



NATIONAL HUMAN RIGHTS COMMISSION OF INDIA

(REPORT FROM FORUM MEMBERS)

Presented by

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The National Human Rights Commission of India was set up on 12th October, 1993 under a Parliamentary enactment, namely, The Protection of Human Rights Act, 1993 in conformity with 'Paris Principles'. The Commission is an autonomous institution both functionally and financially with a wide mandate for better protection of Human Rights of the people of the country.

Dr. Justice A.S. Anand as Chairperson and Dr. Justice Shivaraj V. Patil, Justice Bhaskar Rao, Shri R.S. Kalha and Shri P.C. Sharma as Members of the Commission continued to serve.

During the year 2005-06, the Commission received 74,444 complaints. Against this, the Commission disposed of 80,923 complaints which included complaints carried forward from earlier years. In the first year of the establishment, the Commission received 496 complaints complaining violation of the Human Rights. The enormous increase in the number of complaints indicates the awareness of Human Rights among the people and the confidence the people have in the Commission.

On an average 93% of recommendations made by the Commission are accepted/ implemented by the Central / State Governments as the case may be.

As reported earlier, at the 10th Annual Meeting of the APF Forum at Mongolia, next of the kin of each of the 109 deceased persons were given monetary relief @ Rs. 2.5 lakhs in Punjab Mass Cremation case. During the year under report, the monetary

relief at the same rate was given to the next of the kin of the deceased in 85 cases amounting to Rs. 2,12,50,000/-. This was the case remitted by Supreme Court to the Commission.

The Commission deeply concerned with better protection of Human Rights continued its work on issues like terrorism and insurgency, torture, custodial death, prison reforms, rights of disabled, health, rights of mentally challenged, food security, education, rights of minorities, Scheduled Castes and Scheduled Tribes and internally displaced persons, etc.

On 11.11.1997, the Supreme Court entrusted to the Commission the responsibility of overseeing the functioning of three mental institutions. The Commission has been continuing its work through the Special Rapporteur. Due to continuous efforts of the Commission, during the year 2005-06 there has been a significant progress. It is heartening to note that more than 90% of the admissions are voluntary admissions in these hospitals consistent with the provisions of the U.N. Principles for the Protection of Persons with Mental Illness and Improvement of Mental Health Care (1999). There has been an overall shift from custodial care to treatment and rehabilitation. Cell admissions have been totally stopped and close wards are being progressively converted into open wards.

Since December, 1996, the Commission has been dealing with complaints alleging starvation deaths in Koraput, Bolangir and Kalahandi (KBK) districts of Orissa. The issue was also raised in writ petition in Supreme Court. On learning that the

Commission had taken cognizance of the matter, the Supreme Court allowed the Commission to deal with the matter and empowered it to issue enforceable recommendations and directions. The Commission after hearing the parties formulated a practical programme covering rural water supply schemes, public health care, social security schemes, water and soil conservation measures and rural development schemes. Much progress has been made in this regard due to monitoring of the programme. Shri Chaman Lal, Special Repporteur, after visiting the area has presented recently an encouraging picture of execution of theses schemes which was considered in the proceedings of the Commission dated 18.7.2006.

These remitted cases by the Supreme Court to the Commission and the Commissions proceedings clearly indicate the complementary and cooperative role of the judiciary and the Commission in serving the cause of Human Rights.

Economic, Social and Cultural Rights

There exist massive inequalities particularly in the developing countries which render the enjoyment of Human Rights illusory. Clearly realizing that political freedom would not be purposeful for the teaming millions of people who suffer from poverty and social evils unless economic, social and cultural rights are assured to them, the Commission, during the year 2005-06 has made intense and serious efforts towards realization of economic social and cultural rights.

In the Constitution of India, Part-III and Part-IV deal with Fundamental Rights and Directive Principles of State Policy. Part III relates to civil and political rights, Part IV talks of economic, social and cultural rights. Austin aptly stated that both “Fundamental Rights and Directive Principles” constitute conscience of the Constitution. The concept of socio and economic justice embodied in the form of Directive Principles is the most dynamic, flexible and revolutionary aimed at removing inequalities among the citizens.

The Supreme Court of India dealing with number of cases under Article 21 of the Constitution of India as to life and liberty has delivered several landmark judgments meaningfully expanding the concept of “Right to Life” to mean right to live with human dignity and all that goes with it.

International Round Table on National Institutions Implementing Economic, Social and Cultural Rights

The Commission in collaboration with the Office of the United Nations High Commissioner for Human Rights (OHCHR) organized a three-day International Round Table on National Institutions Implementing Economic, Social and Cultural Rights at New Delhi from 29th November to 1st December, 2005 mainly to discuss and strengthen the role and capacity of National Institutions in protecting and promoting economic, social and cultural rights (ESCR).

Twenty-four National Institutions from countries in America, Africa, Europe and Asia-Pacific participated in the Round Table. A declaration called the 'New Delhi Declaration' was adopted by the delegates at the conclusion of the Round Table.

Rights of Disabled

Clearly bearing in mind that the persons with disabilities are equally entitled to a full range of Human Rights like any other section of people, the Commission has been making efforts to create awareness at all levels of training for the administrators and other professionals. The Commission has advised Government of India and the State Governments to introduce disability components in all their training initiatives and in their development plans.

The Indian Commission has been privileged to be involved, through its Special Rapporteur on disability related issues, in the role assigned to National Institutions in the drafting of the international Convention on Disability which has made substantial progress. In June, 2006 the Commission facilitated a discussion between the Special Rapporteur and a delegation from the Irish Commission as a prelude to the next meeting of the Ad-Hoc Committee which is scheduled to meet in August, 2006.

Terrorism

It is unfortunate that millions of innocent people all over the world have been helpless victims of mindless and inhuman violence perpetrated by the various terrorist

groups in recent years. Violating Human Rights by terrorist groups are a serious and major concern for the world community. The current century has begun with the emergence of international networks of terror directly targeting democratic and peace-loving States. Our Prime Minister Dr. Manmohan Singh in his address at the 59th Session of the U.N. General Assembly on 23rd September, 2004 observed:-

“Terrorism exploits the technologies spawned by globalisation, recruits its foot soldiers on ideologies of bigotry and hatred, and directly targets democracies. And yet it is a sad reality that international networks of terror appear to cooperate more effectively than the democratic nations that they target.”

The Commission has always stood firm in its belief that the twin concepts of individual and national security are mutually compatible and attainable and not contradictory as the lay person often erroneously believes. At the same time, the Commission believes that terrorism has to be dealt with firmly and decisively. The recent killing of hundreds of innocents in Mumbai Train Blasts on 11.7.2006 can never be condoned. It has been heartening that the world has been quick and emphatic to condemn these acts of terrorism faced by India.

National Action Plan for Human Rights

The Commission has taken up the task of preparing the National Action Plan. The Commission constituted a Working Group and an Advisory Committee including

representatives of various departments of the Government, NGOs and eminent lawyers to prepare a National Action Plan for Human Rights. The Working Group decided to focus on the following areas which would require a continuous dialogue and discussion before taking an appropriate shape for its documentation in the body of National Action Plan for Human Rights: Human rights education; Criminal justice system - encompassing police , prosecution court etc; Rights of vulnerable (women, children, bonded labour, dalits, elderly, tribals, minorities, disabled etc.); Right to food, water, health and environment; Right to social security Globalization and human rights.

The Working Group has recently decided to prepare draft chapters of the proposed National Action Plan for Human Rights and these chapters will be extensively discussed with the concerned ministries/departments of the Government of India before they are finalized.

Prevention and Combating of Child Marriage

In order to curb the practice of child marriage, the Commission recommended to the Central Government (Ministry of Women & Child Development) a number of amendments to the Child Marriage Restraint Act, 1929. In pursuance of these recommendations, the Central Government introduced a Bill entitled the Prevention of Child Marriage Bill, 2004 in the Rajya Sabha (Council of States) on 20.12.2004 incorporating almost all the recommendations of the Commission.

The Commission, however, has continuously been emphasizing on the need for public awareness to end this evil practice of child marriage. The Chairperson of the Commission has written on 17.3.2005 to the concerned Ministries/Departments in the Central Government and all the State Governments and Union Territories to organise mass-scale awareness programmes/campaigns, in association with the field level implementing agencies so as to educate and sensitise people about the demerits of child marriage.

International Conventions and Treaties

A) Optional Protocols to the Convention on the Rights of the Child

The Commission's persistent efforts yielded dividends with the Government of India ratifying, both, the Optional Protocols. Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict was ratified on 30th November 2005 with the following Declaration:-

“Pursuant to article 3(2) of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, the Government of the Republic of India declare that:

- (i) The minimum age for recruitment of prospective recruits into Armed Forces of India (Army, Air Force and Navy) is 16 years. After enrollment and requisite training period, the attested Armed Forces personnel is sent to the operational area only after he attains 18 years of age;

- (ii) The recruitment into the Armed Forces of India is purely voluntary and conducted through open rally system/open competitive examinations. There is no forced or coerced recruitment into the Armed Forces”.

The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography was ratified by the Government of India on 16 August 2005.

B) Convention Against Torture

The Commission has been requesting the Government of India to ratify the Convention against Torture and other Cruel, Inhuman Or Degrading Treatment Of Punishment 1984, which was signed by India on 14 October 1997 on the recommendation of the Commission. The Commission has been urging early ratification of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment Of Punishment 1984. The Government has now drafted a Bill to ratify the Convention Against Torture. The Ministry of Home Affairs has requested the Commission to send the comments on the draft Bill. The Commission has responded on 14.7.2006 to the Government and is hopeful that the Convention Against Torture will be ratified in near future.

Spread of Human Rights Awareness

Creating Human Rights awareness is considered important and useful for better protection and promotion of Human Rights. With this in view, the Commission has organized/supported several workshops, training programmes and seminars for sensitizing the stakeholders on Human Rights issues consisting of academicians, activists, NGOs, civil servants, etc. In the year 2005-06, twenty-five training programmes were conducted addressing problems of human rights and prevention of atrocities against the weaker sections, legal literacy for the women, mental health education, combating trafficking in women and children, child rights, are a few to mention. As the country is vast, the Commission has tried to reach all the regions of the country.

Corruption being one of the key violators of human rights, a two-day **National Conference on “Effects of Corruption on Good Governance and Human Rights”** was organised in the month of May 2006. The main objective of the Conference was to explore the factors responsible for precipitating corruption in India as well as ponder over strategies that could contain the problem of corruption in the country.

This Conference was inaugurated by President of India and the concluding address was delivered by the Chief Justice of India.

The Indian Army also organized sensitization workshop on Human Rights at Kargil on 22.5.2005 and Leh on 15.4.2005 which were chaired by Member Dr. Justice Shivaraj V. Patil and Member Shri P.C. Sharma respectively.

The Commission conducted summer internship programmes from 15.5.2006 to 14.6.2006 to create awareness in Human Rights among the students of various law colleges and universities.

The Commission published / encouraged to publish the following books for creating awareness in Human Rights during the year 2005-2006:-

- 1) "Know Your Rights" Series (Booklets)
- 2) Disability Manual – Human Rights Disability and Law
- 3) Report of the Proceedings of the International Round Table on National Institutions implementing Economic, Social and Cultural Rights
- 4) From Bondage to Freedom : An Analysis of International Legal Regime on Human Trafficking
- 5) Hand Book on Human Rights for Judicial Officers
- 6) Handbook on Employment of Persons with Disabilities in Government of India

Trafficking in Women and Children

The Commission had conducted an Action Research on Trafficking to know the trends, dimensions, factors and responses related to trafficking in women and children in India. It had also organised a National Workshop on 27th & 28th February, 2004 to Review the Implementation of Laws and Policies Related to Trafficking: Towards an Effective Rescue and Post-Rescue Strategy. In order to ensure implementation of the recommendations made in the Action Research as well as the National Workshop in

true spirit, the Commission formulated a Plan of Action to Prevent and End Trafficking in Women and Children in India and has disseminated the same on 18th July, 2006 to all concerned for necessary action.

Juvenile Justice in India

Poor implementation of the Juvenile Justice (Care and Protection of Children) Act, 2000 by the States and Union Territories, necessitated the Commission to review the status of implementation of the Act all over the country. For this purpose, the Commission is collecting information from all the State Governments and Union Territories. The Commission has also undertaken a research study on the subject. The study is on the verge of completion.

Exchanges and other Interactions

A number of dignitaries concerned with Human Rights and of the National Institutes from different countries visited the Commission and there was sharing of experiences.

Abolition of Manual Scavenging

The Commission has been vigorously pursuing the need to end the degrading practice of manual scavenging in the country.

The Commission has held a number of meetings with the State Governments. The last such meeting was held on 25th February, 2006 on Eradication of Manual

Scavenging with the representatives of the Central and State Governments and other stakeholders. On the basis of detailed deliberations follow up action is being taken.

Pursuant to the efforts of the Commission, the Prime Minister made an announcement for abolition of manual scavenging. The Planning Commission accordingly formulated a National Action Plan for Total Eradication of Manual Scavenging by the end of 2007.

Financial Contribution to the APF

The Commission has remitted an amount of US \$ 100,000 as its contribution to the Asia Pacific Forum during the year 2005-06

Right to Health

Emergency Medical Services

The Commission has been concerned with the prevailing unsatisfactory system of emergency medical care in the country, which results in the loss of many lives. To look into this issue, the Commission constituted an Expert Group headed by an eminent medical specialist. The report of the Group revealed the lacunae which exist in the present system and made a number of recommendations for implementation, in the short term as well in the long term. These include enunciation of a National Accident Policy, establishment of Centralized Accident and Trauma Services in all Districts of all States / Union Territories etc. These recommendations were sent to the Government for taking necessary action on 12th May, 2004.

In addition, a National Action Plan to operationalise the Right to Health Care was proposed. The objectives of the National Action Plan include : explicit recognition of the Right to Health Care; delineation of essential health services and supplies; legal enshrinement of the Right to Health Care; initiation of mechanisms for joint monitoring etc. The recommendations of Regional Public Hearing and National action Plan were communicated to the Government in March, 2005.

Right to Food

The NHRC has consistently maintained that right to food is inherent to living a life with dignity. It has also expressed that right to food includes nutrition at an appropriate level. To deliberate on the food situation in the country as well as ways and means to make the right to food a reality to the common man, the Commission reconstituted its Core Group on Right to Food and met on 13 January 2006. The Group dwelled on issues relating to food security, monitoring of existing schemes and reforms in Public Distribution System, starvation deaths/suicides including the State's response to these occurrences, need for up-gradation of scientific and technological measures in the country and the spreading of awareness among the masses that all of them were entitled to get two square meals.

Health Awareness Week for the Older Persons

A health awareness week for the elderly was organised by the Commission along with an NGO working for the older persons from 20-24 March 2006 in New Delhi. The weeklong initiative was an attempt to address the crucial needs of the elderly that are

not fully understood by them and their caregivers and to spread awareness of diseases that affect the elderly.

Visit to Prisons and Mental Hospitals/Institutions

The Chairman and Members of the Commission have been visiting prisons and mental hospitals/institutions from time to time with a view to seeing the prevailing conditions therein and to make recommendations for improving them and for providing necessary facilities.

Best Bakery Case

On 27.2.2002, some of the compartments of the Sabarmati Express Train were set on fire by a mob. Fifty-eight persons were burnt alive and more than 40 passengers received injuries. The Commission took suo motu cognizance of the news report and approached the Supreme Court as reported at the 10th Annual Meeting of the APF.

The Supreme Court directed retrial of the case in Mumbai i.e. outside the State of Gujarat. The victims of the Best Bakery Case finally got justice by the Mumbai trial court on 21.2.2006 when the Court convicted and awarded life imprisonment to 9 out of 17 accused. The court also issued show cause notice to all the witnesses, including Zaheera Shaikh, who had turned hostile asking them to show cause why they should not be prosecuted for perjury.

Honda Motor Cycle and Scooters Workers case

On 25.7.2005 the police brutally assaulted the agitating workers of Honda Motor Cycle and Scooters India at Gurgaon. The Commission took suo motu cognizance of the news item and recommended to the Government of Haryana to take effective steps for getting an independent enquiry preferably by CBI.

In response the State Government of Haryana informed (1) that certain cases have been registered at the Police Station against the workers and (2) the State Government had sanctioned payment of Rs. 20,000/- to each of the persons injured in the incident. The matter is under investigation.

Conclusion

These are turbulent times in many parts of the world. It becomes apparent that in many ways the world has become complicated, to say the least. The destinies and interests of nations and its peoples have become interlinked to such an extent that invariably the actions of one have adversely affected the other, leading to strife and suffering. In all such tragic situations, it has been the common people, men, women and children who have their rights violated. Martin Luther King said – “Injustice anywhere is threat to justice everywhere.” This is the greatest challenge which all of us are faced with. In the constant endeavour for a better future, nations and its people should always respect the human rights of the people who could be affected in the process. But

experience has shown that more often this is not so. The result is that innocent people all over the world, irrespective of their colour, religion and creed have suffered devastatingly.

The existence of the national institutions has to be seen in the above context. Every nation/State has its own priorities and goals. However, there can be minimum standards which can rightfully be expected to be fulfilled by all to meet their international obligations and the larger world order. The 'Paris Principles', adopted by the General Assembly is the edifice on which national institutions have to be set up. National institutions set up on the basis of these principles survive. A free and fully autonomous national institution, is the best guarantor for the protection of human rights within the country and the National Human Rights Commission of India is fully conscious of the same.
