

Minutes of 30th Foundation Day of National Human Rights Commission Celebration on 12th October 2022 at Bhim Auditorium, Ambedkar International Centre, New Delhi

1. The National Human Rights Commission (NHRC), India, celebrated its **30th Foundation Day** on 12th October 2022 at Bhim Auditorium, Dr. Ambedkar International Centre, Delhi. Mr Jagdeep Dhankhar, Hon'ble Vice President graced the Inaugural Session as the Chief Guest. Apart from the NHRC Chairperson, Members, senior officials, and staff of the NHRC, the event also saw an attendance of Chairpersons, Members and senior officials of State Human Rights Commissions and deemed members of the NHRC, representatives from the State Governments, NHRC Special Rapporteurs and Special Monitors, retired judges of Supreme Court as well as Delhi High Court, civil society organizations and NGOs.

2. Speech delivered by the Chief Guest Mr Jagdeep Dhankhar, Hon'ble Vice President can be accessed at: <https://nhrc.nic.in/interviewsspeechmessages/honble-vice-president-shri-jagdeep-dhankhar-address-28th-national-human>

3. Welcome address delivered by Mr Justice Arun Mishra, Hon'ble Chairperson, NHRC can be accessed at: <https://nhrc.nic.in/interviewsspeechmessages/nhrc-chairperson-justice-shri-ak-mishra-address-29th-national-human-rights>

4. The video record of the proceedings of the session can be accessed at: <https://webcast.gov.in/nhrc>

Technical Session

5. Inaugural Session was followed by a technical session on “Strengthening of Bonds with the State Human Rights Commissions and State Governments/ UT Administrators”. **Mr Justice Arun Mishra**, Chairperson National Human Rights Commission, chaired the session. . The main agenda of the meeting can be accessed from https://nhrc.nic.in/sites/default/files/NHRC_Agenda_NHRC-SHRC2022.pdf, and the supplementary agenda of the meeting can be accessed from <https://nhrc.nic.in/sites/default/files/NHRC-SHRCSupplementary%20Agenda.pdf>

5.1. Agenda for the first part of the **technical session included feedback by the SHRCs** on:

- Progress in the implementation of decisions taken in previous NHRC-SHRC meetings held;
- On-boarding and use of NHRC Net Portal;
- Better coordination between the NHRC and SHRCs

5.1.1. Initiating the discussions, the NHRC Secretary General, **Mr Devendra Kumar Singh**, made a Power Point presentation in his welcome address. During the presentation he gave a brief overview of deliberations held during previous NHRC-SHRCs meetings, formation of a Common Program Committee for better coordination between the NHRC and SHRCs; role of the NHRC in ensuring international presence; research on of Treaties and draft Bills; trend analysis of the cases registered and cases disposed of, compensation recommended and cases of deaths in custody in the past three years; the HRCNet Portal, a State wise trend analysis of human rights situation, and major achievements of the Commission in the recent past.

5.1.2. The NHRC Member, **Mr Rajiv Jain**, highlighted the need to use the common HRCNet portal for management of complaints. He explained in brief, how on-boarding of SHRCs on the HRCNet Portal would reduce duplicity, ensure quick decisions and help various authorities to monitor, on a real-time basis, the pendency of cases. Although the SHRCs are continuously making efforts, he said that only 11 of the 26 SHRCs have been able to fully onboard the HRCNet portal. To raise awareness of human rights issues, Mr. Jain also suggested that NHRC and SHRC may observe important International and National Days by visiting places related to these Days. He also highlighted the need for setting up a Human Rights Index to reflect the comparative status of human rights situations in various States/UTs.

5.1.3. Continuing the discussion, **Dr D.M. Mulay**, Hon'ble Member NHRC highlighted the need to strengthen collaboration between SHRCs and universities, colleges & schools through regular organization of conferences and seminars. He suggested exploring possibilities of having senior NHRC officials as resource persons for such awareness sessions. He also urged the SHRCs to have documentation in the form of reports and newsletters for awareness purposes. Furthermore, he urged the SHRCs to form a rapport with NHRC Special Rapporteurs and Special Monitors for coordinated efforts. Finally, he noted with deep concern that in spite of a supreme court direction CCTVs installed in the majority of police stations to monitor and prevent custodial violence, including custodial death, are not functioning properly. He urged the SHRCs to take up the matter with concerned State authorities to ensure the proper functioning of these CCTVs.

5.1.4. **Mr Justice M.M. Kumar**, Hon'ble Member, NHRC urged urgent steps to strengthen the bond between the NHRC and SHRCs. He highlighted the need to implement the Mental Healthcare Act, 2017 in all mental healthcare institutions and urged the SHRCs to coordinate with the States. He noted with concern the slow pace in receipt of response from States on the status of implementation of the Act and establishment of State Mental Healthcare Authorities. He also highlighted the importance of Halfway Homes and the need to discharge the patients who have been cured of mental illness. He urged the SHRCs to ensure implementation of relevant provisions of Section 463A of the Criminal Procedure Code to release eligible prisoners on bail.

5.2. The NHRC Chairperson, **Mr Justice Arun Mishra**, initiated his talk by reminding the present gathering that this is the third meeting between NHRC and SHRCs during a period of last one year. He drawn attention of SHRCs to three important human rights issues. The first issue was the plight of individuals involved in handling municipal and sewage waste and cleaning of sewer lines. He noted with deep concern that even in the twenty-first century people are forced to clean sewer lines manually. Although compensation has been granted in cases under orders by the Hon'ble Supreme Court, he added that the Commission has been taking cognizance of such incidents to ensure that the NHRC Advisory, especially on the provision of safety gears and use of machines for cleaning of sewer lines, is followed in the right and genuine sense. Justice Mishra said that inspite of NHRC Advisory, the matter is not receiving requisite attention. He highlighted that the cost of safety gears for persons involved in cleaning of sewer lines can easily be afforded by local authorities and that they should ensure that all persons involved in cleaning of sewer lines are positively provided with these safety devices.

5.2.1 The second issue highlighted by Justice Mishra was the sad condition of the mental healthcare institutions in the country. He noted with deep concern that the patients who have been fully cured are still languishing in these hospitals. He added that the day has come now to initiate appropriate actions, as per law, against the family members who are not willing to take back their kin who have been fully cured of the mental illness. He urged the SHRCs to persuade the state authorities to establish adequate number of functional Halfway Homes. He suggested that cooperation of NGOs and business houses in the establishment and operation of Halfway Homes may be solicited.

5.2.2 Finally, Justice Mishra suggested working towards a policy to compensate victims of human rights violations. He suggested that norms for payment of compensation to victims of human rights violations or their next of kin need to be formulated to ensure timely disbursement of compensation to them. Citing a few success stories of the Commission, Justice Mishra said that the places where there is a deprivation of liberty should not be the places of exploitation but rather the places of service.

SHRCs:

5.3.1. The Chairperson of the **Odisha SHRC** said that the administrative department for the Odisha SHRC is the Law Department which is mainly manned by judicial officers on deputation. While interacting with representatives of other SHRCs, he realized that in majority of States, the administrative department for SHRCs is the Home department. There is a lack of uniformity all across India. He believes that Home departments are more effective in coordinating with other government departments to effectively sort out the problems of the Commission. He suggested that in each State, one Department may be designated as a Nodal Department to deal with all matters. He stated that in the absence of allocation of adequate budget the SHRC Odisha is finding it difficult to engage adequate number of research and legal Assistants to ensure timely processing of complaints and to perform other assigned duties.

5.3.2 The Member of the **Karnataka Human Rights Commission** stated that SHRC Karnataka does not have jurisdiction to visit the NIMHANS, a Central Mental Health Care Institute located in Karnataka. He suggested that the NHRC may advise the NIMHANS to work in close coordination with the Karnataka SHRC for effective implementation of the Mental Healthcare Act, 2017. In response, Hon'ble Chairperson NHRC advised that in case SHRC Karnataka desires to visit NIMHANS, they may request the NHRC in writing well in advance so that the NIMHANS may be advised to facilitate such visits. Mr. Rajiv Jain, Hon'ble Members advised that the SHRCs may concentrate to ensure effective functioning of the State run Mental Healthcare Institutions in their respective jurisdiction. Secretary General, NHRC informed that as per the recent inspection reports of NHRC Special Rapporteurs, Central mental healthcare institutions located at Tejpur in Assam, and Koilwar in Bihar and NIMHANS at Bangalore are functioning effectively. The Secretary General, NHRC further stated that the Commission has recently visited Mental Healthcare Institutions at Gwalior, Agra and Ranchi to have first-hand knowledge of working of these institutions and implementation of safeguards provided under the Mental Healthcare Act, 2017 for protection of human rights of persons with mental illness. During these visits, the Commission held detailed discussions with the stakeholders. All the remaining Government run Mental Health Institutions in the country are being inspected by Special Rapporteurs of the Commission. He further stated that the Commission proposes to organise a day long Workshop to identify the issues and challenges in effective implementation of safeguards provided under the Mental Healthcare Act, 2017 for protection of human rights of persons with mental illness and to suggest pragmatic solutions to address these issues in a time-bound manner. He further stated that eminent experts in the field of mental healthcare, senior officers dealing with mental healthcare in the Union of India and States/Union territories and Directors of all Government run Mental Healthcare Institutions are proposed to be invited to the Workshop.

5.3.2.1. The Member of the **SHRC Karnataka** further stated that in case of custodial deaths, reports are sent to both State and National Commissions and in several cases cognizance is taken by both these institutions. In a previous meeting, it was decided that whoever takes cognizance first shall continue with the complaint. He suggested division of subjects between National and State Commissions to reduce duplicity in such cases. For this, he suggested, the subjects that are purely state related may be dealt by the State Commissions as it will be easier for them to deal with State authorities. He further suggested that complaints relating to subjects having inter-state and national ramifications or central government

jurisdiction can be taken up by NHRC. In reply, Chairperson NHRC stated that the idea of dividing subjects is very attractive but it is the choice of the complainant to register the complaint with the desired institution which we cannot limit and compel within the framework as it stands today. He stated that it will not be difficult to implement recommendations of the NHRC as all such recommendation are normally accepted by the State Authorities. He suggested that as of now we may continue with the current practice, where whoever takes the cognizance first, continues with the complaint. Use of HRCNet portal may eliminate duplication in handling of complaints.

5.3.3. Chairperson of the **Telangana State Human Rights Commission** stated that in case of judicial matters whenever a case is registered Government Pleader immediately reports the same to the Nodal Officer appointed for the purpose in the State Government. The Nodal Officer arranges to provide the required response expeditiously. He suggested that State Government may be advised to appoint a similar Nodal Officer to deal with communication received from NHRC and SHRC. The same will expedite disposal of complaints. He further stated that the Government of Telangana has issued a notification to designate Additional District Judge-1 (ADJ-1) of each district as judge of the Human Rights Court. It is now easier for the people in Telangana to deal with cases at the district level itself, rather than approaching the State level and National level bodies every time. He suggested that the same may be replicated in other States too. He further suggested that SHRCs may have regular meetings with State level sister Commissions such as State Commission for Women, State Commission for Schedule Castes, State Commission for Scheduled Tribes *etc.* to facilitate coherent and coordinated actions for protection of human rights of vulnerable sections of the society.

5.3.3.1 In reply to the point raised with respect to the establishment of human rights courts, the Hon'ble Chairperson of NHRC stated that the problem lies with the identification of cases which may be dealt exclusively by these courts. About the Nodal Officer, the Hon'ble Chairperson said that the States are being requested for the purpose.

5.3.3.2. Chairperson of the **Telangana SHRC** further stated that actions are being taken by the SHRC Telangana to ensure proper implementation of the Mental Healthcare Act, 2017. He added that the SHRC visits schools, hospitals, institutes for social welfare, colleges, and universities to inspect them and spread awareness about human rights. He stated that officials at the district and State levels need to be sensitised about their duties and responsibilities for protection and promotion of human rights.

5.3.4. The Chairperson of the **Kerala SHRC** suggested that actions may be initiated to amend the Protection of Human rights Act, 1993 to make recommendations of the National Human Rights Commission and State Human Rights Commissions binding/enforceable on the respective authorities.

5.3.5. The Chairperson of **Bihar SHRC** stated that whenever he asks for the list of pending cases in his office, he always receives two lists, one from the 2019 HRCNet portal and other from the old portal. To get complete data on pending cases he has to consult two portals, HRCNet portal for the cases which were registered after 2019, and the old portal for the cases which were registered prior to 2019. He suggested that the NHRC may create another portal that can give the full data. Shri Rajiv Jain, Hon'ble Member NHRC stated that as per the information provided to him in the case of Bihar migration of old data into the new portal is still in progress. Once all the old data are migrated to the HRCNet portal, information relating to all the cases can be retrieved from the HRCNet portal. He advised the Chairperson of Bihar SHRC to expedite and complete migration of all old data to the HRCNet portal to obviate the need to use two different portals to get information on pending cases. He further stated that problem arises if both NHRC and SHRC entertain complaints relating to a same incident and give diverse findings. Use of a common HRCNet portal, having facility to check duplicity by the NHRC and all the SHRCs will

prevent such findings. He therefore urged all the SHRC to onboard the HRCNet portal at the earliest. So far 11 SHRCs, including the Bihar SHRC have partially on boarded the HRCNet Portal. Responding to the question regarding measures to be taken to prevent the cases where cognizance of a single incident is taken by both SHRC and NHRC, we may standardize the common complaint features such as place of occurrence, date of occurrence, name of the complainant, name of the victim, *etc* which may mandatory be entered in each complaint. Once all SHRCs onboard the HRCNet Portal and common complaint features are standardized and incorporated in all complaints, it will be very easy to detect duplicate complaints relating to a single incident.

5.3.6. The Chairperson of the **Himachal Pradesh SHRC** highlighted delay in placing Annual Reports of the SHRC before the Legislative Assembly. He stated that though the Annual Reports of the SHRC have already been provided to the State Government, the same have not been placed on floor of the State Legislature. He was of the view that Annual Reports of SHRC alone are required to be placed on floor of the State Legislature. Mr. Justice M.M. Kumar, Hon'ble Member, however clarified that Annual Reports of both SHRC and NHRC along with memorandum of action taken or proposed to be taken on the recommendations of the Commissions are required to be placed before the state legislature. Chairperson, NHRC advised the Chairperson SHRC Himachal Pradesh to take up the matter with the Nodal Department dealing with issue in the State Government.

States and Union territories

6.1. The second part of the **technical session was on feedback by the State Governments and UT Administrators** on:

- Laying the annual report of NHRC before the state legislature
- Implementation of Advisories issued by the NHRC
- Cases where a reply sought by the NHRC is awaited
- Cases where proof of payment of compensation to the victims or the next of kin in compliance with recommendations of NHRC are awaited
- Progress in the implementation of the Mental Healthcare Act, 2017
- NHRC recommendation on policy for payment of compensation for death in custody
- NHRC recommendation on laws/provisions discriminatory to persons suffering from leprosy
- NHRC Recommendation on death in septic tank/sewer cleaning
- NHRC recommendation on death due to electrocution

6.2. Representatives of Uttar Pradesh, Telangana, Meghalaya, and Jammu & Kashmir were only present. They all highlighted that the NHRC Advisories had been marked to the concerned departments,

ensuring its implantation. The states have also been sending compliance reports on the action taken on the advisories to NHRC.

6.3. **Additional Director General of Police (Human Rights)** in the Uttar Pradesh Government stated that office of the Director General (Police) in the Government of Uttar Pradesh is maintaining a close liaison with Law and Investigation Divisions in the NHRC and efforts are being made to provide information sought by the NHRC expeditiously. He said that out of the 144 cases relating to rights violations by the police, reports sought in 115 cases have already been provided to the NHRC. Out of the total 32 cases where NHRC recommended monetary compensation, the same has already been disbursed in 21 cases. Out of the total 1,495 cases for the whole of the State of Uttar Pradesh, where report have been sought, the reports in 925 cases have already been provided. He assured that information sought in all the remaining cases will positively be provided to the NHRC before the close of the financial year.

6.3.1 The ADG (HR) pointed out that communications from the NHRC are often addressed to the Chief Secretary or the DG (Police). Many a times these communications do not reach the concerned District or Division level authorities in time. He requested that a copy of all such communication may also be endorsed to all concerned district and state level authorities too. He also pointed out that the appointments of Special Rapporteurs were not communicated to them and they had learned about them through the NHRC website. He also talked about the various awareness camps conducted across the state. He stated that they are also planning to hold an intra-departmental debate competition. In the 12 police training institutes and 6 temporary institutions, proper courses on human rights have been introduced to sensitize the newly recruited police personnel. He also stated that in the reports of compliance for SHRC, the State also marks a copy to the NHRC for information.

6.3.2. To promote the protection and promotion of human rights, the ADG requested the NHRC to felicitate genuine human rights defenders annually and also to hold more awareness activities such as quiz and essay competitions, at university levels.

6.4. The **Principal Home Secretary, Telangana Government** said only 89 cases of rights violation are pending to NHRC. He stated that for the cases of rights violations by the state police, an online mechanism has been developed by the State to monitor the cases regularly. He requested that the State may be given access to the HRCNet Portal to download relevant documents. In reply, Mr. Rajiv Jain, Hon'ble Member NHRC stated that login ID and password have been provided to all States/UTs to view and down load documents pertaining to them from the HRCNet portal and also to upload their response/reply review on the portal. He advised that the States may use the HRCNet portal for expeditious decision on complaints.

6.5. The **Deputy Secretary (Legal), Home Department, J&K Administration** informed that majority of the communications issues by the NHRC do not reach the Home Department. The same results in delay in submission of requisite reply/information to the NHRC. He therefore suggested that a copy of all communication from the NHRC, especially those relating to the Home Department, may be endorsed to Home Department. He assured that a consolidated information sought by the NHRC in respect of all cases relating to police will be provided to the NHRC soon. He further stated that concerned department and regularly following up to ensure implementation. Regarding the custodial death cases, he assured that timely action is being taken. He further stated that the matter is regularly pursued with all concerned departments and authorities in the State for implementation of NHRC advisories.

6.6. **Mr Justice M.M. Kumar, Hon'ble Member NHRC in his concluding remarks urged** representatives of States/ UTs to ensure proper implementation of the Mental Healthcare Act, 2017, and send information sought by the NHRC.

7. On a query regarding provisions for the maintenance and welfare of the elderly, **Mr Surajit Dey**, Registrar (Law), NHRC suggested that provisions of Section 125 of the Criminal Procedure Code may be invoked to ensure the protection and promotion of rights of the elderly.

8. The **Chairperson, Telangana SHRC** suggested that Human Rights Courts should be made functional at the district level for easy promotion and protection of the rights of the people. The suggested that such SHRC-NHRC coordination meetings may be held more regularly. Agreeing to the suggestions . Mr Justice Arun Mishra, Hon'ble Chairperson, NHRC stated that efforts will be taken nodal officers should be appointed in every state to coordinate between the NHRC. Regarding the Human Rights Court, Justice Mishra pointed to the concern of the decision of what cases should be dealt with by such courts.

9. Concluding the Session, **Mr. Justice Arun Mishra**, Hon'ble Chairperson, NHRC appreciated the work every SHRC and State is doing to promote and protect the human rights. Justice Mishra said that India is the only country and the only NHRI that has such a large mandate and a large coordinated team. He requested that 26 SHRCs and the NHRC shall work together as a team to ensure the protection of and promotion of human rights in the Country.

10. The meeting ended with a vote of thanks by Mr **H.C. Chaudhary**, Joint Secreray, NHRC.
