



NATIONAL HUMAN RIGHTS COMMISSION OF INDIA

(Report from Forum Members)

Presented by
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The Indian National Human Rights Commission is an autonomous institution, with full financial and functional autonomy. Set up in 1993 under an Act of the Parliament, namely, the Protection of Human Rights Act, 1993, it has a wide mandate for better protection and promotion of Human Rights.

There have been significant developments, both at National and international level, on the Human Rights front in the past one year. At the National level, these extend to legislation, policy and programmes, with the National Human Rights Commission of India playing the role of a catalyst to direct action for the protection of rights of the most vulnerable sections.

The commitment of the Government to uphold the autonomy of the Commission and strengthen it further was reflected in the recent amendments to the Protection of Human Rights Act 1993. The amendments were carried out by the Government on the basis of suggestions made by the Commission to remove certain lacunae in the original Act.

The tenure of Dr. Justice A.S. Anand as Chairperson of the Commission came to an end on 31st October, 2006. Member of the Commission, Dr. Justice Shivaraj V. Patil served as Acting Chairperson

from 1st November, 2006 to 1st April, 2007. Thereafter, former Chief Justice of India, Mr. Justice S. Rajendra Babu took over as Chairperson of the Commission with effect from 2nd April, 2007. Dr. Justice Shivaraj V. Patil, Mr. Justice Y. Bhaskar Rao, Mr. R.S. Kalha, Mr. P.C. Sharma continued to serve as Members of the Commission.

India has been facing tough challenges in the task of protection of human rights of the citizens of the country, tackling issues amongst others, such as terrorism, trafficking in women and children, disappearance of persons, displacement of persons due to disasters, conflicts and development, child labour, education, health, custodial deaths, prisons and the disabled. The Commission has tackled these issues by not only dealing with individual cases but also issuing policy guidelines for implementing agencies.

The Commission received only 496 complaints of violation of human rights in 1993-94, the first year of its establishment. Their number steadily increased over the years with the Commission receiving 82,233 complaints during the financial year 2006-2007. The Commission disposed off 93,421 complaints during 2006-07 which included complaints carried forward from earlier years. The phenomenal increase in the number of complaints is indicative of growing awareness amongst the people in the country as well as increased faith in the

Commission. In 70 cases, the Commission recommended immediate interim relief of Rs. 32, 507, 500 during 2006-07.

The recent resolution adopted by the Human Rights Council on 18th June 2007, during its meeting in Geneva envisages stronger role for NHRIs in the complaints procedure.

Although the Commission's powers extend to making recommendations only, almost all of its recommendations are accepted/implemented by the Central/State Governments and other authorities, except for a few rare cases, which are in the process of acceptance. Thus, this Commission has become an effective local remedy which is informal without any procedural wrangles or appearance of parties or their attorneys.

Recognizing this competence of the Commission, the Supreme Court of India entrusted the Commission with the responsibility of overseeing the functioning of three Mental Health Institutions on 11 November 1997. The Commission has been continuing its work in this regard through its Special Rapporteur. Due to sustained efforts of the Commission, there was significant progress during the year 2005-06. 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 closed 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 through a writ petition in the 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 by the Commission through its Special Rapporteurs. The Commission on 30 August 2006 considered the reports submitted by the Special Rapporteur, which presented a satisfactory picture about the execution of long-term action plan under the various programmes. The Commission considered the crucial role of the revised long-term action plan [RLTAP] proposed, in achieving the ultimate objective of drought

proofing, poverty alleviation and development saturation and improving the quality of life of the people in KBK districts. It recommended to the Planning Commission for further extension of RLTA beyond March 2007. It also recommended execution of all projects under a system of surveillance and monitoring and is itself carefully monitoring action both by the State Government as well as by the Government of India on the various recommendations made by it.

In the case of death of unidentified persons due to terrorists attacks and alleged fake encounters by the Police in Punjab in what has come to be known as 'Punjab Mass Cremation Case', the Commission recommended compensation of Rs. 250,000 to the next kin of each of 195 deceased identified to be in deemed custody of police and Rs. 175,000 to each of next of kin of 1103 identified persons whose dead bodies were cremated by Punjab police, amounting to Rs. 24, 27, 25,000/- till the end of the year 2006-2007.

In addition, the following are some more important initiatives undertaken by the Commission in the field of Human Rights:-

National Action Plan for Human Rights

The Commission has constituted an Advisory body and a Working Group to promote National Action Plan for Human Rights. Accordingly, the focus has been on six primary issues i.e., Right to Food Security, Right to Education, Right to Housing, Right to Health, Right to Custodial Justice and Trafficking in women and children. A draft Action Plan is being prepared after extensive discussions with the Ministries and Departments concerned and after finalization it will be sent to the Government of India for acceptance and implementation.

Terrorism and Insurgency

The Commission firmly believes that terrorism is not a disease but a symptom of socio-political ailment, and to deal with it effectively, it is necessary to identify the causes. Though terrorism cannot be justified, however, one should also not forget that far too many people live in conditions where it can breed.

The protection and promotion of human rights is essential in countering terrorism. Any kind of partisan and sectarian approach would be counter-productive. A limited approach may help eliminate some terrorists but only at the cost of violation of human rights of many innocents. If human rights were violated in the process of combating terrorism, it would be a self-defeating approach. It is imperative that

essential safeguards of due process and fair trial should not be jettisoned. Respect for human rights must be accepted as an essential element of any strategy to counter terrorism.

The Commission has been monitoring Human Rights violations committed by personnel of Armed Forces and Para Military Forces.

Trafficking in Women and Children

In matters relating to Human Rights, the Commission firmly believes in the value of collective efforts, coordination with other agencies and convergence of efforts and resources. Therefore, the National Human Rights Commission, Ministry of Home Affairs, Ministry of Women and Child Development, National Commission for Women and the UNICEF, took a collective decision in September 2006 to work in unison and draw up an Integrated Plan of Action to Prevent and Combat Human Trafficking with Special Focus on Children and Women. This collective effort would not only bring in convergence in the various initiatives undertaken by each of them but also yield better results to facilitate uniform action in eliminating the problem of trafficking from its very roots.

Based on the field experiences of all concerned, a draft Integrated Plan of Action was evolved in this regard and it was discussed with all

stakeholders during two day National Consultation held from 3rd to 4th August 2007 at New Delhi. Further efforts are continuing in this regard.

Missing Children

The Commission has been concerned about the problem of missing children ever since it was constituted in October 1993. In response to a recent incident in which young children went missing from Nithari village in NOIDA, Uttar Pradesh, the NHRC, India constituted a Committee on February 12, 2007 to examine the issue in depth. The Committee was also asked to evolve simple and practical guidelines so that the Commission could come up with appropriate recommendations. The Committee accordingly held wide ranging consultations with various stakeholders in the Government viz. Ministry of Home Affairs, Ministry of Women and Child Development, Ministry of Labour, Ministry of Social Welfare, Delhi Government, Delhi Police, National Crime Records Bureau, UNICEF and leading NGOs in India working in this field and also experts having in-depth knowledge of the subject. After these consultations, the Commission made detailed recommendations which have been sent to relevant authorities across the country and also to the Government of India to enable tracing and restoring missing children back to their families.

Juvenile Justice

The Commission, ever since it was set up in October 1993, has been concerned about the plight of children who are in conflict with law and those who are in need of care and protection. In order to understand the existing situation, the Commission organised the two-day National Conference on Juvenile Justice System in India at New Delhi on 3 and 4 February 2007. The two-day conference deliberated on four major themes having a direct bearing on the functioning of the juvenile justice system in the country viz.

- a) Situational Analysis of Children
- b) Emerging Issues in Juvenile Justice System
- c) Children in Conflict with Law: Adjudication and Dispositional Alternatives – A Critical Analysis
- d) Community Based Models for Care and Protection for Children – Case Presentations

In addition, the preparation of an Action Plan for bringing about improvements in the functioning of the juvenile justice system in the country was also discussed. Based on deliberations, it was strongly recommended that there is a need to prepare guidelines about:

- Process of Institutionalization
- Role of professionals/ other cadres involved in the juvenile justice system

- Child as a witness
- Case Management of juvenile before trial/ during trial.
- Child as a victim/plaintiff and as an accused
- Release, rehabilitation and reintegration
- Role of Advisory Boards/visitors
- Community Based Practices, etc.

As a follow up to the National Conference and in order to have first hand information about the exact number of children in conflict with law who were under detention in the Observation Homes beyond a period of four months across the country, the Commission on 12 February 2007 called for detailed information from all the States/Union Territories. The Commission intends to follow-up this matter further.

Rights of the disabled

The Commission is facilitating the evolution of a common sign language with Ali Yavar Jung National Institute for the Hearing Handicapped, Mumbai and Ministry of Social Justice and Empowerment for the hearing impaired persons. The project is in progress and is likely to be completed by 2008.

The role played by the Commission through its Special Rapporteur, Ms. Anuradha Mohit who was nominated as the representative of the ICC

in the Ad Hoc Committee to ‘consider proposals for drafting a thematic human rights convention on disability ‘ was appreciated in the ICC meeting. The United Nations Convention on the Rights of Persons with Disabilities was adopted by the United Nations General Assembly on 13 December 2006. The Commission proposes to continue its monitoring efforts in this regard.

Rights of the Elderly

Continuing its efforts to protect the rights of the elderly initiated by it a few years back, the Commission took up the issue of social security for older persons in general and the working of the National Old Age Pension Scheme in particular for in-depth examination. It has engaged various stake holders in this scrutiny and proposes to advocate for measures to streamline this Scheme. In addition, the Commission organised “Health Awareness Week” for the senior citizens in collaboration with Help Age India from 26 February to 2 March 2007 at Ahmedabad. Lectures on following topics were delivered by specialists in the field on health concerns of older persons:.

- i) Healthy Ageing and Domestic Accidents and Prevention
- ii) Pain and its Management
- iii) Alternative Medicine
- iv) Diabetes and its Management

A special health camp for screening blood pressure and blood sugar was also organised on 2 March 2007.

Right to Health

The Commission has been deeply concerned about the issue of Right to Health. In order to discuss the issue of right to health, the Commission had organized a 'National Review Meeting on Health' on 6th March, 2007 in New Delhi. This meeting was attended by Health Secretaries of States, Union Secretaries/their representatives in the Ministry of Health and Family Welfare, Labour, Industries, Drug Controller of India, Women and Child Development, members of NHRC's Core Advisory Group on Health and representatives of NGOs.

Various issues which include, among others, inadequate provision of public health services in rural areas, availability of doctors and other trained health care professionals, role of community health workers, user fee, and immunization were discussed. Based on the National Review Meeting on Health, the Commission made detailed recommendations to all State Governments and Union Territories.

Deeply concerned about the issue of silicosis, an occupational hazard to workers in certain mines and industries and to general public

at large, the Commission held consultations with experts and constituted a National Task Force to look into various aspects of the problem and suggest remedial measures.

Manual Scavenging

The Commission has been vigorously pursuing the need to end the degrading practice of manual scavenging in the country, which is an affront to human dignity. Pursuant to the efforts of the Commission, the Prime Minister of India made a commitment for the abolition of manual scavenging. The Planning Commission accordingly, formulated the National Action Plan for total eradication of manual scavenging by the end of 2007. The Commission, on its part, too has urged all the State Governments and Union Territories to work with greater determination to implement the Act so as to ensure that the dehumanizing practice can be effectively stopped. Continuing its monitoring efforts, the Commission convened the National Review Meeting on eradication of manual scavenging in New Delhi on 18th March 2007 with the representatives of the Central and the State Governments and other stakeholders. Based on deliberations at that meeting, specific recommendations were sent by the Commission to all the State Governments/Union Territories urging them to take necessary action in this regard.

By setting up of an Information and Documentation Centre in the Commission, which is in an advanced stage, whereby there is access to not only to books but information on all aspects of Human Rights, all recommendations and guidelines in the public domain will also be available in that Centre.

International Human Rights mechanisms

NHRC presented its opinion on the universal periodic review and special procedures of Human Rights Council which was discussed in detail in the APF meeting at Fiji held on 31 July, 2006 to 3rd August, 2006. This was subsequently taken up with ICC. After sustained efforts, ICC finally approved the draft as it was presented by APF. It was discussed in detail and accepted in the Geneva meeting held in March, 2007.

Convention against Torture

The Commission has been requesting the Government of India to ratify the Convention Against Torture and other Cruel, Inhuman, Degrading Treatment Or Punishment, 1984, which was signed by India on 14th October 1997 on the recommendations of the Commission. The Commission is of the view that the process of ratification must proceed

with far greater speed and clarity of purpose than has hitherto been the case.

A draft Cabinet note along with the draft bill for ratification of the Convention against Torture was sent to the Commission for comments by the Ministry of Home Affairs, Government of India. The comments of the Commission thereon were communicated to the Ministry of Home Affairs.

State Human Rights Commissions (SHRC)

State Human Rights Commissions were set up in 18 States and in addition, State of Bihar is working on modalities for its constitution. The Commission has now made a special provision in its own budget to strengthen the SHRCs. For this, a provision of Rs. 20 million has been proposed in the Annual Plan 2007-2008 and Rs. 100 million in the Five Year Plan 2007-2012. As per the amendment carried out in 2006 to the Protection of Human Rights Act, 1993, the Commission can transfer a case to State Human Rights Commission. Thus, the Commission will on its own improve the capability of State Human Rights Commissions in complaints handling systems as well as protection and promotion of human rights relating to economic, social, cultural as well as civil and political Rights.

Training Programmes Conducted during 2006-2007

As a part of its mandate, the Commission approved 48 training programmes on various facets of human rights in 2006 - 2007 to be conducted in different parts of the country focusing on the North-Eastern States, Backward States, and Union Territories etc. Of these, 45 training programmes were conducted in 2006-07 in which 3,613 participants were trained.

Non-Governmental Organizations

Encouraging the efforts of the non-governmental organizations (NGOs) working in the field of human rights is a statutory responsibility of the Commission under Section 12(i) of the Protection of Human Rights Act, 1993. The promotion and protection of human rights cannot gather momentum without the fullest cooperation between the Commission and the NGOs. In order to strengthen the relationship with NGOs, the Commission has been holding a series of consultations at regional levels, with NGOs and voluntary organizations engaged in the promotion and protection of human rights. The Commission provides financial assistance to credible NGOs for organizing seminars, workshops, and training programmes.

A Core Group of NGOs has been constituted under section 12(i) of the Protection of Human Rights Act, 1993 to encourage the efforts of the

Non-Governmental Organizations (NGOs) and institutions engaged in the field of human rights. The Core Group provides the Commission with crucial inputs on the hopes, aspirations and expectations of the civil society from the Commission.

The Commission held the two day National Conference on the role of NGOs in support of NHRC in better promotion and protection of human rights at the Karnataka State Judicial Academy, Bangalore during 28th -29th April, 2007.

Human Rights Education

The Commission is of the view that when India is striving to be a developed country by 2020, it is important that the younger generation be exposed to the rights perspective of development. Thus, NHRC has taken initiative and constituted a task force to incorporate Human Rights Education at School and University level. At School level from Class I to Class X, it is proposed to incorporate human rights in their curriculum from the year 2007 as an input under Civics subject i.e., Constitution, Legal provisions etc.. The Commission has organized a National Consultation on “Incorporating Human Rights Education in School and University Education System” on 6th July, 2007 and released its recommendations on i) Module on Human Right Education for Teaching professionals Imparting Education in Primary, Secondary, Higher

Secondary Levels, ii) Human Rights Education at the University and College Levels.

Short Films

In order to spread human right awareness among people, the Commission has taken the initiative of producing short films on human rights issues, e.g., i) HIV/AIDS – in the perspective of Human Rights, ii) Manual Scavenging, iii) Trafficking in Women and Children, iv) Female Foeticide and Gender Imbalance, and v) Child Labour. A few films have been completed and are being disseminated while work is underway to complete the remaining ones.

Coordination & Cooperation with other APF Member Institutions

A three-member delegation from the National Human Rights Commission of South Korea visited the Commission under the staff visiting programme of the National Human Rights Commission, South Korea from 22-27 December, 2006. During their period of stay, the delegation interacted with various divisions of the Commission for getting an insight into the working of the Commission. To share our experience and best practices, NHRC-Korea has now sent a proposal for secondment of their staff member(s) for 1 to 2 years.

Under the APF staff exchange programme, a two-member delegation from the Human Rights and Equal Opportunity Commission (HREOC), Australia were attached with the Commission from 9 January – 9 February, 2007. During their period of stay in the Commission, the delegation was exposed to the various programmes/projects being undertaken by the Commission towards better promotion and protection of the Human Rights in the country.

Two representatives of Human Rights Commission of Maldives were trained in the office of NHRC-India during March 2007. They were also given the relevant complaint handling software for establishing and implementing the same in their Commission.

The National Human Rights Commission of India in partnership with the Office of the United Nations High Commissioner for Human Rights (OHCHR) hosted the Asian sub-regional workshop on 'Using Indicators to Promote and Monitor the Implementation of Human Rights', at New Delhi from 26 to 28 July 2007. Hon'ble Mr. Justice K.G. Balakrishnan, Chief Justice of India inaugurated the workshop. The objective of the workshop was to sensitize participants about feasibility of using quantitative and other appropriate indicators in implementing human rights; validate identified, illustrative indicators of different rights; and encourage ownership and application of indicators for

devising suitable policy responses in furthering the implementation of human rights. The meeting brought together participants from National Human Rights Institutions, national policymaking agencies, national statistical agencies and some civil society representatives from Afghanistan, Bangladesh, Bhutan, India, Indonesia, Iran, Malaysia, the Maldives, Nepal, Pakistan, the Philippines and Sri Lanka. The Asia-Pacific forum of National Human Rights Institutions also took part in the deliberations of the workshop.

In partnership with the Asia Pacific Forum on National Human Rights Institutions [APF] and the Raoul Wallenberg Institute of the University of Lund, the Commission proposes to host the Sub- Regional Pilot Training workshop on the subject of National Inquiries beginning from 29th October 2007 in New Delhi. The APF and RWI are jointly preparing the training manual and modules for this programme.

Financial Contribution to APF

The Commission has remitted an amount of USD 100,000 as its contribution to the Asia Pacific Forum for the year 2006-2007.

Conclusion

The latest Resolution adopted by the Human Rights Council in its meeting held on 18th June, 2007 has entrusted the NHRIs with greater

responsibilities in the areas of grievance redressal procedure as well as universal periodic review. There exist many challenges on the human rights horizon today – poverty, terrorism, crude iniquities in global economic order, to mention but a few. To confront these effectively, free and frank exchange of views, coordination at regional and international levels, convergence, technical cooperation have great value. The Commission is of the view that cooperation and coordination at various levels, be it national, regional and international, is essential for better protection and promotion of human rights. There is much that NHRIs can learn from each other's experiences and best practices.
