



National Human Rights Commission: A Need to Strengthen

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Abstract: Right is a power; civil society cannot exist without right. Today, violation of human rights has become general activity; in contrary its protection has become rare. When National Human Right Commission come into existence, it had very glorious target about to protection of human rights. Manipur incident was hate example of violation of human rights that is many persons had been killed by police personnel arise rational question on the working of NHRC in India. Democracy is symbol of security of every person. Our constitution has established rule of law, justice, right to dignity, right to life to every person of India. But Manipur incident is against the fundamental rights as well as administration of criminal justice. Other incidents e.g. custodial death, inhuman treatment of prisoners, encounter etc. are heard in India every day. Therefore, there is need of high level discussion on the prevention of violation of human rights.

Keywords: NHRC, International Covenant, Democracy, Rule of Law, Fundamental Right

Introduction

The idea of incorporation human rights known as Fundamental Rights in the Indian Constitution has its genesis in the pre-independent struggle. In the pre-independent India there was no rule and regulation to the protection of fundamental rights of justiciable nature. On January 22, 1947 the Objective Resolution has adopted, it settled the Preamble of Indian constitution which is enunciate justice (Social, Economic and Political), equality before law, equality of status, of opportunity and freedom of thought (expression, belief, faith, worship, association and action) subject to law and public morality. The USA Constitution is a written Constitution to give concrete shape of the concept of Fundamental Rights and making them justiciable and enforceable through the Courts of Law¹.

It is remarkable, that the India by signing many international human rights instruments has undertaken international obligation to investigate, protect and promote far greater number of human rights of people. In 1991, in Paris international community had organized meeting and discuss on protection of human rights² and India fulfill such obligation by enacted Protection of Human Rights Act, 1993. The main target of Act to establish a body (National Human Right Commission) to investigate, protect and promote human rights in Country. No doubt such Commission is success for the protection and promotion of human rights in India. But in practice, such matters are also witness of failure of NHRC for example custodial violence, abuse of child, heinous crime against women, atrocities etc.

International outline

After Second World War, we feel that there was need of protection of human rights. Universal declaration on human rights, 1948 was first international declaration on human rights which has promote separate body to establish on protection, promotion, education for human rights. Other important covenants are the International Covenant on Civil and Political Rights³ and the International Covenant

on Economic, Social and Cultural Rights⁴ adopted by General Assembly of the United Nations on the 16 December, 1966 and India is a party of these International Covenants and result that to establish NHRC under the protection of Human Rights Act, 1993 in India.

Function of The National Human Rights Commission

The Protection of Human Right Act, 1993 has provided very important functions of protection of human rights. Under Section 12, the NHRC shall perform all or any of the following functions, namely (power and function of NHRC figure. 1)

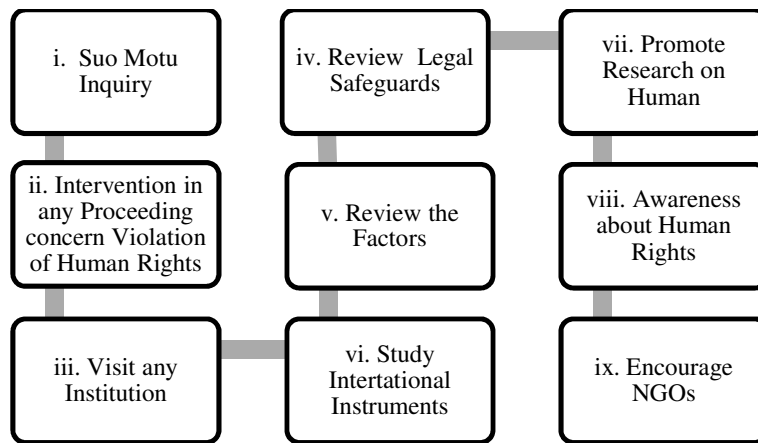


Figure.1 Function of NHRC

Procedure with respect to armed forces (Section 19 of PHRA)

The NHRC has power to dealing with complaints of violation of human rights by members of the armed forces; the Commission shall adopt the following procedure, namely

- ✓ it may, either on its own motion or on receipt of a petition, seek a report from the Central Government;
- ✓ after the receipt of the report, it may, either not proceed with the complaint or, as the case may be, make its recommendations to that Government.

About any complaint, the Central Government shall inform the Commission of the action taken on the recommendations within three months or such further time as the Commission may allow. Further the Commission shall publish its report together with its recommendations made to the Central Government and the action taken by that Government on such recommendations.

Power of NHRC related to inquiries

The Commission shall have all the powers of a Civil Court⁵ trying a suit and in particular in respect of the following matters are

The Commission shall have power to summon any person, to furnish information on such points or matters as, in the opinion of the Commission, may be useful for, or relevant to, the subject matter of the inquiry and any person so required shall be deemed to be legally bound to furnish such information⁶. The Commission or any other officer⁷ has specially authorized in this behalf by the Commission may enter any building or place where the Commission has reason to believe that any document relating to the subject matter of the inquiry may be found and may seize any such document or take extracts or copies. The Commission shall be deemed to be a Civil Court⁹ and every proceeding before the Commission shall be deemed to be a judicial proceeding¹⁰.



Figure 2. Power of NHRC related to inquiries

Where the Commission considers it necessary or expedient so to do, it may, by order, transfer any complaint filed or pending before it to the State Commission of the State from which the complaint arises, for disposal in accordance with the provisions of this Act; Provided that no such complaint shall be transferred unless the same is one respecting which the State Commission has jurisdiction to entertain the same. The commission has power to transfer every complaint and disposed of by the State Commission as if it were a complaint initially filed before it. At present, NHRC has received total complaints concerning to violation of human rights in India, thirty two thousand five hundred six, including into the fresh complaints received¹¹ by NHRC 5464 and only Cases disposed 8413 till on February 2017. Below shown through chart-

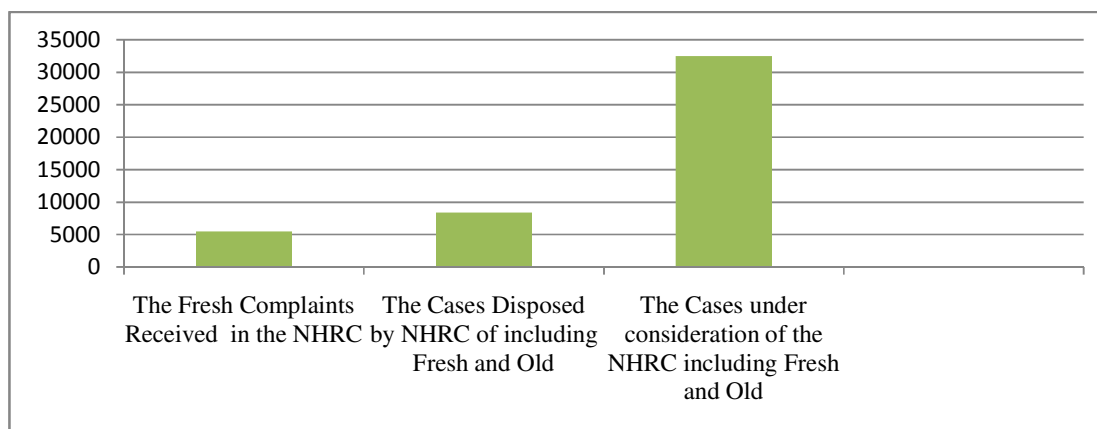


Figure 3 Complaints received/processed

Spot Enquiry by NHRC¹²

Under section 12 of the protection of Human Right Act, 1993 NHRC shall enquiry on the spot, such enquiry play a very important role in protection of human right. Recently in, District Sultanpur, Uttar Pradesh, NHRC has taken an action in Case number 39536/24/70/2015 for Police inaction in a case of physical assault on 13 -17 February, 2017. In next case the NHRC has considered and play active role in Case no. 280/12/15/2017-WC on 15 -17 February, 2017. The case was related to Police inaction on

allegations of sexual assault of 4 Scheduled Caste women and two minor girls by police personnel in district Dhar, Madhya Pradesh. In other case relating to Police inaction and misbehavior with the victims in violence in district Pali, Rajasthan Case No. 3001/20/23/2014 on 20 -24 February, 2017. The NHRC has been enquired Killing 12 persons in encounter in Bakoria Village of Jharkhand¹³ on 27 February to 3rd March, 2017.

Inhuman Treatment of Prisoners

The National Human Rights Commission has taken cognizance of a complaint in inhuman treatment of 32 prisoners at Parappana Agrahara Bangalore Central Jail. They were badly beaten and shifted over night in injured condition to various other prisons at Mysore, Bellary, Belagavi and Davanagere.

Ms Shobha Karandlaje, M.P., Lok Sabha, the family members of these prisoners has complaint, on 17th July, 2017 is not allowed to meet them. The NHRC has issued notices to the DGP and IG Prisons, Karnataka to submit a detailed report on the allegations, along with present location and state of health of the injured/shifted prisoners of the Bangalore jail within four weeks¹⁴.

A need to strengthen of NHRC

After analyzing above we can say that National Human Rights Commission is not successful to prevent violation of human rights in India. Therefore, there is need to strengthen of NHRC in present time in following manner-

- NHRC has an advisory body which is only concern to make a report on violation of Human rights and send to state or union government. It is not enough it is necessary should be Power to punishment.
- Prevent political interference in matter of protection of human rights.
- NHRC must be worked for speedy justice which is main target of Article 21.
- Indian judiciary also help must be to strengthen of NHRC.

Conclusion

To sum up, protection, promotion and security of human rights is base of development and NHRC has help to establish forum where any person can file a complaint and protect their human rights. Without strengthen NHRC we cannot prevent violation of human rights on ground level. New era as a technology and science era but police cruelty and violation, custodial death, jail administrations are working malafied. Indian Judiciary has explained importance of NHRC in various cases like M. K. Balkrishnan case (1991), Madhu Kishwar case(1996), National Human Rights case, Khadat Mazdoor chetna Sangthan case, People Union for civil liberties case (1982) etc. Human Rights Commission as help to good governance and administration of justice.

Reference

1. Indian Penal Code is committed in the view or presence of the Commission, the Commission may, after recording the greater influences to incorporating a Fundamental Rights (known as Bill of Rights) in the Constitution of India is important part of USA Constitution.
2. Paris Principle
3. Part III of the Constitution of India has incorporate desire of International Covenant on Civil and Political Rights,1966
4. Under Part IV of Indian Constitution has adopted obligation of International Covenant on Economic, Social and Cultural Rights
5. Under the Code of Civil Procedure, 1908
6. Under Section 176 and Section 177 of the Indian Penal Code, 1860
7. The rank of a Gazetted Officer has eligible to search any place concern violation of human right.
8. Such activity is subject to the provisions of Section 100 of the Code of Criminal Procedure, 1973.

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9. Any offence as is described in Section 175, Section 178, Section 179, Section 180 or Section 228 of the facts constituting the offence and the statement of the accused as provided for in the Code of Criminal Procedure, 1973, forward the case to a Magistrate having jurisdiction to try the same and the Magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case has been forwarded to him under section 346 of the Code of Criminal Procedure, 1973.
 10. The Commission shall be deemed to be a civil court for all the purposes of Sections 193 and 228, and for the purposes of Section 196, of the Indian Penal Code, and Section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.
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