

Human Rights in India and its Protection by National Human Rights Commission

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Abstract

Human Rights are rights relating to life, equality and dignity of the individual guaranteed by Constitution or embodied in the international covenants and enforceable by Courts in India. The Indian Constitution provides certain rights for individuals in Part III of the Constitution, which are known as the fundamental rights. Part IV sets out the directive Principles of State Policy. While the former guarantees certain rights to the individual, the latter gives direction to the State to provide economic and social rights to its people in specified manner

Introduction

Respect for the dignity of an individual and striving for peace and harmony in society have been an abiding factor in Indian culture. The Indian culture has been the product of assimilation of diverse religions that came into contact in the enormous Indian Sub-continent over time. An UN-sponsored meeting was held in 1991 at Paris. From that meeting a detailed set of principles on the states of national institution was developed. These principles are commonly known as the Paris principles. These principles, subsequently endorsed by Un Commission on Human Right and UN General Assembly have become the foundation and reference points for the establishment and operation of national human right institution.

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 Right 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 institutions, which were established, in early 1990. The Commission came into effect on 12th October 1993, by virtue of the protection of Human Rights Act 1993. Fourteen Indian States had also set up their own Human Rights Commission to deal with violations from within their states.

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Constitution of the National Human Rights Commission

The Constitution of the Commission dealt with Section 3 of Act. 1993 says about the National Human Rights Commission and Consists of the following steps.

A Chairperson who has been a Chief Justice of the Supreme Court, One Member who is, or has been a judge of the Supreme Court;

One Member who is, or has been the Chief Justice of the High Court;

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

The Chairperson of the National Commission for Minorities, the National Commission for the Scheduled Castes and Scheduled Tribes and the National Commission for Women shall be deemed to be Members of the Commission for the discharge of functions

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 as it may delegate to him.

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

Functions and Powers of the Commission

Wide powers and functions have been given to the Commission. The Commission can enquire suo motu action against any public servant against whom a complaint has been registered for violation of human rights. The Commission can intervene in any proceeding involving any allegation of a violation of human rights pending before a Court. The Commission's visit to any jail or other institution prior intimation to the State Government, for the purpose of mainly monitoring prison or custodial jurisprudence is necessary. The Commission found after visiting many jails that pathetic conditions prevail in jails in which prisoners are forced to live. The Commission has recommended the preparation of a new All India Jail Manual and also suggested the revision of the old Indian Prison Act of 1894. Under Section 12(e) there is a separate provision to review the causes of terrorism, which inhibits the enjoyment of human rights, and to recommend appropriate remedial measures. Section 12(f) provides for the study of all treaties related with international human rights, their effective implementation. Section 12 (g) provides for promotion of research in the field of human rights. Section 12(h) empowers the Commission to spread human rights literacy among various sections of society and promote awareness. Section 12(i) empowers the Commission to encourage the efforts of Non- Governmental Organizations (NGOs) working in the field of human rights. Lastly, Section 12(j) provides, such other functions as it may consider necessary for the promotion of human rights.

Functional Approach of the Commission

The responsibility entrusted to the Commission under the Act of 1993 cannot be Adequately fulfilled without the development of close ties between the Commission and NGOs. The Commission recognizes that the cause of human rights has much to gain both from the practical help and from the constructive criticism that NGOs and the Commission can bring to bear in their mutual interaction and growing relationship. In several places, during visits by the Commission, NGOs have boldly come forward with evidence of wrong-doing in relation to specific complaints addressed to the Commission.

Inquiry into Complaints

A considerable increase in public awareness of the work of the Commission has been observed. This is reflected in the vast increase in the number of the complaints of human rights violations received by the Commission over the years. The Commission broadly divides the cases in the following categories: (1) Custodial deaths; (2) Police excesses (Torture, Illegal detention\ unlawful arrest, false implication etc.;

(3) Fake encounters; (4) Cases related to Women and Children; (5) Atrocities on Dalits\Members of Minority community\ Disabled (6) Bonded labour (7) Armed forces\ para military forces and (8) other important cases.

Steps after Inquiry

Where the inquiry discloses, the commission of violation of human rights or negligence in the prevention of violation of human rights by a public servant, it may recommend to the concerned government or authority the initiation of proceedings for prosecution or such other action as the Commission may deem fit against the concerned person or persons.

Approach the Supreme Court or the High Court concerned for such directions, orders or units as that Court may deem necessary.

Recommend to the concerned government or authority for the grant of such immediate interim relief to the victim or the members of his family as the Commission may consider necessary.

G Subject to the provisions of clause (5) provides a copy of the inquiry report to the petitioner or his representative.

G The Commission shall send a copy of its inquiry report together with its recommendations to the concerned government or authority who shall, within a period of one month, or such further time as the Commission may allow, forward its comments on the report, including the action taken or proposed to be taken thereon, to the Commission.

F The Commission shall publish its inquiry report together with the comments of the concerned government or authority, if any, and the action taken or proposed to be taken by the concerned government or authority on the recommendations of the Commission..

Illustrative Cases

National Human Rights Commission has taken some steps for various state govt. of India on behalf of inquiry and their protection of human rights, such as national human rights commission V/S Arunachal Pradesh, such as Indian Council of Legal Aid and Advice etc.

Conclusion

From its inception the Commission attracted much suspicion because of its status as a government institution. However, in twelve years period it was able to establish its integrity and commitment. The Commission was able to demonstrate its ability to work independently and impartially, which was borne out by its recommendations. Even if the Commission is a very small step in the daunting task of the implementation of human rights at the national level, it remains a very significant step. Considering India's extensive territorial domain, the vastness of its population and the complexity of social structure, cases of violation of rights, whether attributable to the agencies of the state or to the private individuals or groups, may occur despite its best efforts.

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