

**MINUTES OF THE WEBINAR dated 29.07.2021**  
**WITH THE HRDs ON HUMAN RIGHTS ISSUES DURING**  
**COVID-19 AND FUTURE RESPONSES**

In continuity with the Webinar held by NHRC India on 11.05.2021 on with the HRDs, the Commission held another webinar on 29.07.2021, with the agenda of '*The HRDs On Human Rights Issues During Covid-19 And Future Responses,*' under the chairmanship of the Hon'ble Chairperson, NHRC. The later Webinar was conceptualized and held on important thematic human rights issues such as Informal Workers & Bonded Labour, Issues of LGBTQI During the Pandemic, Drug Abuse and Rehabilitation, Mental Health, Developmental Projects/Displacement and Ecology, Tribal Rights and Welfare, Protection of Rights of Victims of Silicosis During Pandemic, Sustainable Development Goals and National Action Plan for HRDs - Way Forward. The aim was to continue the dialogue with the HRDs, but in a special way.

The SG, NHRC welcoming the delegates, emphasized that the issue-based dialogue with the stalwart of the HRDs (NGOs & CSOs), the experts from the United Nations , UNDP and the experts from specialized field would guide the NHRC, India to make policies and strategies to move forward, in general and in this pandemic, COVID-19, in the words and spirit of the Domestic Laws and International Human Rights Laws and Instruments vis-à-vis the recent international developments, in view of the APF, Regional Action Plan for HRDs, GANHARI draft Global Action PLAN for HRDs. Etc.

Hon'ble Chairperson, NHRC, India, Justice Sh. Arun Kumar Mishra, inaugurating the Webinar told that the vision of the Commission is to have cooperation and coordination with the HRDs, the NGOs and the CSOs, besides the governmental organisations. Hence this webinar is aimed to touch some of the burning issues on human rights. He further stated that the colossal loss of human life, failure of medical infrastructure and shortage of essential medicines, hospital beds, oxygen etc., not only in India but also all over the world taught us that the entire world has to work together rather than as an individual States to cop-up with the Pandemic, COVID-19. He stated that to finalize strategies in the NHRC, we require inputs on the thematic issues kept for deliberations in the Webinar.

1. **Sh. Sandeep Charchara**, from Action Aid, India initiating the discussion, applauded the actions taken by NHRC, India during Pandemic, COVID-19, including the Advisories issued in consultation and collaboration with the HRDs. He further highlighted that there are 2.5 billion informal and unorganized workers in the world, and India has 0.50 billion informal workers. And ILO has stated that these workers neither have dignified wages nor social security, or security of jobs. Therefore, some of the following issues need to be addressed by the NHRC, India: -
  - 1) Making the 4 new Labour Codes operational, by expediting the Rules framing process under these Codes and Notification for operationalization of these Codes.
  - 2) The Definition of the term "social security" under the Social Security Code does not cover many of the informal workers hence leaves without any kind of social security, to a large chunk of these unprivileged strata of society. Further this code does not give method of quantification of the amount of the social security payable to the workers in matter of maternity benefits, pension etc.
  - 3) The Wage Code provide a formula for wage determination; however, it needs to be looked into at the Rules making stage by the state governments and it need to be dignified.
  - 4) These Codes were drafted in pre-pandemic era, therefore the Rules under these Codes may be drawn to take care of the pandemic such as COIVID-19 like situations in future.

- 5) The Caste based workers such as nautanki workers, Nuts, Tamasha workers, Saperas, Barbers, Cobblers suffering from unemployment and starvation. Therefore, there is a need for special protection to these unprivileged sections of the informal workers. And the NHRC, India could issue an advisory in this respect to concerned authorities.
- 6) An Advisory form the NHRC, for formation of workers owned organisations in the Plantations, particularly the plantation gardens and the plantations factories etc., so that closed establishments could be run by the Plantation workers.
- 7) Valuation of work of the informal workers in crematoriums, burial ground, rag pickers etc., who are doing ecological services, need to be recognized as ecological workers and remunerated accordingly.
- 8) Providing a mechanism 'District Wage watch Centers' in each district to ensure payment of equal remuneration to women workers. An advisory could be issued in this respect.
- 9) Land reforms and distribution of land to Informal Workers; rights of Common i.e., on the Common bodies such as Ponds, pasture land etc., and the training and development of Community Human Rights Defenders need attention.

## **2. Rituparna Bohra and Laxmi Narayan Tripathi:**

**Rituparna Bohra** addressed discrimination and the violation of rights of LGBTQI. She emphasized that the Queer community is facing violence and discrimination, lesbian relationships are not allowed and forced conversion of sex is taking place. Further the community had been affected very badly by the pandemic; the inter-sectionalism of gender is not recognized by the community on the basis of cis-gender man/woman; 'home' is not a safe place for LGBTQI Community as it is becoming the first place of violence because gender is not identified; the issue of misgendered identity was highlighted. Therefore, during pandemic COVID-19, her NGO received double of the distress calls/complaints of harassment. Further she drew attention towards inaction and tortured by the police. However, she requested pleaded that the issues of the Community should not be considered as special issues rather their issues be considered at par with the issues of all other individuals. And the NHRC should do something for the cases of violence against the community.

### **Laxmi Narayan Tripathi:**

1. The speaker primarily highlighted on the issue of "violence" which is persistent within the Transgenders (Hizara) community. The dark side of the same was highlighted by the speaker. Emphasis was laid that people may die of hunger more than Covid-19 Pandemic. Atrocities on the community were highlighted with respect to forceful eviction from houses, sexual harassment, honor killing and the abuse within the family.
2. Steps were taken by Ministry of Law and Justice whereby Garima Grah were made to protect the community.

**Recommendation made:**

- NHRC may request to pass strict laws to curb violence faced by the community both internally and externally and Advisory can be issued by NHRC, India giving steps to curb the violence.
- A coalition of NGOs and Civil Society Organizations, working on the ground level, can be made and the interagency groups across the States, can be established where people can participate, synergize and supplement each other and learn best practices.
- It was pleaded that the Commission must take proactive steps to protect the community.

**3. Mr. Sergey Kapinos - UN Representative:**

1. Mr. Kapinos spoke about the problem of Drug abuse. He stated that human rights are the core of the UN. Restriction on movement and isolation caused anxiety and depression thereby making people dependent on substance abuse.
2. It was identified that individuals find solace in drug abuse. The route map of drug movement was identified by post, ship and cargo which are multiple routes for drug to be illegally delivered to India.
3. He stated that drug menace has economic and social consequences and implications on the society and increases drug consumption has substantial impact on the fabric of society.
4. Another reason for enhanced drug consumption, he flagged, was loss of jobs of 25 million people i.e., the economic crisis enhanced the drug abuse. Synthetic drugs are being used in South East Asia and Latin America. Survey in 2019 showed that around 850,000 people inject drugs. But people have the right to protect themselves on all occasions.

**Recommendation made:**

- The 'homeless people' are most vulnerable section of society and to fall to drug abuse easily, therefore their rehabilitation along with providing home to them is required. He emphasized that they also have the right to life and health.
- Vulnerable prisoners are using drugs in the prison.
- NHRC, India should introduce sustainable solutions towards these issues to curb the drug menace.

**4. Pratima Murthy:**

1. Ms. Pratima Murthy, an expert on mental disabilities stated that 1 out of 5 adults experiences mental illness in his lifetime.

2. She further stated that the treatment gap for these disorders is about 70% to 75%. The mental illness in children could be caused by prenatal stress, birth trauma and poor nutrition. And the adverse childhood violence also hampers emotional development; mental stress causes suicidal tendencies; impulsiveness, anxiousness, obesity and malnutrition are other reasons for mental disorders.
3. Another major reason for mental illness is breakdown of families; job losses, socio-economic status, behavioral changes compound this problem; and pandemic COVID-19 has substantially enhanced mental health problems.
4. Loss of jobs is causing treatment gap for the patients. NHRC can make sure that Health Care is available to everyone. Further she suggested that there should be a quick screening to ensure that high-risk and vulnerable groups can have faster health care access.
5. Difficulty in accessing treatment during the Pandemic COVID-19, has become a serious cause of stress; and emphasized that maternal exposure to drugs will have impact on children in later life; adverse experiences of children during early child hood are effecting Intellectual and emotional development of children.

**Recommendation made:**

- NHRC, India can make sure that Health Care is available to everyone. There should be a quick screening to ensure that high-risk and vulnerable groups can have faster health care access.
- Mental health programs should be launched sensitizing the health care of mentally ill patients.
- It is important to integrate physical health and intersectional approach is required with respect to mental health.
- Addictions in young adults, ecological perspective, layered approach to Mental Health /self-help care/ community care/ are few of the recommendations that the State government should implement.
- NHRC should take initiatives with respect to Mental Health and hospital reforms since mental health is a state subject.
- NHRC should take steps towards sensitizing the concerned Authorities/HRDs/CSOs on the mental health.

## **5. Medha Patkar:**

1. Since right to life is enshrined in the constitution of India, the speaker pointed that it cannot be violated in the name of development and consequential displacement. Hence, measure must be taken as to how to safeguard displaced persons' rights. Human Rights violations are taking place and communities living on natural resources are suffering due to urbanization and development projects, should not be allowed.
2. She emphasized that the urban poor are very important to the society and economy, as they are providing real and valuable economic services, being still unorganized they are still at the cross road.
3. Violation of fundamental rights of person of these communities must be strongly taken up, entertained and intervened especially in the present Covid-19 Pandemic.

### **Recommendation made:**

- NHRC should not easily dismiss complaints, on the issues mentioned above. She suggested that people should be trained at the Community level to provide support.
- She told that while closely working, at many places, with the government(s), she found the fund allocation was not enough. Therefore, government(s) should invest more on displaced people and NHRC should assist in expediting the process.
- The rights of street vendors, fisherman, farmers which, are hampered are identified by the speaker which calls for attention.
- Meaningful contribution and coordination with the Commission can be made to safeguard rights of the displaced persons.
- NHRC should get the Panchayati Raj Act, effectively implemented at grass-root level. It should advocate for laying down rules, regulations and laws for farmers, fisherme/workers etc., and issue advisories on their issues. Rehabilitation must be ensured to the rural poor people; Poor people do not have money to build houses hence funds must be made available to them; Domestic workers and Adivasis should be given full rehabilitation; Loss of livelihood after COVID-19 should be compensated by building houses.

## **6. Suhas Chakma:**

1. Government of India announced funds and allocated to state government but the funds are lying with the State Governments or the corporate who are undertaking afforestation programs. However, STs are being evicted from many areas but neither any rehabilitation nor any job security is being provided to them. The rights and interests of the persons for whose interest funds are transferred by the Central government are being violated. Since judicial process is time

consuming, cumbersome and require huge funds therefore NHRC, being, the best intermediary mechanism for speedier remedy, need to be more active.

2. He pointed-out the issue of non-availability of internet connection and mobile telephone connection in the North East region of the country; the loss of job and availability of no means of livelihood to the landless labour/domestic labour who lost their livelihood during the pandemic; non-existence of basic facilities for COVID-19 test since the Primary Health Centers/hospitals are at far off in these mountain regions thereby affecting the communities living on those mountains.
3. People are not able to access the benefits of Pradhan Mantri Garib Kalyan Ann Yojana, as it has not been implemented by State Government in the PDS system because either Aadhar Cards are not yet prepared or there was lack of internet connectivity. Further COVID-19 cases should be treated separately and with more seriousness because there was lack of medical equipment, and a Hygiene Kit including oximeters, thermometer, sanitizers, etc., which should be provided in small places also, which are not easily accessible. Hence, NHRC has to act seriously on such cases

#### **Recommendation made:**

- When NHRC's directions are not complied with by the States, it should move to the courts to implement the same.
- Complaints during Covid-19 Pandemic must be given special attention and the community at North East is significantly affected particularly with respect to right to food.
- The SG assured to have a conversation with the Chief Minister of the concerned State to look into the matter and resolve the issues faced.

#### **7. Amulya Nidhi:**

Discussing the issue of Occupational Health, Silicosis and the Covid-19 Pandemic: Issues and Challenges: - he made following points

1. He stated that around 37.3 percent cases of Silicosis emerge from the mining areas and cement industry. And is inequality in payment of compensation given to the victims of Silicosis, for instance, NHRC, India had been recommending a minimum compensation of rupees 300000 (later revised to Rs.4 lakhs), however, State of Gujarat is paying only Rupee one lakh to the victims who were confirmed cases of Silicosis.
2. Silicosis being a lung disease, patients constantly need Oxygen support but during the pandemic COVID-19, in the wake of the Oxygen crisis, these patients faced severe crisis. And the workers had to spend 2-3 lakh rupees on their treatment. He emphasized need of passing the Right to Health Bill which is pending since 2019.

3. More than 90 per cent of workforce and about 50 per cent of the gross national product comes from the informal sector, (as per the National Statistical Commission Report, 2012). And in 1999, the Indian Council of Medical Research reported that around 3.0 million workers are at high risk of exposure to silica dust. Prevalence of silicosis (37.3%), silico-tuberculosis (7.4%) and other respiratory morbidities are high among the mine workers, as per the case study done in Rajasthan.
4. Between 2005 and 2019, several cases relating to the victims of Silicosis have been heard in the Supreme Court as well as in specific State High Courts, often on behest of National Human Rights Commission (NHRC). As a result, the Supreme Court of India recognized severe violations of the concerned laws by the concerned industries and directed NHRC, India in 2009 to recommend compensation to families of Silicosis victims. National Human Rights Commission (NHRC), India has submitted a Special Report to the parliament of India on Silicosis for addressing the issue and “to pass a suitable legislation having provisions for immediate relief and suitable compensation in all reported cases of silicosis”.
5. He drew attention of the Commission towards closure of many Cases by them without addressing or taking compliance many policy issues which, are still pending., Such as making and/or Implementation of the Rehabilitation policy on Silicosis by various State Governments. Only State of Rajasthan and Haryana have such made policy, however the state Madhya Pradesh, though has a Draft Policy on the issue in place but not yet notified, the government of NCT OF Delhi has been promising the Commission that they have made Policy on the issue but never Notified it. Further no other state government than the state of Haryana, Rajasthan and Jharkhand has come out with such policy. NHRC has submitted National report on silicosis to parliament of India but many recommendations suggested by NHRC is still pending. The larger issues of prevention, standard treatment guidelines, Notification of disease by all medical doctors and clinical establishments, monitoring of dust level has not been actively addressed.

**Recommendation made:**

- The workers should receive free packages and free healthcare check-ups and gaps in the medical service should be plugged.
- NHRC should take lead in drafting Right to health Act in India. (Public health Act, Epidemic Disease Act, National Disaster Management Act has been used during Pandemic but this is not sufficient);
- NHRC advisories on Health are very useful, but there is need for developing a monitoring mechanism to implement these advisories. He said that his organization have submitted draft

Monitoring tool based on Advisory on Right to health and discussion was going on with NHRC officials which need to be finalised soon.

- There should be special package for victims of occupational disease like SILICOSIS for their survival in pandemic times specially for the unorganised workers.
- Real-time data base should be available to support each & every victim.
- In ongoing supreme court case NHRC intervention should be active and sustained.
- Many cases related to silicosis and occupational health should continue to address the larger issue of Prevention, Monitoring of dust level, Diagnosis, Gaps in health services and notification of disease. Regular medical services should not interrupt in any situation for these groups. NHRC role is crucial in new Public Interest Litigation on Private sector regulation filed by JSA.

## **8. Digvijay and Nusrat Khan – UNDP Representatives:**

1. Discussing about the development of a mechanism for monitoring and identification of critical points for sustainable development goal, they said that SDGs are transformative in nature and essentially human rights based in consonance with international principles.
2. NHRC play a huge role in the development of credible source of intervention within country for human rights observation and violation.
3. NHRIs are bridging, gaps through institutes and CSOs, for inclusion of marginalized people. NHRI, INDIA and the UNDP can work more closely on many issues.

### **Recommendation made:**

- NHRC should introduce responsible business practices in India along with housing education and make access to justice easier.
- NHRC should ensure sustainable and responsible business practices in India with robust set of legislation/labour codes to ensure that it is in line with SDGs.

## **9. Henri Tiphagne: Shared his valued insight into the NPA on HRDs, International development and the Road Ahead:**

1. He Aplauded that 169 national and state HRIs - of human rights and parliament community exist in India and that is something which is hardly complimented.
2. Some critical questions were raised by him:



- a. Closure of cases on the ground of being subjudice, by the Commission;
- b. Not following Practice Direction No. 17 of February, 2002;
- c. Registration of all the cases filed by HRDs should be categorized as HRD cases;

He stated that he has given number of representations on these issues; however, no action has been taken. Therefore, these matters should be discussed in Full Court of the Commission (though this practice of hearing of the Full Court of the Commission has been abandoned for very long);

3. The National Action Plan(NAP) was mandated in 1993 in Vienna. However, for 30 years, it has not been brought in practice.
4. The Focal Point for HRDs used to be at Joint Registrar level and it was decreased to the level of Deputy Registrar and now to the level of Assistant Registrar. The lowest rung in the hierarchy.

### **Recommendations:**

1. Modeling a law on HRDs in collaboration with HRDs and CSOs.
2. Ensure a Protection Policy for Human Rights Defenders.
3. The Focal Point should be full time position. And he should be drawn from Civil Society Organizations.
4. Examine and analyze the cases which breach freedom of expression, association and assembly.
5. The Commission should send Special Report(s) to the Parliament, u/s 20 of Protection of Human Rights Act, 1993, on HRDs.
6. Domestic Guidelines should be drawn to safeguard HRDs and also for intervention in cases of HRDs, before the courts, u/s 12(b) of the Protection of Human Rights Act, 1993.
7. The focal point should be at highest possible level in the hierarchy because the Human Rights Defenders do not deserve to be dealt by lowest rung officers of the NHRC.

### **General Discussion:**

**Hon'ble Chairperson Justice Sh. AK MISHRA:** pointed out that no evictions should take place without following due procedure of law. Further the Commission will look into distribution of land and the unimplemented policy, and the issues surrounding the same.

**Henri Tiphagne:** There should be review of laws on disability in India as well.

**Hon'ble Chairperson NHRC:** NHRC would be made more accountable and directions would be given accordingly. Minutes for the same shall be recorded with real time monitoring.

**Hon'ble Member P C Pant:** Summarizing the discussion during the webinar, he stated that such practice should continue in the future.

**Hon'ble Chairman NHRC:** NGOs and CSOs should approach the Commission through the online mechanism, for speedy redressal of complaints and grievances. He assured of taking action for development of communities in the North-east particularly the land issues and other issues discussed in the meeting.

**Secretary General NHRC:** CSOs and NGOs rose to the occasion despite constraint and bottlenecks by the government. Further he stated that another meeting will be held in the 3<sup>rd</sup> or 4<sup>th</sup> week of August 2021.

**Vote of Thanks:**

A vote of thanks was delivered by Registrar Law, NHRC.

\*\*\*\*\*