correspondent of NDTV, brought to light the misery of inmates staying in Balanath Ashram, Ghaziabad, UP. There were 57 inmates staying in Ashram - 51 females and 6 (six) males. Thirty inmates were in the age group upto 10 years out of which 26 were girls and 4 (four) boys. In the age group between 11 to 18 were 22 inmates out of which 20 were girls and 2 (two) boys. Five inmates were more than 18 years of age. Some inmates complained of sexual abuse.

On 1st December, 2006, under the supervision of a Committee constituted by District Magistrate, Ghaziabad, all the 57 inmates were shifted to Rajkiya Sishu Sadan, Mathura. The Sishu Sadan at Mathura was, however, meant for children upto the age of 10 years only. Therefore, the D.M. suggested that 20 girls of the age of 10 to 18 years be sent to Rajkiya Balgrih (Lucknow), two inmates of the age group of 11 to 18 years to the same Institute for Boys, two females above 18 years to After-Care and Protection Home, Meerut and three female inmates to Mentally Retarded Women Cell, Bareilly.

This proposal of the DM was considered by the Hon'ble Supreme Court when Writ Petition (Civil) No. 586/2006 came up for hearing on 11th December, 2006. Their Lordships directed as follows:- "Principally, we have no difficulty in accepting the suggestion for shifting the inmates to proper institutes so long as requisite care is taken, whichever the institute may be, whether at Mathura or elsewhere. For the present, the suggestion in respect of three females said to be mentally retarded and proposed to be shifted to Mentally Retarded Women Cell, Bareilly, shall not be implemented. In addition, if any other inmate is found to be retarded on examination by the persons designated by NHRC, for the present, they shall also not be shifted from the Ashram at Mathura.

In short, for the present, the District Magistrate, Mathura, shall go by the suggestion, as regards shifting or otherwise of mentally retarded inmates, physically retarded inmates and siblings, as may be given by NHRC" A team of Investigation Division of

NHRC, assisted by a panel of doctors, visited Rajkiya Sishu Sadan, Mathura on 12th December, 2006 and examined the inmates to ascertain their mental and physical status. The team submitted its report on 15th December, 2006.

It reported that one female inmate was mentally ill, three female inmates were physically handicapped and mentally retarded, 12 inmates (one male and 11 females) were mentally retarded. The investigation team also identified 9 (nine) siblings. The report of the investigation team was considered by the Commission in its meeting held on 29th December, 2006. The Commission felt it necessary to find out whether there were proper facilities, including facilities for medical treatment of the inmates, in the institutes to which the inmates were proposed to be shifted. Therefore, DG (I) was directed to send three separate teams to Lucknow, Meerut and Bareilly to find out the status of the facilities available in the Homes situated in those places. Pursuant to the directions of the Commission, one team visited After Care and Protection Home, Meerut, another team visited four Homes in Bareilly out of which two are run by the Government while the other two are run by NGOs. The third team visited six homes in Lucknow.

After examining the adequacy of accommodation, the strength of staff working in the Homes, the hygienic conditions prevailing in the Homes and the availability of medical facilities, the investigation division submitted its proposals for shifting of inmates from Rajkiya Sishu Sadan, Mathura to Nari Niketan, Bareilly and Institute of Mental Health and Hospital, Agra.

The suggestions made by Investigation Division have been considered by the Commission and the Commission sees no reason to disagree. Therefore, D.M. Mathura and In-charge of Rajkiya Sishu Sadan, Mathura are directed to shift the following inmates to the Homes/Institutions mentioned below against their names:-

Sl. No.	Name of the inmates	Gender/ Age	Mental/physical status	Place to which the inmates are to be shifted
1.	Bulbul	F-40	Mentally ill	Institute of Mental Health & Hospital Agra
2.	Pinki	F-18	Mentally retarded Suffering from spastic paralysis	Mansik Aviksit Mahila Prakosht, Nari Niketa, Prem Nagar, Bareilly (Run by the Mahila Kalyan Vibagh of Govt. of UP.
3.	Farha	-do- -do- -do-		
4.	Semi	F-11	-do- -do-	
5.	Suman-I	F-8	Mentally retarded	-do-
6.	Suman-II	F-6	Mentally retarded	-do-
7.	Meena-II	F-8	Borderline mental retardation	-do-
8.	Chenu	F-12	Mentally retarded	-do-
9.	Pushpa	F-12	Borderline mental retardation	-do-
10.	Javitri	F-16	Severe mental retardation	-do-
11.	Asha-I	F-50	Mentally retarded	-do-
12.	Meena-I	F-16	Mentally retarded	-do-
13.	Ruby	F-21	Mentally retarded	-do-
14.	Priyanka	F-23	Mentally retarded	-do-
15.	Tanu	M-8	Mental retardation with facial palsy	Rajkiya Sishu Sadan, Mathura with special attention
16.	Pushpa	F-4	Suffering from part polio remedial paralysis of lower limb	Rajkiya Sishu Sadan, Mathura with special attention
17.	Siblings	18.	Shikha & Neha	F-10F-10 Sisters Rajkiya Sishu Sadan, Mathura
19.	Jaya & Sumit	F-7M-4	Sister and Brother	-do-
21.	Pinki Rinki Sunita	22.		23.

F-12F-6F-6 Sisters -do- 24.25. LalitaSantosh F-7M-6 Aunt and Nephew -do- The Investigation Team has reported that Neha mentioned at SI. No.18 above, is suffering from borderline mental retardation.

Considering her health, the Commission feels that it will be in her interest to keep her at Mathura in the company of her sister with the direction to the Incharge, Rajkiya Sishu Sadan to take special care of her and get her regularly examined by a psychiatrist. Pinki mentioned at SI. No. 21 is more than 10 years of age, but, she can be accommodated in Rajkiya Sishu Sadan, Mathura as a special case so that she gets company of her sisters and gets an atmosphere of affection from her sisters.

The Investigation Division has reported that there is no doctor or psychiatrist posted in Nari Niketan, Bareilly or Rajkiya Sishu Sadan, Mathura. The persons in-charge of these two Institutions as well as the District Magistrates concerned are directed to ensure that the services of a doctor and psychiatrist are regularly made available in the above-mentioned two institutions. Investigation Division has also reported that Nari Niketan at Bareilly is facing problem because there is procedural delay in sanction of funds from Lucknow. Director, Mahila Kalyan Vibhag, Lucknow is directed to ensure that the inmates of Nari Niketan, Bareilly are not made to suffer for want of funds.

6. Children employed in State Mines:

Vide proceedings dated 24th May 2005, the Commission took cognizance of a news item captioned "Lakhs of Children Employed in State Mines: report" appeared in the newspaper 'The Hindu' dated 16th May 2005 wherein it had been reported that an NGO named HAQ - Centre for Children Rights published a report alleging that several lakh children are working in mines in Karnataka. On 22nd October, 2009, the Commission had directed the Investigation Division to visit the Districts of Bellary and Bagalkot and find out whether the 1006 child labourers rescued in the years 2005-2006 and 2006-2007 have been properly rehabilitated and whether the State has recovered compensation from the delinquent employers in accordance with the directions of the Hon'ble Supreme Court.

The team reported that out of the 1006 children, only 129 were working in float ore mines. Subsequently, another report dated 8.1.2010 was received from Deputy Commissioner, Bellary stating that 167 children working in float ore digging areas of Hospet and Sandur in Bellary Districts had been released.

According to the Investigation Team of the Commission, these 167 children were not part of the list of 1006 children submitted earlier. The Investigation Division has furnished another list of fifty-one child labourers who informed the NHRC team during its visit in December, 2009 that they had worked earlier in the float ore mines. A fourth list submitted by the Investigation Division consists of nine child labourers who were found working in float ore mines during the visit of NHRC team in July, 2007.

The Commission directed the State to recover a sum of Rs.20,000/- from the various employers for each of the children engaged by them.

7. Gangrape In UP:

The Commission came across a distressing news item that appeared in the *Indian Express* dated 14th July 2007 captioned "Gangrape allegations catch Maya Govt. off guard". The press report inter-alia alleged that a village of Muslim in Distt. Shrabasti, U.P. was attacked by the hundreds of persons belonging to Hindu Community. It is also alleged that attackers were patronized by one of the Cabinet Minister of the U.P.Govt. and they attacked and beat up the Muslims and gang raped the Muslim women and even paraded them naked. It is also alleged that no FIR was registered in the matter. The trouble has reportedly started a few days ago when a Muslims youth eloped with a Hindu girl of nearby Dharmanta village. The contents of the press report, if true, raise serious issue of violation of human rights of women.

The investigation team, during enquiry, found that Salim's father Chunnu and four other Muslims were picked up by the police and kept in illegal custody. While Chunnu was formally arrested after 9 days of detention, the other four Muslims were let off. It is further stated in the report that house of Muslims were attacked by the mob and Muslim women were paraded naked. The local police not only failed to anticipate/prevent the mob violence but it did not even properly react for quite some time after the incident. FIR No. 316/2007 u/s 147/323/504/506/427 IPC was registered at PS Sirsia on the night of 12th July, 2007, although the incident had taken place two days earlier within the knowledge of the police.

Not only this, the FIR was not registered under the appropriate provisions of law and Sections 452 and 354 IPC were added later. As regards the allegation of gang rape, the Investigation Team has reported that the incident was exaggerated by a local Muslim leader Aslam and also the local media. The Investigation Team neither found medical evidence nor any other reliable evidence of gang rape.

The Commission recommended to the Govt. of U.P., through its Chief Secretary, to pay compensation of Rs. 15000/- (Rupees Fifteen Thousand only) to the 25 women mentioned in the letter dated 06.07.11 of the Superintendent of Police, Shrabasti, whose modesty was outraged during the incident.

8. Silicosis:

The Commission vide its proceedings dated 21-8-2007 directed DG(I) to send a team to enquire about a serious health hazard - silicosis - affecting a large number of labourers.⁵ On 1st May, 2008, the Commission decided to circulate a questionnaire to

⁵ Please refer to the Silicosis - Chapter on Right to Health

all the States inviting information from them on 10 points. Responses have been received from States of Punjab, Tamil Nadu, Tripura, Uttar Pradesh, Andhra Pradesh, Pondichery, Madhya Pradesh and Chattisgarh. The other States have not responded so far. Even the States which have responded have not specifically answered the queries made by the Commission. It has been brought to the notice of the Commission that a Writ Petition bearing No.110/2006 titled "PRASAR V/s Union of India & Others" is pending in the Supreme Court. The issues of prevention and cure of silicosis as well as compensation and rehabilitation of the victims of silicosis are stated to have been raised in the said case. While the Commission thinks it appropriate to assist the Supreme Court on the general issues relating to the prevention and cure of silicosis and payment of compensation and rehabilitation of victims, the specific complaints in which silicosis has been suspected or confirmed after medical examination shall be dealt with in the Commission itself.

The State of Gujarat has failed to protect the life of workers who died of Silicosis and next of the kins of the 238 persons who died of Silicosis while working in stone crushing units in the State of Gujarat are entitled for compensation from the State Government of Gujarat. The Commission recommends that a sum of Rs. 3,00,000/- (Rupees three lakhs only) each be given to the next of the kins of the 238 deceased (mentioned in the list submitted by District Collectors, Jhabua and Alirajpur) by the State Government of Gujarat. Out of the above mentioned amount, it is also recommended that a sum of Rs. 1,00,000/- (Rupees one lakh only) be given to the next of the kins of the deceased in cash and rest of the amount of Rs. 2,00,000/- (Rupees two lakhs only) be kept in fixed deposit, which will be available to the next of the kins of the deceased in the shape of monthly interest.

9. Nandigram, West Bengal:

Shri Sanjay Parikh, Advocate has submitted a petition drawing the attention of the Commission to the disturbed and volatile conditions prevailing in and around Nandigram, West Bengal which are likely to result in grave violation of human rights. The Commission directed DG(I) to send a team to visit the disturbed areas in Nandigram to study the situation there and to suggest remedial measures. The Government of West Bengal proposed to set up a Special Economic Zone (SEZ) and a chemical hub in an area covering around 10,000 acres in Nandigram Block-1 and for that purpose it proposed to acquire land. On 28th December, 2006 Haldia Development Authority circulated an informal notice showing the likely location of the project. The local people resented the proposal for acquisition of land. Violent clashes broke out between the supporters of the party in power i.e. CPI (M) and the Bhoomi Uchhed Pratirodh Committee (BUPC) - an organisation to channelise the protest against the proposed land acquisition.

From the middle of January, 2007, a large area covering 5 gram panchayats of Nandigram Block 1 was isolated and police and other Government agencies were

prevented by the supporters of BUPC from entering the area. About 2000 people, believed to be supporters of CPI(M), were driven out and they took shelter in the adjoining area across the canal within the jurisdiction of PS Khejuri. On 14th March, 2007, the State Government tried to reestablish its writ in the area by force. The attempt of the police force to enter the area was violently resisted by supporters of BUPC at two places and the police opened fire at the mobs. 14 persons were killed in firing and 300 people including 52 policemen sustained injuries.

The High Court of Calcutta also took notice of the incident and held that the action of police to open fire was unconstitutional. It directed CBI to take up investigation of police firing and related cases. It also directed the State Government to pay Rs. Five lakh each as compensation to the families of the dead, Rs. One lakh each to the injured persons and Rs. Two lakhs each to the rape victims.

The investigation team of the Commission has reported that the State Government does not appear to have discharged its primary obligation in preventing the attack by CPI (M) cadres on 6th November, 2007, it should bear the responsibility for the loss of life and property following the attack. It is suggested that the next of kin of the dead in these incidents and also the injured persons should be compensated in the same manner as directed by the High Court of Calcutta for the victims of the incidents of 14th March, 2007. The compensation that the State Government proposes to make for damaged houses appears to be quite inadequate.

The Commission considers recommending enhanced compensation for fully and partially damaged houses. The Enquiry Team of the Commission has reported that after the incidents of 6th November, 2007 several houses of BUPC supporters have been occupied by CPI(M) cadres and they have been claiming to be owners of those houses and demanding compensation. The Commission considers it necessary to appoint a Committee to suggest compensation regarding damage that occurred and to ensure that the monetary relief does not fall in wrong hands and it reaches the genuine persons.

Observations regarding the case:-

- (i) The police and the bureaucracy should keep themselves aloof from political influence. Alignment with the party in power results in erosion of public trust which leads to avoidable misery.**
- (ii) The party in power should always be alive to its constitutional obligation to rule without favour and prejudice. It should never encourage or connive with the illegal activities of its supporters.**
- (iii) The opposition has a right to highlight the failures of the Government and to educate the people about the policies which it considers harmful. While it may take recourse to peaceful agitation, it should in no case encourage people to indulge in unlawful activities.**

- (iv) There should be a continuous dialogue between the party in power and the opposition and such dialogue should always be motivated by a concern for the good of the people at large.
- (v) The press has a pivotal role to play in a democratic set up, therefore, it should always adopt a balanced and unbiased approach in reporting the events. In the case of Nandigram the Press did a commendable job by highlighting the atrocities on people but it failed in its duty to emphasise that the blockade of a large area of Nandigram by the agitators was unconstitutional.
- (vi) Whether agricultural land should be acquired or not for industry or projects like SEZ is a moot question. Agriculture being the only source of livelihood for the farmers, compensation in terms of money for acquisition of their land may not be adequate.

In the process of rehabilitation of such displaced people as a result of acquisition of land, the Government should take the local people into confidence and it should also ensure alternative means of livelihood and shelter for the displaced. Whether in addition to monetary compensation, any other land can be given to relocate or can be linked to the project for which the land is acquired by allocating adequate number of shares and providing employment to at least one member of each affected family and similar other measures may be considered.

During the period 2007 -2011, the pendency of the cases has been reduced drastically by the Investigation Division, compared to previous years. ⁶This is in spite of the fact that the number of investigations has gone up substantially during the period. Apart from this the other very substantive achievement of the Investigation Division has been the launching of the on-line training programme on human rights for the police personnel on 1st Feb 2011.

The main objective of the programme is to spread awareness among the police personnel, in particular those who are at the cutting edge level of the rank of Constables and Sub-Inspectors, on diverse human rights issues and their application in day-to-day functioning with the public at large. The duration of the on-line training programme is of 5 days. Prior to launching of the on-line training programme, it was pre-tested in three Police Training Institutes of Delhi, Haryana and UP.

The Human Rights Day 2011 will also see the release of a Manual on Human Rights for Police Officers, prepared by the Investigation Division as a step ahead in training and awareness programme for the police officers across the country.

⁶In the year 2007-2008, the pendency of Custodial death cases (both in JC and in PC) was 3094, in 2008-2009 it was 2023, in 2009-10 it was 1468 and in the year 2010-2011 it was 1589. In the Spot Investigation cases, in 2007-2007, the pendency of cases was 26, in 2007-2008 it was 46, in 2008-2009 it was 03, in 2009-2010 it was 34 while in 2010-2011, it was 12.

Chapter 13

COMPLEMENTARY RELATIONS WITH THE JUDICIARY

2007- 2011

Complementarity between the judiciary and the commission has been of great advantage in so far as the role of the Commission for protecting Human Rights is concerned. This demonstrates how the judiciary and the Human Rights can work in coordination and in a complementary manner with each other protection of Human Rights.

The Commission has approached the courts in several cases to protect human rights of the vulnerable people including in pending cases. One such case is 'Best Bakery Case'.

The Supreme Court by its verdict dated 12.4.2004 set aside the judgement of acquittal in this case and further directed fresh investigation of the case and its retrial outside the State of Gujarat in the State of Maharashtra. The trial court at Mumbai on 21.2.2006 after trial convicted and awarded life imprisonment to 9 out of 17 accused. The court also issued show cause notice to the witnesses who had turned hostile as to why they should not be prosecuted for perjury.

The Supreme Court reposing confidence in the Commission in number of cases, which were under its consideration, remitted them to the Commission. Some of the important remits made by the Supreme Court to the Commission are -

- (i) cases arising out of allegations of deaths by starvation in the "KBK" districts of Orissa;
- (ii) The monitoring of programmes to end bonded and child labour in the country;
- (iii) the handling of allegations relating to the "mass cremation" of persons declared "unjustified" in certain districts of the Punjab and

- (iv) the proper management of institutions of the mentally challenged in Ranchi, Gwalior and Agra; and of the Protective Home for Women in the latter city. Proceedings in KBK Districts of Orissa and Punjab Mass cremations cases were concluded on 30.8.2006 and 10.10.2006 respectively.
- (v) The recent such case is of the Salva Judum. Such remits from the Supreme Court of India and the High Court of India and the High Court to the NHRC have actually enhanced the prestige and credibility of the Commission.

Prakash Singh Case on Police Reforms

On Sept 22ND 2006, the Supreme Court of India delivered a historic judgement in Prakash Singh vs Union of India instructing central and state governments to comply with a set of seven directives laying down practical mechanisms to kick start police reforms in the Country.

For the Commission, Police reforms have been always one of the most significant issues concerning human rights. In the context of Prakash Singh case, the Commission has put forward its views before the Hon'ble Supreme Court regarding, 'Federal Crime,' and their investigation by a Central Agency. The Commission offered a list of offences which in its view should be categorized as Federal Crime. The factors kept in view while classifying the cases as federal crime were:

- A. They have international/interstate ramifications**
- B. They relate to the security of the nation**
- C. They relate to the activities of the Union Government**
- D. Offences relating to Govt currency and cross borders offences have the potential of destabilizing the national economy and pose a threat to the security and integrity of the nation.**

Deeply concerned about the need to protect the Human Rights of the under trial, the Commission moved a Criminal Writ petition No. 1278/2004 before the High Court Delhi and prayed for quashing of the trial of Charanjit Singh who was languishing in jail since 1985 and whose condition had deteriorated despite prolonged treatment at various hospitals/institutions. The High Court vide its order dated 4.3.2005 quashed the trial of the mentally ill prisoner. The High Court commanded the initiative of the Commission and took note of promise by the Govt. of NCT of Delhi for taking care of medical need of Charanjit Singh after quashing of the trial. Guidelines proposed by the NHRC for considering the cases of such mentally ill-under trial was accepted by the Court and suitable direction issued to the Govt. of Delhi in this regard.

The Guidelines have been adopted by Delhi High Court and Punjab and Haryana High Court.

During the visit of our former Special Rapporteur, to LGB Regional Institute of Mental Health, Tezpur, Assam, he came across a under trial Machang Lalung who was languishing in jail/mental hospital for 54 years. Pursuant to efforts of the Commission, he was released.

The Commission has evolved Guidelines for Speedy Disposal of Child Rape Cases along with Home Secretaries of and Directors General of Police of all the States/UTs.⁷ For the Trial Courts, the guidelines are as follows -

- **Fast Track Courts, preferably presided over by a woman judge.**
- **Trial to be held in camera.**
- **Atmosphere in the court should be child-friendly.**
- **If possible, the recordings should be done by video conferencing and/or in a conducive manner so that the victim is not subjected to the trauma of being in close proximity of the accused.**
- **The Magistrate should commit the case to session within 15 days after the filing of the chargesheet.**

⁷ Also covered in the Chapter on Rights of Children

Chapter 14

HUMAN RIGHTS EDUCATION

2007-2011

In order to facilitate the implementation of the Eighty-sixth Constitution Amendment Act, 2002, the Commission organized a two-day National Seminar on Right to Education in New Delhi on 11-12 September 2008.

The Seminar discussed many issues in depth related to right to education. Based on the detailed deliberations in the Seminar, the recommendations made were adopted by the Commission and circulated to the Ministry of Human Resource Development, Government of India, concerned Ministries/Departments of the State Governments / Union Territories and other stakeholders.

These recommendations are as follows:

- In order to achieve some basic uniform standards, the Central Government should enact appropriate legislation at the earliest, as considerable time has already elapsed since the adoption of the 86th Constitutional Amendment Act, 2002 by the Parliament. However, as free education upto some level is already being provided in almost all the States, the State Governments need not wait for the Central Act in order to take measures for facilitating enforcement of this right.
- Right to free and compulsory education should encompass all children until they complete elementary education, i.e. class VIII instead of only the age criteria.
- The terms like 'equitable quality of education', 'free and compulsory education', 'norms' and 'standards', need to be defined or elucidated.
- Adequate focus should be given to crafts and vocational training.
- Central, State and Local Governments must assume the responsibility of ensuring right to education. Local Government bodies should strive to ensure participation and involvement of parents, local management committees, communities, non-governmental organizations, etc. in this regard.

- Role and responsibility of each level of government/administration must be clearly defined in ensuring enforcement of the right to education.
- The Government should make necessary provisions for early childhood care, education and development for the children of the age group of 0 to 6.
- Minimum standards for all aspects of quality of education, including infrastructure, curriculum, teachers training, education and other pedagogic dimensions must be prescribed in consultation with professional bodies.
- Universal access to quality education has to be treated as non-negotiable. Provision for free textbooks, uniforms and mid-day meal should be made universal.
- There is a need to eventually convert short-term interventions like Sarva Shiksha Abhiyan (Universal Elementary Education Programme) into the formal system of education.
- The scheme of para-teachers needs to be abolished altogether and fully qualified and trained teachers need to be recruited. For this purpose there is a need to expand and strengthen the teacher education/training institutions.
- There is a need for substantial hike in the financial allocation to education. The allocations need to be periodically reviewed and enhanced to meet the requirements. Expenditure on education should not be treated merely as expenditure but as an investment.
- The educational objectives must be made realistic and achievable. There is a need for a strict time-frame for implementation of the right to education.
- "Education for all" implies that education is extended to all children in a conducive environment without discrimination and disparities in gender, socio-economic groups and other vulnerable sections of society being eliminated.
- While education should follow common norms, it should also be adapted to local situations.

Every child should be taught in the first language/mother tongue at least for the first two years, during which the child should be helped to learn in the prescribed medium of instruction(s) in the State. The Three Language Policy should be strictly implemented.

- Effective regulatory and evaluation mechanisms should be put in place to ensure implementation and quality assurance in the school education system.
- Private unaided schools should also enroll children of poorer sections.

- Continuous assessment should become the norm, both for teachers and children in school including the Sarva Shiksha Abhiyan (SSA).
- The existing norm of teacher-pupil ratio of 1:40 in primary schools and 1:35 in upper primary schools should be maintained throughout. However, as a long-term goal, efforts should be made to reach a ratio of 1:20/25.
- The long-term goal of education policy should be towards developing a uniform common school system. Strength of India is having a high percentage of young population. The challenge is with us to transform it into an asset.

A one-day National Conference on Human Rights Education at School Level was organized by the NHRC in New Delhi on 20 March 2009. The main objective of the Conference was to incorporate human rights education (HRE) in the existing education curricula of school system.

The participants to the conference were Education Secretaries and Directors of School Education of various States/Union Territories, Directors of NCERT, NCTE, AICTE, CBSE, academicians and experts from the field of human rights education and representatives of civil society organizations. The senior officers of NHRC also participated in the conference.

Based on the deliberations held in all the technical sessions, the following recommendations / suggestions were made by the delegates of the conference:-

1. Human rights education should become an integral part of 'right to education'. The inculcation of human rights values in the formative years paves the way for a society in which people have sensitivity and respect for dignity and rights of others.
2. There is a need to ensure that the integration of human rights education at the primary, middle, secondary and senior secondary levels in the school system should be carried out in a child-friendly and child-centric manner so that children of different age groups are gradually oriented to human rights education. It was suggested that the story-telling mode for human rights education could be used for primary and middle level school children.

This would enable the students to have an overall understanding about human values, rights and duties while they are growing up. The National Curriculum Framework 2005 drawn up by the NCERT also lays emphasis on this aspect.

3. Currently, human rights education is not being taught as a separate subject in schools.

The concepts relating to different human rights like dignity, equality, non-discrimination, freedom, tolerance, education, health, environment, sanitation, hygiene

and cleanliness, protection of life and personal liberty, etc. are being taught through subjects like Social Studies, Civics, Sociology and Political Science in schools at the middle, secondary and senior secondary levels. It was thus recommended that there is a need to introduce human rights education as a separate discipline altogether in schools at the senior secondary level.

4. As there is no uniformity with regard to imparting of human rights education in schools, it was recommended that the schools across the country should have a universal syllabus for human rights education. For this purpose, there is a need to review and analyze the different syllabi, text books and other materials on human rights education including that of NCERT being used in schools at various levels. The said task could be carried out by key stakeholders like representatives of concerned ministries, departments, boards, technical institutions, NGOs, civil society organizations and experts working in the field.

This would facilitate in planning and working out a national strategy for implementation of human rights education in the country.

5. While devising a national strategy for human rights education, it was felt that the integration of human rights education in the school system should not be limited to a mundane curriculum and its related textbooks alone. It should, in effect, go beyond the boundaries of the school system whereby children are given an opportunity to interact with others and through their practical experience learn about human rights values and duties.

Adoption of this kind of an approach would not only make human rights education in the school system interesting but also all-encompassing in terms of building their overall human personality and character as it would enable them to understand basic meaning of concepts like rights, freedom, democracy, tolerance, peace, secularism, etc.

6. In order to bring about a smooth integration of human rights education at different levels in the school system, due emphasis needs to be given on training of teachers who would be dealing with this subject so that they are able to internalize basic human rights concerns as well as overcome barriers imposed by their own conditioning. The training of teachers should be of practical and participatory nature rather than theoretical. Their training should also draw attention to the practice of corporal punishment in schools which is a serious violation of children's rights.

7. It was felt that in order to spread the culture of human rights education in schools, teachers from other disciplines too should be acquainted to this component through in-service training and other kinds of training imparted to them from time to time. Likewise, parents of school children should also be oriented and sensitized to the discipline of human rights education.

8. Efforts should simultaneously be made to ensure that human rights education is imparted to children who are not studying in schools or those in difficult circumstances.
9. For universalizing the contents of human rights education in schools, it was unanimously expressed that the Recommendations of NHRC with regard to - Module on Human Rights Education for Teaching Professionals Imparting Education in Primary, Secondary, Higher Secondary Levels, and Human Rights Education at the University and College Levels be used for reference purposes as it contained comprehensive information on different human rights concerns, some of which could be easily integrated into the syllabus of human rights education in the school system.
10. For inclusion of human rights education component in the school system, it was articulated that the Central and State Governments should either enhance the existing budget for education in schools or have a separate budget altogether for human rights education.
11. Emphasis was also laid on preparing a comprehensive plan of action for integration of human rights education in the school system at the national level. For this purpose, cooperation of different stakeholders both from within and outside the country may be solicited from the point of view of knowing their experiences and best practices. This would also facilitate in planning and preparing a road map for future actions.
12. Likewise, each State/Union Territory should also draw a plan of action for implementation of human rights education in the school system including a mechanism for its effective implementation.
13. It was recommended that for implementation of human rights education at different levels of the school system, there is a need to constitute a Monitoring Committee both at the national and state levels as well as building-up of supportive networks and partnerships with parents, civil society organizations and the community at large.

Visits by Special Rapporteurs to Schools -

A visit was made by the Special Rapporteur to a TEC functioning from CSM School at Pillaiyar Palayam in Kancheepuram. Children studying here shared their experiences while they were employed which deprived them of their right to education and the joy of having access to education on being rescued from their employers. They narrated at length how they enjoyed and participated in class room activities like reading, writing, drawing and singing.

One of the students who was mainstreamed from a TEC to a regular school and was studying in Class 12 explained to the Special Rapporteur the overall process of blood circulation as outlined in a chart displayed in the classroom. In the ensuing question and answer session, the students patiently answered to all kinds of queries

related to their area of study. According to the Special Rapporteur, it was refreshing to observe that education had brought about a qualitative change in the lives of these children.

A visit was also made by the Special Rapporteur to a TEC operating in Thimiyampettai.

Despite difficult economic conditions, long distance and geographical barriers, children from economically poor families who had dropped out earlier from the school at some point of time, were mobilized and enrolled in the concerned TEC. Out of the total number enrolled, 75 per cent of them were attending their classes regularly. However, the TEC at Thimiyampettai had only one woman teacher and she found it difficult and strenuous to do justice to the learning needs of 24 children who being drop-outs were placed in different levels/grades spanning between Class V to Class IX. The other grey areas of concern were that despite the academic session being in full swing, old text books were being used by children. There is a need to provide functional literacy to all the parents of children who have been weaned away from child labour.

A one-day *National Consultation on the Roles and Responsibilities of the Concerned Statutory Commissions to Monitor Child's Right to Education* was organized by the National Commission for Protection of Child Rights (NCPCR) and the National Human Rights Commission on 12 January 2010 in New Delhi. The main objective of the Consultation was to outline the steps for implementation of the Right of Children to Free and Compulsory Education Act, 2009.

Illustrative Cases on Right to Education Dealt by NHRC

Denial of Primary Education to Tribal Children in Naxal Affected Areas in Dantewada and Bastar Districts of Chattisgarh (Case No 468/33/2005-2006)

The Commission received a complaint dated 19 Jan 2006 from Sulabh Mohapatra, Director of Resist Initiative International in Bhubaneshwar alleging that tribal children of Dantewada and Bastar Districts in Chattisgarh were being denied access to primary education due to usage of primary school premises by the police and armed forces for controlling Naxalite activities. It was further alleged in the complaint that most of the primary schools in these two Districts had been closed. Besides, the villagers and children were living in very inhuman conditions on account of terror unleashed by the Naxalites. A prayer was thus made to the Commission to call for -

1. status report of school and education system in the Naxal affected districts
2. direct the State Government to withdraw from all school premises the control and encroachment of police force

3. ensure access to primary education to all children in Naxal affected areas.

Considering the matter on 28 June 2010, the Commission directed the Chief Secretary, Govt of Chattisgarh to make an in-depth assessment of the situation and give a fact-finding report about the prevailing status concerning closure of schools and also the availability of educational institutions to poorer sections of the community in the Districts of Dantewada and Bastar.

A report dated 9 Sept 2010 was received from the Chief Secretary, Govt of Chattisgarh, stating that there were five Naxal affected Districts in the State namely, Bastar, Narayanpur, Dantewada, Bijapur and Kanker. In these Districts there were 6,894 primary schools, 2088 middle schools, 130 high schools and 196 higher secondary schools run by the State Government. In addition, there were 520 primary ashram schools and 55 middle ashram schools. Owing to the increase in Naxal activities, central forces in a large number had to be deputed in the State and their stay arrangements were made in the given schools, including schools under construction and ashram buildings. Even then, the State has taken care to arrange for the education of children in alternate places. It was further informed by the Chief Secretary that about 292 school buildings had been damaged and destroyed by the Naxalites.

Hearing the matter again on 29 Nov. 2010, the Commission observed that one of the reasons for destruction of schools by the Naxals was that the schools were used for occupation by police and military personnel. The Government should have thought and taken steps for providing alternative accommodation to them.

The Chief Secretary, Govt of Chattisgarh, was consequently directed to provide detailed information about the steps taken by the State in the given matter.

The matter is under consideration of the Commission.

THE ROLE OF OFFICIAL LANGUAGE IN THE PROTECTION AND PROMOTION OF HUMAN RIGHTS

2007-2011

- The NHRC's Annual Hindi Fortnight, to promote the use of official language in its day-to-day working, was held from 15 to 29 September 2008. The employees of the Commission actively participated in the debate, quiz programme and creative writing competition as well as other programmes organized for the promotion of Hindi language.
- In order to create awareness among the masses about issues related to human rights, the Official Language Section, following the past practice of NHRC, brought out the annual Journal in Hindi entitled *Nai Dishayein*.
- To commemorate the significance of Human Rights Day on 10 December 2008, a debate competition in Hindi was organized by the Commission for the personnel of Central Police Organizations (CPOs) in collaboration with Central Reserve Police Forces (CRPF) on 20 November 2008.
- A *National Seminar on Right to Information, Human Rights and Present Scenario* was organized by the Official Language Section of NHRC in New Delhi on 21-22 May 2009. The Chief Guest on the occasion was well-known Hindi scholar, writer and Gyanpeeth Award winner Shri Kunwar Narayan. Prominent personalities, well-versed with the theme of the seminar, took part in it. The seminar deliberated upon the importance of transparency in day-to-day functioning of the Government both in the Centre and in States/Union Territories across the country. While asserting the importance of Right to Information Act, it was furthermore deliberated that there is a need to improve the overall administrative and decision-making process at all levels in the Government hierarchy as this would ensure transparency and accountability in the mode of their functioning.

- The NHRC's Annual Hindi Fortnight event, to promote the use of official language in its day-to-day working, was organized from 14 - 28 September 2009. The officers and staff of the NHRC actively participated in the debate, quiz programme and essay writing competition as well as in other programmes organized on the occasion for the promotion of Hindi language.
- On the occasion of Human Rights Day the NHRC Journals in English (Vol. No. 8, 2009) and Hindi (*Nai Dishayain*, Vol. No. 6, 2009) were released along with the NHRC Wall and Desk Calendars for the year 2010. The theme of both the calendars was based on the life of Mahatma Gandhi.
- During the year 2010-11, the official language section continued with the work of translation of the monthly newsletter, Annual Report, budget report, budget documents RTI Applications, booklets published by the Commission and other routine circular and notice circulated in the Commission. Apart from this, Hindi Section of the Commission has been undertaking many other assignments for the awareness of Human Rights through official language Hindi.
- NHRC *presented awards to six writers and one translator for their works in Hindi on human rights for the years 2008 and 2009 at a function organized at the NHRC premises on the September, 2011.* The awardees included Dr. Subhash Sharma, Mr. Manohar Bhatham, Mrs. Swati Tiwari, Mr. Arjun Singh Rawat, Dr. (Mrs.) Mamta Chandrashekhar, Mr. Kanhaiya Tripathy and Dr. Gaurishankar Raina. Congratulating the winners, Mr. Justice K.G. Balakrishnan said that by writing in Hindi on human rights, they are doing good service to the cause of people living in remote areas, who cannot read in English about human rights laws and international covenants.
- The National Human Rights Commission is committed to encouraging publication of more books in Hindi on human rights given the fact that most of these are available in English only. As people living in remote areas are not much aware of their rights and hence, become the victims of human rights violations, awareness about the people's rights in the language they can understand, would definitely improve the situation. NHRC would explore the possibility of getting translated all the books awarded by it for translation in all the major Indian languages for wider dissemination of information on human rights.

Chapter 16

THE REVIEW OF DOMESTIC LEGISLATIONS AND INTERNATIONAL CONVENTIONS

2007-2011

The National Human Rights Commission organised a consultation with stakeholders on the Prevention of Torture Bill 2010 on 15th Dec. 2010. The Prevention of Torture Bill 2010 seeks to provide punishment for torture inflicted by public servants or any person who inflicts torture with the consent or acquiescence of any public servant. The proposed bill is an enabling legislation to ratify the *UN Convention against Torture and other cruel, inhuman and degrading treatment or punishment* adopted by the United Nation's General Assembly.

The 1977 Protocols additional to the Geneva Conventions of 1949:

Protocol I to the Geneva Conventions 1949 provides for new rules on international armed conflicts and Protocol II develops international humanitarian law on non-international armed conflicts.

The Commission has urged the Government of India to reconsider the issue of accession to the 1977 Protocols additional to the Geneva Conventions of 1949.

Optional Protocol to the UN Convention on the Rights of Persons with Disabilities

The Commission has advocated to the Government of India for the ratification of Optional Protocol to the UN Convention on the Rights of Persons with Disabilities. The Commission is of the view that the Optional Protocol will strengthen the accountability mechanism and serve as an additional tool for the promotion of the rights of persons with disabilities.

Chapter 17

NHRC AND CIVIL SOCIETY

2007-2011

Core Group of NGOs

The meeting of the Core Group of NGOs was convened in the NHRC on 10 September 2009 under the chairmanship of Justice Shri G.P. Mathur, Acting Chairperson, NHRC. Other Members of the Commission, namely, Justice Shri B.C. Patel, Shri Satyabrata Pal and Shri P.C. Sharma also attended the meeting. Some of the senior officers of the NHRC participated in the meeting as well. In the said meeting, Members of the Core Group of NGOs were apprised about all the activities undertaken by the Commission including those in which they had participated since July 2001.

In the above meeting, the Commission clarified that given its other roles and responsibilities; it would not be possible to convene NGO Core Group Meetings on quarterly basis. However, a half-yearly meeting of members of the NGO Core Group would be a more feasible and practical step. It was thus agreed that the NHRC henceforth would convene meetings of NGO Core Group on half-yearly basis. Other issues discussed in the meeting were: encounter deaths; the national action plan on human rights being prepared by the NHRC; economic, social and cultural rights; human rights education; bonded labour; plight of homeless mentally-ill persons; anti-begging laws; and having a policy on human rights defenders.

During the two meetings of the Core Group of NGOs were held on 20th May 2010 and 26th Nov 2010 in the Commission. In these two meetings, the members of the Core Group suggested steps for improving collaborative ventures between the two and sharper focus on critical areas of concern, which was agreed upon by the Commission.

In view of the renewed focus of the Commission for the realisation of Civil, Economic, Social and Cultural Rights as well as to extend the reach of Commission

to the different regions of the country to provide sectoral and regional representation, the Commission has reconstituted the Core Group of NGO Sand the reconstituted Members of the Core Group in 2011.

Conclusion

The NHRC in association with credible NGOs and civil society organizations undertook many projects including human rights awareness programmes. It is of the firm opinion that the promotion and protection of human rights cannot gain momentum without the fullest cooperation between the Commission, NGOs and civil society organizations. The Commission considers them to be their most important allies and most honest critics. This has proven to be of considerable value both to the Commission and to the NGOs, reinforcing their understanding of each other and their capacity to work together in the furtherance of human rights across the country. Together with the Special Rapporteurs appointed by the Commission, the NGOs have provided a "multiplier effect" to the efforts of the NHRC, giving to it a vast infusion of high ability and public support. The meetings, seminars and the training programmes conducted by the Commission during these years, had active participation from the members of the civil society.⁸

⁸ The references, to various core groups, have been covered in the various chapters, including Engagements of the Commission in Training

Chapter 18

INFORMATION AND PUBLIC RELATIONS

2007-2011

Since April, 2007 till March, 2011 a total of 297 press releases were issued by the Information and Public Relation Unit. During the current year w.e.f. April, 2011 till October, 2011, a total of 75 press releases have been issued. The press releases are emailed to a number of media persons representing various news agencies, print and electronic media including All India Radio and Television covering NHRC as their beat.

Under an institutional mechanism put in place now in the I&PR Unit, every press release is placed on the website of the Commission through the Computer Unit and the journalists, keeping in view their demands, are also telephonically alerted and informed about these releases. The I&PR Unit has ensured that the calls from the media persons are attended and responded not only during office hours but also before and after it or even on holidays by the I&PRO through his mobile to provide necessary information to the media persons on their requests.

Special efforts have been made during the last three years w.e.f. 2008-2009 to till date to bring as many reporters and correspondents, representing national and regional media, as possible in the NHRC loop. Most of the news agencies, important newspapers, and television news channels now have beat correspondents following NHRC activities. The results are there for all to see. From a few news clippings on NHRC and human rights related issues in the year 2008, the number has crossed to over 1000 every month reflecting the interest of the people in NHRC activities.

During the period ,the idea of NHRC's engagement with media has not been to indulge in creating a media blitzkrieg on NHRC interventions, but at the same to ensure that NHRC's view point is not left out on an issue of human rights in public debate and that people remember that there is an institution to protect and promote their human rights. The Unit has been playing a proactive role in issuing statements on the Commission's stand whether it has been an issue of common man's human rights violation or of the security personnel. It operates with the understanding that the publication of one press release or a statement on the Commission recommendations

in a case of human rights violation in media should have a quantitative and qualitative effect on society to check recurrence of any such instances in future.

Interactive sessions of Chairperson and Members of the Commission with senior media persons were organized in the year 2007 and 2008 by the I&PR Unit to highlight that media are the Commission are equal partners in the promotion and protection of human rights. The session in the year 2008 was focused on 'Human Rights and Role of Media'. It also aimed at exploring the points of convergence for both the Commission and the Media where they could together work for the promotion and protection of the Human Rights.

The media persons have also been invited to attend the seminars and workshops organized by the Commission on various theme-based issues relating to human rights to facilitate their interaction with various stakeholders attending these programmes.

Every year in run up to the Human Rights Day on the 10th December, in addition to issuing the Chairperson's message, the I&PR Unit has also been organizing interviews of the Chairperson, Members of different channels of All India Radio and Doordarshan for creating awareness about human rights. In addition to this, in cooperation with the All India Radio and Doordarshan, special phone-in programmes have also been organised wherein people asked direct questions from NHRC Members and senior officers on human rights issues. In an effort to sensitize people on human rights, another novel initiative was taken to circulate SMS through mobile phone services on the Human Rights Day on courtesy of the mobile phone operators. The mobile phone operators were persuaded to carry a short message on the importance of human rights in the year 2008, 2009 and 2010 free of cost.

In order to further streamline the processes of communication within and outside the Commission, an in-house committee was constituted under the Chairmanship of Member, Mr. Satyabrata Pal to formulate for the first time its 'Media & Outreach Policy', which was approved by the Commission the 25th January, 2011.

Again, as per the 'Media & Outreach Policy' an 'Advisory Group on the Media and Human Rights' comprising senior editors representing different news organizations was constituted on 2nd August, 2011 and its first meeting was held on 1st November, 2011.

Apart from this, the contents of NHRC Newsletter—compiled, edited and designed by the I&PRO—were further enriched thereby making it more representative in terms of giving details of number of complaints received, disposed of each month alongwith the number of cases with the specific directions for monetary relief, suo motu cases and compliance cases.

The Newsletter was also expanded from four to eight pages in the year 2011 covering all information on the important activities of the Commission in a particular month for wider dissemination to the people. A number of news stories were picked up by the

media persons from the newsletter for reporting. The number of recipients of Newsletter has increased and so have the print run. It is distributed to all the important functionaries of the Centre and the State Governments including the offices of the President, Prime Minister, Governors and the Chief Ministers. The Newsletter is also emailed to media persons and uploaded on the website through computer unit for further wider dissemination of the information.

The I&PR Unit, in addition to giving information to the people through media in particular, also provides feedback to the Commission on media reports on human rights related issues. The news clippings now have been outsourced since the year 2009 to receive them in electronic form which are available online to the Chairperson, Members and senior officers of the Commission. Now about 120 newspapers and magazines are scanned everyday by the service provider as on the key words given to him by the I&PR Unit for human rights related news clippings, some of which form the basis for taking suo motu cognizance by the Commission on issues of human rights violations.

The I&PR Unit is also scanning some newspapers and magazines for any relevant issues to be brought to the notice of the Chairperson on a regular basis by the Information officer. These news clippings also make grounds for suo motu cognizance and planning visits, research, seminars and conferences of the Commission.

An initiative has been taken since the year 2008 to compile all the NHRC specific news clippings culled out from a section of media in a folder which is kept in the NHRC library to serve as a resource material for researchers and interns, interested in studying the kind of coverage given to human rights issues by the media.

For the first time, an arrangement has been made since the year 2011 to upload daily the news stories wherein NHRC has been in news under an icon on the Commission's website 'NHRC IN NEWS' to give an insight into the visibility of the Commission in media.

The I&PR Unit has also been given the additional responsibility of handling RTI Unit thereby designating I&PRO also as the PIO of the Commission since the year 2005. The number of RTI queries has been increasing each year since then. In 2007-2008 total applications received were 872 out of which 13 were transferred to other public authorities and 12 appeals were received. In 2008-2009 total applications received were 865 out of which 20 were transferred to other public authorities and 29 appeals were received. In 2009-2010 total applications received were 1454 out of which 48 were transferred to other public authorities and 47 appeals were received. In 2010-2011 total applications received were 2097 out of which 152 were transferred to other public authorities and 71 appeals were received. In the current year since April, 2011 to October, 2011 applications received were 1404 out of which 85 were transferred to other public authorities and 71 appeals were received. This mechanism is also being utilized by the people to know about the activities of the NHRC and related information on the protection and promotion of human rights.

The Publications Section of the National Human Rights Commission plays a pivotal role to create awareness amongst the people regarding their human rights. It has a good number of publications relating to Human Rights. One of the functions of the Commission as stated in Section 12 (h) of the Protection of the Human Rights Act, 1993 is "to spread Human Rights Literacy among various sections/society and promote awareness of the safeguards available for the protection, through publications, the media, seminars and available means". In order to fulfil these requirements this section is responsible for production and distribution of publications, Annual Report, yearly Calendar, Telephone Directory of the Commission under the overall guidance of JS(P&A). The pre-press and post-press works NHRC Publications are being looked after by this Section. In addition any artistic work of the Commission like design of cover page for publications, greeting cards, collections of photographs for calendar, final proof readings of publications lie with this section.

The Publications Section have 43 non-priced publications in English and Hindi and Regional languages and 15 priced publications. It is handling daily visitors who are coming for publications. Publications, required by NHRC officials, are being issued from time to time by this Section. The Commission has been printing its wall calendar/desk calendar for the last few years on various Human Rights themes.

The Wall Calendar encompassed some of the key concerns of the Commission like Equality, Food, Health, Environment, Education, Women Children Elderly, Shelter, Work, Speech & Expression, Life with Dignity etc. The Commission has decided to print the Wall Calendar for the year-2012 on the theme, "Social Reformers in Modern India" with their quotes.

In addition, it has a scheme of Rs.2000/- as Annual subscription NHRC Publications for the outside visitors and libraries. The Section is also providing publication related inputs for NHRC website. From 20 to 30 people come daily for NHRC priced and non-priced publications besides official demand.

In addition the publications section had cleared backlog translation in English from Regional Languages since 2004 as desired by the Commission.

The following three publications has been widely distributed throughout the country and earned much appreciation:

- **Human Rights Manual for District Magistrate**
- **Guidelines for Police Personnel on Various Human Rights Issues**
- **Human Rights Best Practices Relating to Criminal Justice in a Nutshell**

For the Human Rights Day 2011 the Commission shall release the Manual on Human Rights for Police Personnel along with some other significant publications.

Chapter 19

INTERNATIONAL ENGAGEMENTS OF THE COMMISSION

2007-2011

Universal Periodic Review

Based on the Human Rights Council Resolution 5/1, the Commission actively coordinated with the Government of India and played a key role in the preparation of India country paper.

The Commission had also submitted a separate brief paper on India for Universal Periodic Review (UPR) to the Office of the UN High Commissioner for Human Rights in January 2008.

The NHRC India paper flagged important human rights challenges relating to right to education, right to health, right to food, rights of children, rights of persons with disabilities and corruption and human rights. While reviewing international human rights instruments, the Commission stressed the need to ratify the 1951 UN Convention relating to the Status of Refugees and the Convention against Torture.

NHRC, India Participation in International Meetings

A high-level delegation from NHRC-India, consisting of the Chairperson, Secretary-General and Director (Research) visited and interacted with the Irish Human Rights Commission at Dublin on 11 April 2008, the Northern Ireland Human Rights Commission at Belfast on 12 April 2008 and the Commonwealth Secretariat at London on 14 April 2008.

A delegation from NHRC-India, comprising the Member, Secretary-General and Director (Research) visited Geneva from 14 to 18 April 2008 to participate in the 20th Session of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC). During the course of the session, NHRC-India was requested to maintain the website of NHRIs which it instantly

accepted. The said the website can be viewed at www.nhri.net or at www.nhri.nic.in. The inputs given by NHRC-India with regard to the accreditation process of the ICC of National Institutions for the promotion and protection of human rights were acknowledged as well. The NHRC-India delegation also expressed its concern over lack of speaking rights for NHRIs in Working Group meetings for consideration of country reports under the Universal Periodic Review.

The Joint Secretary, NHRC attended the Plenary Session of Human Rights Council at Geneva in Switzerland from 9 to 11 June 2008. The Plenary Session pertained to the adoption of the final outcome relating to India under the UPR. The Joint Secretary made a statement on behalf of the NHRC of India.

The Chairperson, a Member and the Secretary-General of NHRC- India participated in the Thirteenth Annual Meeting of the Asia Pacific Forum of National Human Rights Institutions in Kuala Lumpur, Malaysia from 28 to 31 July 2008.

A high-level delegation from NHRC of India, headed by the Chairperson, participated in the Ninth International Conference of National Institutions for the Promotion and Protection of Human Rights in Nairobi, Kenya from 21-24 October 2008. The theme of the Conference was 'NHRIs and the Administration of Justice', with a focus on expanding NHRIs' capacity in ensuring accountability in the administration of justice. It was organized by Kenya National Commission on Human Rights in cooperation with OHCHR and the ICC.

A three-member delegation from the Commission consisting of the Chairperson, Secretary-General and Director (Research) visited the Council of Europe and the European Court of Human Rights on 27 March 2009, the National Consultative Commission of France (an ICC Accredited NHRI of France) on 30 March 2009 and the Danish Institute for Human Rights on 31 March 2009. Prior to this, the 22nd Session of the ICC was held in Geneva from 23 to 27 March 2009. A two-member delegation from the NHRC of India, consisting of the Chairperson and the Secretary General participated in it.

Visits, Seminars and Workshops Abroad

NHRC-India officials attended various programmes during the year under review. These included :

- Forum on 'Security Development and Human Rights' organised by China Society for Human Rights Studies at Beijing from 21 to 23 April 2008.
- The Right to Food Forum organised by United Nations Food and Agriculture Organization in Rome, Italy from 30 September to 4 October 2008.

- The Regional Meeting on Millennium Development Goals and Human Rights co-hosted by the Office of the United Nations High Commissioner for Human Rights and UNESCAP at Bangkok in Thailand from 16 to 17 October 2008.
- "International Conference on Systematic Work for Human Rights Implementation" at Sweden from 6 to 7 November 2008.
- Regional Training Course for NHRIs in the Asia Pacific at Bangkok, Thailand from 24 November to 3 December 2008.

Commonwealth Forum Meeting

The Chairperson of NHRC-India participated in the meeting of the Commonwealth Forum of National Human Rights Institutions at Nairobi, Kenya on 20 October 2008.

Conference of Chairpersons, Secretaries of State Human Rights Commissions, Public Functionaries and NGOs In order to have an interaction with Ms. Navanethen Pillay, United Nations High Commissioner for Human Rights, a half-a-day Conference of Chairpersons, Secretaries of State Human Rights Commissions, Public Functionaries and NGOs was organized by NHRC on 23 March 2009. On this occasion, Ms. Pillay said that the strength of India's democratic and legal institutions, as well as that of a highly engaged civil society and a free press, rests on solid foundations. India must be proud of its national protection system, which includes the National Human Rights Commission. Ms. Pillay said that the National Human Rights Commission of India enjoyed a very good reputation in the Office of UN High Commissioner for Human Rights and this was one of the motives for her visit. She suggested that the National Human Rights Institutions in the region should work together on common human rights issues such as gender and poverty and share best practices.

Exchanges and Other Interactions

The following individuals/delegations visited the Commission in 2008-2009.

- i) Two staff members of the Indonesian National Commission for Human Rights (KOMNAS HAM) - 28 April to 12 May 2008.
- ii) A four-member delegation led by Mr. Paulo Vannuchi, Minister of Human Rights, Brazil 16 October 2008.
- iii) A delegation of Swedish Parliament Standing Committee on Foreign Relations - 13 January 2009.
- iv) Officials of the Embassy of United States of America at New Delhi - 15 January 2009.

- v) Dr. Richard Bennett, Representative of United Nations High Commissioner for Human Rights at Nepal - 16 January 2009.
- vi) Prof. John G. Ruggie, UN Special Representative on Business and Human Rights along with his Special Advisor, Mr. Gerald Pachoud - 4 February 2009.
- vii) Dr. David Bayley, Criminologist and Police Scholar, Criminal Justice University at Albania, USA - 13 February 2009.
- viii) Ms. Navanethem Pillay, United Nations High Commissioner for Human Rights - 23 March 2009.

NHRC- India Participation in International Meetings

A two-member delegation from NHRC-India consisting of a Member and Director (Research) participated in the Durban Review Conference convened in Geneva, Switzerland from 20 to 24 April 2009.

The Acting Chairperson and the Secretary-General of NHRC-India visited Switzerland and Germany from 29 June to 3 July 2009. In Switzerland, they participated in the Sixteenth Annual Meeting of Special Rapporteurs, Representatives, Independent Experts and Chairpersons of Working Groups of Human Rights Council convened in Geneva. While in Germany, they visited the German Institute for Human Rights at Berlin and the Human Rights Centre of the University of Potsdam at Potsdam.

The Secretary-General of NHRC, India participated in the 14th Annual Meeting of the Asia Pacific Forum of National Human Rights Institutions in Amman, Jordan from 3-6 August 2009.

A delegation led by the Acting Chairperson of NHRC-India participated in the Meeting of the Bureau of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) in Rabat, Morocco from 1 - 2 November 2009.

A two-member delegation consisting of a Member and the Joint Secretary of the NHRC participated in the 23rd Session of the ICC Meeting organized in Geneva, Switzerland from 22 to 25 March 2010.

Visits, Seminars and Workshops Abroad

The officials of NHRC-India participated in various programmes during the year under review. These included:

- Validation Meeting of the Core Support Group of Tool Kit for UN Staff in Johannesburg, South Africa from 25 to 27 May 2009.

- Workshop on NHRIs and Human Rights Defenders in Kathmandu, Nepal from 15 to 19 June 2009.
- Workshop on NHRI Library and Resource Centre Management in Bangkok, Thailand from 7 to 11 September 2009.
- Regional Training Workshop for NHRIs in Bangkok, Thailand from 23 November to 2 December 2009.
- Regional Consultation on the Advancement of Women's Rights in Asia Pacific Region in Jakarta, Indonesia from 1 to 2 December 2009.
- Workshop on the Universal Periodic Review Mechanism in Sydney, Australia from 2 to 3 March 2010.
- Regional HIV/AIDS and Human Rights Workshop for NHRIs in Asia-Pacific Region in Bangkok, Thailand from 10 to 12 March 2010.

Exchange and Other Interactions

The following individuals/delegations visited NHRC-India during 2009-2010:

- A delegation from the Human Rights Commission of Malaysia (SUHAKAM) - 27 to 28 April 2009.
- A 16-member delegation from Afghanistan Independent Human Rights Commission - 29 May 2009.
- A delegation from Ethiopian Human Rights Commission - 3 to 5 July 2009.
- A delegation of Rwanda National Commission for Human Rights - 12 to 19 July 2009.
- Mr. Arthur Mali, Charge d'affaires, Embassy of Switzerland - 17 August 2009.
- A seven-member delegation from the United Kingdom Liberal Democratic Party Friends of India Group - 29 September 2009.
- The Board of Directors of Human Rights Watch, New York, USA - 13 October 2009.
- A 16-Member delegation from Nepal comprising representatives of political parties, civil service, media, academia and the civil society - 27 November 2009.
- Dr. S. Kalantry, Professor from Cornell Law School in New York - 22 January 2010.
- A 15-Member delegation from Afghanistan Independent Human Rights Commission- 23 March 2010.

Meetings of the International Coordinating Committee of National Human Rights Institutions and the Human Rights Council

1. NHRC India delegation consisting of five officers attended the Sub-regional Workshop on "National Human Rights Institutions and the International Human Rights System" held in Maldives from 30.05.2010 to 03.06. 2010.
2. A delegation from NHRC-India, comprising the Chairperson, one of the Members; Secretary General attended the APF 15 meeting at Bali, Indonesia on 03.08.2010 to 05.08.2010.
3. A delegation from NHRC-India, comprising the Chairperson, one of its Members; and Secretary General participated in the ICC Biennial Conference - 10th International Conference of NHRIs on Human Rights and Business: the role NHRIs held at Edinburg, Scotland, U.K from 7th to 10th October, 2010.
4. One of its Members and Deputy Registrar (Law), NHRC attended the Regional Consultation on National Human Rights Institutions and Civil Society Organisations' engagement with the international human rights system: Enhancing the protection of human rights on the ground in Asia during 22-23 November, 2010 at Amari Watergate Hotel, Bangkok, Thailand.

Annual Meeting of the Asia Pacific Forum of National Human Rights Institutions

5. A delegation from NHRC-India, comprising the Chairperson, one of the Members; Secretary General attended the APF 15 meeting at Bali, Indonesia on 3.08.2010 to 5.08.2010.

NHRC participation in International Meetings

6. The Joint Secretary, NHRC attended the Regional Training Course on Migrant Workers' Rights and Advocacy held at Lombok, Indonesia from 21-26 September, 2010.
7. Senior Research Officer, NHRC attended the International Conference on Human Rights Education 'Educating for Human Rights, Peace and Intercultural Dialogue' held on 4-6 November, 2010 at Parramatta campus of University of Western Sydney, Australia.
8. One of its Section Officer, NHRC attended the "17th South Asia Teaching Session on International Humanitarian Law" held at Kathmandu, Nepal from 24th November to 1st December, 2010.
9. One of its Senior Superintendent of Police, NHRC, India attended a Regional Seminar - Towards Developing and Strengthening National Programs on Witness and Victim Protection at Kathmandu, Nepal on 15-16 December, 2010

10. The Joint Secretary participated in a Commonwealth Regional Seminar on 'UPR Follow-up and Implementation for Asia and Europe' at Dhaka, Bangladesh from 9th to 10th February, 2011.
11. The Joint Secretary, NHRC attended the Yogyakarta Principles Forum and Asia Pacific Out Games Human Rights Conference held at Wellington, New Zealand from 15th -18th March, 2011.
12. One of its Under Secretary participated in a training workshop on quantitative methodology in Bangkok, Thailand from 28-30 March, 2011.

Interaction with Foreign Delegates in the Commission 2010-2011

1. A 16-member delegation consisting of the officials of the Ministry of Women's Affairs (MOWA), Govt. of Afghanistan visited the Commission on 27.04.2010 and interacted with the Senior Officers of the Commission. The purpose of their visit to India is to provide the delegates exposure to best practices in countries that have similar sociopolitical and legal bases for governance.
2. A 2-member delegation of South Asia, Amnesty International visited the Commission on 11.05.2010 and had a meeting with the Acting Chairperson. The Amnesty International has prepared a report 'Don't Mine Us Out of Existence: Bauxite Mine and Refinery Devastate Lives in India' regarding UK based Vedanta Resources subsidiary companies to open a bauxite mine at Niyamgiri Hills and expand the operations of an existing alumina refinery at nearby Lanjigarh in South-west Orissa leading to human rights violations and environmental damage. The purpose of their meeting in NHRC is to discuss the content of their report.
3. Mrs. Masrie-Mwamba, Deputy Secretary General, Commonwealth Secretariat to NHRC visited the Commission on 5.10.2010 and had a meeting with the Chairperson, NHRC. Among other issues they have discussed Commonwealth Forum of National Human Rights Institutions, Universal Periodic Review for India and the Rights of Persons with disabilities.
4. Ms. Gay McDougall, United Nations Independent Expert on Minority Issues visited the National Human Rights Commission on 21st December, 2010 and had a meeting with the Chairperson, Members and Senior Officers of the Commission. The purpose of her visit to the Commission was to know more about the best practices followed by the Commission.
5. Ms. Margaret Sekaggya, the UN Special Rapporteur on Human Rights Defender visited the Commission on 15th January, 2011. During her visit, the Commission arranged a Statutory Full Commission meeting as well as an interaction meeting with the NGOs and civil society both of which were addressed by her.

6. Mr. John Wadham, Legal Group Director, Equality and Human Rights Commission, U.K and Mr. Iain Twigg, Second Secretary Political and Bilateral Affairs, British High Commission, New Delhi visited NHRC on 11.02.2011 to discuss issues of mutual interest. Shri A.K. Parashar, Joint Registrar (Law) along with Shri Indrajeet Kumar, Assistant Registrar (Law) were present for the interaction. The functioning of the Commission, the mechanism to handle complaints, the procedure for enquiry into complaints, matters pertaining to custodial deaths, administrative arrangements, autonomy of NHRC etc. were discussed in detail.
7. Dr. Mate Szabo, Parliamentary Commissioner for Civil Rights in the Hungarian National Parliament visited the NHRC on 22.3. 2011 and called on Member Justice Shri B.C. Patel. Dr. Szabo was apprised of the structure and functioning of the Commission.

Chapter 20

MEETINGS ORGANIZED BY THE COMMISSION

2007- 2011

C. Conference of Chairpersons, Secretaries of State Human Rights Commissions, Public functionaries and NGOs

In order to have an interaction with Ms. Navanethen Pillay, United Nations High Commissioner for Human Rights, a half day Conference of Chairpersons, Secretaries of State Human Rights Commissions, Public Functionaries and NGOs was organised by NHRC on 23 March 2009. On this occasion, Ms. Pillay said that the strength of India's democratic and legal institutions, as well as that of a highly engaged civil society and a free press, rests on solid foundations. India must be proud of its national protection system, which includes the National Human Rights Commission. Ms. Pillay said that the National Human Rights Commission of India enjoyed a very good reputation in the Office of UN High Commissioner for Human Rights and this was one of the motives for her visit. She suggested that the National Human Rights Institutions in the region should work together on common human rights issues such as gender and poverty and share best practices.

D. Workshop on Human Rights Defenders

Human Rights defender is a term used to describe people who, individually or with others, act to promote or protect human rights. The UN Declaration on the Rights and Responsibility of individuals, Groups and organs of society to promote and protect universally recognized human rights and Fundamental Freedoms (commonly known as the Declaration on Human Rights Defenders) is the main international instrument on human rights defenders. It was adopted by the UNGA in Dec 1998, after 14 years of negotiation.

The Commission organised a Workshop on Human Rights Defenders on 12th October 2009 in New Delhi. The objectives of the Workshop were (a) To discuss and analyze roles, functions and obligations of the State and the human rights defenders

in promotion and protection of human rights and fundamental freedoms especially with reference to international standards (b) To share difficulties faced by human rights defenders and suggest appropriate remedial measures.

The following recommendations of the workshop were approved by the Commission:-

- It is the obligation of the State to protect human rights of all. Individuals, groups or associations who work for promotion and protection of human rights, commonly referred to as Human Rights Defenders, should also be provided protection by the State against any violence, threats, retaliation, adverse discrimination, pressure or any arbitrary action as a consequence of their activities for promotion and protection of human rights and fundamental freedom. NHRC and SHRCs can also play an important role in this regard.
- There is a need to draw a clear line of distinction between genuine human rights defenders and those who wear the garb of human rights defenders to gain advantages for their personal ends.
- The Human Rights Defenders have also duties towards the society. In carrying out their activities, they should act in a peaceful manner and should not take law into their own hands.
- There is a need to set up a focal point for human rights defenders, preferably at NHRC, so that human rights defenders can reach out to it for support. The focal point should be accessible through a phone no. or email etc.
- For protection of human rights, modern technology like satellite T.V. coverage and SMSs etc. could be effectively utilized. Print media and electronic media can play an important role in this regard.
- Complaints of harassment of human rights defenders could be posted on NHRC/ SHRC websites to draw specific attention of the people to such cases.
- The UN Declaration on the "Rights and responsibilities of Individuals, Groups and Organisations of society to promote and protect universally recognized human rights & Fundamental Freedoms" adopted by the General Assembly in 1998 should be disseminated to the Chief Secretaries and Directors General of Police of all States and UTs as also other Government functionaries. Likewise, other National and State Commissions/ institutions related to human rights issues should also be apprised about the aforementioned declaration and other important international covenants and instruments.

- NHRC may consider including cases of violation of rights of human rights defenders along with action taken thereon in a section of its annual report.
- NHRC may consider writing to the Government of India for granting permission to UN Special Rapporteur on human rights defenders to visit India.
- All training institutions for public functionaries in the country like LBS National Academy of Administration, SVP National Police Academy, should include human rights awareness including international declaration and covenants and role of human rights defenders in their training programmes.
- The human rights defenders should also focus more attention to the victims of human rights violations by the no-State actors.
- Human Rights Defenders should not only focus attention on Civil & Political Rights but also on the Economic & Social rights, especially in backward areas. Some of the areas could be rights of persons with disabilities and rights of children.
- There is also a need to disseminate knowledge about provision of various laws, rules, regulations as well as international covenants etc. amongst NGOs working in the field of human rights such as rights of women, children, persons with disabilities etc. Human Rights defenders should take initiative in this regard also.

Focal Point on Human Rights Defenders -

Acting on one of the recommendations, a Focal Point for Human Rights Defenders has been set up in the Commission to deal with complaints alleging harassment of human rights defenders or at the instance of public authorities. The designated contact person at the Focal point is Shri AK Parashar, Joint Registrar (Law). The Focal point is accessible to human rights defenders round the clock through - 1. Mobile No 9810298900. 2 Fax No 23384012 and 3. Email: hrd-nhrc@nic.in

The focal point ensures that the directions of the Commission in every case of violation of human rights defenders are complied with on priority and also conveyed to the concerned concerned human rights defender. The update of the complaints of harassment of human rights defenders is also posted on the website of the Commission(www.nhrc.nic.in) to draw the attention of the people to such cases.

E. NHRC camps Sitzings in States

1. Lucknow, January 21, 2007

During its three-day sitting in the State Capital Lucknow from 18 to 20 January 2007 the Commission also expressed deep concern about the inadequate action taken

against erring revenue officials found guilty of manipulation of records, in the context of several cases of living landholders being declared dead for usurping their property. The Commission suggested a survey to trace such cases and issuing of public notices inviting petitions/complaints from affected parties in such cases. It has also directed the Uttar Pradesh Revenue Secretary to submit a comprehensive report of all such incidents in the state by March 12, 2007 and to send a full status report on the action taken against the erring persons in such cases. The revenue secretary has also been directed to attend the commission on March 15, 2007.

The commission said it was a matter of concern that the number of Juvenile Justice Boards, Child Welfare Homes, Observation Homes and Special Homes were far below the number of districts in the state. Juvenile Justice Boards have been set up in only nine districts and Protective Homes in 51 districts. Child Welfare Committees were still being set up and information regarding setting up of Children's Homes for infants in 63 districts, for boys in 56 districts and girls in 67 districts were still awaited, the Commission expressed concern.

With regard to the status of juvenile observation homes the Commission said it was disturbing due to lack of hygiene, opportunities for education etc. NHRC will hold national level consultations on 2 and 3 February 2007 to improve the status of juvenile justice in the country.

The Commission also discussed the plan of action adopted by the State to prevent and end trafficking of women and children. The Commission also recommended revival of the system of board of visitors in jails. The Commission drew the attention of the State authorities to repeated instances of bonded and child labour in the State. During discussions the Commission expressed concern at the high infant mortality rate, maternal mortality rate and malnutrition in the State. It expressed satisfaction that the State government had completed the Chaitanya Vihar Phase II in Vrindavan for destitute women.

In the three-day sitting, 32 cases of Full Commission and 150 cases of Single Members were disposed of. Nearly 1000 cases were listed for these three days. The Commission impressed upon the State authorities to expedite responses and reports. The State authorities in some cases furnished reports in Lucknow itself and assured that the responses and reports will be expedited within the timeframe.

The Full Commission meeting in Lucknow was held following a decision by the Commission on November 21, 2006, to hold sittings in State capitals in order to expedite disposal of pending complaints, furnish status of complaints, to receive complaints and sensitize the State functionaries on the human rights. The Lucknow camp is the first in the series of sittings to be held in State capitals.

2. NHRC three-day Camp Sitting in Bihar

NHRC held a three-day camp sitting at Patna from May 17 to 19, 2007. During the review meeting, various recommendations and concerns expressed by NHRC, especially on economic, social, cultural, civil and political rights were discussed. The status of Juvenile Justice Act, child labour, bonded labour, condition of prisons and issues related to right to health in Bihar figured during the Commission's meeting with the senior officials of the State. Status of preventing and combating trafficking of women and children and eradication of Manual Scavenging were discussed. Status of preventing and combating trafficking of women and children bonded labour, child labour, prison conditions, status of denotified and nomadic tribes and right to food figured during detailed discussions with the state officials. The Commission discussed draft recommendations of the meeting on "Eradication of Manual Scavenging" held in New Delhi in March this year and the status of Manual Scavenging in these States.

3. NHRC'S REGIONAL MEETING WITH SOUTHERN STATES AT BENGALURU (15TH-16TH SEPTEMBER, 2010)

During the day-long sitting of the Commission, total 92 cases from four states were taken up. The Commission recommended monetary relief to the tune of Rupees Nineteen lakh Eighty Thousand (19,80,000) in nine cases from the four states and disposed of 22 cases." The Full Commission Bench considered six cases- Andhra Pradesh (3), Karnataka (2) and Tamil Nadu (1).

In a case of death in police custody in Karnataka, the Commission, on consideration of the reports received from the authorities and hearing the Officers representing the State, held that the death occurred due to negligence of the police. The Commission awarded an interim relief of Rs.3,00,000/- to the next of kin of the deceased-Srinivas of Kolar.

In another case of child labour in Bellary mines, based upon the reports of its Investigation Division, the Commission rejected the claim of the State that there is no child labour involved. The Commission drew the attention of the State authorities to their own earlier reports and directed the Addl. Chief Secretary to re-examine the whole issue and ensure that benefits under the Child Labour laws are made available to the victim's children. The Commission also took strong exception to the faulty investigation, leading to large-scale acquittals. From Andhra Pradesh, the case of bonded labour in stone quarries came up for consideration. The Commission underlined the need for appointment of more prosecutors and special court and the Chief Secretary of the State assured the Commission to pursue the matter.

The Commission also closed two cases, one each from Andhra Pradesh and Tamil Nadu, on receipt of compliance reports from the State authorities, providing proof of payment as per recommendations of the Commission.

The Commission discussed the issues regarding police action/inaction, non forwarding of the reports, custodial death cases and encounter death cases, compliance cases, bonded labour cases, child labour cases during the interaction with the Chief Secretaries, DGPs, DMs, SSPs and other senior officers of the four states.

4. NHRC recommendations to the Orissa Government for overall improvement in human rights situation in the State

The National Human Rights Commission's two-day camp sitting from 18th-19th January, 2011 in Bhubaneshwar, Orissa. The Commission gave several recommendations to the Orissa Government for overall improvement in human rights situation in the State. Long pending 10 cases were taken up in the Full Commission for hearing. Thereafter, 52 cases were taken up in four Single Bench Sitzings. During the day long sittings of the Commission, total 62 cases alongwith more than 400 linked cases were taken up.

The hearing was attended by the Senior Officers of the State including Chief Secretary, DGP, Pr. Secretary (Home), Principal Secretaries and Secretaries of all concerned departments, I.G. Prisons and DMs and SSPs of the concerned districts including KBK districts (Koraput, Bolangir and Kalahandi).

Some of the important recommendations of the Full Commission are:

- (i) The Commission directed the State Govt. to effectively co-ordinate and implement various schemes for the KBK districts. The Commission also directed the State Govt. to depute an officer to present before the Commission on 21.3.2011 with the status on the implementation of the recommendations of the Commission, welfare schemes including public distribution system, health, special security schemes etc. in the KBK districts.
- (ii) In the matter of displacement of persons for the Salanda Sanskar Project in Badhrak district, the Commission directed the State Govt. to adhere to the land acquisition policy and disburse the compensation to the affected people. The State Govt. was also directed to review all such projects due to which displacement of persons has taken place. The State Govt. was further directed to submit a report whether appropriate compensation had been awarded as per the prevailing rehabilitation policies and whether affected persons were rehabilitated.
- (iii) In the matter of Bartan system, the Commission took a strong view on the mindset of senior officers and drew the attention of the Chief Secretary on the inhuman approach and insensitivity shown in the report of the Regional Divisional Commissioner, Cuttack. Mr. Baghambar Patniak, presented the case in person before the Commission and submitted a written petition. The Commission directed the State Govt. for response on his petition. The Chief Secretary assured the

Commission that the State Govt. will take the necessary action on the recommendations of the Commission.

- iv. In the matter of Kandhamal violence, the Commission directed the State Govt. to submit a detailed report and a contingency plan to deal with such situation.
- (v) In the matter of TATA and POSCO steel projects, the Commission directed the State Govt. to submit a comprehensive report on rehabilitation and compensation status of the displaced persons.
- (vi) In the matter of VEDANTA, the Commission took a strong note on the land acquisition policy of the State and directed that all the affected persons should be rehabilitated. The Commission asked its Special Rapporteur to examine the action taken report of the State Govt in the Single Bench hearings, 52 cases were considered and 8 of them were finally disposed of. In case of death in police custody in Mayurbanj District, the Commission recommended Monetary Relief of Rs. 3,00,000/- to the next of kin of the deceased.
- (vi) On the second day of the Meeting, the Commission had discussions with the Chief Secretary, DGP, the Secretaries, DM, SSP and other senior officers of the State. Several issues were discussed which concerned Police, Mental Health, Manual Scavenging and Sanitation, 28 District Programme at Kalahandi, Bonded & Child Labour, Jail Visits of the Special Rapporteur of the Commission and conditions of Jails, NHRC's activities concerning KBK Districts of Odisha, Custody deaths, etc.

On the issue of custodial deaths, police encounters, unauthorized detention, Conditions in Jails, the authorities were directed to adhere to the guidelines issued by the NHRC. The Commission also directed the State Govt. for a humane approach of the police officers towards the weaker sections of the Society. The State authorities were requested to focus on prevention of death in police custody and to conduct compulsory medical check-up of all inmates at the time of entry to the jail. The issues of poverty, unemployment, deprivation, hunger, starvation and malnutrition in the KBK region and implementation of various recommendations and suggestions of the Commission were discussed in a separate Session with officers of the State Government. The Commission expressed serious concern on the food security of the poor people who have been left out of the BPL (Below Poverty Line) list.

Chapter 21

ENGAGEMENTS OF THE COMMISSION IN TRAINING

2007-2011

Training Programmes 2007-2008

As part of accomplishing the mandates, the Commission approved 93 training programmes of 35 Institutes / NGOs on various issues of human rights for the year 2007-08 in all over the country focusing the North-eastern States, Backward States, UTs etc. Out of these, 65 training programmes were conducted during the period.

INTERNSHIP PROGRAMME FOR UNIVERSITY STUDENTS

To sensitize about human rights to the University students, the Training Division of NHRC is conducting a one-month Internship Programme twice in a year i.e. one in Summer and the other in Winter.

In the Summer Internship Programme 2008 (19th May to 18th June 2008), 53 students from 35 Universities/Colleges of seventeen States of India participated and successfully completed.

Winter Internship Programme 2008, which was started from 17th December 2008 and concluded on 15th January 2009, in which 53 interns/students from 20 Universities/Colleges of 14 States participated and successfully completed.

SUMMER TRAINING PROGRAMME IN THE UNIVERSITIES/ INSTITUTES:

To sensitize about human rights to the University students, Dr. Ram Manohar Lohia National Law University organized a Summer Human Rights Training Programme - 2008 from 16th June to 15th July 2008 in collaboration of NHRC. This is the first time when NHRC has sponsored such a training programme outside Delhi. The 62 participants were from all over the State of Uttar Pradesh and all of them had the background of Law, Sociology, Criminology, and Political Science etc.

The highlights of the programme is as follows :-

- The programme was attended and addressed by the Hon'ble Justice Mr. Rajendra Babu, Chairperson, NHRC.
- Hon'ble Justice Mr. V.C. Mishra, Chairperson, State Law Commission of Uttar Pradesh inaugurated the programme on 17th June 2008.
- There were total 56 resource persons who took more than 60 sessions on various Human Rights aspects.
- Prof. Balraj Chauhan, Director, RML National Law University in his lecture on "Emerging paradigms of the Legal Education" focused on the new issues, which were problems for the society.
- The participants were sent to various NGOs/Voluntary Organizations in and around Lucknow to observe and experience the ground realities of the Human Rights at the grass root level.
- A Human Rights quiz was organized for the participants and the proceedings of the quiz were broadcasted in the Yuvvani programme of the All India Radio, Lucknow on 4th July 2008.

3. Training Programme for Indian Foreign Service (IFS) Probationers.

A two-days attachment programme for IFS Probationers of 2007 batch with NHRC had been conducted in the Commission on 5-6th June 2008. During this attachment programme, Chairperson, Members, Secretary General and senior officers of the Commission interacted with the 18 IFS Probationers

4. In-house training programme.

One-day in-house training programme for new inductees (Officers and Staff) in the Commission since 1st April 2007 onwards held by the Training Division in the Court Room of the Commission on 18th July 2008 in which 26 officials of NHRC participated.

5. **Attachment of Seven Probationary Officers of National Institute of Defence Estate Management (NIDEM) held on 27th October 2008.**
6. **A Group of 23 foreign diplomats from various countries along with 2 officials from the Foreign Service Institute visited the Commission on 18th March 2009. Justice Shri S. Rajendra Babu, Hon'ble Chairperson, Shri A.K. Jain, Secretary General, Shri Sunil Krishna, Director General (I), Shri A.K. Garg, Registrar (Law), Shri P.M.V. Siromony, Joint Secretary (Trg.) and Dr. S.K. Jain, SRO (Trg.) interacted with them.**

7. Interaction with visiting Students/ Trainees from various Law Colleges/ Universities from different parts of the country.

A two-days attachment programme for IFS Probationers of 2006 batch with NHRC had been conducted in the Commission on 17th - 18th September 2007. During this attachment programme, Chairperson, Members and senior officers of the Commission interacted with 20 IFS Probationers.

2. In-house training programme.

One-day in-house training programme for new inductees (Officers and Staff) in the Commission since September 2006 held by the Training Division in the Court Room of the Commission on 20th April 2007 in which 25 participants attended

NATIONAL CONFERENCE ON NGOS

- The National Human Rights Commission organized a National Conference on the 'Role of NGOs in support of NHRC in better promotion and protection of Human Rights' at Karnataka Judicial Academy, Bangalore on 28th & 29th April 2007. H.E. T.N. Chaturvedi, Governor, Karnataka inaugurated the Conference. Justice M.N. Venkatachaliah, former Chairperson of NHRC gave the valedictory address. More than 250 persons including NGOs from 22 States/UTs attended.

Training Programmes 2008-2009

As part of accomplishing the mandates, the Commission approved 123 training programmes of 65 Institutes / NGOs on various issues of human rights for the year 2008-09 in all over the country focusing the North-eastern States, Backward States, UTs etc. Out of these, 114 Training Programmes in 58 institutes/NGOs/ Universities etc. were conducted upto 31st March 2009.

In the Summer Internship Programme 2008 (19th May to 18th June 2008), 53 students from 35 Universities/Colleges of 17 States of India participated and successfully completed.

A total of 776 students of 18 Colleges/Universities/Academic Institutes of Law, Political Science, Sociology, Social Work, Labour Law, Human Rights along with their Faculty Members visited the Commission during 2008-09.

During the Financial Year 2009-10 the following training programmes in Human Rights and related issued were conducted by the Training Division:

1.	No. of training programmes	:	71
2.	No. Internship Programmes	:	02
	(Summer & Winter)		

3. IFS Attachment : 01
4. In-house Training : 01
5. Visits of students/ delegates of different Universities/ Institutes during 2009-10: 447 students from 15 Colleges/Universities/Academic Institutes of Law, Political Science, Sociology, Social Work, Labour Law, Human Rights along with their Faculty Members visited the Commission during April 2009 to March 2010.

2010-2011

COMPLAINT HANDLING MANAGEMENT SYSTEM (CHMS) IN SHRCs

The implementation of CMS in the SHRCs is mainly to streamline the complaint handling system and also providing the mechanism for faster disposal and effective tracking. Keeping this mandate in view, initially 4 SHRCs i.e. Assam, West Bengal, Madhya Pradesh & Uttar Pradesh were selected for the implementation of the CHMS. Under the defined package, each of the 4 above mentioned SHRCs were supplied with the required hardware and software and also the CMS package was installed. Officers from NIC also provided training to the concerned users. Having successfully completed the installation of CHMS and making it reasonably operational in these 4 SHRCs, the Commission has now decided to extend this system in the next set of 4 SHRCs, i.e., to Rajasthan, Gujarat, Maharashtra and Orissa. Accordingly, the financial assistance has been provided to these SHRCs procurement of necessary equipments. Once the basic infrastructure for the implementation of CHMS is ready, the NHRC team along with NIC assistance will install the CHMS and also provide required training to the users.

NATIONAL HUMAN RIGHTS INSTITUTIONS (NHRI) - WEBSITE

National Human Rights Institutions are a relatively recent development amongst mechanism for the promotion and protection of Human Rights. They represent a recognized means whereby States can work more effectively to guarantee human rights within their own jurisdictions. As independent authorities established by law to protect Human Rights of the people within their country, NHRIs play an important role in the activities of the State and Civil society.

In order to follow up on this, the NHRI website (www.nhri.net) was established through the collaboration and funding of Office of the High Commissioner for Human Rights (OHCHR) and the Danish Institute for Human Rights. The website was launched on November 27, 2001. The primary objective of the website is to facilitate and support the work of NHRIs in the promotion and protection of human rights at the global, regional and national levels.

The responsibility of hosting, updating and maintaining the NHRI website had been entrusted to NHRC, India, under an agreement between OHCHR and NHRC, India signed in the month of June 2008, initially for a period of 1 year, which was extended upto December 2010.

Since taking over of the website by NHRC, India, it had been maintained in a meticulous way in constant coordination with the officer of OHCHR. Its users included not only from the National Institutions and the UN system but also from the general public with the interest on human rights.

The NHRC, India, after making its contribution for nearly 3 continuous years, has now handed over this website back to OHCHR for further maintenance.

ONLINE TRAINING PROGRAMME ON HUMAN RIGHTS FOR POLICE PERSONNEL

In pursuance of fulfilling its mandate to spread awareness on human rights issues, especially amongst public servants, it was felt by the Commission that there was room for standardization in the training programmes being conducted/sponsored by NHRC. As such, a dialogue with the Indira Gandhi National Open University (IGNOU) for conducting training programmes in distance learning and electronic mode with their collaborations were initiated.

An MoU was signed on December 30, 2009 between NHRC and IGNOU for conducting the following three types of courses for police personnel :

- (i) Basic Course for Constables/Sub-Inspectors**
- (ii) Advance course for middle level police officers**
- (iii) Trainer's Training Course**

3.3. To start with, 3 Police Training Institutes of Uttar Pradesh, Haryana and Delhi were selected to test launch the Online Training Programme and after required coordination and visits in all the 3 institutes for assessing the infrastructure required for online training, the project was finally launched on 1 February 2011 and attended by Chairperson and Members, NHRC, Vice Chancellor, IGNOU, Secretary General, NHRC and other officers. The training was scheduled for 5 days, which included last 2 days of online interaction with counselors based at IGNOU.

The Commission is making efforts to extend this training to cover police institutes and police personnel throughout the country.

TRAINING PROGRAMME FOR INDIAN FOREIGN SERVICE PROBATIONERS

The FSI sent 19 IFS probationers of 2008 Batch to NHRC for a Two-Day Attachment Programme which was held in the Court Room of Faridkot House on October 26-27, 2010. The probationers were addressed by Secretary General, NHRC as well as Joint Secretary, NHRC and the Heads of Divisions and other senior officers of NHRC who gave them an overview of the Protection of Human Rights Act, 1993 (amended 2006), the organizational structure and functions of NHRC, landmark cases and various issues concerning human rights. The highlights of the Attachment Programme were the 'Interactions' with Hon'ble Members who not only spoke on a number of Human Rights concerns but also shared their rich experiences with the trainee officers.

TWO-DAYS' ATTACHMENT PROGRAMME OF ASC (PROBATIONERS) OF RAILWAY PROTECTION FORCE (RPF) WITH NHRC FROM MARCH 24-25, 2011

A batch of 5 Assistant Security Commissioner (Probationers) of the RPF, recruited through Civil Service Examination 2005/2009, who are undergoing initial training at the Academy in Lucknow, were attached for 2 days with NHRC for having a proper insight about the role/duties, organizational structure, Act, etc., of NHRC, from March 24-25, 2011. They were exposed to the functioning of various Divisions including the Complaint Handling & Management System of NHRC.

INHOUSE TRAINING PROGRAMME

An in-house 02 days training programme for the new inductees in various categories of posts in the Commission for giving exposure to them regarding the functioning and the issues being dealt by various Divisions of the Commission was organized from August 26-27, 2010.

INTERACTION WITH VISITING STUDENTS/TRAINEES FROM VARIOUS COLLEGES/UNIVERSITIES OF INDIA

Over 1035 students/trainees from various institutes, colleges, university from all over India have visited the Commission to have an insight into the functioning of the Commission and its various divisions. National Law School of India University, Bangalore, University School of Law, Gujarat University, Ahmedabad, Gopaldas Jhamatmal Advani Law College, Mumbai, Shivaji University, Department of Political Science, Kolhapur, Maharashtra, Central India College of Law, Nagpur, Vivekananda College of Social Work, Raichur District, Karnataka, etc., are some of the colleges/universities that visited the Commission during the year 2009-2010.

A special mention of the delegation of 19 counsellors and Social Workers from Urban Research Centre, Bangalore, who visited NHRC on February 2, 2011.

SHORT-TERM INTERNSHIP (UNPAID)

Besides the above, approximately 100 students from various streams, especially from the Law stream have so far been attached in batches as Short-term interns (unpaid) for a period extending from 15 days to 1 month, during which they were not only exposed to the functioning but also were allowed to have practical experience of the functioning of various Divisions of the Commission. They are also placed in the Madad counter where they get the first hand experience of interacting with the victims of the human rights violations across the country.

Thirteen probationary officers of 2010 batch of Indian Foreign Service attended a two-day programme of their attachment with NHRC which concluded on 23rd Nov 2011. They were given a deep insight into various legal provisions, international covenants on human rights and the jurisdiction, functioning and activities of the Commission by the Members and senior officers of the Commission during different sessions.