



## **ROLE OF HUMAN RIGHTS COMMISSION FOR THE PROTECTION OF HUMAN RIGHTS**

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### **ABSTRACT**

The National Human Rights Commission is a statutory and non-constitutional body that was founded on October 12, 1993, in accordance with the human rights ordinance. Following that, it was amended by the Protection of Human Rights (Amendment) Act, which was passed in 2006. The National Human Rights Commission is given its authority under the Protection of Human Rights Act (TPHRA). The protection of citizens from all of the terrible things that exist in the country, such as cruelty, torture, indignity, and inhuman treatment of women, children, elders, and prisoners was the primary goal of the establishment of the National Human Rights Commission (NHRC). This was the case for all human beings in the country. The UN Declaration of Human Rights Convention was approved by the United Nations General Assembly in 1948, which is where the inspiration for the Protection of Human Rights Act, 1993 came from. If there are any situations in which there has been a delay in getting justice to victims and declaring the verdict relating to grave human rights violations inside the country, the National Human Rights Commission has specific rights for instruction to the court. The primary mission of the National Human Rights Commission (NHRC) is to investigate and prosecute cases of human rights abuses committed against members of socially and racially excluded groups. These groups include women, elderly people, children, members of religious minorities, caste minorities, racial minorities, people with disabilities, prisoners, refugees, members of the LGBT community, and others. The national legislation makes an effort to provide victims of crime with protection and remedies, as well as to determine the appropriate level of punishment to be handed out to those responsible for committing any violation.

**Keywords:** *Declaration, Human Rights, NHRC, United Nations, Violation.*

### **INTRODUCTION**

The National Human Rights Commission was founded on October 12, 1993, as a statutory and non-constitutional authority, in accordance with the human rights law. After that, in 2006, the Protection of Human Rights (Amendment) Act brought forth the necessary changes. The National Human Rights Commission is given its authority under the Protection of Human Rights Act (PHRA). The National Human Rights Commission was established for the purpose of protecting citizens from all of the terrible things that exist in the country, such as cruelty, torture, indignity, and inhumane treatment of women, children, elders, prisoners, and any other human beings. This was the motivation behind the establishment of the commission. The United Nations Declaration of Human Rights Convention was approved by the United Nations General Assembly in 1948, which is where the inspiration for the Protection of Human Rights Act of 1993 came from. The Act defines human rights as "rights connecting to life, liberty, equality, and dignity of the individual guaranteed by the Constitution and embodied in the International Conventions." The National

Human Rights Commission is responsible for the protection and promotion of human rights. Human rights are defined by the Act as "rights connecting to life, liberty, equality, and dignity of the individual guaranteed by the Constitution." The National Human Rights Commission's primary role is to educate the general public on the importance of protecting human rights. It does this through the dissemination of information in the form of publications, lectures, and workshops, as well as through the use of the media and personal visits to locations where human rights have been violated. The commission also works in collaboration with other Human Rights organisations on both the national and regional levels, as well as with NGOs. In addition, it will take action against any breach of human rights committed by a government official or member of the military forces, as well as any inhumane treatment of inmates in penal facilities.

The National Human Rights Commission has specific rights for instruction to the court if there are any cases that have been postponed to provide victims with fair justice and their compensation, and to pronounce the verdict about important human rights violations that have occurred inside the country. It is the primary responsibility of the National Human Rights Commission (NHRC) to constantly fight against many different kinds of human rights violations that are committed against marginalised groups, such as women, elders, children, religious minorities, caste minorities, racial minorities, people with disabilities, prisoners, refugees, LGBT individuals, and so on and so forth ( (Nagendra Kumar Pathi, 2007).

### **Basic concept and understanding about Human Rights**

Rationality is a hallmark of the human species. When a person is born into this world, they automatically become entitled to a set of rights that are guaranteed to them by the constitution as well as by national and international declarations. They are fundamental to all people regardless of their caste, faith, religion, gender, race, nationality, or anything else of the sort (Elizabeth Reichart, 2006). Human rights are a set of essential and inalienable rights that people have simply by virtue of the fact that they are human, and these rights are universally recognised under the name human rights. These rights are essential for all people because they are in line with their freedom and their sense of self-worth and because they are beneficial to an individual's bodily, moral, social, and spiritual wellbeing. People may or may not be aware of their rights, but the question that has to be answered is how these rights will be maintained. The answer is yes; we have put in place a number of safeguards to preserve our rights. As part of this requirement, an attempt has been made to take into consideration one of these mechanisms, specifically the part played by the National Human Rights Commission (NHRC) in the safeguarding of human rights. Following an explanation of the significance of human rights as an introduction to the topic at hand, the following section of the consignment focuses on the significance of national formations of human rights within a country and promotes a discussion of the various stages that must be completed at the international level prior to the establishment of such institutions. Following the deliberation that took place in India with the passing of the Protection of Human Rights Act, the situation in India has changed. In addition to that, a brief discussion was held on the roles and duties of the National Human Rights Commission (NHRC), as well as its operations and the extent to which it has been successful in defending human rights in India.

### **VIOLATION OF HUMAN RIGHTS INDIA**

Every every country in the world is guilty of violating the rights of their citizens. In today's India, violations of human rights are more prevalent than ever before, and this trend is only expected to continue. Several forms of torture, abuse, cruelty, and offences committed against people, the majority of which are committed

against marginalised and vulnerable groups, such as religious minorities, caste minorities, women, children, and elderly people, people with physical and mental impairments, LGBT people, and others. The most recent statistics show that there are significantly more deaths that occur in police custody while an investigation is being conducted on an accused person. The National Human Rights Commission is constantly fighting against this kind of human rights violation, and it also makes recommendations to the legal system to ensure that victims receive prompt and impartial justice and that prisoners' rights are protected (Bajwa, G.S, 1995).

According to the report "Torture in India 2011" published by the Asian Centre for Human Rights, the National Human Rights Commission of India recorded a total of 14,231 deaths in custody in India between the years 2001 and 2010. This number includes approximately 1,504 deaths in police custody and approximately 12,727 deaths in judicial custody. This study makes the observation that the incidents included below are only those that were reported to the National Human Rights Commission (NHRC), and they do not represent all of the cases of fatalities that occurred in custody. According to the study, the deaths that occurred in detention were caused by torture, a lack of access to medical facilities, and inhumane jail circumstances. Once a person has been taken into custody, the authorities in whose custody he or she is are responsible for his or her life, health, and safety. This might be the police or the authorities in charge of the jail where the person is being held (.

### **Functions and Powers of the Commission**

In accordance with section 12 of the Act, the Commission possesses a broad range of authorities and functions. According to subsection an of section 12, the Commission has the authority to investigate any public worker about whom a complaint has been filed alleging a violation of human rights. This authority allows the Commission to act on its own initiative. According to the provisions of section 12(b), the Commission has the ability to participate in any case involving any claim of a violation of human rights that is ongoing before a Court, provided that the Court grants the Commission permission to do so. It is primarily for the aim of monitoring prison or custodial jurisprudence that Section 12(c) of the Act grants the Commission the authority to visit any jail or other facility prior to informing the State Government of its intention to do so. On the basis of these kinds of inspections, the Commission may provide recommendations to the governments of the states. Following their inspection of a large number of prisons, the Commission came to the conclusion that those who are incarcerated are compelled to live in deplorable circumstances. According to its point of view, this is not because there is an absence of ideas, but rather because there is apathy and a lack of attention paid to jail conditions and the rights of inmates who are under trial. The Commission has already begun taking steps to improve the circumstances of prisons in India, and it has also begun analysing all of the reports that are already available on prisons. The Commission has urged both the production of a new All India Jail Manual and the reform of the outdated Indian Prison Act of 1894. Both of these recommendations were made by the Commission. The Commission reached out for assistance to everyone who is of the opinion that a person's human dignity should not be abandoned when they enter the gates of a jail.

The Commission is granted the authority in Section 12(d) to conduct a review of the safeguards provided for the protection of human rights in either the Constitution or any other law that is currently in effect, as well as to make recommendations regarding the effective implementation of these safeguards. There is a specific provision located in Section 12 (e) that requires an investigation into the factors that contribute to terrorism, which impedes the enjoyment of human rights, and the proposal of suitable corrective actions.

The effective implementation of all international human rights instruments is the subject of an investigation that is mandated by Section 12(f), which also includes provisions for the formulation of recommendations in this regard. The encouragement of research in the area of human rights is provided for in paragraph (g) of Section 12 of the Act. The Commission is given the authority in Section 12(h) to educate various sectors of society about human rights, as well as to raise awareness of the safeguards that are available to protect these rights. This can be accomplished through publication, the media, seminars, and any other means at the Commission's disposal. The Commission is given the authority under section 12(i) to support and encourage the activities of non-governmental organisations (NGOs) that are active in the field of human rights. In the end, Section 12(j) stipulates that the Commission may perform such additional responsibilities as it deems necessary for the advancement of human rights.

### **National Human Rights Commission v. State of Arunachal Pradesh**

In accordance with Article 32 of the Indian Constitution, the Commission has presented a writ petition to the Supreme Court of India in the capacity of a public interest plea. This petition was primarily submitted by the Commission in order to enforce the basic rights of around 65,000 Chakma and Hajong tribal members in accordance with Article 21 of the Constitution. In this particular instance, a significant number of refugees from what was then known as East Pakistan were forced to relocate in 1964 as a result of the Kapatain Hydel Project. These Chakmas who were forced to flee their homes found refuge in the north-eastern states of India, specifically in the states of Assam and Tripura. This lawsuit centred on two primary concerns: the first was the granting of citizenship, and the second was the worry that the plaintiff would be persecuted by certain groups of Arunachal Pradesh residents. Two separate NGOs addressed the National Human Rights Commission primarily because to these two concerns.

### **Indian Council of Legal Aid and Advice and others**

On December 3, 1996, the Commission took notice of a letter sent by Chaturanan Mishra, who served at the time as the Minister of Agriculture for the Union of India, in which he expressed concern over fatalities caused by malnutrition as a result of drought in the Bolangir region of Orissa. In a case that was quite similar to this one, on December 23, 1996, the Indian Council of Legal Aid and Advice and a few other organisations submitted a writ petition to the Supreme Court of India in accordance with Article 32 of the Constitution. According to the allegations made in the petition, people in particular municipalities of Orissa continued to die of malnutrition. On July 26, 1997, the Supreme Court of India issued a directive stating that since the National Human Rights Commission (NHRC) was in charge of the subject and was anticipated to provide some sort of ruling, the petitioner might approach the Commission. The Commission, upon becoming aware of the pressing nature of the situation, moved swiftly to take action and at first prepared an interim measure to be implemented over the course of the next two years. In addition, the Commission requested that the Orissa State Government establish a Committee to investigate all aspects of the Land Reform question in the KBK Districts. A Special Rapporteur has been continuously monitoring the progress that is being made in the execution of its directives. The Commission made the observation that the fatalities from famine that have been recorded from some regions of the nation are generally the outcome of poor governance due to acts of omission and commission on the part of public servants.

The Commission gave a resounding vote of confidence to the idea that it is a Fundamental Right of the people of the country to not have to worry about going hungry. Therefore, starvation represents a severe

breach of this right as well as a blatant rejection of it. In January of 2004, the Commission convened a conference at which major authorities on the subject participated in order to explore concerns concerning the Right to Food. The establishment of a Core Group on the Right to Food has been given the go-ahead by the Commission. This group will be able to provide guidance on concerns that are brought to its attention and will also make recommendations for suitable programmes that the Commission may decide to run. By virtue of this judgement, it has been conclusively established in the context of India that economic, social, and cultural rights are accorded the same level of respect before the India Courts and the Commission as are civil and political rights. India is one of the few countries in the world that recognises the economic, social, and cultural rights of its citizens as having some degree of justifiability.

### **Punjab Mass Cremation Order**

Two writ petitions containing serious allegations about large-scale cremations resorted to by the Punjab Police of persons allegedly killed in what were termed as "encounters" were submitted to the Supreme Court of India. The allegations in these petitions are that the cremations were carried out in violation of the law. The primary argument put up in the Writ Petitions was that the State should be held responsible for legal action because of the existence of extra-judicial executions in addition to hurried and covert cremations. The Human Rights Wing of the Shiromani Akali Dal published a press statement on January 16, 1995, with the heading "Disappeared" "cremation ground." This news note was the primary source of information for these petitions. According to the memo, the Punjab Police had burned a significant number of human remains after declaring them to be unidentified and then cremating them all. The Supreme Court, after reviewing the report regarding the cremation of dead bodies that was submitted to the Court by the Central Bureau of Investigation (CBI), observed that the report indicates 585 dead bodies were fully identified, 274 dead bodies were partially identified, and 1238 dead bodies were not identified at all. The study reveals several instances of egregious violations of human rights on a broad scale. In its order dated 12 December 1996, the Court ordered that the Commission investigate the subject in line with the law and make a decision regarding all of the concerns pertaining to the case. Although the matter is still pending before the Commission for final decision, the Commission has, in certain circumstances, awarded compensation to the next of kin of the 89 dead people in the sum of Rupees Two Lakh Fifty Thousand (Rs. 2,50,000/-). When deciding to award the compensation, the Commission looked to the rules that had been formed by the Indian courts in the area of developing legal criteria for remedial, punitive, and exemplary damages for the infringement of human rights. The Commission made the observation that monetary or pecuniary compensation is an appropriate and indeed an effective and sometimes perhaps the only suitable remedy for redressing the established infringement of the fundamental right to life of a citizen by public servants and the state. This is a proposition that is now well accepted in most of the jurisdictions. The Commission noted that this is now a well accepted proposition in most of the jurisdictions. The citizen's claim is founded on the concept of strict responsibility, according to which the defence of sovereign immunity is inapplicable and the citizen is required to receive the amount of compensation.

### **Gujarat Communal Riot**

The commission decided to act on its own initiative in response to the sectarian unrest that broke out in Gujarat at the beginning of 2002. The decision to act was based on reports from the media, both in print and on internet platforms. Additionally, an email correspondence was sent to the Commission with a request for the Commission to take action. The Commission sent a team to Gujarat between March 19 and 22, 2002,

during which time they compiled a secret report that was subsequently released to the public. The release of the secret report was originally deferred in order to allow a chance for the government of Gujarat to react on its contents. This was done in light of the fact that the claims contained in the study are sensitive in nature. Sadly, the state administration did not appear to put any effort into responding to this report. According to the findings of the Commission, the State has failed to fulfil its main and unavoidable obligation to defend the rights to life, liberty, equality, and dignity of all of the individuals who comprise it. In this instance, the concept of *res ipsa loquitur*, which translates to "the event speaks for itself," is applicable of determining the degree to which the State of Gujarat is responsible for the failure to defend the constitutional rights of the people in Gujarat. The duty of the state extended not only to the actions of its own agents, but also to those of non-State players operating within its authority, as well as to any action that may either directly cause the violation of human rights or indirectly help enable such violations. Because of the report that the Commission on Gujarat produced, the United States government has decided to remove Chief Minister Narendra Modi's visa.

### **ROLE OF NHRC IN THE PROTECTION OF HUMAN RIGHTS**

During this time, it is important to note that the National Human Rights Commission has spent a significant amount of time addressing concerns regarding the implementation of human rights. This is an acceptable development. The National Human Rights Commission (NHRC) has formed its stand for freedom and morality. There have been, and continue to be, a growing number of people who have complained to the Commission in the hopes of having their issues handled. The National Human Rights Commission has been adhering to its obligations and significances with resoluteness and has achieved a great amount of achievement in doing so in terms of protecting and promoting the human rights of every individual. Campaigns against discrimination of all disadvantaged and vulnerable groups, including LGBT and HIV-affected individuals, are examples of the renowned mediations that the National Human Rights Commission (NHRC) carries out. If the cases of custodial deaths in the police station, prisons, or other institutions for apprehended the inmates are not reported within twenty-four hours of their occurrence, it will be assumed that there was an attempt to cover up the incident. This request has been made to all state governments.

### **CONCLUSION**

Significant contributions have been made by the National Human Rights Commission to the core activities and key tasks that are necessary to preserve human rights across the nation. Complaints have been received, and appropriate action will be taken in response to those complaints regarding violations of human rights at the national level. It would be an endeavour to introduce a human rights perspective and important responsibilities to legislative procedures, creative policy-making, and programmes that are executed within the country level as well as the state level. Its contribution to the major role in the protection and promotion of human rights in India and the concerned state has vanished, and with it has gone the anticipated role of investigating alleged violations, examining the public inquiries, exercising evaluate the jurisdiction, and determining whether or not there is any necessity for providing direction and assistance to governments, creating awareness about human rights education among lawmakers, academicians, stakeholders, and students, as well as the role of evaluating whether or not there is any necessity for providing direction and assistance to governments.

### **REFERENCES**

- [1]. Suhas R, Morale & Dilip s Pawar (2013), Human Rights and Indian Constitution, Chandralok Prakashan, Kanpur, India, pp.121-124.
- [2]. The Protection of Human Rights Act, 1993, as amended by the Protection of Human Rights (Amendment) Act, 2006
- [3]. Arun Ray (1997), National Human Rights Commission in India: Formation, Functioning, and Future Prospects, Volume II- Second Revised and Enlarged edition, Khama& Atlantic Publishers, New Delhi
- [4]. Nagendra Kumar Pathi (2007), Protection of Human Rights and National Human Rights Reflections, GyanPublishing House, New Delhi.
- [5]. Elizabeth Reichart (2006), Understanding Human Rights: An Exercise Book, Social Science/Social Work, SagePublications, New Delhi.
- [6]. Bajwa, G.S, (1995), Human rights in India: implementation and violations, Anmol Publications,
- [7]. Singh Seghal B.P, (2008), Human Rights in India: Problems and perspectives, Deep & Deep Publishers, New Delhi
- [8]. RoshiniDahiyaDuhan, (2015), Human Rights Issues in India: A Mapping of Different Groups, Innovare Journal of Social Sciences, Vol:3, Issue: 1.
- [9]. ShreshthaGarg and Anand Kr. Dubey, (2015), Role Of National Human Right Commission In Administration Of Criminal Justice, Academic, Article on Legal