**Response of NHRC, India**

**Subject: Call for Inputs – Questionnaire from the SR on the situation of human rights defenders.**

SR on the situation of Human Rights Defenders, pursuant to the Human Rights Council Resolution 43/16, seeking the views and inputs of Members, and Observer States, NHRIs, Civil Society etc. on the killing of Human Rights Defenders.

 For the purpose, a questionnaire has been given, which contains six questions and the reply to these questions has to be submitted by 5th October, 2020.

 We may, if approved, reply the questions as under:-

**Ans.1**: The NHRC, India accepts the legitimate right to defend Human Rights. It also accepts that the Human Rights of HRDs 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 and protection of Human Rights and fundamental freedom. Therefore, the Commission has appointed Focal Point for Human Right Defenders, who is accessibly through a dedicated Mobile No.:+91-9999393570, Email: hrd-nhrc@nic.in, on 24x7 hrs basis. The complaints are given immediate attention for registration thereafter immediate action is taken through the Rapid Action Cell of the Commission by contacting and directing the concerned police officials to take steps to protect the life of HRDs and also to mitigate the other threats to him and by the Proceedings of the Commission. The Commission gives press releases, publishes in its Annual Report, the Monthly News Letter and other publication, many a time the suo-moto cognizance of such cases is published and given wide publicity by newspapers.

**Ans.2:** From the scrutiny of the cases, 105 cases were received by the Commission for violation Human Rights of the HRDs, there are 4 instances of allegations of killing of the HRDs during July, 2019 to June, 2020. The Commission took cognizance in all these cases, reports were called from the authorities. After receiving the report, it was observed that in three cases, the accused have been arrested, charge sheet has been filed before the appropriate Court of Law and the legal system has been put in motion, hence, the matters are sub-judice. In one case (485/18/27/2020, the Commission has taken cognizance on 6.2.2020 and a report has been called from the DGP, Orissa only partial report has been received (copies of proceedings of the 4 cases is enclosed herewith an Annexure A1 to A4)

**Ans.3:** In all the four cases of alleged murder of HRDs as mentioned in reply to Question No.2 above, the FIR has been registered under appropriate provision of IPC, Charge Sheet has been filed before the appropriate Court of Law and the matter was sub-judice for trial. However, in one of the Cases (No. 2452/22/2019) the NOK of the victim have been paid the monetary relief of Rs.4,24,000 through District Collector, Tirunelveli.

**Ans.4:** Yes, we have a procedure to deal with all the cases as per the procedure (Regulations) of the Commission. Whenever the Commission receives a complaint of threat of life of the Human Right Defender, the Focal Point – HRD, NHRC India take up the issue on the fast tracks. Some of the illustrations are given hereunder:

1. Case No.896/22/37/2010
2. Case No.19/14/0/2020

 In the above stated cases, the Commission’s Proceedings are attached as Annexure ‘B’ and ‘B1’, to illustrate the action on the part of the NHRC, India. However, to tackle the issue of HRDs following specific procedure is placed:

1. NHRC India made a recommendation on HRD vide a Resolution dated 12.10.2009, recognizing the obligation of the State to protect Human Rights of all individuals, a group, associations who work for promotion and protection of human rights, community referred to as Human Rights Defenders, should also be provided protection against any violation, threats, retaliation, adverse discrimination, pressure or any arbitrary action as a consequences of their activities for promotion and protection of human rights and fundamental freedom.
2. NHRC India set up a Focal Point for Human Rights Defenders so that HRDs can reach out to him for support.
3. The focal point has been made accessible through a dedicated Mobile No. 9999393570, Email: hrd-nhrc@nic.in and Fax No.: 011-24651334 on 24x7 hrs basis. The complaints received on dedicated email or on the phone are being registered on priority and requisite actions, depending on case, to case are being taken up by the Commission.
4. The Commission has sensitized its officers and staff, time and again, to understand the importance of the Human Rights Violations of the Human Right Defenders. They have been advised to give priority to the cases involving alleged violation/victimization of HRDs from the stage of registration, of complaints placing them before the Commission, till it is taken to its logical conclusion.

1. Encompassing the chapter on Human Right Defenders in the Annual Report of the Commission since 2009 is also a part of steps to spread awareness.
2. Interaction with the representatives of NGOs and HRDs of the Commission during its Camp sitting and open hearing to get the feedback of the bottlenecks and the problems being faced by them, so as to place these constraints of HRDs before the top most officials of the State Governments.
3. National Human Rights Commission had organized National Workshop on Human Rights Defenders in the year 2009, 2015, 2017 and 2019 to strengthen the mechanism wherein the Human Rights Defenders are given protection and their work is valued in right earnest towards good governance.
4. The Commission issued instructions dated 11.12.2013 to the Chief Secretaries of all the States to create a favourable environment for functioning of HRD**.**
5. The NHRC India also sends a message on every Human Rights Defenders Day pledging continued support to the Human Right Defenders.
6. The NHRC India has constituted a Core Group of HRDs, various meetings have been held to discuss the systemic violation of Human Rights and also the constraints and difficulties faced by the HRDs in their working. It also calls Action Taken Report from the concerned authority.

**Ans.5:** The Commission has a Focal Point of HRD who is acceptable to the HRDs, 24x7 hrs. Once he is contacted, he has to put the complaints in the fast track, intimating the Commission, contacting the concerned police authorities/civil authorities to intimate the facts and factual position as to the Human Right Defender and he also take feed back from the HRDs and also persuade the officials of the Commission to place the case before the Commission after receipt of the report or comments from the HRDs, on priority basis.

 Further, the legal and judicial system in India is transparent and once a case is investigated and filed before the appropriate Court of Law, it is the function of the judiciary to take it to the logical conclusions. However, the Commission intervenes in the court proceedings, after the permission of the court concerned, where violation of Human Rights is the issue in question (Section 12(b) of Protection of Human Rights Act, 1993).

**Ans.6:** The Commission has intervened in numerous cases as to violation of the Human Rights of the HRDs. For example, in Case No.11939/24/73/2010, the Commission recommended to provide police protection to the Human Right Defender and his family and the State Government did accept the recommendations of the Commission. Further, in Case No.11900/24/31/2020, the Commission again directed inter-alia the concerned DGP to provide protection to ensure the protection of life and property of the Human Right Defender and the State Government provided police protection to the HRD. (Copies of the proceedings of the Commission in above stated cases are annexed as C and C2).

 Further, some of other illustrations are Case Number i) 2449/11/2019; ii) 2452/22/37/2019, iii) 485/18/27/2020 and iv) 838/34/24/2019. In these cases, the Commission has taken steps to protect and prevent Human Right violation of the Human Right Defenders (proceedings enclosed at Annexure-A to A4).