

**MINUTES OF THE FIRST MEETING OF THE RE-CONSTITUTED CORE
GROUP OF NGOs HELD ON 10.02.2012 AT 11.00 AM IN THE NATIONAL
HUMAN RIGHTS COMMISSION, NEW DELHI**

The first meeting of the re-constituted *Core Group of NGOs* was held in the National Human Rights Commission on 10.02.2012 at 11.00 AM under the Chairmanship of Justice Shri K.G. Balakrishnan, Chairperson, NHRC.

The list of participants is at Annexure 1.

The interaction began with the Chairperson, Justice Shri KG Balakrishnan, welcoming the members of the Core Group. He stated that the NHRC deeply values the contributions of NGOs and civil society in making the functioning of the Commission more effective and also expressed hope that the Members of the Core Group of NGOs will extend their cooperation and support in jointly addressing human rights challenges.

The Chairperson stated that the NHRC is dealing with a staggering range of human rights issues and problems. Even within a single area of human rights concern, there is a multiplicity of challenges to be addressed. For instance, with regard to the Rights of Children, there are numerous challenges to be addressed, including the issue of child labour, right to education, child abuse etc.

The NHRC has witnessed a sharp increase in the number of complaints it has received since its inception. While the Commission received a mere 496 complaints regarding human rights violations in 1993, the year of its establishment; during 2010-2011, the Commission registered 84,611 fresh cases and completed action in nearly 80,000 cases, indicating not only a growing rights awareness among the people, but also the increased faith they have reposed in the Commission for safeguarding their rights.

Agenda 1: Confirmation of the Minutes of the last meeting held on 26.11.2010

The Members confirmed the Minutes of the last meeting of the Core Group of NGOs held on 26.11.2010

Agenda 2: Action taken report on the Minutes of the last meeting held on 26.11.2010

The Action taken report on the minutes of the last meeting held on 26.11.2010 was discussed and taken note of by the Members.

Agenda 3:

(i) Submission of complaints by NGOs at NHRC without authorization by the victim – Proposed by the NHRC

It was presented that the Commission had been receiving numerous complaints from NGOs on behalf of victims of human rights violations and

that, often, these complaints are based on print/electronic news reports. In the case of such reports, it was difficult to ascertain if the NGO had obtained the authorization of the victims to file the complaint on their behalf.

The Chairperson stated that while the NHRC is not overly concerned with the issue of 'authorization' by the victim, in certain cases, it has been the experience of the Commission that after deciding a particular case, the concerned victim has denied having authorized the filing of the complaint on her/his behalf. In such instances, the issue of authorization becomes a challenge. It is therefore, important that the NGO filing the complaint verify/scrutinize the facts of a case before submitting it for investigation to the NHRC.

Section 12(a) of the PHR Act, 1993, mandates the Commission to inquire, *suo motu* or on a petition presented to it by a victim or any person on his behalf into complaints of human rights violations.

Member Shri PC Sharma stated that it would be useful if the person or NGO making the complaint has some personal knowledge of the case or the victim on whose behalf the complaint is being registered.

Shri Mathews Philip, South India Cell for Human Rights Education & Monitoring (SICHREM) stated that while most NGOs or human rights organizations seldom file a complaint without conducting a preliminary investigation into the case, in many instances it is simply not possible to undertake a fact-finding exercise. This could be on account of various factors

such as a lack of expertise on the part of the NGO, lack of resources to investigate or simply the inaccessibility of an area where the victim(s) are located. Hence, in some instances, the most that an NGO can do is submit basic information regarding a case to the NHRC and/or other Commissions. It is important that the NHRC continue to investigate such cases even in the absence of explicit consent or authorization from the victim.

Shri Suhas Chakma, Asian Centre for Human Rights (ACHR) said that it should be left to the discretion of the NHRC to decide which cases it should take up and which cases it may dismiss. The NHRC can dismiss a case where it feels the complaint is unsubstantiated or where it is difficult to ascertain the identity of the victim or reach him/her. The NHRC should remain accessible to NGOs to file complaints on the behalf of the victims of human rights violations, but it will be in the larger interest of the victim if the NGO concerned can conduct an inquiry into the case to get a fair idea of the issue/case at hand.

Shri Baghambar Patnaik, Odisha Goti Mukti Andolan suggested that the NHRC could make it mandatory for the NGO/person/organization filing a complaint on behalf of a victim to declare that they know the victim(s).

Member Justice Shri GP Mathur stated that it might be difficult and perhaps even undesirable to insist on such a declaration by the NGO filing the complaint.

Dr. Ruth Manorama, National Alliance of Women (NAWO) stated that a large number of people come to the NHRC for the redressal of their

grievances, especially when they have been denied the course of justice. The NHRC thus, symbolizes to them an institution which can give them justice. Thus, no restrictions must be placed on the filing of complaints at the NHRC on behalf of victims of human rights violations.

(ii) Hunger strike of Ms. Irom Chanu Sharmila, a Manipuri activist and poet – Representation from the Save Sharmila Solidarity Campaign

The Chairperson stated that a number of people have approached the NHRC to intervene in the matter concerning Ms Irom Sharlima. He informed that the issue concerning the revocation of the Armed Forces Special Powers Act (AFSPA) is a government policy matter. Complaints had also been received by the Commission alleging that some persons were not allowed to meet Ms Sharmila, on which the NHRC had taken action, but had been unable to get a response from the complainants.

Shri Suhas Chakma pointed out that Ms Sharmila's demand was for the repeal of the AFSPA and that it would be very difficult to persuade her to give up the hunger strike. The issue of the repeal/amendment of the AFSPA is presently being considered by the Ministries of Defence and Law. He suggested that the NHRC could visit Ms Sharmila as a token gesture of goodwill and solidarity. The Commission's visit will help in tiding over the criticism leveled against the Commission of ignoring Ms Sharmila. Further, the NHRC must also direct the state government to allow people to meet Ms Irom Sharmila.

Dr. Ruth Manorama supported the suggestion and added that the NHRC could perhaps consider undertaking a study on the AFSPA and what amendments could be made to it.

Member Shri PC Sharma stated that the positions of all sides, including the NHRC, on the issue were clearly known and that the NHRC can at best lend moral support to Ms Irom Sharmila.

Dr. Ruth Manorama and Shri Mathews Philip inquired if the NHRC could use its mandate to contribute its views on the amendments to the AFSPA?

Member Shri Satyabrata Pal stated that the Supreme Court of India had held that the AFSPA is a valid law. He added that what the members of the Core Group were requesting for was the NHRC to re-iterate its position on the AFSPA.

Shri Suhas Chakma stated that what was required was greater transparency on the part of the Home Ministry on the debate on the AFSPA and to make public, the proposed amendments to the Act.

Agenda 4: “Right of rehabilitation of torture survivors in the UN Convention on the Rights of Persons with Disability” – Proposed by Dr. Lenin Raghuvanshi, Convener, Peoples Vigilance Committee on Human Rights (PVCHR)

Dr. Lenin Raghuvanshi, PVCHR stated that compared to other International Conventions, the Convention on the Rights of Persons with Disabilities (CRPD), to which India is a state party, provides perhaps the most nuanced and comprehensive definition of 'disability'. The NHRC, added Dr. Lenin Raghuvanshi, provides compensation to survivors of torture.

Member Shri PC Sharma informed that all complaints on torture which come up for consideration of the Commission are closely scrutinized and compensation awarded in cases where it is established that torture has taken place. He added that even though the Torture Bill has not been passed by the Parliament, the NHRC continues to award compensation to victims of torture and those who have been disabled owing to acts of torture.

Member Shri Satyabrata Pal stated that there was a huge difference between the legislation on torture passed by the Lok Sabha and the suggestions made by the Select Committee on the Torture Bill. He added that if the Select Committee's recommendations were to be accepted, India would perhaps have the strongest legislation against torture in the entire region. He however, cautioned against re-opening the debate, which he felt might weaken the Bill further.

Agenda 5 – Proposed by Shri Baghambar Pattanaik, Odisha Goti Mukti Andolan

- i) Hereditary & Caste-based bondage**
- ii) Untouchability**

iii) Promoting Human Rights

iv) Complaint Mechanism

Shri Baghambar Pattanaik, giving a background on the issue stated that hereditary and caste-based bondage continues to be practiced across the country in various forms and under different nomenclatures. He emphasized the need for a study on the issue, the report of which, he suggested, must be submitted to the Central and State Governments for their necessary action.

He was deeply appreciative of the efforts of the NHRC which had led to the identification of the customary '*bartan*' system as debt bondage and had subsequently led to the abolition of the practice by the Government of Odisha. He further pointed out that land-based bondage is another grievous affront to human dignity which continues to be practiced in the country. There is a need therefore, to identify and ban this form of bondage/slavery, for unless that is done, it will become difficult to facilitate the release of those fettered by this form of bondage.

Hereditary bondage, Shri Baghambar Pattanaik added, also perpetuates untouchability. Thus, unless this form of bondage is rooted out, untouchability will persist. He also wished to draw the attention of the Members to the fact that the provisions of the CrPC dealing with untouchability are seldom applied in cases and places where 'habitual' untouchability prevails, that is, where untouchability has become the accepted norm.

Shri Baghambar Pattanaik informed the Members that based on the petition filed by him in the Odisha High Court, the Court has issued judgments regarding the implementation of the guidelines issued by the NHRC and Government of India on the conduct of inquiry into cases of bonded labour. He suggested that it must be inquired whether these guidelines and similar notification have been issued by other state governments as well.

He further added that as of now, the Central Government provides states with only 50 per cent of the grant for the purpose of the rehabilitation of those formerly engaged in bonded labour. The Government instead, must provide 100 per cent grant to the states for the purpose.

He also emphasized the need for providing requisite training and sensitization to Government officials on inquiring into cases of bonded labour and their release. In addition, Human Rights Courts must be set up in all states to ensure speedy trial and hearing of cases specific to human rights violations. Shri Baghambar Pattanaik also pointed out that at present, no SC/ST protection cells exist/operate in the states.

The Government of India must ratify the Optional Protocol to the International Convention on Civil and Political Rights (ICCPR), and the NHRC must pursue the matter with the government to ensure that it does so at the earliest.

He also requested the NHRC to set up an information database on the various international human rights instruments, India's ratification status,

reports submitted to the various Treaty Bodies by the Government of India and other such relevant information.

The Chairperson brought to the attention of the Members of the Core Group, the study commissioned by the NHRC on the status of SCs and STs in the country and the exhaustive report submitted thereof by Shri KB Saxena, detailing nearly 150 recommendations on how to address the various challenges to the protection of the rights of these vulnerable communities. The NHRC has requested the National Commissions for Scheduled Castes and Scheduled Tribes (NCSC and NCST) to pursue these recommendations with various stakeholders, including the government.

The Chairperson added that the importance of sensitizing public officials on issues concerning SCs/STs such as prosecutors, police personnel, and judicial officers, cannot be over-emphasised.

He further stated that the NHRC would request all state governments to set up SC/ST cells, if the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act provided for the constitution of such units/cells.

Responding to the request made by Shri Baghambar Pattanaik, the Chairperson informed him that the NHRC had all relevant information regarding International Human Rights Treaties, India's ratification status and other such details. The office will put up these details on the NHRC's website.

Member Shri PC Sharma stated that it is vital for the civil society to get actively involved in the protection of the rights and liberties of marginalized sections such as SCs and STs. As a starting point NGOs, human rights activists and other individuals and organizations, could send complaints regarding the violation of the rights of these sections of society to the NHRC and bring to its notice, issues and concerns pertaining specifically to them. He added that the Commission has not received any complaints relating to the *bartan* system per se.

Dr. Ruth Manorama stated that there is a grave and systematic violation of the rights of SCs and STs that takes place on a daily basis. NGOs working in the field have to deal not only with the police, but also dominant caste groups. Most times, the efforts of NGOs for the protection of the rights of SCs/STs, are met with stiff resistance, with countless instances of the forced disappearance and even murder of human rights defenders.

To address this problem therefore, Dr. Ruth Manorama suggested a long-term and wide-ranging campaign to bring to light the indignity to which SCs and STs are subjected daily. She suggested a year-long campaign, which could draw into its fold not just the NHRC and civil society, but other National and State Commissions as well. She further stated that while there are numerous NGOs working for the protection of the rights of SCs and STS, they remain relatively ineffective owing to a lack of strong institutional support. She expressed hope therefore, that through the association with the NHRC, the movement to protect and promote the interests of SCs and STs, would receive a fillip.

Shri Suhas Chakma stated that there are many campaigns for SCs and STs which have been launched by the Ministry of Social Justice and Empowerment and that there is a need to give a greater boost to these campaigns to raise awareness against caste violence and discrimination. He suggested that the NHRC could provide guidance on steering forward these campaigns and also engage the expertise of other Commissions to this end.

The Chairperson responded by stating that a plan was already underway for the NHRC to conduct public hearings across the country to address issues and concerns specific to SCs and STs. It is proposed to initiate these hearings in the states of Tamil Nadu and Gujarat.

The Chairperson added that he had written to the Chief Justices of all High Courts, requesting them to facilitate the setting up of Human Rights Courts in their respective states. As of today, human rights courts exist in all states. The problem however, is the question of the jurisdiction of these courts – what will their powers be, what kind of cases/offences can be tried by these courts etc. The State governments, in consultation with the High Courts, must decide on these matters and notify them so that these human rights courts can start functioning at the earliest.

Member Shri PC Sharma stated that while there is awareness regarding the caste system and even legislation on the issue, the NHRC has till date received very few complaints regarding caste-based discrimination or violation of human rights.

Shri Rakesh Jinsi stated that while there was awareness regarding caste atrocities and discrimination, there was a need to re-iterate the message through more innovative use of electronic and print media, such as the medium of the radio, which has an expansive reach. He added that it was also important to spread the word about which institutions a person or organization can approach and register their complaints with, in case they are subjected to caste-based discrimination, or know of others who may have been subjected to the same.

Dr. Ruth Manorama inquired about the Cell on SCs and STs set up by the NHRC and if the Core Group Members could work in close coordination with the Cell to take forward civil society's initiatives in this regard? She also suggested that these awareness campaigns be taken down to the level of schools and universities over the next two years, in collaboration with government agencies.

Ms. Puja Marwaha requested the NHRC to place information regarding the dates of the proposed public hearings on the NHRC's website to ensure maximum participation of civil society in this important initiative.

Shri Mathews Philip suggested that the NHRC should set up a Focal Point or Special Cell dedicated explicitly to dealing with/addressing the issues and concerns relating to SCs and STs.

The Chairperson informed the Members that in addition to a recently constituted 'Cell on Bonded Labour', the NHRC had also set up a 'Monitoring

Cell for follow up on the Recommendations of the Report on the Prevention of Atrocities against Scheduled Castes' prepared by Shri KB Saxena.

Shri Suhas Chakma requested the Chairperson to have wide consultations with lawyers, human rights experts, NGOs and civil society before drafting and sending these recommendations to the Law Commission.

DECISION:

It was decided that on the recommendations of the Commission on the KB Saxena Report on SCs and STs, the Action Taken Report received from States/UTs would be placed on the NHRC's website and updated from time to time.

The office will put up details regarding International Human Rights Treaties, India's ratification status and other pertinent details on the NHRC's website.

The Commission will write to the state governments regarding the setting up of SC/ST Cells in accordance with the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act.

It was decided that the dates and other relevant information on the proposed public hearings to be conducted by the NHRC would be put up on NHRC's website.

Agenda 6: Child Right to Quality Care – Proposed by Shri Rakesh Jinsi, SOS Children’s Villages of India, New Delhi

Shri Rakesh Jinsi stated that although children’s ‘right to quality care’ was not explicitly provided for in the UN Convention on the Rights of the Child (CRC), there are certain articles (Articles 3, 9, 18, 20, 25 and 27) contained in the Convention, which make an indirect reference to the provision of quality care to children, especially those living outside the ambit of parental support and care. These articles are based on two premises: (i) Principle of Necessity and (ii) Principle of Appropriateness (that is, providing a good environment to ensure that the child has access to quality care).

Shri Rakesh Jinsi emphasized that in India a large number of children live in the absence of any parental or social support or care, and that this problem is assuming serious proportions. He stated that there was an urgent need to establish a mechanism for the creation of child care institutions and for governing and regulating their functioning.

The Chairperson stated that the issue of providing quality child care is one which requires to be explored further through an in-depth study.

Agenda 7: Proposed by Shri Suhas Chakma, Asian Centre for Human Rights

- (i) The meeting of the Core Group of NGOs – placing the minutes on the website of the NHRC, periodicity of meetings**

- (ii) Cooperation on important human rights issues:**
- (a) Addressing human rights violations by the NHRC**
 - (b) Ratification of the UN Convention Against Torture by India, and,**
 - (c) Prevention of Torture Bill**

It was agreed to have at least two meetings of the Members of the Core Group of NGOs every year. Shri Suhas Chakma requested the NHRC to share the minutes/proceedings of these meetings with all concerned and put up the same on the NHRC's website for larger dissemination and information-sharing.

On a query on why the compensation awarded by the NHRC in the case of death in police custody varies across different cases, Member Justice Shri GP Mathur clarified that in cases where death occurs due to the overt action of the police, such as firing/torture etc., the compensation awarded is higher than in cases where death occurs due to negligence of the police personnel, such as death due to lack of appropriate medical care to the victim. In the case of the former, the NHRC awards a compensation of INR 5 Lakhs, while in case of the latter, the compensation awarded stands at INR 1 Lakh.

Shri Suhas Chakma suggested that the NHRC should put up this information on its website to enable the NGOs and NHRIs of other countries in the region to develop their own compensation standards. The NHRC, he added, must share its best practice of setting legal precedence through practice (as in the case of devising standards of compensation) with the public

at large and also, NHRIs and civil society organizations in other countries which look to the NHRC, India for guidance through its best practices, publications, guidelines etc on a host of human rights issues. Shri Chakma further suggested that the NHRC should compile a list and details of all cases where it has recommended the prosecution of public officials.

DECISION:

It was decided that the *Core Group of NGOs* would meet twice a year.

It was decided to prepare a Compendium of the Orders of the NHRC on all important cases and issues.

(8.) Additional Issues: Suggested by Shri Mathews Phillip, South India Cell for Human Rights Education & Monitoring (SICHREM), Bangalore

(i) NHRC's role in promoting Human Rights Education in Schools

Shri Mathews Philip was deeply appreciative of the efforts of the NHRC with respect to spreading human rights awareness and education in the country, but felt that a real difference could only come about if human rights education could be incorporated into the curriculum of schools and universities. He suggested that regional conferences with education secretaries/ministers be conducted on the matter.

Member Shri PC Sharma informed that the NHRC was already working in close cooperation with the NCERT on the question of including human rights education in the school curriculum.

JS (P&A) Shri Meena added that once the NCERT finalizes the human rights syllabus, the NHRC could recommend to all State School Education Boards to incorporate the same into their respective school syllabi.

(ii) *Strengthening State Human Rights Commissions (SHRCs)*

Shri Philip pointed out that SHRCs were not functioning effectively in states as a result of which people had little faith in these institutions. He was of the opinion that drastic measures were required to be taken to enable SHRCs perform better – whether in terms of greater resource allocation and/or training and orientation programmes for their staff.

Shri Chakma suggested that the NHRC should prepare a compendium of the orders and judgments delivered in various cases over the years, to make available to the SHRCs, a kind of a reference manual to enable them deliver more effectively. This would help the SHRCs to learn from the precedence set by the NHRC in various cases.

Member Shri PC Sharma expressed the inability of the NHRC to do much in the regard since it has no control over the functioning of the SHRCs. He added that the NHRC transfers cases to the concerned SHRC where the alleged

violation of human rights is only of a minor nature and not where the violation involved is of a serious or grave nature.

Member Shri Satyabrata Pal added that in cases where the NHRC feels that the concerned SHRC will be able to provide more expeditious justice, the cases are transferred to them.

Member Justice Shri GP Mathur stated that the NHRC provides funds to SHRCs for conducting seminars/human rights awareness programmes etc. if the SHRC approaches the NHRC with a request for the same.

Ms. Puja Marwaha stated that it is vital to provide SHRCs more resources and help them build greater infrastructural capacity to enable them to function effectively.

Shri Suhas Chakma inquired whether the NHRC could organize a public meeting, perhaps on 26 June, designated the 'International Day Against Torture', to discuss the Torture Bill which is pending before the Parliament's Select Committee?

On the issue of extra-judicial killing raised by Shri Mathews Philip, the Chairperson stated that the NHRC proposes to hold public hearings on the matter in the states of Maharashtra and Uttar Pradesh, from where among the largest number of cases of extra-judicial killing are reported.

DECISION:

The Chairperson stated that the issue of organizing campaigns would be put up for consideration before the Full Commission, which will discuss if each year could be dedicated to a specific issue/theme or human rights concern such as caste violence and discrimination, human trafficking, missing children etc.

The meeting concluded with a vote of thanks by the Chairperson.

ANNEXURE 1

Represented from NHRC

- (1) Justice Shri K.G. Balakrishnan, Chairperson
- (2) Justice Shri GP Mathur, Member
- (3) Shri Satyabrata Pal, Member
- (4) Shri PC Sharma, Member
- (5) Shri Rajiv Sharma, Secretary General
- (6) Shri Sunil Krishna, DG (Investigation)
- (7) Shri J.P. Meena, Joint Secretary (P&A)
- (8) Shri J.S. Kochher, Joint Secretary (Trg)
- (9) Shri A.K. Parashar, Joint Registrar (Law)
- (10) Shri B.S. Nagar, Under Secretary (Coord)
- (11) Shri T Raveendran, Section officer (Coord)

NGO Representatives

- (1) Shri Baghambar Patnaik, Odisha Goti Mukti Andolan
- (2) Dr Lenin Raghuvanshi, Peoples Vigilance Committee on Human Rights
- (3) Shri Mathews Philip, South India Cell for Human Rights Education & Monitoring
- (4) Ms Puja Marwaha, Child Rights and You
- (5) Shri Rakesh Jinsi, SOS Children's Villages of India
- (6) Dr. Ruth Manorama, National Alliance of Women
- (7) Shri Suhas Chakma, Asian Centre for Human Rights