

NHRC AND HUMAN RIGHTS DEFENDERS : THE GROWING SYNERGY



**NATIONAL HUMAN RIGHTS COMMISSION
INDIA**

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THE GROWING SYNERGY



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The Growing Synergy**

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**CHAIRPERSON
NHRC**

FOREWORD

This book titled “**NHRC and Human Rights Defenders: The Growing Synergy**” is compilation of the initiatives taken by the National Human Rights Commission to promote and protect the rights of Human Rights Defenders and encourage their efforts in promotion and protection of human rights.

HRD’s are partners of the Commission in its efforts to ensure that rights of all are respected and protected. This book not only gives an insight into the international instruments pertaining to HRDs but also the efforts made by the Commission towards the cause of the HRDs. Important cases pertaining to protection of HRDs have been dealt with in this book. The HRDs have helped in bringing the cases of human rights violation to the notice of the Commission. The Commission, acting on these complaints, has provided monetary relief to many of the victims.

This book reflects the growing synergy between the NHRC and HRDs. This augurs well for development of human rights culture in the country. Inclusive participation of all will be a great step in fulfillment of NHRC’s motto i.e., “Sarve Bhavantu Sukhina”.

I extend my heartfelt thanks to Sh. A.K. Garg, Registrar(Law), Sh. A.K. Parashar, Joint Registrar(Law) & Focal Point for HRDs and Sh. Indrajeet Kumar, Assistant Registrar(Law) who with their extensive efforts have worked on various aspects of this topic and made this book a reality. I also extend my thanks to Ms Abhiti Vachher, Intern, Amity Law School and Ms Nayana Tara B.G., Intern, National Law school Bangalore who have assisted in doing the required research on the subject and contributing in finalizing the contents of the book.

(Justice K.G. Balakrishnan)

New Delhi
10 December, 2013

PREFACE

The National Human Rights Commission of India is mandated under Section 12(i) of Protection of Human Rights Act, 1993 to encourage the efforts of NGOs and institutions working in the field of human rights. Ever since NHRC came into existence, it has worked closely with a number of organizations and individuals, both governmental and non-governmental, to improve the human rights situation in the country. The Commission has always encouraged the efforts of the Human Rights Defenders and worked in harmony with them for promotion and protection of human rights in the country.

NHRC India has initiated and taken many steps to promote and protect the rights of HRDs. This publication aims at portraying the growing synergy between the NHRC & HRDs.

New Delhi
10 December, 2013



(A. K. Parashar)
Focal Point, HRD
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HRD – A BRIEF INTRODUCTION

Who is a defender?¹

“Human rights defender” is a term used to describe people who, individually or with others, act to promote or protect human rights. HRDs are identified above all by what they do and it is through a description of their actions (section A below) and of some of the contexts in which they work (section B below) that the term can be best explained. The examples given of the activities of HRDs are not an exhaustive list.

A. What do HRDs do?

1. All human rights for all

To be a HRD, a person can act to address any human right (or rights) violation on behalf of individuals or groups. HRDs seek the promotion and protection of civil and political rights as well as the promotion, protection and realization of economic, social and cultural rights.

HRDs address any human rights concerns, which can be as varied as, summary executions, torture, arbitrary arrest and detention, female genital mutilation, discrimination, employment issues, forced evictions, access to healthcare, and toxic waste and its impact on the environment. Defenders are active in support of human rights as diverse as the rights to life, to food and water, to the highest attainable standard of health, to adequate housing, to a name and a nationality, to education, to freedom of movement and to non-discrimination. They sometimes address the rights of categories of persons, for example women’s rights, children’s rights, the rights of indigenous persons, the rights of refugees and internally displaced persons, and the rights of national, linguistic or sexual minorities.

¹ www.ohchr.org

2. Human rights everywhere

HRDs are active in every part of the world: in states that are divided by internal armed conflict as well as states that are stable; in states that are non-democratic as well as those that have a strong democratic practice; in states that are developing economically as well as those that are classified as developed. They seek to promote and protect human rights in the context of a variety of challenges, including HIV/AIDS, development, migration, structural adjustment policies and political transition.

3. Local, national, regional and international action

The majority of HRDs work at the local or national level, promoting the respect for human rights within their own communities and countries. In such situations, their main counterparts are local authorities charged with ensuring respect for human rights within a province or the country as a whole. However, some defenders act at the regional or international level. They may, for example, monitor a regional or worldwide human rights situation and submit information to regional or international human rights mechanisms, including the other Special Rapporteurs of the United Nations Human Rights Council and treaty bodies. Increasingly, the work of HRDs is mixed, with the focus being on local and national human rights issues, but with defenders making contact with regional and international mechanisms which can support them in improving human rights in their countries.

4. Collecting and disseminating information on violations

HRDs investigate, gather information and report human rights violations. They may, for example, use lobbying strategies to bring their reports to the attention of the public and of key political and judicial officials with a view to ensuring that their investigative work is given consideration so that human rights violations are addressed. Most commonly, such work is conducted through human rights organizations, which periodically publish reports on their findings. However, information may also be gathered and reported by an individual focusing on one specific aspect of human rights abuse.

5. Supporting victims of human rights violations

A very large proportion of the activities of HRDs can be characterized as acting in support of victims of human rights violations. Investigating and reporting on violations can help end ongoing violations, prevent their repetition

and assist victims in taking their cases to courts. Some HRDs provide professional legal advice and represent victims in the judicial process. Others provide victims with counseling and rehabilitation support.

6. Action to secure accountability and to end impunity

Many HRDs work to secure accountability and respect for human rights legal standards. In its broadest sense, this might involve lobbying with authorities and advocating greater efforts by the state to implement the international human rights obligations it has accepted by its ratification of international treaties.

In more specific instances, the focus on accountability can lead HRDs to bear witness, either in a public forum (for example, a newspaper) or before a court or tribunal, to human rights violations that have already occurred. In this way, defenders contribute to securing justice on behalf of victims in specific cases of human rights violation and to breaking patterns of impunity, thereby preventing future violations. A significant number of defenders, frequently through organizations established for the purpose, focus exclusively on ending impunity for violations. The same groups of defenders might also work to strengthen the State's capacity to prosecute perpetrators of violations, by providing human rights training for prosecutors, judges and the police.

7. Supporting better governance and government policy

Some HRDs focus on encouraging the government as a whole to fulfill its human rights obligations, by publicizing information on the government's record of implementation of human rights standards and monitoring progress made. Some defenders focus on good governance, advocating in support of democratization and an end to corruption, abuse of power, and providing training to a population on how to vote and why their participation in elections is important.

8. Contributing to the implementation of human rights treaties

HRDs make a major contribution, particularly through their organizations, to the implementation of international human rights treaties. Many NGOs and intergovernmental organizations help to establish housing, health care and sustainable income-generation projects for poor and marginalized communities. They offer training in essential skills and provide equipment such as computers to give communities improved access to information.

This group merits particular attention as its members are not always described as HRDs and they themselves may not use the term “human rights” in a description of their work, focusing instead on terms such as “health”, “housing” or “development” which reflect their area of activity. Indeed, many of these activities in support of human rights are described in general terms as development action. Many NGOs and United Nations bodies fall within these categories. Their work, as much as that of other HRDs, is central to respect for and protection and achievement of human rights standards, and they need and deserve the protection given to their activities by the Declaration on HRDs.

9. Human rights education and training

Further action of significance undertaken by HRDs is the provision of human rights education. In some instances, education activities take the form of training for the application of human rights standards in the context of a professional activity, for example by judges, lawyers, police officers, soldiers or human rights monitors. In other instances, education may be broader and involve teaching about human rights in schools and universities or disseminating information on human rights standards to the general public or to vulnerable populations.

In summary, the gathering and dissemination of information, advocacy and mobilization of public opinion are often the most common tools used by HRDs in their work. As outlined in this section, however, they also provide information to empower or train others. They actively participate in the provision of the material means necessary to make human rights a reality – building shelter, providing food, strengthening development, etc. They work on democratic transformation in order to increase the participation of people in the decision-making that shapes their lives and to strengthen good governance. They also contribute to the improvement of social, political and economic conditions, the reduction of social and political tensions, the building of peace, domestically and internationally, and the nurturing of national and international awareness of human rights.

B. Who can be a human rights defender?

There is no specific definition of who is or can be a human rights defender. The Declaration on HRDs refers to “individuals, groups and associations ... contributing to ... the effective elimination of all violations of human rights and fundamental freedoms of peoples and individuals”

In accordance with this broad categorization, HRDs can be any person or group of persons working to promote human rights, ranging from intergovernmental organizations based in the world's largest cities to individuals working within their local communities. Defenders can be of any gender, of varying ages, from any part of the world and from diverse professional or other backgrounds. In particular, it is important to note that HRDs are not only found within NGOs and intergovernmental organizations but might also, in some instances, be government officials, civil servants or members of the private sector.

1. Defending human rights through professional activities – paid or voluntary

The most obvious HRDs are those whose daily work specifically involves the promotion and protection of human rights, for example human rights monitors working with national human rights organizations, human rights ombudsmen or human rights lawyers.

However, what is most important in characterizing a person as a human rights defender is not the person's title or the name of the organization he or she works for, but rather the human rights character of the work undertaken. It is not essential for a person to be known as a "human rights activist" or to work for an organization that includes "human rights" in its name in order to be a human rights defender. Many of the staff of the United Nations serve as HRDs even if their day-to-day work is described in different terms, for example as "development". Similarly, the national and international staff of NGOs around the world working to address humanitarian concerns can typically be described as HRDs. People educating communities on HIV/AIDS, activists for the rights of indigenous peoples, environmental activists and volunteers working in development are also playing a crucial role as HRDs.

Many people work in a professional capacity as HRDs and are paid a salary for their work. However, there are many others who work in a professional capacity as HRDs but who are volunteers and receive no remuneration. Typically, human rights organizations have very limited funding and the work provided by these volunteers is invaluable.

Many professional activities do not involve human rights work regularly but can have occasional links with human rights. For example, lawyers working

on commercial law issues may not often address human rights concerns and cannot automatically be described as HRDs. They can nevertheless act as defenders on some occasions by working on cases through which they contribute to the promotion or protection of human rights. Similarly, leaders of trades unions undertake numerous tasks, many of which bear no relation to human rights, but when they are working specifically to promote or protect the human rights of workers they can be described as HRDs. In the same way, journalists have a broad mandate to gather information and disseminate it to the public through print or broadcast media. In their general role, journalists are not HRDs. However, many journalists do act as defenders, for example when they report on human rights abuses and bear witness to acts that they have seen. Teachers who instruct their pupils on basic principles of human rights fulfill a similar role. Doctors and other medical professionals who treat and rehabilitate victims of human rights violations can also be viewed as HRDs in the context of such work; and doctors have special obligations by virtue of Hippocratic oath.

Those who contribute to ensuring justice – judges, police, lawyers and other key actors – often have a particular role to play and may come under considerable pressure to make decisions that are favorable to the state or other powerful interests, such as the leaders of organized crime. Where these actors in the judicial process make a special effort to ensure access to fair and impartial justice, and thereby to guarantee the related human rights of victims, they can be said to be acting as HRDs.

A similar “special effort” qualification can be applied to other professions or forms of employment that bear no obvious relation to human rights. The individuals who hold these jobs may sometimes choose to conduct their work in a way that offers specific support to human rights. For example, some architects choose to design their construction projects in a way that takes into consideration relevant human rights, such as the right to adequate (temporary) housing for the people who will work on the project, or the rights of children to be consulted on the design, if the building is of particular relevance to them.

2. Defending human rights in a non-professional context

Many people act as HRDs outside any professional or employment context. For example, a student who organizes other students to campaign for an end to torture in prisons could be described as a human rights defender. An

inhabitant of a rural community who coordinates a demonstration by members of the community against environmental degradation of their farmland by factory waste could also be described as a human rights defender. A politician who takes a stand against endemic corruption within a government is a human rights defender for his or her action to promote and protect good governance and certain rights that are threatened by such corruption. Witnesses in court cases to prosecute the perpetrators of human rights abuses, and witnesses who provide information to international human rights bodies or domestic courts and tribunals to help them address violations, are also considered to be HRDs in the context of those actions.

People all over the world strive for the realization of human rights according to their circumstances and in their own way. The names of some HRDs are internationally recognized, but the majority of defenders remain unknown. Whether an individual works as a local government official, a policeman upholding the law or an entertainer using his or her position to highlight injustices, all of them play a role in the advancement of human rights. The key is to look at how such people act to support human rights and, in some instances, to see whether a “special effort” is made.

Clearly, it is impossible to catalogue the huge variety of contexts in which HRDs are active. However, common to most defenders is a commitment to help others, a commitment to international human rights standards, a belief in equality and non-discrimination, persistence and, in many instances, tremendous courage.

C. Is a minimum standard required of HRDs?

No “qualification” is required to be a human rights defender, and the Declaration on HRDs makes it amply clear that we can all be defenders of human rights if we choose to be. Nevertheless, the “standard” required of a human rights defender is a complex issue, and the Declaration clearly indicates that defenders have rights as well responsibilities.

Accepting the universality of human rights

HRDs must accept the universality of human rights as defined in the Universal Declaration of Human Rights. A person cannot deny some human rights and yet claim to be a human rights defender because he or she is an

advocate for another. For example, it would be unacceptable to defend the human rights of men but to deny that women have equal rights.

Who is right and who is wrong – does it make a difference?

A second important issue concerns the validity of the arguments advanced by HRDs. It is not essential for a human rights defender to be correct in his or her arguments in order to be a genuine defender. The critical test is whether or not the person is defending a human right. For example, a group of defenders may advocate for the right of a rural community to own the land they have lived on and have farmed for several generations. They may protest against private economic interests that claim to own land in the area. They may or may not be correct about who owns the land. However, whether or not they are legally correct is irrelevant to determine whether they are genuine HRDs. The test is whether their concerns fall within the scope of human rights.

This is a very important issue because in many states, HRDs are often perceived by the State, or even the public, as being in the wrong because they are seen as supporting one side of an argument. They are then told that they are not “real” HRDs. Similarly, defenders who act in defense of the rights of political prisoners or persons from armed opposition groups are often described by State authorities as being supporters of such parties or groups, simply because they defend the rights of the people concerned.

This is incorrect. HRDs must be defined and accepted according to the rights they are defending and according to their own right to do so.

Peaceful action

Finally, the actions taken by HRDs must be peaceful in order to comply with the Declaration

CHALLENGES FACED BY HRDs

Human rights violations committed against defenders, and other difficulties they confront

Not all human rights work poses a risk to HRDs, and in some states defenders are generally well protected. However, the severity and scale of reprisals committed against defenders were one of the primary motivations behind the adoption of the Declaration and the establishment of the mandate of the Special Rapporteur on the situation of HRDs.

The Special Rapporteur has expressed concern for the situation of HRDs in all countries, including both emerging democracies and countries with long-established democratic institutions, practices and traditions. Nevertheless, special emphasis has been placed on countries where: (a) internal armed conflict or severe civil unrest exists; (b) the legal and institutional protections and guarantees of human rights are not fully assured or do not exist at all.

A great many HRDs, in every region of the world, have been subject to violations of their human rights. They have been the target of executions, torture, arbitrary arrest and detention, death threats, harassment and defamation, as well as restrictions on their freedoms of movement, expression, association and assembly. Defenders have been the victims of false accusations and unfair trial and conviction.

Violations most commonly target either HRDs themselves or the organizations and mechanisms through which they work. Occasionally, violations target members of defenders' families, as a means of applying pressure to the defender. Some HRDs are at greater risk because of the nature of the rights they seek to protect. Women HRDs sometimes confront risks that are gender-specific and require particular attention.

In most cases, acts committed against HRDs are in violation of both international and national law. In some countries, however, domestic legislations which contravene human rights are used to clamp down defenders.

DECLARATION ON HRDS

Deliberation on the Declaration on HRDs began in 1984 and concluded with the adoption of the text by the General Assembly in 1998, on the occasion of the fiftieth anniversary of the Universal Declaration of Human Rights. A collective effort by a number of human rights non-governmental organizations and some State delegations helped to ensure that the final result was a strong, useful and pragmatic text. Perhaps most importantly, the Declaration is addressed not just to States and to HRDs, but to everyone. It tells us that we all have a role to fulfill as HRDs and emphasizes that there is a global human rights movement that involves us all. The Declaration's full name is the "**Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms**" – with this longer title is frequently abbreviated to "**The Declaration on HRDs**".

1. Legal character

The Declaration is not, in itself, a legally binding instrument. However, it contains a series of principles and rights that are based on human rights standards enshrined in other international instruments that are legally binding – such as the International Covenant on Civil and Political Rights. Moreover, the Declaration was adopted by consensus by the General Assembly and therefore represents a very strong commitment by States to its implementation. States are increasingly considering adopting the Declaration as binding national legislation.

2. The Declaration's provisions

The Declaration provides for the support and protection of HRDs in the context of their work. It does not create new rights but instead articulates existing rights in a way that makes it easier to apply them to the practical role and situation of HRDs. It pays attention to, access to funding by organizations of HRDs and, gathering and exchange of information on human rights standards and their violation. The Declaration outlines some specific duties of States and the responsibilities of everyone with regard to defending human rights, in addition to explaining its relationship with national law. Most of the Declaration's provisions are summarized in the following paragraphs. It is important to reiterate that HRDs have an obligation under the Declaration to conduct peaceful activities.

(a) Rights and protections accorded to HRDs

Articles 1, 5, 6, 7, 8, 9, 11, 12 and 13 of the Declaration provide specific protections to HRDs, including the rights:

- To seek the protection and realization of human rights at the national and international levels;
- To conduct human rights work individually and in association with others;
- To form associations and non-governmental organizations;
- To meet or assemble peacefully;
- To seek, obtain, receive and hold information relating to human rights;
- To develop and discuss new human rights ideas and principles and to advocate their acceptance;

- To submit to governmental bodies and agencies and organizations concerned with public affairs criticism and proposals for improving their functioning and to draw attention to any aspect of their work that may impede the realization of human rights;
- To make complaints about official policies and acts relating to human rights and to have such complaints reviewed;
- To offer and provide professionally qualified legal assistance or other advice and assistance in defence of human rights;
- To attend public hearings, proceedings and trials in order to assess their compliance with national law and international human rights obligations;
- To unhindered access to and communication with non-governmental and intergovernmental organizations;
- To benefit from an effective remedy;
- To the lawful exercise of the occupation or profession of human rights defender;
- To effective protection under national law in reacting against or opposing, through peaceful means, acts or omissions attributable to the State that result in violations of human rights;
- To solicit, receive and utilize resources for the purpose of protecting human rights (including the receipt of funds from abroad).

(b) The duties of states

States have a responsibility to implement and respect all the provisions of the Declaration. However, articles 2, 9, 12, 14 and 15 make particular reference to the role of States and indicate that each State has a responsibility and duty:

- To protect, promote and implement all human rights;
- To ensure that all persons under its jurisdiction are able to enjoy all social, economic, political and other rights and freedoms in practice;
- To adopt such legislative, administrative and other steps as may be necessary to ensure effective implementation of rights and freedoms;
- To provide an effective remedy for persons who claim to have been victims of a human rights violation;

- To conduct prompt and impartial investigations of alleged violations of human rights;
- To take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration;
- To promote public understanding of civil, political, economic, social and cultural rights;
- To ensure and support the creation and development of independent national institutions for the promotion and protection of human rights, such as ombudsmen or human rights commissions;
- To promote and facilitate the teaching of human rights at all levels of formal education and professional training.

(c) The responsibilities of everyone

The Declaration emphasizes that everyone has duties towards and within the community and encourages us all to be HRDs. Articles 10, 11 and 18 outline responsibilities for everyone to promote human rights, to safeguard democracy and its institutions and not to violate the human rights of others. Article 11 makes a special reference to the responsibilities of persons exercising professions that can affect the human rights of others, and is especially relevant for police officers, lawyers, judges, etc.

(d) The role of national law

Article 3 and 4 outline the relationship of the Declaration to national and international law with a view to assuring the application of the highest possible legal standards of human rights.

Recent Developments

The General Assembly has adopted a resolution on 15.03.2013 regarding the protection of the HRDs. The resolution is annexed as **Annexure ‘A’**.

NHRC INITIATIVES ON HRDs PARTICIPATION IN PROTECTION AND PROMOTION OF HUMAN RIGHTS

Role of NHRC India

The National Human Rights Commission of India is mandated under Section 12(i) of Protection of Human Rights Act, 1993 to encourage the efforts of NGOs and institutions working in the field of human rights. Ever since NHRC came into existence, it has worked closely with a number of organizations and individuals, both governmental and non-governmental, to improve the human rights situation in the country along with rendering support and protection to HRDs. It has observed and complied with the United Nations Declaration on HRDs and consequently made efforts to promote the development of protective mechanisms for HRDs across the country. As part of its strategy, it works with non-governmental and civil society organizations; National and State Commissions; State Human Rights Commissions and other key institutions to raise awareness about HRDs and challenges faced by them.

NHRC India has initiated and taken many steps to promote and protect the rights of HRDs and also to mitigate the risks faced by them while defending the human rights.

A. Focal Point for HRDs in NHRC

Acting on one of the recommendations of Workshop on HRDs that was organized by NHRC on 12 October 2009 in New Delhi, a Focal Point for HRDs has been set-up in NHRC to deal with complaints alleging harassment of HRDs by or at the instance of public authorities. The designated contact person at the Focal Point is Shri A.K.Parashar, Joint Registrar (Law). The Focal Point is accessible to HRDs round the clock through (i) Mobile No. 9810298900, (ii) Fax No. 23384012, and (iii) E-mail: hrd-nhrc@nic.in. The Focal Point ensures that the directions of the Commission in every case of alleged harassment of HRDs are complied as a priority and also conveyed to the concerned human right

defender. The update on the complaints of harassment of HRDs is posted on the website of NHRC.

The Focal Point for HRDs during the year 2012-2013 has traveled to places across India and engaged in discussions with NGOs, rural residents HRDs / and State Government Officers to understand the status of promotion and protection of Human Rights at grass root level. The Visit Reports and complaints received during these visits were placed before the Commission on priority basis and immediate action was taken.

B. NHRC's course of action for protection of HRDs

The Commission has always extended its support for the cause of promotion and protection of Human Rights and has denounced any acts of reprisal, harassment etc. against persons who fight for this cause. In fact, one of the most important aspects of civilian safeguards that have been taken up by the commission is the promotion and protection of the rights of the HRDs (HRD).

Important steps taken by NHRC for protection of HRD's are:

- NHRC sends a strong message to the State not to victimize HRDs.
- Sensitizes the state functionaries about the valuable role played by HRDs.
- NHRC has taken proactive steps to protect the cause of the HRDs by recommending prosecution of violators of rights of human right defenders and compensation to the HRD etc.
- Organized workshop on HRDs attended by higher State functionaries. Recommendations sent to all states for guidance. The recommendations are annexed at Annexure 'B'.
- HRD cases being displayed on the website.
- Encompassing this chapter of HRDs in the annual report is also a part of the steps to spread awareness.
- The NHRC also released a message on 9th December 2011 and 9th December 2012 regarding continued support to the HRDs. The message is annexed as Annexure 'C' and 'D' respectively.
- NHRC, if necessary, has taken up the issue of protection and promotion of rights of HRDs with the State Government. For example, NHRC wrote a letter to Chief Minister, Government of Chhattisgarh in this regard. The same is annexed as Annexure 'E'.

IMPORTANT CASES RELATED TO HRDS AND NHRC INTERVENTION FOR RELIEF

1. **Case Nos. 634/22/13/2010 & 635/22/13/2010**

The Commission took cognizance of two complaints received from Shri Sarvanan Karuppasamy, and Ms. Sakthi Prabhavati, CEO and the Secretary respectively of the organization known as World Human Rights Commission & Rescue Centre. They have been registered as complaint case no. 635/22/13/2010 and case no. 634/22/13/2010. They have allegedly been implicated in false cases and harassed and tortured while in police custody because they refused to withdraw their complaint made to the NHRC against the police officials in respect of the violence that took place at Law College, Coimbatore. Both the cases being on the same subject were clubbed together for disposal.

The Commission considered the report from DGP, CBCID, Tamil Nadu. On perusal of the reports, the Commission observed that prima facie they were tortured during the police custody. The Commission has issued Show Cause Notices to Chief Secretary, Govt. of Tamil Nadu to show cause as to why Commission should not recommend relief for the complainants.

2. **Case No.20903/24/72/2011 LFs 21069/24/72/2011 & 22280/24/72/2011**

Dr. Lenin, Secretary General, PVCHR, an NGO, has alleged that one of the activists Shri. Mangala Rajbhar is being threatened by police because he raised the issue of inaction by the police in a gang rape case. Shri Balgovind Mishra, Incharge of Police Outpost Kathiraw under Phulpur Police Station, Varanasi, allegedly called Mr. Mangala Rajbhar repeatedly to threaten him because he had espoused the cause of the rape victim. Shri Lenin, Secretary General, PVCHR, has protested against this conduct of the police officer against HRDs. Upon consideration of the report, the Commission observed that the report of the SP did not touch upon the real issue raised by Shri Lenin in his

complaint and directed the SSP, Varanasi to submit a proper report touching upon the allegations made in the complaint. The matter is under consideration of the Commission.

3. Case No.20596/24/72/2012 LF 29463/24/72/2012

The Commission received a complaint dated 26.06.2012 from Peoples Vigilance Committee on Human Rights, Varanasi, U.P. It has been alleged that Shri Anil Kumar Maurya, an RTI activist who applied for information under Right to Information Act regarding irregularities in issuing gas cylinders by the Indian Oil Corporation is being threatened by gas agencies. The victim was allegedly detained by the police for about thirty hours to harass him. The Commission directed to issuance of a notice to the SSP, Varanasi seeking a report.

4. Case No. 431/25/5/2013

The Commission received a complaint pertaining to alleged death of student leader and Human Rights Defender, Sudipta Gupta due to his brutal torture by Kolkata Police in their custody. The complainant has also alleged negligence on the part of the SSKM Hospital, Kolkata in providing immediate care to the victim on his arrival at hospital. The Commission has issued notice to the DGP, West Bengal and Secretary, Health, Govt. of West Bengal to submit detailed report within four weeks.

5. Case No. 5976/30/0/2011

The complainant has forwarded an e-mail alleging that a human rights lawyer Shreeji Bhavsar has been assaulted by police officials in Sarita Vihar Police Station on 16.10.2011, due to which he received grievous injuries, fractured his right thumb and suffered severe chest pain. The Commission took cognizance in the matter on 3.11.11 and directed issue notice to the DCP (South West), Delhi calling for a report in the matter. The Commission, after considering the relevant reports, observed that there was enough evidence on record to prove that SI O.P. Yadav had caused grievous injuries to an advocate Shreeji Bhavsar and threatened him with dire consequences based Deputy Commissioner of Police, Crime & Railways' report. The Commission held that a public servant has violated the human rights of an advocate Shreeji Bhavsar and issued a Show Cause Notice to the Government of NCT of Delhi through its Chief Secretary. The Commission on 31.12.12 recommended to the Chief Secretary, Government of NCT of Delhi to make payment of Rupees 50,000/- as monetary

compensation to the victim, Advocate Shreeji Bhavsar and submit compliance report along with the proof of payment within 6 weeks. Compliance is awaited.

6. Case No. 2621/4/19/2011 LF 2623/4/19/2011 & 2658/4/19/2011

It has been alleged that on 9.12.2011 an RTI activist and whistleblower Ram Vilas Singh has been killed by unidentified assailants at Bavangavan Village in Lakhisarai District of Bihar. The complainant informed that local police took action against only two of the accused. The remaining three accused have not been brought to justice. The Commission directed DGP, Government of Bihar to consider the comments of the complainant, take further action in accordance with law and submit a report.

7. Case No. 463/13/30/2012

The complainant in his email complaint dated 29.02.2012 alleged that a RTI activist & human rights defender Prem Kumar Jha was shot dead on 25.02.2012 at Gurudutt Nagar, Thane, Mumbai because he had sought information through RTI on illegal construction in Vasai Virar belt near Mumbai and had exposed few cases of corruption. The Commission observed that “the complaint raises serious allegations of murder of an RTI activist who was working for exposing corruption in Municipal Corporation and activities of builders engaged in illegal constructions. The Commission directed to send final reminder the Director General of Police, Maharashtra impressing upon him to submit outcome of the CBCID investigation.

8. Case No. 71/3/15/2013

The complainant has suspected kidnapping and murder of Miss Majoni Das, a woman activist, writer and teacher, from Sivasagar district of Assam. It has been alleged that the victim was called several times on her mobile phone and was harassed by the police. Miss Majoni Das has been missing since then. The Commission directed to issue Notice to the DGP Assam to get an enquiry conducted into the matter and submit a report to the Commission at the earliest.

8. Case No. 49995/24/34/2011 & 50016/24/34/2011

Dr. Lenin Raghuvanshi, Secretary General/Executive Director, PVCHR in an e-mail complaint stated that on 29.11.2011 he received a threat on his mobile number +91-9935599333 from Mobile Number +94757251733, the caller later on told that his name was J.P.Mishra, resident of Gorakhpur. The Complainant alleged that the above named caller threatened him that he will

shoot him dead and can do anything. The complainant had requested to conduct a high level inquiry against the culprits and provide security to Dr. Lenin Raghuvanshi and witness in Shobrab killing case, Gorakhpur in which name of Shri Aditya Yogi Nath, (Member of Parliament) had appeared. The Commission directed to issue notice to DGP, Uttar Pradesh calling for a detailed report within 7 days and take steps to protect the life of Dr. Lenin Raghuvanshi and the witness in Shobrab case. It further directed DG(I) to collect facts over telephone. The report of Investigation Division has been received. The matter is under consideration.

9. Case No.11939/24/73/2010

The Commission received a complaint dated 1.4.2010 from Shri Nand Lal Shukla, President, Manavadhikar Emergency Helpline Association, Sant Ravidas Nagar, Bhadohi, Uttar Pradesh and a human rights defender, alleging that the then Addl. Supdt. of Police, Sant Ravidas Nagar, Uttar Pradesh Ms. Ruchita Choudhary called him and asked him to withdraw his statement in a complaint case no. 224/24/73/09-10 earlier submitted by him before the Commission pertaining to one victim Vinod Kumar Dixit. He further alleged that when he showed reluctance, the Addl. Supdt. of Police, Sant Ravidas Nagar threatened him and stated that the investigation is being done against him and after lodging FIR, his limbs will be broken. In the light of the apprehension of false implication and threat to life, a prayer was made before the Commission for intervention and justice.

On perusal of reports submitted by authorities, the Commission inferred that Sh. Nand Lal Shukla was intimidated and harassed by the Additional Superintendent of Police (Intelligence), Ms Ruchita Chaudhary on the pretext of a pseudonymous complaint because he exposed police malpractices. The Commission issued show cause notice as to why monetary relief may not be provided to the victim and also directed the Chief Secretary to initiate punitive action against Ms Ruchita Chaudhary.

In response to the Show Cause notice, the Secretary (Home), HR Dept, UP, submitted that there was no justification for grant of monetary relief to the victim. Sh. Nand Lal Shukla further prayed for an independent investigation and justice.

The Commission has directed Gyaneshwar Tiwari, SP, Banda and Ms Ruchita Chaudhary, Additional Superintendent of Police (Intelligence) to appear

before the Commission with the entire record of the case. The case is under consideration of the Commission.

10. Case No.896/22/37/2010

Shri Devika Prasad, Secretary, Working Group on Human Rights, New Delhi vide his e-mail letter dated 17.8.2010 forwarded a copy of complaint dated 17.8.2010 from Sh. Miloon Kothari, Convenor, Working Group on Human Rights. Sh. Miloon Kothari alleged that Mr. Gnana Diraviam, Mr. Anandan, Ms. Bharathi Pillai, Ms. Niharga Priya and Ms. Sudha – members of a Fact Finding Team - were arrested illegally on the night of 15 August, 2010 by Veeravanallur Police Station, Tirunelveli district, Tamil Nadu, where they had gone to conduct an enquiry in a torture case against a police officer. It was further alleged that the arrest was carried out in violation of the law, criminal procedure, and the DK Basu guidelines.

On investigation by the Investigation team of NHRC it was found that the trainees were implicated in a false case by the police due to some reason connected to their enquiry into the allegations of torture of accused Suresh. The allegations of torture of Suresh was found to be true.

The Commission considered the above report on 25.06.2012 when it inter-alia directed to send a gist of the report prepared by the NHRC Team to DGP, Tamil Nadu with a request to place it before the Public Prosecutor appearing in MP(MD) No.1 of 2010 in CrI. OP(MD) No.10130 of 2010 before the High Court of Judicature Madras at Madurai Bench.

The Commission also directed the NHRC to engage a Counsel in CrI. O.P.(MD) No.11303 of 2010 filed u/s 482 of the Cr.P.C. in Crime No.161/2010 by Gnanadiraviyam & others Vs. State of Tamil Nadu through its Inspector Police and Directorate Counsel to place the matter before the High Court in these proceedings.

Pursuant to the approval by the Commission, the report along with intervention application has been sent to the Advocate, Madras High Court, Madurai Bench, Tamil Nadu, for taking further action.

The Commission while considering the matter on 21.01.2013 inter-alia directed to await the orders, if any, passed by the High Court, as the report at the instance of the NHRC has already been placed before the Hon'ble Madras High Court, Madurai Bench, Tamil Nadu. The requisite orders of the Court are awaited.

11. Harassment, Misbehaviour and Injury Caused to U.K Vajpayee, ANM.: Uttar Pradesh (Case No: 29929/24/2000-2001)

Justice Shri Ranganath Mishra, Member of Parliament and Chairman, Human Rights Committee of the All India Congress Committee, Delhi referred a complaint alleging harassment, misbehaviour and injuries caused to Usha Kiran Vajpayee, ANM., while on duty under the Pulse Polio Program by the policemen of PS Dakor, District Jalaun, Uttar Pradesh, which resulted in the amputation of one of her legs.

In response to the notice issued by the Commission, the Government of Uttar Pradesh sent a report stating that a charge-sheet had been filed in the Court against the delinquent police officials. On consideration of the report, the Commission found that the injury resulting in the amputation of one of the legs of the victim required consideration for the grant of immediate interim relief under section 18(3) of the Act and, accordingly issued show cause notice to the Government of Uttar Pradesh.

In spite of the notice which was followed by a reminder, no reply was received from the Government of Uttar Pradesh. The Commission, therefore, held that obviously the Government of U.P. had no cause to show against the award of immediate interim relief to the victim. The Commission observed that the facts of this case disclosed gross violation of human rights resulting in the amputation of the leg of the victim, Usha Kiran Vajpayee, who was nearly 37 years of age at the time of the incident. As a result of amputation of one of her legs, she has to contend with permanent disability for life. The circumstances in which the victim was made to flee to save herself from the clutches of the delinquent policemen were also significant in the context. The Commission therefore awarded Rs. 5 lakhs as immediate interim relief to the victim Usha Kiran Vajpayee to be paid by the Government of Uttar Pradesh. In response, the Government of Uttar Pradesh informed that a charge sheet had been filed against the delinquent police officials. The State Government stated the award of immediate interim relief of Rs. 5.00 lakhs was excessive and suggested that an amount of Rs. 1 lakh which was already paid to the victim as immediate interim relief be considered as reasonable. Not agreeing with the State Government, the Commission held that the grant of Rs. 5.00 lakhs as immediate interim relief under section 18(3) of the Act, in the admitted circumstances of the case, was meant as an application of balm on the wounds of the concerned woman and that the amount was not excessive and strongly reiterated the Commission's earlier

directions and rejected the request made by the Government of Uttar Pradesh to reduce the amount. In response the Government of Uttar Pradesh intimated that an amount of Rs. 1,00,000/- has already been paid to the victim, Usha Kiran Vajpayee and the balance amount of Rs. 4,00,000/- had been sanctioned to her. As the compliance report was received, the Commission closed the case.

CONCLUDING REMARKS

The Declaration of HRDs, 1998 has paved the way for one of the most important chapters in the world's endeavor to protect and promote human rights across the globe. It realized the thought that every human being can independently contribute towards the promotion and protection of human rights as a human right defender.

Keeping pace with the international community, India has also worked to ensure conditions that are conducive for HRD. Given India's diversity it was felt that human rights can be protected at all levels only if people at the grass root level are included in the efforts to protect and promote human rights. Though it is a challenging task, with the efforts of the state as well as non-state actors, the aim can be achieved. Public servants have been assigned the task of protection of human rights of the common man/ woman and this encourages the efforts of HRDs as they can be partners in such actions. Though a lot has been done by the institutions including NHRC as evident from the foregoing chapter, still a lot needs to be done. The synergy that has been created with the participation of all the stake holders needs to be carried forward zealously. The vigorous pursuit of this synergy, along with reference to regional and international mechanisms for HRDs is necessary to achieve greater protection, visibility and legitimacy to HRDs in India allowing them to more effectively carry out human rights work, and by so doing, expand the environment in which HRDs are able to exercise the right to defend human rights. This will help ensure better protection of human rights and disseminate information about HRDs to public at large.

The HRDs are expected to carry out their responsibilities in a peaceful manner and in terms of the extant laws in the country. Their primary objective should be to educate the common man about effective remedies available to them in case of human rights violation. They can also facilitate the redressal the situation by assisting the victim get remedies. The Commission expects the media to play a proactive role in the dissemination of the activities of the institutions like NHRC etc. and also highlight the work being done at the grass root level. The inclusive participation of all stake holders will strengthen the synergy the Commission aims to achieve.

This book presents key considerations for strengthening responses to HRDs at risk, by ensuring that they are properly assisted. It also reflects the collaborative experiences of HRDs and the Commission on existing responses for HRDs. The aim of this book is to increase awareness of resources that exist to support and defend HRDs and to ensure that they have the necessary information to easily access these resources.

NHRC, through its comprehensive efforts has managed to provide impetus to the work being done by the HRDs in the country. Cases of atrocities on HRDs, human rights activists, RTI activists have been readily taken up by the Commission and relief has been provided, on merits. The public servants who have been found guilty of misconduct against the HRDs have been brought under the scanner and action has been taken against them. It will not be out of place to mention that the HRDs have also come forward and helped the Commission to carry out its job. The synergy between NHRC and HRDs augurs well for the betterment of the overall human rights scenario in the country.



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Human Rights Council

Twenty-second session

Agenda item 3

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Argentina, Armenia* , Austria, Bosnia and Herzegovina* , Chile, Costa Rica, Cote d'Ivoire, Czech Republic, Estonia, France* , Georgia, Germany, Honduras* , Hungary , Iceland* , Ireland, Mexico* , Montenegro, Norway* , Paraguay* , Peru, Poland, Portugal* , Slovakia* , Spain, Sweden* , Switzerland, the former Yugoslav Republic of Macedonia* , Timor-Leste* , Turkey* , Uruguay : draft resolution

22/... Protecting human rights defenders

The Human Rights Council,

Guided by the Universal Declaration of Human Rights.

Recalling General Assembly resolution 53/144 of 9 December 1998, by which the Assembly adopted by consensus the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms annexed to that resolution, and reiterating the importance of the Declaration and its promotion and implementation.

Recalling also the continued validity and application of all the provisions of the above-mentioned Declaration,

Recalling further all previous resolutions on this subject, in particular Human Rights Council resolutions 13/13 of 25 March 2010 and 16/5 of 24 March 2011, and General Assembly resolution 66/164 of 19 December 2011,

Recalling the Vienna Declaration and Programme of Action,

Reaffirming that States are under the obligation to protect all human rights and fundamental freedoms of all persons,

Acknowledging that human rights defenders play an important role at the local, national, regional and international levels in the promotion and protection of human rights,

* Non-Member State of the Human Rights Council.

Stressing that respect and support for the activities of human rights defenders, including women human rights defenders, is essential to the overall enjoyment of human rights,

Mindful that domestic law and administrative provisions and their application should facilitate the work of human rights defenders, including by avoiding any criminalization, stigmatization, impediments, obstructions or restrictions thereof contrary to international human rights law,

Reiterating the grave concerns expressed by the General Assembly in its resolution 66/164 regarding the serious nature of risks faced by human rights defenders due to threats, attacks and acts of intimidation against them,

Gravely concerned that, in some instances, national security and counter-terrorism legislation and other measures, such as laws regulating civil society organizations, have been misused to target human rights defenders or have hindered their work and endangered their safety in a manner contrary to international law,

Recognizing in this regard that new forms of communication, including the dissemination of information online and offline, can serve as important tools for human rights defenders to promote and strive for the protection of human rights,

Recognizing also the urgent need to address, and to take concrete steps to prevent and stop, the use of legislation to hinder or limit unduly the ability of human rights defenders to exercise their work, including by reviewing and, where necessary, amending relevant legislation and its implementation in order to ensure compliance with international human rights law,

Welcoming the steps taken by some States towards adopting policies or legislation for the protection of individuals, groups and organs of society engaged in promoting and defending human rights, including the decriminalization of defamation, that serve to protect human rights defenders from being prosecuted for peaceful activities, and against threats, harassment, intimidation, duress, arbitrary detention or arrest, violence and attacks by State and non-State actors;

1. Welcomes the work of the Special Rapporteur on the situation of human rights defenders, including her two latest reports submitted pursuant to General Assembly resolution 66/164 and Human Rights Council resolution 16/5, on the use of legislation affecting the activities of human rights defenders,¹ and national human rights institutions,² respectively;

2. Urges States to create a safe and enabling environment in which human rights defenders can operate free from hindrance and insecurity, in the whole country and in all sectors of society, including by extending support to local human rights defenders;

3. Stresses that legislation affecting the activities of human rights defenders and its application must be consistent with international human rights law, including the

¹ A/67/292.

² A/HRC/22/47.

International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, and guided by the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and, in this regard, condemns the imposition of any limitations on the work and activities of human rights defenders enforced in contravention of international human rights law;

4. *Calls upon* States to ensure that legislation designed to guarantee public safety and public order contains clearly defined provisions consistent with international human rights law, including the principle of non-discrimination, and that such legislation is not used to impede or restrict the exercise of any human right, including freedom of expression, association and peaceful assembly, which are essential for the promotion and protection of other rights;

5. *Urges* States to acknowledge publicly the important and legitimate role of human rights defenders in the promotion of human rights, democracy and the rule of law as an essential component of ensuring their protection, including by respecting the independence of their organizations and by avoiding the stigmatization of their work;

6. *Calls upon* States to ensure that human rights defenders can perform their important role in the context of peaceful protests, in accordance with national legislation consistent with the Charter of the United Nations and international human rights law and, in this regard, to ensure that no one is subject to excessive or indiscriminate use of force, arbitrary arrest or detention, torture or other cruel, inhuman or degrading treatment or punishment, enforced disappearance, abuse of criminal and civil proceedings or threats of such acts;

7. *Underlines* that the access to and use of information technologies and the media of one's choice, including radio, television and the Internet, should be promoted and facilitated at the national level, between States and at the international level as an integral part of the enjoyment of the fundamental rights' to freedom of opinion and expression, and also encourages international cooperation aimed at the development of media and information and communications technologies in all countries;

8. *Calls upon* States to respect, protect and ensure the right to freedom of association of human rights defenders and, in this regard, to ensure, where procedures governing the registration of civil society organizations exist, that these are transparent, accessible, non-discriminatory, expeditious and inexpensive, allow for the possibility to appeal and avoid requiring re-registration, in accordance with national legislation, and are in conformity with international human rights law; . -

9. *Also calls upon* States to ensure that reporting requirements placed on individuals, groups and organs of society do not inhibit functional autonomy, and that restrictions are not discriminatorily imposed on potential sources of funding aimed at supporting the work of human rights defenders other than those ordinarily laid down for any other activity unrelated to human rights within the country to ensure transparency and accountability, and that no law should criminalize or delegitimize activities in defence of human rights on account of the geographic origin of funding thereto;

10. *Calls upon* States to ensure that measures to combat terrorism and preserve national security:

(a) Are in compliance with their obligations under international law, in particular under international human rights law, and do not hinder the work and safety of individuals, groups and organs of society engaged in promoting and defending human rights;

(b) Clearly identify which offences qualify as terrorist acts by defining transparent and foreseeable criteria, including, inter alia, considering without prejudice those formulated by the Special Rapporteur on the promotion and protection of human rights while countering terrorism,

(c) Prohibit and do not provide for, or have the effect of, subjecting persons to arbitrary detention, such as detention without due process guarantees, the deprivation of liberty that amounts to placing a detained person outside the protection of the law, or the illegal deprivation of liberty and transfer of individuals suspected of terrorist activities, nor the unlawful deprivation of the right to life or the trial of suspects without fundamental judicial guarantees;

(d) Allow appropriate access for relevant international bodies, non-governmental organizations and national human rights institutions, where such exist, to persons detained under anti-terrorism and other legislation relating to national security, and to ensure that human rights defenders are not harassed or prosecuted for providing legal assistance to persons detained and charged under legislation relating to national security;

11. *Further calls upon* States to ensure that all legal provisions and their application affecting human rights defenders are clearly defined, determinable and non-retroactive in order to avoid potential abuse to the detriment of fundamental freedoms and human rights, and specifically to ensure that:

(a) The promotion and the protection of human rights are not criminalized, and that human rights defenders are not prevented from enjoying universal human rights owing to their work, whether they operate individually or in association with others, while emphasizing that everyone shall respect the human rights of others;

(b) The judiciary is independent, impartial and competent to review effectively legislation and its application affecting the work and activities of human rights defenders;

(c) Procedural safeguards, including in criminal cases against human rights defenders, are in place in accordance with international human rights law in order to avoid the use of unreliable evidence, unwarranted investigations and procedural delays, thereby effectively contributing to the expeditious closing of all unsubstantiated cases, with individuals being afforded the opportunity to lodge complaints directly with the appropriate authority;

(d) Any provision or decision that may interfere with the enjoyment of human rights must respect fundamental principles enshrined in international law so that

(they are lawful, proportionate, non-discriminatory and necessary in a democratic society;

(e) Information held by public authorities is proactively disclosed, and that transparent and clear laws and policies provide for a "general right to request and receive such information, for which public access should be granted, except for narrow and clearly defined limitations;

(f) Restrictions are not invoked on access to information regarding grave violations of human rights;

(g) That provisions do not prevent public officials from being held accountable, and that penalties for defamation are limited in order to ensure proportionality and reparation commensurate to the harm done;

(h) Legislation aimed at preserving public morals is compatible with international human rights law;

(i) Legislation does not target activities of individuals and associations defending the rights of persons belonging to minorities or espousing minority beliefs;

(j) Dissenting views may be expressed peacefully;

12. *Expresses particular* concern about systemic and structural discrimination and violence faced by women human rights defenders, and calls upon States to integrate a gender perspective in their efforts to create a safe and enabling environment for the defence of human rights;

13. *Reaffirms* the right of everyone, individually and in association with others, to unhindered access to and communication with international bodies, in particular the United Nations, its representatives and mechanisms in the field of human rights, including the Human Rights Council, its special procedures, the universal periodic review mechanism and the treaty bodies, as well as regional human rights mechanisms;

14. *Strongly calls* upon all States:

(a) To refrain from, and ensure adequate protection from, any act of intimidation or reprisals against those who cooperate, have cooperated or seek to cooperate with international institutions, including their family members and associates;

(b) To fulfil the duty to end impunity for any such acts of intimidation or reprisals by bringing the perpetrators to justice and by providing an effective remedy for their victims;

(c) To avoid legislation that has the effect of undermining the right reaffirmed in paragraph 13 above;

15. *Reaffirms* the necessity for inclusive and open dialogue between civil society actors, particularly human rights defenders, and the United Nations in the field of human rights and, in this context, underlines that participation by civil society should be facilitated in a transparent, impartial and non-discriminatory manner;

16. *Underlines* the value of national human rights institutions, established and operating in accordance with the Paris Principles, in the continued monitoring of existing legislation and consistently informing the State about its impact on the activities of human rights defenders, including by making relevant and concrete recommendations;

17. *Stressing in particular* the valuable contribution of national human rights institutions, civil society and other stakeholders in providing input to States on the potential implications of draft legislation when such legislation is being developed or reviewed to ensure that it is in compliance with international human rights law;

18. *Invites* leaders in all sectors of society and respective communities, including political, social and religious leaders, and leaders in business and media, to express public support for the important role of human rights defenders and the legitimacy of their work;

19. *Encourages* States to include in their reports for the universal periodic review and to treaty bodies information on the steps taken to create a safe and enabling environment for human rights defenders, including by bringing legislation and its application affecting the activities of human rights defenders into line with international human rights law;

20. *Encourages* national human rights institutions, civil society and other stakeholders to provide information, including to States, in the context of the universal periodic review and the work of treaty bodies, on the enabling environment for human rights defenders, including legislation and its application affecting the activities of human rights defenders;

21. *Encourages* the Office of the United Nations High Commissioner for Human Rights, the Special Rapporteur, relevant regional mechanisms and national human rights institutions to offer their assistance for the consideration of States in bringing their legislation and its application into line with international human rights law;

22. *Invites* States to seek assistance, including that which may be provided by the above-mentioned actors, in the process of reviewing, amending or developing legislation that affects or would affect, directly or indirectly, the work of human rights defenders;

ANNEXURE - B

RECOMMENDATIONS MADE AT THE WORKSHOP ON HUMAN RIGHTS DEFENDERS HELD ON 12TH OCTOBER 2009

The National Human Rights Commission organized a Workshop on Human Rights Defenders on 12th October 2009 in New Delhi. The objectives of the Workshop were (a) To discuss and analyze roles, functions and obligations of the State and the human rights defenders in promotion and protection of human rights and fundamental freedoms especially with reference to international standards (b) To share difficulties faced by human rights defenders and suggest appropriate remedial measures.

2. The following recommendations of the workshop were approved by the Commission:-

(i) It is the obligation of the State to protect human rights of all. Individuals, groups or associations who work for promotion and protection of human rights, commonly referred to as Human Rights Defenders, should also be provided protection by the State against any violence, threats, retaliation, adverse discrimination, pressure or any arbitrary action as a consequence of their activities for promotion & protection of human rights & fundamental freedom. NHRC and SHRCs can also play an important role in this regard.

(ii) There is a need to draw a clear line of distinction between genuine human rights defenders and those who wear the garb of human rights defenders to gain advantages for their personal ends.

(iii) The Human Rights Defenders have also duties towards the society. In carrying out their activities, they should act in a peaceful manner and should not take law into their own hands.

(iv) There is a need to set up a Focal Point for human rights defenders, preferably at NHRC, so that human rights defenders can reach out to it for support. The focal point should be accessible through a phone no. or email etc.

(v) For protection of human rights, modern technology like satellite T.V coverage and SMSs etc. could be effectively utilized. Print media and electronic media can play an important role in this regard.

(vi) Complaints of harassment of human rights defenders could be posted on NHRC/ SHRC websites to draw specific attention of the people to sue cases.

(vii) The UN Declaration on the "Rights and responsibilities of Individuals, Groups and Organisations of society to promote and protect universally recognized human rights & Fundamental Freedoms" adopted by the General Assembly in 1998 should be disseminated to the Chief Secretaries and Directors General of Police of all States and UTs as also other Government functionaries. Likewise, other National and State Commissions/ institutions related to human rights issues should also be apprised about the aforementioned declaration and other important international covenants and instruments.

(viii) NHRC may consider including cases of violation of rights of human rights defenders along with action taken thereon in a section of its annual report.

(ix) NHRC may consider writing to the Government of India for granting permission to UN Special Rapporteur on human rights defenders to visit India:

(x) All training institutions for public functionaries in the country like LBS National Academy of Administration, SVP National Police Academy, should include human rights awareness including international declaration and covenants and role of human rights defenders in their training programmes:

(xi) The human rights defenders should also focus more attention to the victims of human rights violations by the non State actors.

(xii) Human Rights Defenders should not only focus attention on Civil & Political Rights but also on the Economic & Social rights , especially in backward areas. Some of the areas could be rights of persons with disabilities and rights of children.

(xiii) There is also a need to disseminate knowledge about provision of various laws, rules, regulations as well as international covenants etc. amongst

NGOs working in the field of human rights such as rights of women, children, persons with disabilities etc. Human Rights defenders should take initiative in this regard also.

ANNEXURE - C

Justice G.P. Mathur
Member
(Former Judge, Supreme Court of India)



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Dated: 08.12.2011

MESSAGE

The National as well as international community around the world are increasingly realising and acknowledging the role and contribution of Human Rights Defenders (HRDs) in strengthening the human rights regime throughout the globe. NHRC considers the HRDs as its partner in the endeavour to fulfil its role as an institution for promotion and protection of rights of common man.

NHRC understands that there are many security risks for human rights defenders and; they have to tread a very risky and difficult path to perform their duties/tasks as a Human Rights Defender. The problems and harassment of the HRDs are in the knowledge of NHRC and NHRC has always made sincere efforts to ameliorate the problems. Measures like Focal Point for Human Rights Defenders, dedicated website space for HRDs and sensitization of functionaries of both state and non state actors, through workshops/trainings/seminars/meetings, have gone a long way in making the voice of the HRDs heard and restoration of their identity as promoter and protector of human rights.

The Commission believes that 9th December, which is the day when the Declaration on Human Rights Defenders was adopted by United Nations on 9 December 1998, be declared as Human Rights Defenders Day to acknowledge and pledge continued support to the HRDs who are working for the creation and sustenance of a rights aware and rights respecting civil society.

G.P. Mathur

(Justice G. P. Mathur)

ANNEXURE - D

Justice K. G. Balakrishnan
Chairperson
(Former Chief Justice of India)



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MESSAGE

The National Human Rights Commission of India considers the Human Rights Defenders (HRD's) as integral to its endeavour to promote and protect the human rights of the -common man. 9th of December, the day when the Declaration on Human Rights Defenders was adopted in 1998: is a day when the Commission takes the opportunity to acknowledge the contributions made by all Human Rights Defenders and for the efforts made by them at personal risk, at times even in adverse circumstances for the promotion and protection of human rights.

In order to strengthen and support the HRD's in their pursuits, the Commission has taken several steps in recent years. These include, inclusion of a chapter in the Annual Report, displaying status of cases relating to them on the website, creation of a focal point for Human Rights Defenders as well as holding of workshops and seminars on subjects relating to them. The Commission has visited remote areas of the country to understand the difficulties of the HRD:s at the grass root level and has sought to rectify the hurdles they face through the concerned State Government. Complaints received in the Commission pertaining to HRD's have been accorded high priority and immediate/necessary relief has been provided, as per merits, to the victims.

The Commission assures of its continued support for the protection of bonafide interests and causes the Human Rights Defenders stand for. The Commission also supports the declaration of 9th of December as the Human Rights Defenders Day as this will provide an impetus to the role being played by the Human Rights Defenders.

(Chairperson)

ANNEXURE - E

Justice K. G. Balakrishnan
Chairperson
(Former Chief Justice of India)



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F.No.LD/MISC/CD-2013

Dated 23rd April, 2013

Dear Dr. Raman Singh Ji

At the very outset I would like to convey my thanks for the support extended by the Govt, of Chhattisgarh for smooth and successful Camp sitting of NHRC at Chhattisgarh on 11/12.04.2013

During the deliberations with the various stake holders, it was gathered that the overall atmosphere for the best functioning of NGOs/ HRDs is still not very conducive in the State of Chhattisgarh. They alleged that functionaries of the NGOs and HRDs are being threatened, being coerced • and sometimes being physically manhandled by the State authorities. Many of them stated that they are always under constant' fear of being implicated in false cases or suffer humiliation at the hands of State authorities. This, matter was also discussed with" the State Govt, officers during the Commission's meeting with them.

If will, therefore, be of immense help in the overall interest of the promotion and protection of Human Rights in the state of Chhattisgarh if the State functionaries are sensitized towards the problems being faced by the NGOs/ HRDs and they are treated as partners in bringing about a positive change in the overall human rights situation in the State. The State functionaries should create an-environment where the NGOs/ HRDs work without fear or favour.

With regards,

Yours sincerely,

(K.G. Balakrishnan)

Dr. Raman Singh
Chief Minister
Govt, of Chhattisgarh
Raipur - 492001

ANNEXURE - F

Justice K. G. Balakrishnan
Chairperson
(Former Chief Justice of India)



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G-28/CH/2013

MESSAGE

The Commission again welcomes 9th December i.e. the day when Declaration on Human Rights Defenders was adopted. The Human Rights Defenders are working for promotion and protection of human rights in India and across the globe. The acknowledgment of their work stated with the Declaration on Human Rights Defender on 09th December, 1998, but has now matured into a movement. That augurs well for the overall strengthening of the human rights situation through out the world.

The Commission has witnessed growth in the presence of the Human Rights Defenders through out India. The Commission is receiving complaints of human rights violation from the Human Rights Defenders from all corners of the country. It shows the increasing work of the Human Rights Defenders at the grassroot level. The also enables the common man to be abreast of their rights and keep the State actors aware of the demand of the common man and compel them to abide by the laws of the land.

The Commission has also been receiving complaints of harassment and torture of the human rights defenders at the hands of the State functionaries like police, administration etc. The Commission strongly condemns such acts. The State actors should encourage their participation and also work hand in hand with them to ensure best results. The Commission has also probatively worked for the cause of the Human Rights Defenders. The creation of Focal Point for Human Rights Defenders, inclusion of chapter on Human Rights Defenders in the Annual Report Publications of cases of Human Rights Defenders of NHRC Web Site are just few of them. There are cases of Human Right Defenders, where the Commission has called the State functionaries in person and asked to explain their conduct. In one of the cases, the Commission has conducted an inquiry through its own team and moved an application before the concerned court to establish the facts.

The Commission will always support the Human Rights Defenders in their endeavors. 9th December is a day when we think about them and acknowledge the role being played by them. This day can be better observed if it is declared as the "*Human Rights Defenders Day*".

The National Human Rights Commission looks forward to a greater support from the Human Rights Defenders so that it can serve its mandate of promotion and protection of human rights in the country in the letter and spirit.



(Justice K.G. Balakrishnan)

New Delhi
10 December, 2013



NATIONAL HUMAN RIGHTS COMMISSION

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