

NATIONAL HUMAN RIGHTS COMMISSION IN INDIA: FUNCTIONS AND RESPONSIBILITIES TO PROTECTION OF HUMAN RIGHTS

Dr. R.Sankar

Guest Faculty, Department of Political Science, School of Social Science, Madurai Kamaraj University, Madurai- 625 021, Tamilnadu.

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ABSTRACT: National Human Rights Commission is a statutory and Non-constitutional bodies established on 12 October 1993 under the human rights ordinance; afterwards, it was amended by the Protection of Human Rights (Amendment) Act, 2006. The powers of NHRC it's derived from the Protection of Human Rights Act (TPHRA). The primary aim to establish the National Human Rights Commission was the protection of citizens from all the evil things such as cruelty, torture, indignity and inhuman treatment of women, children, elders, prisoners, and all human beings in the country. The protection of Human Rights Act, 1993 originated from the UN Declaration of Human Rights Convention adopted by United Nation General Assembly in 1948. The National Human Rights Commission has been certain rights for direction to the court if there are any cases were delay to get the justice to victims and declare the verdict related to major human rights violation within the country. The major responsibility of NHRC constantly fighting against many kinds of violation against marginalized groups i.e. women, elders, children, religious minorities, caste minorities, racial minorities, people with disabilities, prisoners, refugees, LGBT and etc. The national legislation also attempts to protection and remedies to the victims of crime and what punishment should be given to the perpetrators who involved any offense. The human rights activists also support the national legislation through effective functions of the criminal justice system in India. Even though, the prevalence of human rights violation ever increasing in India today. This present paper made an attempt to find out the root cause of the problem and would like to give some suggestion to appropriate prevention strategies and controlling mechanisms to prevent the human rights violation in India. In this juncture, this study would be collecting the secondary sources from the books, journals, government gazette, daily newspapers, appropriate websites and etc along with descriptive research method.

Key Words: Declaration, Human Rights, NHRC, United Nations, Violation.

I. INTRODUCTION

National Human Rights a commission is a statutory and Non-constitutional body established on 12 October 1993 under the human rights ordinance. Afterwards it was amended by the Protection of Human Rights (Amendment) Act, 2006. The powers of NHRC it's derived from the Protection of Human Rights Act (PHRA). The purpose of establish, the National Human Rights Commission was the protection of citizens from all the evil things such as cruelty, torture, indignity and inhuman treatment of women, children, elders, prisoners, and all human beings in the country. The protection of Human Rights Act, 1993 originated from UN Declaration of Human Rights Convention, which was adopted by the United Nation General Assembly in 1948. The National Human Rights Commission is responsible for the safeguard and promotion of human rights, it's defined by the Act as "rights connecting to life, liberty, equality, and dignity of the individual guaranteed by the Constitution and embodied in the International Conventions". (Arun Ray, 1997). The main functions of NHRC create awareness about Human rights protection among the public through publications, seminars, workshops, media, and visiting the places if there is a human rights violation, as well as it's also functioning along with Human Rights organization at the national and regional level and also NGO's. Moreover, it will intervene in any human rights violation by the government official, armed forces and inhuman treatment of prisoners in correctional institutions.

The National Human Rights Commission has been certain rights for direction to the court if there is any cases were delayed to get the impartial justice to victims and their compensation and declare the verdict related to major human rights violation within the country. The major responsibility of NHRC constantly fighting against many kinds of violation against marginalized groups i.e. women, elders, children, religious minorities, caste minorities, racial minorities, people with disabilities, prisoners, refugees, LGBT and etc ((Nagendra Kumar Pathi, 2007).

1.1. Basic concept and understanding about Human Rights

Human beings are rational beings. All human beings are when he or she born they have to possess certain rights according to the constitution, national and international declaration. By benefit of being

humans they possess certain essential and undeniable rights which are universally known as human rights (Elizabeth Reichart, 2006), They are essential in all the individuals without distinction of their caste, faith, religion, gender, race and nationality and etc. These rights are necessary for all the individuals as they are in agreement with their freedom and self-esteem and are favorable to physical, moral, social and spiritual welfare. More or fewer people are aware of their rights but the question is how these rights will be protected. Yes, we have been adopted several mechanisms to protect our rights. In this obligation, an attempt has been made to consider one of such instruments, i.e. the role of National Human Rights Commission (NHRC) in the protection of human rights. Afterward introducing the matter with the meaning of human rights, next part of the consignment deals with the importance of national formations of human rights in a country and promote discussed the various stages at the international level towards the establishment of such institutions. After that situation in India has been deliberated with the enactment of Protection of Human Rights Act. In addition to that the responsibilities and functioning of NHRC has been discussed in brief and how far it has been effective in protecting human rights in India (Showkat Ahmad Bhat and MudassirNazir, 2017).

II. VIOLATION OF HUMAN RIGHTS INDIA

The violation of human rights is a universal phenomenon. The prevalence of human rights violation more common and ever increasing in India today. Several types of torture, abuse, cruelty and offenses against people most of the violence against marginalized and vulnerable groups i.e religious minority, caste minority, women, children, elder, people with physical and mental impairments, LGBT and etc. The recent statistics reveal that much more custodial death in police station during the inquiry of the accused, National Human Rights Commission constantly fighting against such type of violation and also suggest the recommendation to the criminal justice system to speedy and impartial justice to the victims and rights of prisoners (Bajwa, G.S, 1995).

According to the report of the Asian Centre for Human Rights "Torture in India 2011", The National Human Rights Commission recorded a total of 14, 231 deaths in custody in India between 2001 and 2010, which includes about 1,504 deaths in police custody and about 12,727 deaths in judicial custody. This report observes that these are only the cases reported to the NHRC, and do not include all the cases of custodial deaths. The report attributes the deaths in custody to torture, denial of medical facilities and inhuman prison conditions. Once a person was taken into custody, the responsibility for his/her life, health and safety rest with the authorities in whose custody he or she is, be it the police or the jail authorities (Sugas et al, 2013, pp.121-124).

2.1. Composition of National Human Rights Commission in India

The NHRC comprises of:

- ❖ The Chairperson of NHRC should be a retired Chief Justice of India
- ❖ One member who has been, a Justice of the Supreme Court of India
- ❖ Another one member who has been, the Chief Justice of a High Court
- ❖ Two members have been appointed from amongst persons having knowledge of, or practical experience in, areas relating to human rights
- ❖ Moreover, the NHRC also consists of Chairpersons of four National Commissions (Scheduled Castes, Scheduled Tribes, Women and Minorities) function as ex officio members (Showkat Ahmad Bhat & MudassirNazir, 2017).

2.2. Appointment and Removal of the NHRC Members

Section 2, 3 and 4 of The Protection of Human Rights Act laid down the rules for appointment to the National Human Rights Commission. The Chairman and members of the National Human Rights Commission are appointed by the President of India, on the recommendation of the committee comprising of:

- ❖ The Prime Minister of India (Chairperson)
- ❖ The Home Minister of India
- ❖ The Chairman of the Opposition in the Lok Sabha
- ❖ The Chairman of the Opposition in the Rajya Sabha
- ❖ The Speaker of the Lok Sabha
- ❖ The Deputy Chairman of the Rajya Sabha

The chairperson and other members hold office for the term of five years or until they reached

the age of 70 years either is earlier, after their term the Chair-person and member are not eligible for further employment under the central or state government (Satyaprakash et al, 2019).

III. MAJOR HUMAN RIGHTS ISSUES IN INDIA

We cannot deny the massive the enormousness of human right violations charming place in our country. The world's largest democracy is afflicted by predominant violations. It has been summarized below that some major issues or violations which are identified by National Human Rights Commission.

- ❖ Custodial Torture of persons in Police Stations and Prisons
- ❖ Slaves and bonded laborers
- ❖ Unlawful Killings
- ❖ Honour Killings
- ❖ Abortion of Pre-natal Sex determination
- ❖ Unlawful Arrest and Incarceration
- ❖ Excessive Powers of the Armed Forces and the Police
- ❖ Sexual Violence against Women and Children
- ❖ Conflict encouraged Internal Dislocation
- ❖ Child Labour
- ❖ Manual Scavenging
- ❖ Common Violence and discrimination against Women and Children
- ❖ Violence against LGBT
- ❖ Problems faced by Scheduled Castes and Scheduled Tribes, Religious Minorities, Persons with Disabilities and etc. (Roshini DahiyaDuhana, 2015).

3.1. Essential functions and responsibilities of the National Human Rights Commission

The essential functions and responsibilities to NHRC summarized below..

- ❖ Proactively or reactively investigate into encroachments of human rights or neglect in the prevention of such violation by a public servant.
- ❖ Visiting in prison or any other institution under the control of the State Government, where persons are apprehended or detained for commitments of treatment, reformation or protection and rehabilitation for the investigate the living conditions of the prisoners and make some recommendations.
- ❖ Appraisal of the protections delivered by or under the Constitution or any law for the time being in force for the safeguard of protection and promotion of human rights and recommend actions for their effective implementation.
- ❖ Analyse the factors, including acts of terrorism that constrain the enjoyment of human rights and recommend suitable remedial actions.
- ❖ Establish and encourage the research activities in the area of human rights at colleges, Universities and other professional areas.
- ❖ Evaluation of the protection and safety delivered by or under any representation for the safeguard of human rights;
- ❖ Evaluation and periodical review of the factors or problems that restrain the enjoyment of human rights in the country. (Singh Seghal B.P, 2008)
- ❖ Encourage the human rights education among the different segments of society and create the awareness of the defence mechanisms available for the protection of these rights through publications, the media, conferences, workshops, seminars and other activities such as means.
- ❖ Provision the efforts of NGOs and other institutions working in the area of human rights.
- ❖ Direction to the government that any opinion, approval, suggestion or report on any difficulty regarding the promotion and protection of human rights;
- ❖ Prepare the periodical reports on the present condition with respect to human rights in general, and on more specific problems within the country;
- ❖ Advice to the government about circumstances of violation of human rights and recommend on methods in which such circumstances can be prevented;
- ❖ Collaborate with the United Nation and other related organisations in the UN system, the regional and other national institutions in other countries that are experienced in the areas of the protection and promotion of human rights;
- ❖ Contribution and assisting in the preparation and conducting programmes for the teaching and research concerning human rights education and awareness and take part in their implementation in schools, colleges, universities and other professional areas;

- ❖ Announce the awareness about human rights and efforts to fighting all forms of discrimination by increasing public awareness, especially through proper information and awaken the human rights education and by making use of all press organs;
- ❖ Exercise such other functions as it may consider being encouraging to the promotion and protection of human rights.
- ❖ By leave of the court, to adjudicate in court proceeding relating to human rights issues.
- ❖ Anyone who can easily approach the NHRC for lodged a complaints related to human rights violation through, complaint letter, application, mobile phone and the email also. All the booklets, periodical reports, newsletters and speeches of the NHRC are also available on their website.. (ShreshthaGarg and Anand Kr. Dubey, 2015).

IV. ROLE OF NHRC IN THE PROTECTION OF HUMAN RIGHTS

Meanwhile, it's appropriate development of the National Human Rights Commission has extensively dealt with issues relating to the application of human rights. NHRC has established its upright for freedom and morality. There is constantly increasing several numbers of complaints addressed to the Commission seeking redressal of complaints. The National Human Rights Commission has followed its obligation and significances with resolve and significant success of the protection and promotion of human rights of every individual. Some of the renowned intermediations of NHRC include campaigns against discrimination of all marginalized and vulnerable groups include LGBT and HIV affected persons. It also has been asked all State Governments to report the cases of custodial deaths in the police station, prisons and other institutions for apprehended the inmates or rapes within 24 hours of occurrence failing which it would be assumed that there was an attempt to destroy the incident (Showkat Ahmad Bhat and Mudassir Nazir, 2017).

V. CONCLUSION

National Human Rights Commission has been made significant contributions to essential functions and major responsibilities to protect the human rights at Nationwide. It has received the complaints and takes the necessary action towards the complaints related to human rights violation at the national level. It's would be an attempt to bringing a human rights approach and major responsibilities to legislative processes, innovative policy-making and programs implemented within the country level as well as the state. Its contribute the major role in protection and promotion of human rights in India, as well as concerned state, have disappeared freestanding the anticipated role of investigating alleged violations, examining the public inquiries, exercising evaluate the jurisdiction, if there is any necessity for providing direction and assistance to governments, creating awareness about human rights education among the lawmakers, academicians, stakeholders, and students as well as the public, concerning that promoting the interaction between the public and other stakeholders, improved the relationship between states and international human rights organizations and publishing annual reports, pieces of literature, magazines and periodical reviews. Moreover, it will conduct the human rights-related seminars, workshops, and conferences and etc. It has been appropriate towards the reinforcement of the Human Rights Jurisprudence in our country. NHRC has been recognized as the framework towards rights-based approach at a national, as well as international level. In this backdrop, this paper will be concluded that NHRC is not only functioning proper manner without appropriate support from the government concerns stakeholders and all other organizations and the public. It could be only possible to effective co-operation with NGOs, Stakeholders, legal experts, academicians and public also.

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