

Impact
Factor
2.147

ISSN 2349-638x

Refereed And Indexed Journal



**AAYUSHI
INTERNATIONAL
INTERDISCIPLINARY
RESEARCH JOURNAL
(AIIRJ)**

Monthly Publish Journal

VOL-III

ISSUE-X

Oct.

2016

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National Human Rights Commission---A Historical Perspective

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“Human Rights” means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the constitution or embodied in the International covenants and enforceable by courts in India. “Commission” means the National Human Rights Commission constituted under section of All human beings are born free and equal in dignity and rights known as Human rights. Every human being is entitled to enjoy freely irrespective of his religion, race, caste, sex and nationality, In Declaration of Independence acknowledged the fundamental human rights. Human right means different thing to different people. Human Rights are not static. New rights are recognized and enforced from time to time. Only persons fully conversant with the latest development about the expanding horizons of Human Rights can promote their awareness.

Respect for the dignity of an individual and striving for peace and harmony in society, has been an abiding factor in Indian culture. The Indian culture has been the product of assimilation of diverse cultures and religions that came into contact in the enormous Indian sub-continent over time. The international community has recognized the growing importance of strengthening national human rights institutions. In this context, in the year 1991 a UN-sponsored meeting of representatives of national institutions held in Paris, a detailed set of principles on the status of national institutions was developed, these are commonly known as the **Paris Principles**. These principles, subsequently endorsed by the UN Commission on Human Rights and the UN General Assembly have become the foundation and reference point for the establishment and operation of national human rights institutions.

Establishment of National Human Rights Commission:

The Government of India did realize the need to establish an independent body for promotion and protection of human rights. The establishment of an autonomous National Human Rights Commission (Commission) by the Government of India reflects its commitment for effective implementation of human rights provisions under national and international instruments. The Commission is the first of its kind among the South Asian countries and also few among the National Human Rights.

The **National Human Rights Commission (NHRC)** of India is an autonomous public body constituted on 12 October 1993 under the Protection of Human Rights Ordinance of 28 September 1993. It was given a statutory basis by the Protection of Human Rights Act, 1993 (TPHRA). The NHRC is the national human rights institution, responsible for the protection and promotion of human rights, defined by the Act as "rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants". Fourteen Indian States have also set up their own human rights commissions to deal with violations from within their states. The Act contains broad provisions related with its function and powers, composition and other related aspects.

There are a variety of human rights, including: Civil rights (Like as the rights to life, liberty and security),

- Political rights (Such as rights to the protection of the law and equality before the law),
- Economic rights (Like rights to work, to own property and to receive equal pay),
- Social rights (Including rights to education and consenting marriages),
- Cultural rights (Such as the right to freely participate in their cultural community), and
- Collective rights (Such as the right to self-determination).

The purpose of the NHRC is through the petition of a person, to investigate the violation of human rights or the failures of the state or other to prevent a human rights violation through the Commission can visit state institutions where people are detained such as jails to examine the conditions of the institutions and make sure they are in compliance with human rights provisions. They can also examine any law or constitutional provisions to ensure that the safeguards of the law protect human rights. They are to advise the state on measures to prevent terrorism and related violations as well as on how to effectively implement provisions of human rights treaties. The commissions may also take on research about human rights, create awareness campaigns through various mediums, and encourage the work of NGOs. Petitions can be made directly to the commission in the case of any human rights violation.

The NHRC consists of:

(1) The Central Government shall constitute a body to be known as the National Human Rights Commission to exercise the powers conferred upon, and to perform the functions assigned to it, under this Act.

(2) The Commission shall consist of:

(a) A Chairperson who has been a Chief Justice of the Supreme Court;

(b) One Member who is or has been, a Judge of the Supreme Court;

(c) One Member who is, or has been, the Chief Justice of a High Court;

(d) Two Members to be appointed from amongst persons having knowledge of, or practical experience in, matters relating to human rights.

(3) The Chairperson of the National Commission for Minorities, [the National Commission for the Scheduled Castes, the National Commission for the Scheduled Tribes] and the National Commission for Women shall be deemed to be Members of the Commission for the discharge of functions specified in clauses (b) to (j) of section 12.

(4) There shall be a Secretary-General who shall be the Chief Executive Officer of the Commission and shall exercise such powers and discharge such functions of the Commission [except judicial functions and the power to make regulations under section 40 B], as may be delegated to him by the Commission or the Chairperson as the case may be.

(5) The headquarters of the Commission shall be at Delhi and the Commission may, with the previous approval of the Central Government, establish offices at other places in India.

Appointment of Chairperson and other Members

(1) The Chairperson and [the Members]¹ shall be appointed by the President by warrant under his hand and seal; Provided that every appointment under this sub-section shall be made after obtaining the recommendations of a Committee consisting of—

(a) The Prime Minister — Chairperson

(b) Speaker of the House of the People — Member

(c) Minister in-charge of the Ministry of Home Affairs in the Government of India — Member

(d) Leader of the Opposition in the House of the People — Member

(e) Leader of the Opposition in the Council of States — Member

(f) Deputy Chairman of the Council of States — Member

Provided further that no sitting Judge of the Supreme Court or sitting Chief Justice of a High Court shall be appointed except after consultation with the Chief Justice of India.

(2) No appointment of a Chairperson or a Member shall be invalid merely by reason of any vacancy of any member in the Committee referred to in the first proviso to sub-section.

Term of office of Chairperson and Members

(1) A person appointed as Chairperson shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of seventy years, whichever is earlier.

(2) A person appointed as a Member shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for re-appointment for another term of five years. Provided that no Member shall hold office after he has attained the age of seventy years.

(3) On ceasing to hold office, a Chairperson or a Member shall be ineligible for further employment under the Government of India or under the Government of any State.

Powers

As vested in a Civil Court trying suit under Civil Procedure Code, 1908.

» To regulate its own procedure for disposal of complaints

» To utilise the services of any officer or investigation agency of the Central/State Government - with con-currence - for conducting any investigation pertaining to any inquiry.

» Make recommendations to the concerned Government authority suggesting action to be taken against guilty public servant

» Recommend payment of relief/compensation to the victims

» Approach the Supreme Court or High Courts for appropriate directions/orders/writs.

» Communicate the inquiry report - petitioner/victim/representative - Government authority for comments/ action taken/proposed.

Functions

- Inquiry - on petition or suo moto - against complaint of violation of human rights/abetment of violation/ negligence in prevention of violation - by a public servant.

- Intervention - any proceeding before a court with its approval - involving allegation of violation of human rights.

- Visit - any jail/other institution - persons detained/lodged for treatment/reformation - study living conditions of inmates - make recommendations.
- Review - safeguards under the Constitution/any law - for protection of human rights - recommend measures - effective implementation.
- Review - factors - also acts of terrorism - inhibit the enjoyment of human rights - recommend appropriate remedial measures.
- Study treaties/international instruments on human rights - make recommendations for effective implementation.
- Undertake and promote research in the field of human rights.
- Spread human rights literacy - promote awareness of safeguards available for protection - publications, media, seminars, and other means.
- Encourage efforts of non-governmental organisations/institutions working in the field of human rights.
- Other functions considered necessary for promotion of human rights.
- Responsibility of Government authority.
- The Central Government/State Government/Authority has to indicate its comments including action taken on the report/recommendations of the Commission within a period of one month in respect of complaints against public servants other than members of the armed forces.
- In respect of complaints against members of the armed forces, the Central Government has to indicate action taken on the recommendations within three months to the Commission.
- Issue of the one-year limitation period.
- Purpose - not to have another judicial body - an institution which will give sharper focus on the allegation of violation of human rights and provide quicker redressal - other redressal mechanism - District Courts to the Supreme Court - always available to the people.

The Commission intends to monitor the issues like :

- Abolition of Child Labour.
- Combating Sexual Harassment of Women at the Work Place.
- Harassment of Women Passengers in Trains.
- Abolition of Manual Scavenging.
- Dalits issues including atrocities perpetrated on them.
- Problems faced by Denotified and Nomadic Tribes .
- Rights of the Disabled.
- Right to Health.
- HIV/AIDS.
- Relief Work for the Victims of 1999 Orissa Cyclone.
- Monitoring of relief measures undertaken after Gujarat Earthquake 2001.
- District Complaints Authority.
- Population Policy- Development and Human Rights.

Role

- Though the establishment of the National Human Rights Commission is a bold step, yet
- sometimes it fails to discharge its duties effectively and efficiently. It does not have any machinery of investigation. It always depends on the staff of the central and state governments. So its investigation sometimes fails to be impartial.
- In most cases, it asks the concerned Central and State Governments to investigate the cases of the violation of Human Rights. It also approaches the Supreme Court and the High Courts to provide judicial relief to the victims. Soli J. Sorabjee criticized it as “India’s teasing illusion” due to its incapacity to render any practical relief to the aggrieved party.
- On the issue of the violation of Human Rights, India is unnecessarily dragged to controversy. As a sovereign state, when it takes action against all disintegrating forces, the issue of Human Rights violation is raised. The maintenance of a proper balance between these two facts is the highest need of the time. The National Human Rights Commission, so far in India has successfully demonstrated its willingness to act as an effective organisation in the protection of Human Rights.

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ISSN 2349-638X

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