

**An NGO Report on the Compliance
with the Paris Principles by the
National Human Rights Commission of India**

Submitted to the International Coordination Committee on
National Human Rights Institutions on the 22nd of January 2011

**All India Network of NGOs and Individuals working with
National and State Human Rights Institutions (AiNNI)**

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People's Watch for
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Anto Art Crafts, Sivakasi

‘The National Human Rights Commission and the existing State Human Rights Commissions is an important additional avenue where human rights defenders can seek redress. However, all the defenders I met during the mission voiced their disappointment and mistrust in the current functioning of these institutions. They have submitted complaints related to human rights violations to the Commissions, but reportedly their cases were either hardly taken up, or the investigation, often after a significant period of delay, concluded that no violations occurred. Their main concern lies in the fact that the investigations into their cases are conducted by the police, which in many cases are the perpetrators of the alleged violations. While I welcome the establishment of a human rights defenders focal point within the National Human Rights Commission, I regret that it was not given sufficient prominence within the Commission. ‘

‘The functioning of the National Human Rights Commission should be reviewed with a view to strengthening the Commission by, inter alia: broadening the selection criteria for the appointment of the Chairperson; diversifying the composition of the Commission; extending the one-year limitation clause; establishing an independent committee in charge of investigating complaints filed; elevating the status of the human rights defenders focal point by appointing a Commissioner. The Protection of Human Rights Act should be amended as necessary in full and meaningful consultation with civil society.’

The supportive role of the commissions for human rights defenders should be strengthened by inter alia, conducting regular regional visits; meeting human rights defenders in difficulty or at risk; and undertaking trial observations of cases of human rights defenders wherever appropriate.

The visibility of the commissions should be ensured through regular and proactive engagement with civil society and the media.

Statement of the Special Rapporteur on the situation of human rights defenders, Ms. Margaret Sekaggya, as she concluded her visit to India on 21st January 2011, New Delhi

Cover Picture: Victims of violations of the Special Task Force of Karnataka and Tamil Nadu with Human Rights Activists, in front of the NHRC Building in New Delhi

ACKNOWLEDGEMENTS

I need to carefully list out the many persons whose dedicated service has been responsible for this final version of the report in print. First and foremost it is my duty to commend the patient work put in by Ms. Sabitha, the National Program Coordinator - Human Rights Defenders Desk, People's Watch, in doing all the background work for this report from the beginning with me as a strong pillar who had also been holding this work from the time it was thought out, till when it was endorsed by over 300 organizations across the country till it was dispatched to the SCA of the ICC and till now when it is ready now to go for print in its finalized form and ensuring that this was done to the best of our abilities.

I also wish to express my sincere gratitude and appreciation for the extensive work done by Ms. Bharathi Pillai, a Volunteer at People's Watch in 2010, in terms of analysing the voluminous material that was collected and getting ready the first draft of this report. It was a long and tiring work to get this report ready chapter by chapter and then work on the same meticulously with me for finalisation. I need to specially mention at this junction that Ms. Bharathi Pillai was also a volunteer who was arrested by the Tamilnadu police and the complaint that has been preferred to the NHRC (*Case No.896/22/37/2010 LF : 898/22/37/2010, 901/22/37/2010, 908/22/37/2010, 910/22/37/2010*) in this regard relating to her illegal arrest with 4 other dalit activists from the Dalit Foundation has been pending with no official response to the same from the NHRC as of today when this matter goes to print. She has also continued to provide inputs to us even after her tenure with us.

I also wish to thank Ms. Emerlynne Gil, the Program Manager, Human Rights Defenders Program, FORUM ASIA and the Coordinator of ANNI (the Asian NGOs Network on National Human Rights Institutions) for inspiring me personally and for the kind opportunities provided to People's Watch and now AiNNI (the All India Network of NGOs and Individuals working with National and State Human Rights Institutions) for the past three years in realising this new avenue for bringing a change to the National Human Rights Commission in India, for the guidance that she provided in January 2010 towards framing the outline of this report and for coming down to Madurai to edit the final version and get it ready to go.

I acknowledge the work done by Ms. S. Rizvana, former Program Assistant in our program for Monitoring National and State Human Rights Institutions and all the staff of the RTI Desk in People's Watch, in sending RTI petitions to the NHRC numbering close to 100 for information that was the primary source for this publication.

I would also like to express my gratitude to Ms. Jennifer Black, Mr. Zack Orjuela, Ms. Cynthia Hirsch and Ms. Ramya Sekaran, Volunteers at People's Watch at various points of time for their assistance in research and editing of this report.

I also thank Ms. Anitha Princy, Program Secretary, Monitoring National and State Human Rights Institutions, colleagues in the ICT Unit and the Administration Department of People's Watch for their support and timely assistance throughout the preparation of this publication.

My sincere gratitude to colleagues in the All India Network of NGOs and Individuals working with National Human Rights Institutions (AiNNI) for their valuable inputs in bettering the report, translations of the Executive Summary and obtaining endorsements to the report.

I take this opportunity to thank each of the persons named here and many others who are not named and had also contributed in various ways to complete this historic shadow report to the Sub Committee on Accreditation of the International Co-ordination Committee of the NHRIs in Geneva. It has been sheer dedication by all of them at different points of time to make this publication possible. My heartfelt gratitude is due to them and all others who have been encouraging us throughout this long journey.

Henri Tiphagne

Honorary National Working Secretary – AiNNI

Executive Director , People's Watch



Prof. Upendra Baxi

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FOREWORD

The ritual words of introduction simply fail—it is not possible to say that it is a ‘pleasure’ or ‘honour’ to be associated with this work do. In fact this Report makes a rather painful reading and little honour is involved when a National Human Rights Commission functions in ways here fully depicted.

The sense of pain and dishonour ought to lead to substantial reforms in the structure and functioning of the Commission and this text bristles with sensible proposals for change. These need wider and vigorous public debate, informed particularly by participation of those adversely affected by the Commission’s ways of conducting its responsibilities. This is important as well for Human Rights Commissions and other NHRI, both national and regional.

Fortunately, the ICC-Paris Principles invoked heavily and rightly so here offer norms and standards by which the NHRC (and related NHRI) should be established and ought to function and these principles now provide future pathways of reform guided by a new deliberative public sphere. This, and beyond the questions of ‘accreditation’, means that any derogation from these Principles should be ‘justified’ by mere assertions of the sovereign will but by acts of democratic public reason. Even If (for example) one were inclined to argue that NHRC entails cooperative rather than adversarial relations with the State, cooperative relations thus envisaged may not ever reach the proportions of relations of *co-optation*. The latter occur in many diverse ways as this Report illustrates – whether in terms adequate resourcing, composition, or autonomous (that is effective, equitable, and efficient functioning. In sum, neither the NHRC nor related Indian NHRI may be so structured or function as obstacles to the promotion, protection, and realization of the worst-off Indian citizens.

Of course, the Report contrasts the dynamic performance of the Commission in an earlier era with its recent plight. How this state of affairs comes about is an important question, demanding exacting empirical studies as well as ideological critique. I read the Report as leaning towards the former, though necessarily carrying some traces of the latter.

Regardless, if the same Commission performs better in servicing the future of human rights in India, the question surely arises concerning effective leadership styles. Should this remain a contingent affair or be better institutionally organized? It is here that the mandatory requirement of the Chief Justice of India presiding over the NHRC surely calls for reflexive introspection. In my considered view— which I articulated without any success in a preliminary round of national consultation leading to the establishment of the NHRC— the choice of leadership has to be broadened to include human rights performance based indicators among India's apex Justices. A collegiate rather than mandatory process of the leadership ought to be the first step towards a journey of thousand miles ameliorating the present ways of constituting the Commission.

Speaking of the Commission as a whole, surely it should be so reformed as to ensure the high standards of human rights accountability lest it collapse into a 'job-for-the –boys syndrome!' Even when set up as a statutory rather than a constitutional commission, it remains surcharged/supercharged with the highest constitutional responsibility. Each and every mission failure should be rigorously judged, even as we applaud its notable successes. This is the inestimable message of this Report.

At the same moment, our ways of critique seem not always sensitive to the constraints under which NHRC must after all work. Constraints never function as alibis for lackadaisical discharge of high statutory and constitutional duties. Yet, I believe that a fair margin of appreciation remains imperative for its critics.

This Report then provides a constructive terrain for such appreciation, until such time that a root and branch reformation of NHRC and other NHRI marshals a gathering of human rights and social movement activism consensus. I wonder whether this remains fully on the horizon. Put differently, when activist folks seek to deploy NHRI as a necessary evil, they also enfeeble the very *programschrift* of transformation that they also seriously urge.

Had Mohandas Gandhi still been with us, he would have urged not so much the language of accountability of extant NHRI but instead suggested a total boycott by civil disobedience directed towards these. In a post-Mohandas era this remains no longer a singular option in scenarios crowded by calls for wider civil society membership of the NHRC and NHRI. If so, we all must live with our willed ambiguities and unconscious ambivalences.

What a long way of saying a huge word of thanks for the pioneering authors of this Report!

April 4, 2011

Prof. Upendra Baxi



Henri Tiphagne

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Introduction

The National Human Rights Commission of India is to appear before the Sub Committee on Accreditation (SCA) of the International Co-ordinating Committee (ICC) of National Human Rights Institutions (NHRIs) in Geneva on 23rd of May 2011 to re- accreditate itself as an 'A' Grade NHRI. Together with the NHRC from India, the NHRIs of Australia, Austria, Canada, El Salvador, Mauritania, Namibia, New Zealand, Nicaragua, Northern Ireland, Norway and Senegal are also to face their re-accreditation. An 'A' Grade NHRI is eligible for full membership of the ICC, including the right to vote and hold governance positions, while NHRIs accredited with 'B' status may participate in ICC meetings but are unable to vote or hold governance positions. Only 'A status' NHRIs have independent participation rights at the UN – HRC and its subsidiary bodies.. It is our respect for the NHRC in India that has been in existence since 1993 and the great personalities who have led this institution all these years that has given the impetus and courage to us - civil society organizations under the banner of the All India Network of NGOs and Individuals working with NHRIs [AiNNI] - to prepare this report only to echo the national and global call for the urgent need for an efficient and effective NHRI in India. When we recall the past leadership of the NHRC we do not only refer to the former Chairpersons but also their committed Members, Former Secretary Generals, Former Director Generals of Investigation, Former Special Rapporteurs and more than that several former senior level and middle level staff – all of whom collectively had made this institution a sign of hope for restoration of lost rights in this country and truly a 'bridge between the international and domestic human rights protections'.

The NHRC was established in India in the year 1993 when there was already a National Commission for Women, a National Commission for Minorities and a National Commission for Scheduled Castes and Scheduled Tribes existing. It is after the establishment of the NHRC that we have seen the growth of other NHRIs in India such as the National Commission on Protection of Child Rights (NCPCR), the Central Information Commission, the Central Commissioner for Persons with Disabilities and the bifurcation of the National Commission for SCs and STs. In addition therefore today, when this report is being released, we have almost over 175 statutory institutions both at the national and state levels in this country. This is the largest for any country in the globe. In this total scenario therefore there is an urgent need for the NHRC to perform at its best for more than one reason – not only because it is the best staffed, the best trained, the best exposed to international standards and the functioning of other NHRIs globally and the best funded. It was also the ONE INSTITUTION WHICH WAS ESTABLISHED TO BE MORE INDEPENDENT THAN THE OTHERS. The NHRC has therefore not only a duty to perform but to be a model for the other N/SHRIs in the country to follow.

The times have changed since 1993 when the Protection of Human Rights Act established the NHRC. 2011 calls for the urgent need to take a relook at the mandates of NHRIs across the globe that has been emphasised by the Former UN Commission on Human Rights and the present UN Human Rights Council in all their resolutions. The Asia Pacific Forum of NHRIs has also increased its recommendations to its member NHRIs – one of which is the Indian NHRC. However the present NHRC is basking under the past glory of the institution. This remains outside the purview of Parliament and Government sensitivity. The purpose therefore of this report is to shake the national conscience and call us out of the slumber that this nation is in as regards its NHRC. The NHRC of 2011 requires a completely different type of institution with a different type of leadership to stir the country from the serious human rights concerns that it faces – no longer confined to J&K, Gujarat and the North East but extended to almost over 300 districts of the total 620 districts of the country. If the belief of the people in the rule of law has to continue, the role of the NHRC in this regard is a large one. The purpose of this report is to emphasise this and not to state that we do not need such an institution BUT IT IS TIME TO STOP, THINK AND RE-ESTABLISH AN ALTOGETHER NEW INSTITUTION IN TUNE WITH THE PRESSURES OF 2011.

It is almost a year that the NHRC in India has a new Chair – Justice K. G. Balakrishnan. However, it is also true that neither the public calls from Justice V. R. Krishna Iyer (A Former Judge of the Supreme Court of India) or from Justice J. S. Verma (Former chair of the NHRC) or from Mr. Sudarshan Agarwal (A former Member of the NHRC and present Governor of the State of Uttarakhand) have been even remotely successful in calling for his immediate stepping down due to wide scale reporting and actions initiated against his kith and kin on corruption during his term as the Chief Justice of India. Hence, it is clear that a completely new composition even of an NHRC has to be thought about for this country. No longer can only former IAS, IPS, IFS, IRS officials and former civil servants be the members of this new institution. The doyens of human rights of this country - the likes of those who have gone by - Mr. K. G. Kannabiran, Dr. Balagopal and many hundred others who exist in this country, many of whom are women like Ms. Medha Patkar, Dr. Aruna Roy, Dr. Ruth Manorama, to name a few have to be seriously thought of.

This report is therefore meant to be a clarion call for arousing the national conscience which has wanted to speak but remains silent for many reasons. It is no longer the time for us to remain silent but to participate and make this democracy meaningful by calling for an urgent change in the type of NHRC we have. The call is to the SCA of the ICC to assist us in this national task to wake up our Government, our Parliament as well as other institutions and the Indian civil society to take this task seriously. It is only this challenge to the existing NHRC in its present 'A' grade status that can fulfil this and hence this report.

We once again pay tribute to the many eminent and ordinary people who through their hard work has built this institution and call upon them as well to join us at this time to rebuild a new NHRI – independent, representing the diversity of this country, truly accountable and transparent, which believes in the power of civil society and human rights defenders in this country - that India urgently needs to meet the present challenges.

The AiNNI is committed to this process and invites every civil society organization across the country that is enamoured by this call to register as a bonafide member of AiNNI without any delay, to make this clarion call extended from the NHRC to all NHRIs in India.

April 2, 2011

The All India Network of NGOs and Individuals Working with National Human Rights Institutions (AiNNI)

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EXECUTIVE SUMMARY - ENGLISH

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EXECUTIVE SUMMARY

1. ESTABLISHMENT

The National Human Rights Commission (“NHRC” or “Commission”) was established in India on 12 October 1993 under the Protection of Human Rights Act (“PHRA”), 1993 as a result of strong international pressure created by adoption of the ‘Paris Principles’ by the United Nations Human Rights Commission in 1992 and the General Assembly in 1993. The NHRC envisioned a partnership of human rights protectors throughout India and explicitly deemed the Chairpersons of the existing national human rights commission members of the first NHRC.

Although the main impetus for establishing an overarching national human rights commission in India was mounting domestic and international pressure to adhere to internationally set standards, the Commission’s initial initiatives towards protecting and promoting human rights were sincere and the Commission was fairly successful in meeting its mandate. It quickly became clear that many fatal flaws in the Commission’s founding law were critically immobilizing the basic functioning of the Commission. Despite several early pleas to amend the PHRA by the Commission and civil society, the proposed amendments were largely ignored by the Government of India, and eventually forgotten by the Commission.

Even positive provisions of the PHRA, such as Section 12(i), mandating that the NHRC should encourage work with non-governmental organisations and institutions working in the human rights field have not been followed. Sadly, from its inception, the NHRC has failed to meaningfully collaborate with other thematic national human rights commissions.

The NHRC’s failures stem not only from a failure to act, but also from a relentless refusal to sincerely plan. Although India participated more than a decade ago in the World Conference on Human Rights in Vienna, mandating countries to set up National Human Rights Plans of Action (NHRAP), India has still not released its NHRAP.

2. INDEPENDENCE

Independence from all other interests, in particular, government and strong private interests, is essential for any national human rights institution. From its establishment, the NHRC has had problems maintaining its independence from the government. Although it made some courageous and strong decisions in its early years, the lack of independence suffered by recent Commissions has become so debilitating that it has essentially paralyzed the NHRC from fulfilling even its basic mandate, let alone undertaking any powerful initiatives in the field of human rights.

The Government of India tightly controls the finances of the NHRC. The NHRC is currently required to report to the Ministry of Home Affairs (“MHA”), the same governmental department responsible for immigration, communal harmony, the Armed Special Forces Act, assistance to victims of terrorist violence, border management, and, most notably, internal security- including police and other law and order officials. Placing India’s overarching human rights institution, responsible for holding accountable violators of human rights, in the same department overseeing police and law enforcement officers, against whom a large number of complaints are made, unsurprisingly weakens the Commission’s independence and its ability to be effective.

The NHRC’s lack of independence is also witnessed in the composition of its network and staff. The PHRA has rigid criteria for membership to the NHRC that prioritize perceptions of prestige over competence, passion, or experience in the field of human rights. Staff members of the NHRC are responsible for monitoring the very government that provides their salary. Although the independence of the NHRC has been compromised by the many conflicts of interests arising from the government’s appointment of Commission members, control of finances, and appointment of staff, nothing has been done in the 17 years since the NHRC’s establishment to ensure independence or even reduce potential problems arising from conflicts of interest.

The great tragedy in failing to have an independent NHRC is demonstrated by the loss of a powerful, brave institution willing to highlight and address the grave violations of human rights that occur in a country. In 2002, the state of Gujarat faced rampant communal violence on religious lines that also involved state actors. This led to the one instance in the NHRC’s history where the NHRC took *suo moto* action to investigate, issue a report, and filed petitions in the Supreme Court of India. Likely due to the subsequent and unyielding political pressure from the government, the NHRC remained silent within the courts where the entire matter has thereafter been fought between the survivors supported by rights groups and the State.

Frighteningly, there is a dramatically escalating number of issues on which the NHRC remains silent. These issues pertain to the most pressing human rights violations in the country. Although the NHRC continues to maintain that it is an autonomous organization that gives directions on human rights issues independently, based on its own decisions, it also acknowledges that it has failed to create any type of written guidelines, policies, or conventions. Further, it has no information whatsoever on steps that it may take to avoid existing or future conflicts of interest.

3. COMPOSITION, APPOINTMENT PROCESS AND TENURE

The composition of the National Human Rights Commission masks a real depiction of India and Indian life in its homogeneity and reveals a misunderstanding of the institution’s stated purpose: to be a national leader in protecting and promoting human rights. Rather, the Commission has become a museum of prestige for highly accomplished retired members of the judiciary and government officials. While respectability and stature of the Commission members could potentially be a powerful tool in the fight for human rights, the appointment process lacks transparency that allows for the most qualified and best candidates to be openly selected and is not sensitive to ensuring that Commission members have the additional qualities that are essential for effective leadership in the field of human rights.

The failure to appreciate what is necessary to equip the Commission with leaders capable of fulfilling its heavy mandate is indicated in both the founding law, through legal provisions creating overly and unnecessarily rigid criterion for three seats of the Commission, to implementation of the law, such as the failure to recognize the need for diversity and the consistent refusal to select even eligible and experienced activists and leaders in the field of human rights from civil society. The result is a Commission that has no women to review the thousands of complaints involving issues sensitive to women, no members of India's strong and vibrant civil society, and a newly selected Chairperson who has been accused of corruption and has publicly made statements that, in his opinion, legally prohibited use of force against civilians is acceptable.

“Knowledge and practical experience in human rights,” as mandated in the PHRA, is not the primary consideration by the government when it appoints members of the NHRC. More often than not, appointments to the NHRC are made as rewards for political favors owed by those in power. Since the NHRC's enabling law ensures that the majority of its members should come from the judiciary, it is ironic that present Chairperson Justice Balakrishnan has publicly stated that “encounters are unavoidable sometimes...the law and order problem is increasing. Criminals are taking the law into their hands, attacking even the police. Police have to take control of the situation.” In another public statement, he endorsed the death penalty. These statements of Justice Balakrishnan manifest not only a lack of knowledge of the very standards that the NHRC had previously worked hard to instill in the region, but a blatant disregard for upholding the Constitution of India.

4. ORGANIZATIONAL INFRASTRUCTURE

Although the National Human Rights Commission has had 17 years to build up its infrastructure, it has completely failed to develop its resources and effective functioning in society. It lacks not only financial resources, but also historical knowledge and intellectual capital. Puzzlingly, the NHRC refuses to acknowledge how dramatically under-resourced it is financially and has not requested for an increase in staff or Members to the NHRC. Rather, the NHRC has recently stated that its five Members are able to provide orders in the approximately 400 cases they review in a single day without any problems.

The NHRC remains inaccessible to almost the entire population it is purported to serve. The Commission conducts the overwhelming majority of its functioning in one building in Delhi, while the rest of India resides far away and unable to access the NHRC. Although, the NHRC has had prior approval from the Central Government to establish offices in other parts of the vast country of India since 1993, the NHRC has failed to do so. To function effectively and reach the over 1 billion Indians who require access to the NHRC, a minimum of four to five regional offices must be established throughout India. If resources are not available to establish satellite offices of the NHRC, then the NHRC must work creatively to either collaborate with civil society to act as ‘eyes and ears’ of the NHRC or maximize visits outside Delhi to communicate that the NHRC is, indeed, on the side of victims, not the perpetrators.

Even in rare cases where victims are able to journey to Delhi, the environment of the NHRC is hostile and unwelcoming to the very victims it was created to serve. Proceedings are held behind closed doors and complainants are often not invited to either participate or even observe. Many senior activists

and NGOs attempt to enter and observe the proceedings to monitor transparency and ensure fairness, but their efforts are in vain.

The NHRC has created a website to create a public face and become more accessible. Unfortunately, the NHRC website, only available in English, removes few barriers to victims and the public. The website itself or any of its published reports are not available in regional languages and so largely inaccessible to the public. While victims can file complaints through the NHRC website, it is almost impossible to track cases or gain any real, substantive information that can assist victims immediately.

The NHRC has created a phone hotline for victims in need of help after hours. Unfortunately, this hotline is not always available and frequently goes unanswered. Moreover, the persons manning it are not conversant in languages other than Hindi, hampering the NHRC's ability to communicate with victims and creating alienation of the majority of Indians of which Hindi is not their primary language.

NHRC staff members are hand-selected from government posts and often deputed temporarily from similarly titled, but very different, government positions. These staff members are given no training for completing their jobs and as they frequently have no background in human rights, complete their job with no additional sensitivity or understanding of human rights. The failure of the NHRC to recruit, develop, and retain talented staff to its maximum sanctioned amount is an impediment to its growth and effectiveness. Based on the current staff, the NHRC does not have fair and equal means of representation in terms of gender, religious minority groups and disabled populations.

The NHRC also employs Special Rapporteurs as additional highly qualified researchers who undergo investigations on either a specific topic or by geographic region. Selection, again, is based on a system that blindly equates prestige with competence – resulting in both qualified and unqualified candidates almost randomly being chosen for important posts, such as Special Rapporteurs of the NHRC. There seems to be an underlying message that only persons with a government background can be appointed as Special Rapporteurs and that representatives from civil society or the academy may be “too independent” to hold these positions.

5. QUASI- JURISDICTIONAL FUNCTIONS

Five members of the National Human Rights Commission have been entrusted with the responsibility of handling complaints received from victims throughout India. The 487 cases that were received during the first year of the Commission's establishment have dramatically escalated to approximately 400 cases in a single day. With no increase at all in the number of members responsible for disposal of these cases, it is no surprise that the quality of complaints handling is suffering greatly.

The Commission, however, maintains that they have not had problems disposing of hundreds of cases they receive and that they review and give orders in approximately 60-80 cases per day. If true, the limited number of members and the enormous case load of the Commission indicates that even working 16 hours, twice the average workday, and disposing of the minimum 60 cases per day, each complaint receives less than 30 minutes of the five Commission members attention before a pivotal decision on whether a human rights violation has occurred and any potential recommendation is taken.

Given the other mandated tasks and activities of Commission members, the actual time spent on each case is far less than 30 minutes. Overwhelming evidence indicates that the NHRC carelessly disposes of cases at random, without issuing reasoned orders based on case law and analytical reasoning. Orders issued by the NHRC dispose of the majority of cases with extremely general, uninformative reasoning. The majority of cases are dismissed in limine or rejected. The orders offer a mere one line generally rejecting or dismissing the case in limine

Not only does the lack of attention the Commission gives to each complaint draw attention to the low quality of complaints-handling, even where the Commission addresses large, high-profile cases, the Commission often fails to take a bold or courageous stand or develop a strong jurisprudence. Rather than pushing the country to incorporate and exercise existing human rights standards and laws existing in this country or develop new standards or encourage adoption of international human rights standards, the Commission remains silent in the face of precious opportunities to foster an human rights jurisprudence that can not only provide relief to victims, but promote human rights for all Indians.

Most of the “Practice Directions” formulated for providing more clarity on its functioning, are not being followed today. Further, after Justice Venkatachaliah’s tenure, the NHRC has stopped identifying problem areas and has no longer issued new, relevant practice directions to improve the functioning of the NHRC. While there is more than enough legal basis upon which the NHRC has been empowered to handle and act on complaints on human rights violations, the NHRC has unfortunately failed to carry out this function effectively.

While the NHRC has the power to issue recommendations upon finding a violation of human rights, it has reserved use of this power for only the very rarest of cases. A majority of complaints are dismissed by the NHRC wholly on the basis of state responses or police reports that deny the violation. The procedure of the NHRC involves sending the complaint to “concerned authorities”, which more often than not, would be the very police authorities named in the complaint as the perpetrators. This masked backdoor, prejudicial, internal processing of complaints is a mockery of the mandate of the NHRC. A supposed protector of human rights must be an ally for victims, not a partner to potential perpetrators. The current procedure of the NHRC lacks sensitivity to the gravity of human rights violations and the NHRC fails to take a victim-centered approach. Victims, often from marginalized communities, are often treated as second-class citizens at the NHRC, rather than as individuals deserving equal treatment and respect.

6. RELATIONSHIP WITH RELEVANT HUMAN RIGHTS STAKEHOLDERS

The Commission has created Core Groups to draw from the expertise of eminent persons but has not ensured that any formal administration of these groups occurs. Unsurprisingly, it remains unclear how these groups have been used throughout their constitution and what impact the expertise of core groups has made towards the fulfillment of the Commissions’ mandate to have constructive engagements with relevant human rights stakeholders.

The NHRCs relationship with civil society is very limited and deprives the NHRC of the opportunity to engage with a powerful, passionate, and knowledgeable partner in promoting and protecting human rights.

As this report was being drafted, several issues emerged in the media surrounding the current Chairperson of the NHRC, Mr. Justice K.G. Balakrishnan. Since Mr. Justice K. G. Balakrishnan assumed his post at the NHRC, there have been several revelations in the media that associated him with cases of corruption. This prompted a widespread call for his resignation, not only from NGOs, but also from eminent jurists in the country. Mr. Balakrishnan is being alleged of receiving sums of money for brokering the appointments of judges in exchange for favorable decisions during his tenure at the Supreme Court. Many questions also emerged regarding how his family amassed such an unusually large amount of wealth.

THE CURRENT LEADERSHI OF THE NHRC

The recent controversies surrounding Mr. K G Balakrishnan has prompted civil society to again question the effectiveness of current selection and appointment processes for members of the NHRC. If the accusations against Mr. Balakrishnan are proven true, it is clear that the demonstrated character, integrity, and commitment to human rights must be of crucial consideration in appointing a Chairperson to the NHRC. It is no longer, and has never been, enough to merely automatically install a retired Chief Justice of the Supreme Court as the Chairperson of the Commission. The process of appointment must be totally transparent and not restricted to only retired Judges or Chief Justices of the Supreme Court or to former bureaucrats – IAS, IPS, IFA, or IRS, etc., but must be expanded to include the great wealth of India's moral, intelligent, and dedicated leaders.

The All India Network of NGOs and Individuals Working with National Human Rights Institutions (AiNNI)

**An NGO Report on the Compliance with the Paris Principles
by the National Human Rights Commission of India**

EXECUTIVE SUMMARY - HINDI

गैर सरकारी संगठनों एवं राष्ट्रीय मानवाधिकार संस्थाओं के साथ काम कर रहे व्यक्तियों का अखिल भारतीय नेटवर्क

भारतीय राष्ट्रीय मानवाधिकार आयोग के पेरिस सिद्धान्तों के अनुपालन पर गैर सरकारी संगठनों की रिपोर्ट

कार्यकारी सारांश

1. स्थापना

सन् 1993 में संयुक्त राष्ट्र महासभा द्वारा तथा सन् 1992 में संयुक्त राष्ट्र मानवाधिकार आयोग द्वारा पेरिस सिद्धान्तों को अपनाये जाने तथा इस प्रकार अंतराष्ट्रीय समुदाय द्वारा मजबूत दबाव बनाये जाने के परिणाम स्वरूप, मानवाधिकार संरक्षण अधिनियम, 1993 के तहत 12 अक्टूबर 1993 को राष्ट्रीय मानवाधिकार आयोग (NHRC) का गठन किया गया। राष्ट्रीय मानवाधिकार आयोग पूरे देश में काम कर रहे मानवाधिकार संरक्षकों के बीच आपसी तालमेल व साझेदारी बढ़ाने का संकल्प व्यक्त किया तथा स्पष्ट रूप से प्रथम राष्ट्रीय मानवाधिकार आयोग के सदस्यों को आयोग के अध्यक्ष के रूप में काम करने के सम्बन्ध में अपना विश्वास व्यक्त किया।

यद्यपि एक व्यापक राष्ट्रीय मानवाधिकार आयोग के गठन का मुख्य कारण राष्ट्रीय एवं अंतराष्ट्रीय दबाव था ताकि देश के अन्दर मानवाधिकारों के संरक्षण के संदर्भ में अंतराष्ट्रीय मानकों का पालन किया जा सके। शुरु में राष्ट्रीय मानवाधिकार आयोग द्वारा मानवाधिकारों संरक्षण एवं उन्नयन के लिए ईमानदारी से प्रयास किये गये और निश्चित तौर पर आयोग अपनी शक्तियों का उचित इस्तेमाल करने में सफल रहा था। परन्तु जल्दी ही आयोग के गठन के संदर्भ में अंतर्निहित कानूनों की कमियाँ सामने आने लगी, जो आयोग के आधारभूत कार्यों में रोड़ा बनने लगी। परन्तु मानवाधिकार संरक्षण अधिनियम, 1993 में संशोधन के संदर्भ में आयोग एवं अन्य नागरिक संगठनों द्वारा प्रस्तावित संशोधनों को भारत सरकार द्वारा नजरअंदाज किया गया तथा स्वयं राष्ट्रीय मानवाधिकार आयोग द्वारा भी इन प्रस्तावित संशोधनों को भुला दिया गया।

यहाँ तक कि मानवाधिकार संरक्षण अधिनियम, 1993 के रचनात्मक प्राविधान, जैसे धारा 12(1), जो इस बात का प्राविधान करती है कि राष्ट्रीय मानवाधिकार आयोग को मानवाधिकारों के लिए काम करने वाली गैर सरकारी संगठनों एवं संस्थाओं को इनको अपने कार्यों के लिए प्रोत्साहित करना चाहिए, का पालन नहीं किया गया। यह अत्यन्त खेद का विषय है कि राष्ट्रीय मानवाधिकार आयोग प्रारम्भ से ही मानवाधिकारों के मुद्दों पर काम करने वाली अन्य राष्ट्रीय मानवाधिकार आयोगों के साथ अर्थपूर्ण तरीके से सहयोग करने में असफल रहा है।

राष्ट्रीय मानवाधिकार आयोग की असफलता केवल मानवाधिकार हनन के मुद्दों पर हस्तक्षेप करने में ही नहीं है बल्कि यह इस सम्बन्ध में योजनाओं के निर्धारण में भी पूरी तरह असफल रही है। हालाँकि भारत लगभग एक दशक पहले वियना में हुए मानवाधिकारों के विश्व सम्मेलन में भाग लिया था तथा विश्व समुदाय को राष्ट्रीय मानवाधिकार के सम्बन्ध में योजना बनाने के लिए सहमत हुआ था, परन्तु भारत सरकार ने अभी भी अपनी योजना (NHRAP) जारी नहीं किया है।

2. स्वतंत्रता

किसी भी राष्ट्रीय मानवाधिकार आयोग के लिए अन्य सभी हितों, विशेषकर सरकारी हितों एवं निजी हितों से स्वतंत्र होना आवश्यकता है। परन्तु राष्ट्रीय मानवाधिकार आयोग शुरू से ही सरकार से अपनी स्वतंत्रता कायम रखने में समस्याग्रस्त रहा है। यद्यपि अपने प्रारम्भिक वर्षों में यह कुछ साहसी एवं मजबूत निर्णय लिया परन्तु हाल के समय में आयोग इतना कमजोर हो गया है कि यह अपनी शक्तियों को इस्तेमाल करने में सर्वथा अक्षम हो गया है।

राष्ट्रीय मानवाधिकार आयोग पूरी तरह से भारत सरकार के वित्तीय नियंत्रण में है। वर्तमान में राष्ट्रीय मानवाधिकार आयोग गृह मंत्रालय को अपनी रिपोर्ट भेजने के लिए बाध्य है। जबकि गृह मंत्रालय ही, अप्रवासन, साम्प्रदायिक सौहार्द, आर्म्स स्पेशल फोर्सस अधिनियम, आतंकवादी हिंसा के पीड़ितों को सहायता, सीमा सुरक्षा तथा मुख्य रूप से आंतरिक सुरक्षा, जिसमें पुलिस तथा दूसरे अन्य कानून व्यवस्था बनाये रखने वाले अधिकारी भी शामिल हैं, के लिए उत्तरदायी है। राष्ट्रीय मानवाधिकार आयोग का कार्य मानवाधिकार उल्लंघन के लिए उत्तरदायी अधिकारियों के विरुद्ध कार्यवाही करना है। जबकि ये पुलिस या अन्य अधिकारी भी गृह मंत्रालय के अधीन होते हैं, जिनके विरुद्ध राष्ट्रीय मानवाधिकार आयोग में बड़े पैमाने पर शिकायत दर्ज किये जाते हैं। अतः उपरोक्त परिस्थितियाँ राष्ट्रीय मानवाधिकार की स्वतंत्रता तथा प्रभावी हस्तक्षेप करने की उसकी शक्ति को आवश्यक रूप से कमजोर करती हैं।

राष्ट्रीय मानवाधिकार आयोग की अधीनता इसके नेटवर्क के गठन में तथा इसके कर्मचारियों की नियुक्ति में भी देखा जाता है। मानवाधिकार संरक्षण अधिनियम आयोग के सदस्यता के संदर्भ में सख्त कसौटी का पालन करती है और इसके तहत यह सदस्यों के क्षमता, उनकी लगन या मानवाधिकारों के क्षेत्र में उनके अनुभव के बजाय यह पद एवं प्रतिष्ठा को ही ध्यान में रखती हैं।

राष्ट्रीय मानवाधिकार आयोग के सदस्य या कर्मचारी उन्ही सरकारी अधिकारियों के कार्यवाहियों को मानीटर करने में लिए उत्तरदायी हैं, जिस सरकार से उन्हें वेतन मिलता है। यद्यपि राष्ट्रीय मानवाधिकार आयोग अपनी स्वतंत्रता का, सरकार द्वारा आयोग के सदस्यों की नियुक्ति, वित्तीय नियंत्रण, कर्मचारियों की नियुक्ति के रूप में समझौते करती है। परन्तु पिछले 17 वर्षों में इसमें गठन के समय से इसकी स्वतंत्रता को सुनिश्चित करने के लिए या हितों के टकराव से उठे वास्तविक समस्याओं को कम करने की दिशा में अभी तक कोई प्रयास नहीं किया गया है।

एक स्वतंत्रता, साहसी एवं ताकतवर राष्ट्रीय मानवाधिकार आयोग की अनुपस्थिति का दुखद तथ्य, देश के अंदर होने वाले गम्भीर मानवाधिकारों के हनन के मामलों को न उठा पाने तथा उस सम्बन्ध में कोई कार्यवाही न कर पाने के रूप में प्रकट होता है।

सन् 2002 में धार्मिक आधार पर अनियंत्रित साम्प्रदायिक हिंसा, जिसमें गुजरात सरकार भी शामिल थी, का गुजरात के लोगों ने सामना किया। यह आयोग के इतिहास में एकमात्र घटना है जिसमें आयोग ने अपने तर्ज जाँच की कार्यवाही किया, रिपोर्ट जारी की तथा उच्चतम न्यायालय में पिटीशन दाखिल किया। उसकी मुख्य वजह परवर्ती केन्द्र सरकार द्वारा डाला गया राजनीतिक दबाव था। परन्तु बाद के समय में न्यायालय में राष्ट्रीय मानवाधिकार आयोग चुप्पी बनाये रखा, जबकि मानवाधिकार हनन के मामलों को या तो स्वयं पीड़ितों या मानवाधिकारों संगठनों द्वारा लड़ा गया।

यह वास्तव में भयानक है कि राष्ट्रीय मानवाधिकार आयोग अनेक अन्य मानवाधिकार हनन के मुद्दों पर आश्चर्य जनक रूप से चुप्पी साधे रहा। ये मुद्दे देश के अंदर मानवाधिकारों के हनन के अत्यन्त गंभीर मुद्दे रहे हैं। यद्यपि राष्ट्रीय मानवाधिकारों इस बात पर अड़ा रहा है कि यह एक स्वायत्त संगठन है जो मानवाधिकारों के मुद्दों पर स्वतंत्र रूप से दिशा-निर्देश देता है। परन्तु आयोग द्वारा यह भी स्वीकार किया गया है कि यह इस सम्बन्ध में किसी प्रकार के लिखित दिशा-निर्देशों, नीतियों या परम्पराओं को अभिव्यक्ति देने में असफल रहा है। पुनः यह अपनी स्वतंत्रता तथा सरकारी हितों के बीच टकराव के सम्बन्ध में कोई भी कदम उठाने के प्रश्न पर निरुत्तर है।

3. संरचना, नियुक्ति प्रक्रिया और कार्यालय

राष्ट्रीय मानवाधिकार आयोग की संरचना देश के वास्तविक चित्र का प्रतिनिधित्व नहीं करता है। इसकी संरचना एकरूपता पर आधारित है और यह आयोग के उद्देश्यों से मेल नहीं खाता है, जो कि मानवाधिकारों के संरक्षण एवं उन्नयन में राष्ट्रीय नेतृत्व की माँग करता है। वास्तविक नेतृत्व के बजाय आयोग उच्च न्यायिक अधिकारियों या सरकारी अधिकारियों को प्रतिष्ठित करने का केन्द्र बन गया है। आयोग के सदस्यों की प्रतिष्ठा एवं पद मानवाधिकारों के संरक्षण के लिए एक शक्तिशाली उपकरण बन सकता है परन्तु इनकी नियुक्ति में पारदर्शिता का अभाव है। यह योग्य सदस्यों का चुनाव तो खुले तौर पर करता है लेकिन यह इस बात का ध्यान नहीं रखता है कि आयोग के सदस्यों की नियुक्ति के लिए कुछ अन्य गुणों की भी आवश्यकता होती है, जो मानवाधिकार के क्षेत्र में प्रभावी नेतृत्व के लिए जरूरी है।

आयोग में योग्य व्यक्तियों को लेने के सम्बन्ध में जो मानवाधिकारों के संरक्षण में आयोग की शक्तियों का उचित इस्तेमाल कर सकें, इसकी असफलता इसके गठन से सम्बन्धित कानूनों में पायी जाती है। उदाहरण के लिए आयोग के तीन पदों के लिए अनावश्यक कठोर कसौटियाँ। आयोग की असफलता इसकी क्रियान्वयन सम्बन्धित कानूनों में भी देखा जाता है, जैसे-अनेकता के तत्वों को नजर अंदाज करना तथा नागरिक संगठनों से योग्य एवं अनुभवी मानवाधिकार कार्यकर्ताओं को आयोग में लेने से लगातार इनकार करना। इसका परिणाम यह है कि आयोग में कोई महिला नहीं हैं, जो उन हजारों शिकायतों के संदर्भ में निर्णय ले सकें जो महिलाओं से सम्बन्धित हैं। इसमें मजबूत और जीवन्त नागरिक संगठनों से भी कोई सदस्य नहीं लिया गया है। आयोग के नये अध्यक्ष जिन पर की भ्रष्टाचार का आरोप है सार्वजनिक तौर पर यह बयान दिया है कि नागरिकों के विरुद्ध कानूनी तौर पर सीमित बल का इस्तेमाल किया जा सकता है।

“मानवाधिकार के क्षेत्र में ज्ञान व व्यवहारिक अनुभव” जैसा कि मानवाधिकार संरक्षण अधिनियम द्वारा प्रतिपादित किया गया है, परन्तु यह आयोग के सदस्यों की नियुक्ति के सम्बन्ध में सरकार के लिए कोई प्राथमिक विषय नहीं है। इसके विपरीत प्रायः आयोग के सदस्यों की नियुक्ति सरकार में बैठे व्यक्तियों के द्वारा राजनीतिक पक्षपात या पुरस्कार के बतौर की जाती है।

जैसा कि राष्ट्रीय मानवाधिकार आयोग के गठन से सम्बन्धित कानून यह प्राविधान करता है कि आयोग के अधिकतर सदस्य न्यायिक अधिकारी होंगे। इस सम्बन्ध में यह अत्यन्त खेद जनक है कि आयोग के वर्तमान अध्यक्ष सार्वजनिक तौर पर यह कहा है “कभी-कभी इनकाउन्टर आवश्यक हो जाता है। कानून और व्यवस्था की समस्या बढ़ती जा रही है। अपराधी कानून को अपने हाथ में रखे रहे हैं, यहाँ तक कि

पुलिस पर भी आक्रमण कर रहे हैं। पुलिस को स्थिति को नियंत्रण में लेना पड़ता है।" अपने एक-दूसरे सार्वजनिक बयान में उन्होंने मृत्यु दण्ड को जायज ठहराया है। जस्टिस बालकृष्णन के ये बयान न केवल राष्ट्रीय मानवाधिकार आयोग के उन मानकों के विरुद्ध हैं, जिस पर उसने पहले काम किया है और देश के अंदर जिसकी प्रतिष्ठा करने का प्रयास किया है, बल्कि यह भारतीय संविधान का भी घोर अपमान है।

4. संगठनात्मक अवरचना

यद्यपि राष्ट्रीय मानवाधिकार आयोग का गठन हुए 17 साल हो चुका है, परन्तु यह अपने संसाधनों को विकसित करने एवं समाज में प्रभावी रूप से काम करने में पूर्णतः असफल रहा है। यह केवल वित्त की कमी से ही नहीं जूझ रहा है बल्कि यह ऐतिहासिक ज्ञान व बौद्धिक क्षमता की कमी से भी ग्रस्त है। यह आश्चर्य जनक है कि राष्ट्रीय मानवाधिकार आयोग यह मानने से इंकार कर दिया है कि इसके पास वित्त का अभाव है और कभी भी अपने कर्मचारियों या सदस्यों को बढ़ाने के लिए कोई सिफारिश नहीं किया है। इसके उलट आयोग ने हाल ही में यह कहा कि इसके पाँच सदस्य एक दिन में लगभग 400 मामलों में आदेश बगैर किसी कठिनाई के दे सकते हैं।

राष्ट्रीय मानवाधिकार आयोग लगभग पूरे जनसंख्या के लिए अनुपस्थित रही है जिनके मानवाधिकारों की रक्षा की जिम्मेदारी इन पर ही है। आयोग अपने ज्यादातर कार्य दिल्ली के एक भवन में सम्पादित करती है। जबकि शेष भारत इससे दूर निवास करता है और आयोग उसके लिए अनुपस्थित है। हाँलाकि आयोग को केन्द्र सरकार की तरफ से यह अनुमति है कि वह कार्यालय देश के अन्य भागों में भी खोल सकता है। परन्तु सन् 1993 से अब तक आयोग ऐसा करने में असफल कर रहा है। प्रभावी रूप से काम करने के लिए तथा 1 अरब से भी अधिक की आबादी तक अपनी पहुँच बनाने के लिए आयोग को कम से कम 4 या 5 क्षेत्रीय कार्यालयों का गठन देश के दूसरे हिस्सों में करना होगा। यदि आयोग के पास इन कार्यालयों के गठन के लिए संसाधन नहीं हैं तो आयोग या तो नागरिक संगठनों के साथ सहयोग स्थापित करना चाहिए जो इसके आवश्यक अंग के बतौर काम करें या उसे अपने गतिविधियों को दिल्ली के बाहर बढ़ाना होगा ताकि यह प्रमाणित हो सके कि यह पीड़ितों के लिए है न कि दोषियों के लिए।

यहाँ तक कि उन गिने चुने मामलों में भी जिसमें पीड़ित दिल्ली तक की यात्रा कर सकते हैं यह देखा जाता है कि आयोग का माहौल आमतौर पर पीड़ितों के लिए विरोधी होता है जिनके लिए इसका गठन किया गया है। आयोग की कार्यवाहियाँ आमतौर पर पर्दे के पीछे ही होती हैं तथा पीड़ितों को उसमें भाग लेने के लिए आमंत्रित नहीं किया जाता है। बहुत से वरिष्ठ कार्यकर्ता व गैर सरकारी संगठन अंदर जाने व आयोग की कार्यवाही में पारदर्शिता व स्वच्छता का अवलोकन करने का प्रयास करते हैं, परन्तु उनका यह प्रयास कभी सफल नहीं हो पाता है।

राष्ट्रीय मानवाधिकार आयोग ने अपना वेबसाइट बनाया है ताकि यह आम लोगों के और नजदीक आ सके। परन्तु दुर्भाग्यवश यह वेबसाइट केवल अंग्रेजी में उपलब्ध है। इसकी प्रकाशित रिपोर्ट भी क्षेत्रीय भाषाओं में उपलब्ध नहीं है और इस कारण यह व्यापक जनता के लिए यह सुलभ नहीं है। हाँलाकि पीड़ित, आयोग के वेबसाइट के द्वारा अपनी शिकायत दर्ज कर सकता है। परन्तु आगे केस के सम्बन्ध में कोई सूचना प्राप्त करना, जिससे उसे केस में मदद मिल सके, सर्वथा असम्भव है।

राष्ट्रीय मानवाधिकार आयोग पीड़ितों को मदद के लिए फोन सुविधा शुरू की है। परन्तु यह भी प्रायः काम नहीं करता है और पीड़ित को कोई उत्तर नहीं मिलता है। यहाँ तक कि जो व्यक्ति फोन पर मौजूद रहता है। उसे हिन्दी के अलावा अन्य भाषा का ज्ञान नहीं होता जो पीड़ित के साथ संपर्क विकसित करने की आयोग की क्षमता को सीमित करती है और इस प्रकार अधिकतर आबादी जो हिन्दी नहीं जानती, अलगाव की अवस्था का सामना करती है।

आयोग के कर्मचारी सरकारी नौकरी में से लिए जाते हैं और प्रायः अस्थायी तौर पर नियुक्त किये जाते हैं। आयोग के ऐसे कर्मचारियों को मानवाधिकारों से सम्बन्धित काम करने के लिए कोई प्रशिक्षण नहीं दिया जाता और प्रायः उनका मानवाधिकार से कुछ लेना देना नहीं होता है। ऐसे कर्मचारी, मानवाधिकारों की समझदारी या अलग से इसके प्रति संवेदनशीलता से अनजान होते हैं। प्रतिमाशाली कर्मचारियों की नियुक्ति, इनका विकास और आवश्यक वेतन देकर इन्हें लम्बे समय काम में लगाये रखने की आयोग की असफलता मानवाधिकारों के कार्यों में वृद्धि तथा इसको प्रभावी बनाने में बड़ी बाधा है। आयोग के वर्तमान कर्मचारियों की नियुक्ति के आधार पर यह कहा जा सकता है कि इसमें समानता के आधार पर प्रतिनिधित्व का अभाव है। महिलाओं, धार्मिक अल्पसंख्यकों एवं विकलांग समूहों से नियुक्ति करके समान प्रतिनिधित्व दिया जाना चाहिए।

राष्ट्रीय मानवाधिकार आयोग अलग से उच्च योग्यता प्राप्त शोधकर्ताओं का नियोजन स्पेशल रेपोर्टिअर के बतौर करती है। इनकी जाँच या तो विशिष्ट विषय या भौगोलिक क्षेत्र के आधार पर किया जाता है। इनका भी चुनाव, पहले की तरह, प्रतिष्ठा और क्षमता की समान समझ के आधार पर किया जाता है। जिसका परिणाम यह होता है कि प्रायः अयोग्य व्यक्ति, महत्वपूर्ण पदों जैसे आयोग के स्पेशल रेपोर्टिअर के लिए चुने जाते हैं। आमतौर पर कोई सरकारी अधिकारी ही आयोग के स्पेशल रेपोर्टिअर के बतौर नियुक्ति पाता है, न कि नागरिक संगठनों के प्रतिनिधि, क्योंकि माना जाता है कि ऐसे लोग ऐसे पद के लिए कुछ अधिक ही 'स्वतंत्र' होते हैं।

5. अर्ध-क्षेत्राधिकारी कार्य

राष्ट्रीय मानवाधिकार आयोग के पाँच सदस्य पूरे भारत से आये शिकायतों के निस्तारण के लिए अधिकृत हैं। आयोग के गठन के पहले साल में प्राप्त कुल 487 शिकायतों से बढ़कर अब आयोग में प्रायः शिकायतों की संख्या 400 प्रतिदिन हो गयी है। जबकि शिकायतों के निस्तारण के लिए आयोग के सदस्यों की संख्या में अभी तक कोई वृद्धि नहीं की गयी है। इस सम्बन्ध में किसी को आश्चर्य नहीं होना चाहिए कि शिकायतों के निस्तारण में आवश्यक गुणवत्ता बुरी तरह से प्रभावित हुई है।

हाँलाकि आयोग का यह कहना है कि उसे प्राप्त शिकायतों के निस्तारण में कोई समस्या नहीं है और वे प्रतिदिन 60 से 80 शिकायतों का निस्तारण करते हैं। यदि यह सच है तो आयोग के सीमित सदस्य संख्या तथा अत्यधिक शिकायतों के अम्बार को देखते हुए हम यह कह सकते हैं कि यदि आयोग के सदस्य 16 घंटे भी प्रतिदिन काम करते हैं तथा 60 शिकायतों का निस्तारण करते हैं तो प्रत्येक शिकायत पर 30 मिनट से भी कम समय दिया जाता है तथा उसमें निर्णय किया जाता है कि यदि कोई गम्भीर मानवाधिकारों का उल्लंघन हुआ है और इसके लिए क्या कदम उठाये जाने चाहिए।

आयोग के सदस्यों के अन्य कार्यों एवं शक्तियों के मददे नजर प्रत्येक मानवाधिकार हनन के मामले में 30 मिनट से भी कम समय दिया जाता है। अधिकतर मामलों में यह पाया जाता है कि मानवाधिकार आयोग द्वारा ज्यादातर केसेस के निस्तारण में लापरवाही बरती जाती है और उसमें पारित आदेश विवेक पूर्ण और केस ला पर आधारित नहीं होते हैं। आयोग द्वारा ज्यादातर मामले सामान्यता के आधार पर बगैर किसी सुसंगत तर्क के निर्णीत किये जाते हैं। अधिकतर केसेस को निरस्त कर दिया जाता है। शिकायतों को निरस्त करने के सम्बन्ध में प्रायः एक लाइन का आदेश पारित कर दिया जाता है।

न केवल आयोग मानवाधिकार हनन से सम्बन्धित शिकायतों पर ध्यान नहीं देता है बल्कि यह बड़े पैमाने पर घर्षित मामलों में भी साहसिक कार्यवाही करने व इस सम्बन्ध में मजबूत एवं आवश्यक विधि शास्त्र का भी विकास करने में असफल रहा है। मानवाधिकारों से सम्बन्धित मौजूदा कानूनों को शामिल करने उन्हें देश के अंदर लागू करने या अंतराष्ट्रीय समुदाय द्वारा अपनाए गये मानवाधिकारों से सम्बन्धित कानूनों को प्रोत्साहित करने के बजाय आयोग उन महत्वपूर्ण अवसरों पर चुप्पी साध लेता जो न केवल मानवाधिकारों से सम्बन्धित विधि शास्त्र को आगे बढ़ाने में या उन्हें मजबूती प्रदान करने में प्रयोग किये जा सकते हैं बल्कि जिनका उपयोग आम भारतीयों के मानवाधिकारों के विकास में भी किया जा सकता है।

राष्ट्रीय मानवाधिकार आयोग के कार्यों में स्पष्टता लाने के लिए जिन व्यावहारिक दिशा-निर्देशों को सूत्रबद्ध किया गया है, उनका भी पालन नहीं किया जा रहा है। इतना ही नहीं जस्टिस वैकटचलैया के कार्यकाल के बाद से राष्ट्रीय मानवाधिकार आयोग मानवाधिकार से सम्बन्धित समस्याओं के नये क्षेत्रों की पहचान करना भी बंद कर दिया है तथा उन नये व्यावहारिक दिशा-निर्देशों को जारी करने से लम्बे समय से विरत रहा है जो आयोग की कार्यप्रणाली को और कुशल बना सकते हैं तथा उसमें स्पष्टता ला सकते हैं।

होलाकि राष्ट्रीय मानवाधिकार आयोग को पर्याप्त कानूनी आधार पर सशक्त बनाया गया है ताकि यह मानवाधिकार उल्लंघन से सम्बन्धित मामलों को अच्छी तरह व्याख्यायित कर सके व उस पर निर्णय ले सके। परन्तु दुर्भाग्यवश राष्ट्रीय मानवाधिकार आयोग अपने इस कार्य को प्रभावी तरीके से सम्पादित करने में असफल रहा है।

यद्यपि राष्ट्रीय मानवाधिकार आयोग किसी भी मानवाधिकार हनन के मामले में सिफारिश जारी करने की शक्ति रखता है परन्तु यह अपनी इस शक्ति का प्रयोग विरले ही करता है। मानवाधिकार हनन से सम्बन्धित अधिकतर मामले केवल राज्यों द्वारा प्राप्त रिपोर्ट या पुलिस रिपोर्ट के आधार पर, जो मानवाधिकारों के हनन से इंकार करते हैं, आयोग द्वारा खारिज कर दिये जाते हैं। राष्ट्रीय मानवाधिकार आयोग की प्रक्रिया के तहत मानवाधिकार हनन के मामलों से सम्बन्धित अधिकारियों को भेजा जाता है जो प्रायः वही अधिकारी होते हैं जिनके खिलाफ मानवाधिकार हनन की शिकायत की गयी होती है और इस प्रकार पर्दे के पीछे, शिकायतों पर निर्णय लेने की आंतरिक प्रक्रिया तथा अंतर्निहित पूर्वाग्रह, मानवाधिकार हनन के मामलों में निर्णय लेने की आयोग की क्षमता को ही मुँह चिढ़ाती है।

राष्ट्रीय मानवाधिकार आयोग के बारे में यह अवधारणा की जाती है कि वह पीड़ितों के पक्ष में खड़ा होगा, उपरोक्त प्रक्रिया के तहत यह दोषियों का संरक्षक बन जाती है। राष्ट्रीय मानवाधिकार की वर्तमान प्रक्रिया में मानवाधिकारों के हनन के गम्भीर मामलों में निर्णय लेने के सम्बन्ध में आवश्यक संवेदनशीलता

का अभाव है तथा आयोग पीड़ित केन्द्रित दृष्टिकोण अपनाने में असफल रहा है। पीड़ित, जो प्रायः वंचित तबकों से जुड़े होते हैं, आयोग उनके साथ दूसरे नागरिकों जैसा व्यवहार करती है न कि एक ऐसे व्यक्ति के तौर पर उनके साथ पेश आती हैं, जो समानता के व्यवहार व सम्मान के पात्र हैं।

6. मानवाधिकार संगठनों से सम्बन्ध

आयोग ऐसे कोर ग्रुपों का निर्माण किया है जिससे मानवाधिकार के सम्बन्ध में प्रमुख हस्तियों या व्यक्तियों के विशेषज्ञ विचार को आकर्षित किया जा सके। परन्तु इसके लिए किसी औपचारिक प्रशासनिक ढाँचे का गठन नहीं किया गया है। अतः यह आश्चर्य का विषय नहीं है कि यह किसी को पता ही नहीं चल पाता है कि यह कोर ग्रुप किस प्रकार काम करते हैं या इनका प्रयोग कैसे किया जाता है तथा यह समूह मानवाधिकार से सम्बन्धित मामलों में अपने विशेषज्ञ विचार या राय से आयोग के कार्यों में किस प्रकार मदद पहुँचाते हैं। नागरिक संगठनों या समूहों के साथ राष्ट्रीय मानवाधिकार आयोग का सम्बन्ध अत्यन्त सीमित है और इस कारण आयोग मानवाधिकार संरक्षण के सम्बन्ध में उन ताकतवर, लगनशील तथा ज्ञानवान नागरिक संगठनों से सहयोग का अवसर पाने से वंचित रहा है।

इस रिपोर्ट के लिखे जाने के समय राष्ट्रीय मानवाधिकार आयोग के वर्तमान अध्यक्ष जस्टिस के०जी० बाल कृष्णन से सम्बन्धित अनेक मुद्दे मिडिया में छाये रहे हैं। जब से जस्टिस के०जी० बाल कृष्णन ने राष्ट्रीय मानवाधिकार आयोग का अध्यक्ष पद संभाला है उनके विरुद्ध भ्रष्टाचार के अनेक मामलों का उद्घाटन मिडिया में हुआ है। इस कारण न केवल गैर सरकारी संगठनों के तरफ से बल्कि देश के अन्दर अन्य प्रमुख न्यायाधीशों के तरफ से भी उनके इस्तीफे की मांग की जा रही है। जस्टिस के०जी० बाल कृष्णन के विरुद्ध यह भी आरोप लगाया गया है कि उन्होंने धन लेकर सुप्रीम कोर्ट में न्यायाधीशों की नियुक्ति की है ताकि सम्बन्धित मामलों में कुछ खास लोगों के पक्ष में निर्णय दिये जा सकें। जस्टिस के०जी० बाल कृष्णन तथा उनके परिवार के सदस्यों द्वारा अथाह धन जमा करने के मामले में भी अनेक सवाल उठाये गये हैं।

आयोग का वर्तमान नेतृत्व

जस्टिस के०जी० बाल कृष्णन से सम्बन्धित हाल के घटनाओं ने पुनः नागरिक संगठनों को राष्ट्रीय मानवाधिकार आयोग के सदस्यों के चुनाव व नियुक्ति की प्रक्रिया के प्रभावी होने के संदर्भ में सवाल उठाने के लिए प्रेरित किया है। यदि जस्टिस के०जी० बाल कृष्णन के विरुद्ध लगाये गये आरोप सही पाये जाते हैं तो यह सिद्ध हो जाता है कि राष्ट्रीय मानवाधिकार आयोग के अध्यक्ष की नियुक्ति में व्यक्ति के चरित्र की गहनता, सम्पूर्णता और मानवाधिकारों के प्रति उसकी प्रतिबद्धता को केन्द्र में रखा जाना चाहिए। राष्ट्रीय मानवाधिकार आयोग के अध्यक्ष के रूप में स्वभाविक रूप से सुप्रीम कोर्ट के मुख्य न्यायाधीश को रखा जाना ही अब आगे से पर्याप्त कसौटी नहीं होना चाहिए। राष्ट्रीय मानवाधिकार आयोग के अध्यक्ष पद पर नियुक्ति की प्रक्रिया पूरी तरह पारदर्शी होनी चाहिए और यह प्रतिबंध नहीं होना चाहिए कि इस पद पर केवल सुप्रीम कोर्ट के मुख्य न्यायाधीश ही विराजमान होंगे या कोई पूर्व नौकरशाह। इस पद पर ऐसे व्यक्ति को रखा जाना चाहिए जो देश के नैतिक, बौद्धिक और समर्पित नेतृत्व के गुणों से युक्त हो।

**The All India Network of NGOs and Individuals
Working with National Human Rights
Institutions (AiNNI)**

**An NGO Report on the Compliance with the Paris Principles
by the National Human Rights Commission of India**

EXECUTIVE SUMMARY - BENGALI

জাতীয় মানবাধিকার সংস্থাগুলির সাথে কর্মরত বিভিন্ন স্বেচ্ছাসেবী সংগঠন ও ব্যক্তিবর্গের সর্বভারতীয় কর্মজালিকা (এ.আই.এন.এন.আই)

জাতীয় মানবাধিকার কমিশন

স্বেচ্ছাসেবী সংগঠনগুলির বিকল্প প্রতিবেদন আন্তর্জাতিক সমন্বয় সমিতির
কাছে পেশ করার জন্য

মূল সারাংশ

১) প্রতিষ্ঠান

সম্মিলিত জাতিপুঞ্জের মানবাধিকার কমিশন এবং সাধারণ সভার যথাক্রমে ১৯৯২ ও ১৯৯৩ সালে প্যারিস প্রিন্সিপাল অধিগ্রহণের মধ্য দিয়ে যে আন্তর্জাতিক চাপ তৈরী হয়, সেই পরিস্থিতিতে ভারত সরকার মানবাধিকার সুরক্ষা আইন ১৯৯৩ সালে প্রণয়ন করে এবং তার ভিত্তিতে ১২ই অক্টোবর ১৯৯৩ সালে গঠিত হয় জাতীয় মানবাধিকার কমিশন। জাতীয় মানবাধিকার কমিশন তার প্রতিষ্ঠা লাগেই অন্যান্য মানবাধিকার সুরক্ষা কর্মীদের সঙ্গে সহযোগিতার মাধ্যমে কাজ করার অঙ্গীকার করে এবং জাতীয় মানবাধিকার কমিশনের প্রথম অধ্যক্ষ অন্যান্য মানবাধিকার সংগঠনগুলির সাথে সখ্যতা গড়ে তোলেন।

যদিও বহুদিন ধরে মানবাধিকারের ক্ষেত্রে বিধি ব্যবস্থা মান্য করার যে জাতীয় এবং আন্তর্জাতিক চাপ তৈরী হচ্ছিল তাকেই জাতীয় মানবাধিকার কমিশন প্রতিষ্ঠার মূল কারণ হিসাবে চিহ্নিত করা যায়, কমিশন তার প্রাথমিক পদক্ষেপগুলোর মাধ্যমে এটা প্রমান করে যে তারা মানুষের অধিকার রক্ষার ক্ষেত্রে সচেতন এবং সাফল্যের সার্থেই তা করতে সমর্থ। তা সত্ত্বেও খুব শীঘ্রই এটা স্পষ্ট হয়ে যায় যে কমিশন প্রতিষ্ঠার সময় থেকেই কিছু আইনী গলদ রয়ে গেছে এবং প্রতিষ্ঠানের ভিত্তি কোথাও কোথাও ভীষণ দুর্বল। এই বিষয়ে কমিশন প্রতিষ্ঠার প্রথমাবস্থায় কমিশন এবং নাগরিক সমাজ বহুবার মানবাধিকার সুরক্ষা আইন পরিবর্তনের জন্য আবেদন করতে থাকে, যদিও ভারত সরকার এ বিষয়ে উদাসীন থেকেই যায়, এবং পরবর্তীকালে এই বিষয়ে কমিশন নিজেও এর গুরুত্ব হারিয়ে ফেলে।

এমনকি মানবাধিকার সুরক্ষা আইনের ইতিবাচক দিকগুলি, যেমন-১২(১) ধারা, যেখানে বলা হয়েছে জাতীয় মানবাধিকার কমিশন মানবাধিকার রক্ষায় যেসব স্বেচ্ছাসেবী সংগঠনগুলো আত্ম-নিয়োজিত, তাদের কাজে উৎসাহিত করবে। সেটিও সঠিকভাবে অনুসৃত করা হয় নি। দুঃখজনকভাবেই তার সূচনাকাল থেকে জাতীয় মানবাধিকার কমিশন অন্যান্য জাতীয় মানবাধিকার সংগঠনগুলির সাথে একযোগে অর্থপূর্ণ কাজ করতে ব্যর্থ হয়েছে।

জাতীয় মানবাধিকার কমিশনের ব্যর্থতা শুধু তার কাজের পরিপ্রেক্ষিতে নয়, পরিকল্পনাগত দিক দিয়েও বটে। যদিও ভারত প্রায় একফুগ আগে ভিয়েনায় অনুষ্ঠিত বিশ্বমানবাধিকার কনফারেন্সে

যোগদান করেছিল, যেখানে সিদ্ধান্ত নেওয়া হয় যে প্রতিটি অংশগ্রহণকারী দেশ একটি জাতীয় মানবাধিকার পরিকল্পনা ও কর্মসূচী (এন.এইচ.আর.এ.পি) গঠন করবে, তবুও আজ অবধি ভারত তা করে উঠতে সক্ষম হয়নি।

২) স্বাধীনতা

যেকোন জাতীয় মানবাধিকার সংগঠনের আবশ্যিক উপাদান হল যাবতীয় প্রভাব থেকে স্বাধীনতা, বিশেষত সরকারী এবং অন্যান্য শক্তিশালী বেসরকারি প্রভাব থেকে মুক্তি। কিন্তু প্রতিষ্ঠালগ্ন থেকেই এই কমিশন সরকারে অধীনতা থেকে মুক্ত হবার ক্ষেত্রে নানা সমস্যার মুখোমুখি হয়। যদিও ইতিপূর্বে কমিশনের বহু সাহসিকতাপূর্ণ ও কঠিন সিদ্ধান্ত নেবার দৃষ্টান্ত আছে, তবু বর্তমানে স্বাধীনতার অভাব আক্ষরিক অর্থে কমিশনকে পঙ্গু করে তুলেছে এমনকি তার মূল কার্যসম্পাদনার ক্ষেত্রে মানবাধিকার রক্ষায় শক্তিশালী ভূমিকা নিতে ব্যর্থ হয়েছে।

ভারত সরকার অত্যন্ত কঠিনভাবে জাতীয় মানবাধিকার কমিশনের অর্থনৈতিক দিকটি নিয়ন্ত্রণ করে চলেছে। বর্তমানে জাতীয় কমিশন তার কার্যাবলির রিপোর্ট করে স্বরাষ্ট্র মন্ত্রককে, ভারত সরকারের সেই মন্ত্রক যা অভিবাসন, সাম্প্রদায়িক সম্প্রীতি, এ.এফ.এস.পি.এ আইন, সন্ত্রাসবাদীদের দ্বারা আক্রান্ত নির্যাতনের সহযোগিতা, সীমান্ত দেখাশোনা এবং সর্বাধিক গুরুত্বপূর্ণভাবে অভ্যন্তরীণ সুরক্ষা, যার মধ্যে সংযুক্ত পুলিশ, অন্যান্য আইন রক্ষাকারীগণ যুক্ত আছে। ভারতের বিপুল পরিকাঠামো যুক্ত মানবাধিকার সংগঠন, যার দায়িত্ব মানবাধিকার লঙ্ঘনকারী ব্যক্তিবর্গের বিরুদ্ধে ব্যবস্থা গ্রহণ করা, সেই সংগঠনকে এমন একটি বিভাগের কাছে দায়বদ্ধ রাখা যার হাতেই পুলিশ এবং অন্যান্য আইন প্রয়োগকারী আধিকারিক, যাদের বিরুদ্ধে মানবাধিকার লঙ্ঘন সংক্রান্ত বিবিধ অভিযোগ আছে, ফলতঃ এতে বিস্ময়কর কিছু নেই যে জাতীয় মানবাধিকার কমিশনের ক্ষমতা ও স্বাধীনতা এর ফলে দুর্বল হয়ে পড়েছে।

জাতীয় মানবাধিকার কমিশনের স্বাধীনতার অভাব তার সহযোগী সংগঠন এবং কর্মচারীবৃন্দ নিয়োগের ক্ষেত্রেও পরিলক্ষিত হয়, মানবাধিকার সুরক্ষা আইন একটি অনমনীয় মান নির্ধারণ করে রেখেছে যা জাতীয় মানবাধিকার কমিশনের সদস্যপদ লাভের ক্ষেত্রে মানবাধিকার বিষয়ক কাজে যোগ্যতা, অভিজ্ঞতা বা উৎসাহের তুলনায় সরকারী মর্যাদাকে অধিক প্রাধান্য দেয়। জাতীয় মানবাধিকার কমিশনের সদস্যরা সেই সরকারের প্রতি দায়বদ্ধ যারা তাদের বেতন প্রদান করে। এছাড়াও জাতীয় মানবাধিকার কমিশনের স্বাধীনতা বিবিধভাবে ক্ষতিগ্রস্ত হয়েছে, নানা স্বার্থগত দ্বন্দ্ব, সরকার দ্বারা কমিশনের সদস্যদের নিয়োগ, অর্থনৈতিক নিয়ন্ত্রণ এবং কর্মী নিয়োগ; ফলে জাতীয় মানবাধিকার কমিশন তার প্রতিষ্ঠার ১৭ বছরেও নিজের স্বাধীনতা সুরক্ষিত করতে পারেনি, এমনকি

এই দ্বন্দ্বের থেকে উৎপন্ন সমস্যাগুলোর সমাধানেও ব্যর্থ হয়েছে।

সবচেয়ে দুঃখজনক পরিস্থিতি তৈরী হয়েছে কারণ কমিশন স্বাধীনভাবে কাজ করতে ব্যর্থ হবার ফলে একটি শক্তিশালী, সাহসী প্রতিষ্ঠান হিসাবে গড়ে উঠতে পারেনি এবং এইদেশে যে গুরুতর মানবাধিকার লঙ্ঘনের ঘটনা ঘটে চলেছে তাকে চিহ্নিত ও প্রশমিত করতে পারেনি। ২০০২ সালে গুজরাট রাজ্যে এক বীভৎস ধর্মীয় জাতিগত হিংসাত্মক ঘটনা ঘটে, এবং তাতে সরকারের মদত ছিল। এটি মানবাধিকার কমিশনের ইতিহাসে একটি গুরুত্বপূর্ণ ঘটনা, এক্ষেত্রে মানবাধিকার কমিশন স্বেচ্ছায় তদন্ত করে, রিপোর্ট তৈরী করে এবং সর্বোচ্চ আদালতে অভিযোগ দায়ের করে, যদিও সরকারের অহরহ এবং অনমনীয় চাপের ফলে জাতীয় মানবাধিকার কমিশন কোর্টের ভেতর নিশ্চুপ থাকে এবং সমগ্র ব্যাপারটাই পরবর্তীকালে অন্যান্য অধিকার রক্ষা সংগঠনগুলোর সহযোগিতায় নির্যাতিত জীবিত ব্যক্তিবর্গ ও সরকারের বিরুদ্ধে মামলা হয়ে দাঁড়ায়।

ভয়াবহ ভাবে বহুবিধ গুরুত্বপূর্ণ বিষয়েই মানবাধিকার কমিশনকে নিশ্চুপ থাকতে দেখা যায়, এই বিষয়গুলো দেশের মানবাধিকার লঙ্ঘন সংক্রান্ত বিষয়ে অত্যন্তই গুরুত্বপূর্ণ। যদিও জাতীয় মানবাধিকার কমিশন একটি স্বায়ত্বশাসিত সংস্থা হিসেবেই এখনও চিহ্নিত যা স্বাধীনভাবে মানবাধিকার সংক্রান্ত বিষয়সমূহে নির্দেশিকা জারী করে নিজস্ব সিদ্ধান্তের ভিত্তিতেই, তবু এটি নিজেই স্বীকার করেছে যে, এই কমিশন নিজস্ব কোন লিখিত নির্দেশিকা ও পরিকল্পনা তৈরী করতে ব্যর্থ হয়েছে। এছাড়াও এদের কাছে কোন তথ্যও নেই যার মাধ্যমে বর্তমানের এবং পরবর্তীকালের যে কোনও স্বার্থগত দ্বন্দ্ব এড়ানো যায়।

৩) গঠন প্রণালী, সদস্য নিয়োগ পদ্ধতি এবং সময়সীমা

জাতীয় মানবাধিকারের গঠন পদ্ধতি প্রকৃতঅর্থে ভারত ও ভারতীয় জীবনের একমাত্রিক না দেখার ফলে একটি ভুল বোঝাবুঝির সৃষ্টি করে, যখন কমিশনকে ব্যাখ্যা করা হয় তখন মানবাধিকার রক্ষা ও প্রচারের ক্ষেত্রে একটি জাতীয় নেতা হিসাবে দেখার ক্ষেত্রে, বস্তুত বর্তমানে এটি একটি অবসরপ্রাপ্ত ও মর্যাদাসম্পন্ন বিচারবিভাগীয় ও সরকারী আধিকারিকদের একটি যাদুঘরে রূপান্তরিত হয়েছে। কমিশনের সদস্যদের সম্মান ও গুণ এর দিকে দেখলে বোঝায় যে তারা কমিশনের কার্যাবলি প্রয়োগের ক্ষেত্রে ও মানবাধিকার রক্ষার লড়াই এর এক শক্তিশালী অংশ হতে পারতো, সদস্য নিয়োগ পদ্ধতিতে স্বচ্ছতার অভাব সুযোগ্য এবং সর্বোৎকৃষ্ট পদপ্রার্থী মনোনয়নে সমস্যার সৃষ্টি করে এবং এর ফলে পদপ্রার্থীর সেই অতিরিক্ত যোগ্যতার অভাব থেকেই যায় যা মানবাধিকার রক্ষার যোগ্য নেতৃত্বের ক্ষেত্রে আবশ্যিক।

প্রাতিষ্ঠানিক আইনে চিহ্নিত দায়িত্বাবলী পালনের ক্ষেত্রে নেতার যোগ্যতার মান নির্ধারণের ব্যর্থতা কমিশনকে আরো দুর্বল করে তোলে। যদিও আইনের অতিরিক্ত, অপ্রয়োজনীয় এবং অনমনীয় যোগ্যতামান বিশেষত প্রধান তিনটি পদের ক্ষেত্রে, আইন প্রয়োগে সমস্যা সৃষ্টি করা, যেমন বৈচিত্র্য চিহ্নিত করার ক্ষেত্রে দৃষ্টির অভাব এবং ক্রমাগত নাগরিক সমাজ থেকে এমনকি যোগ্য এবং অভিজ্ঞ মানবাধিকার কর্মী ও নেতাদের সদস্য করা থেকে বিরত থাকা কমিশনকে ক্ষতিগ্রস্ত করে চলেছে। ফলশ্রুতি হিসেবে বলা যায় কমিশনে মহিলাদের ক্ষেত্রে সংবেদনশীল বিষয়ে হাজার হাজার অভিযোগ পর্যবেক্ষণ করার জন্য কোন মহিলা সদস্য নেই, ভারতীয় সুদক্ষ নাগরিক সমাজের কেউ কমিশনের সদস্য নন এবং কমিশনের নতুন অধ্যক্ষ যার বিরুদ্ধে দুর্নীতির অভিযোগ আছে এবং যিনি জনসমক্ষে ঘোষণা করেছেন যে তার মতে আইনানুযায়ী নাগরিকদের বিরুদ্ধে নিয়ন্ত্রিত শক্তিপ্রয়োগে আপত্তিকর কিছু নেই।

মানবাধিকার সুরক্ষা আইনে বর্ণিত ‘মানবাধিকার বিষয়ক জ্ঞান এবং বাস্তব অভিজ্ঞতা’ কমিশনের সদস্য নিয়োগের ক্ষেত্রে সরকারের একটি প্রাথমিক মানদণ্ড হয়ে উঠতে পারেনি। বেশীরভাগ ক্ষেত্রে কমিশনের সদস্য নিয়োগ ক্ষমতাসীন দলের রাজনৈতিক সুবিধা দানের পুরস্কার হিসাবে বিবেচিত হয়, যদিও কমিশনের প্রয়োগকারী আইন বলে যে এর সদস্যদের বেশীরভাগই বিচারবিভাগ থেকে আসা বাঞ্ছনীয়, তবু এটি হাস্যকর লাগে যখন বর্তমান অধ্যক্ষ বালাকৃষ্ণন জনসমক্ষে বলেন “এনকাউন্টার অনেক সময় ই অপরিহার্য... আইন রক্ষায় সমস্যা বাড়ছে। দুষ্কৃতিকারীরা আইন নিজেদের হাতে নিচ্ছে, এমনকি পুলিশের ওপর হামলা করছে, পুলিশকে পরিস্থিতি নিয়ন্ত্রণে আনতে হয়’ পরবর্তীকালে আরেক জনসমক্ষে বিবৃতিতে তিনি মৃত্যুদণ্ডের সমর্থনে বক্তব্য রাখেন। বালাকৃষ্ণন-এর এইসব বক্তব্য শুধুমাত্র কমিশনের নিজের কার্যাবলি, যা এক সময় কঠিন পরিস্থিতির মাধ্যমে গ্রহণ করা হয়েছিল, তার সম্পর্কে জ্ঞানের অভাবকেই প্রস্ফুটিত করে না সাথে সাথে তার ভারতীয় সংবিধানের প্রতি অশ্রদ্ধাকেই প্রতিভাত করে।

৪) সাংগঠনিক ব্যবস্থাপনা

যদিও জাতীয় মানবাধিকার কমিশন ১৭ বছর সময় পেয়েছিল তার সাংগঠনিক ব্যবস্থাকে গড়ে তোলার, তবুও সে তার সম্ভাবনা প্রসারিত করতে এবং সমাজে কার্যকরী ব্যবস্থা গ্রহণ করতে, সম্পূর্ণ ব্যর্থ হয়। কমিশনের শুধুমাত্র অর্থনৈতিক স্বচ্ছলতাই নয় ঐতিহাসিক জ্ঞান এবং বৌদ্ধিক মূলধনেরও অভাব পরিলক্ষিত হয়। বিভ্রান্তকরভাবে জাতীয় মানবাধিকার কমিশন কতটা অর্থনৈতিক দিক থেকে জর্জরিত তা স্বীকার করতে অসম্মত হয় এবং তার কর্মী ও সদস্য সংখ্যা বৃদ্ধির জন্য কোনরকম অনুরোধ করে না। উপরন্তু কমিশন সাম্প্রতিকালে বলে যে তার ৫ জন সদস্যের একদিনে অনুমানিক ৪০০ মামলার পর্যবেক্ষণ করে নির্দেশিকা জারী করতে কোনরূপ সমস্যা হয় না।

জাতীয় মানবাধিকার কমিশন যাদের উদ্দেশ্যে গঠিত হয় তা অধিকাংশ মানুষের কাছেই আজ ধরা ছোঁয়ার বাইরে। কমিশন তার বেশীরভাগ কার্যাবলীই দিল্লীর একটি বাড়িতে বসে করে, যেখান থেকে ভারতের অধিকাংশ ব্যক্তিই বহুদূরে বাস করে এবং তারা কমিশনের কাছে পৌঁছতে পারেনা। যদিও সেই ১৯৯৩ সালেই কেন্দ্রীয় সরকার কমিশনকে পূর্বেই অনুমতি দিয়ে রেখেছে ভারতের অন্যান্য অংশে তার শাখা স্থাপন করার, তবু কমিশন তা করতে ব্যর্থ হয়। সক্ষমভাবে কার্যসম্পাদনে এবং প্রায় ১০ কোটির বেশী ভারতীয় যাদের কমিশনের দ্বারস্থ হওয়ার প্রয়োজনীয়তা আছে, তাদের জন্য কমপক্ষে সারা ভারতে ৪ থেকে ৫ টি আঞ্চলিক শাখা প্রতিষ্ঠা করা আবশ্যিক। যদি এমন আঞ্চলিক শাখা প্রতিষ্ঠার ক্ষেত্রে কমিশনের সক্ষমতা না থাকে তবে কমিশনের উচিত নাগরিক সমাজের সঙ্গে সহযোগী হিসাবে কাজ করা এবং নাগরিক সমাজকে তাদের নিজের চোখ কান হিসাবে ব্যবহার করা অথবা দিল্লীর বাইরে কাজকর্মের পরিধি বাড়ানো, যার ফলে বাস্তবিক অর্থেই এটা প্রমানিত হয় যে কমিশন নির্যাতনের পক্ষে নির্যাতনকারীর পক্ষে নয়।

এমনকি যদি কোন দুর্লভ মামলায় যেখানে নির্যাতিত দিল্লীতে আসতে সক্ষম সেখানেও কমিশনের পরিবেশ নির্যাতিতের পক্ষে প্রতিকূল এবং অব্যক্তি। যদিও এর সৃষ্টি হয়েছিল নির্যাতিতের সুবিধাকল্পেই। এখানে বিচারব্যবস্থা চলে বন্ধ দরজার অন্তরালে এবং বেশীরভাগ ক্ষেত্রেই অভিযোগকারীকে অংশগ্রহণ অথবা এমনকি পর্যবেক্ষণ করতেও দেওয়া হয়না। বহু অভিজ্ঞ স্বেচ্ছাসেবী সংস্থা ও মানবাধিকারকর্মী স্বচ্ছতা ও নিরপেক্ষতা লক্ষ্য করার জন্য মামলা চলাকালীন প্রবেশ ও পর্যবেক্ষণ করতে সচেষ্ট হয়েছে, কিন্তু তাদের সেই চেষ্টা ব্যর্থতায় পর্যবসিত হয়েছে।

কমিশন তার মানবিক মুখ রক্ষার্থে ও তার ক্ষেত্রকে আরো বিস্তৃত করার উদ্দেশ্যে একটি ওয়েবসাইট প্রবর্তন করে, যদিও দুর্ভাগ্যজনকভাবে এই ওয়েবসাইট টি শুধুমাত্র ইংরাজী ভাষায়, ফলে নির্যাতিত ও সাধারণ মানুষের ক্ষেত্রে এই ব্যবস্থা বাস্তবত খুব একটা কার্যকর হয়নি। ওয়েবসাইটটি এবং তার যাবতীয় প্রকাশিত রিপোর্টের কোনটাই কোন আঞ্চলিক ভাষায় পাওয়া যায় না এবং বেশীরভাগ জনসাধারণের কাছেই তা দুর্বোধ্য। নির্যাতিত ব্যক্তির যদিও কমিশনের ওয়েবসাইটের মাধ্যমে অভিযোগ দায়ের করতে পারে তবুও এর থেকে তৎক্ষণাৎ কোন মামলা অনুসরণ বা নির্যাতিতকে সাহায্য করতে পারে এমন কোন তথ্য বের করা প্রায় অসম্ভব হয়ে ওঠে।

জাতীয় মানবাধিকার কমিশন একটি টেলিফোন ‘হটলাইনের’ ব্যবস্থাও করেছে যার মাধ্যমে নির্যাতিতেরা সরাসরি কমিশনের সাথে যোগাযোগ করতে পারে, দুর্ভাগ্যজনকভাবে এই হটলাইনটি অধিকাংশ সময়ই নিরন্তর থাকে এবং সর্বদা পাওয়াও যায় না। তার উপর যে ব্যক্তিবর্গের দ্বারা এটি সঞ্চালিত তারা হিন্দি ভাষা ভিন্ন অন্য ভাষায় স্বচ্ছন্দ নন। ফলে কমিশনের সাথে নির্যাতিতের সংযোগ এতে হ্রাস পাচ্ছে এবং সংখ্যাগরিষ্ঠ ভারতীয়ের সাথে তার দূরত্ব তৈরী হচ্ছে কারণ হিন্দি সকলের মূলভাষা নয়।

কমিশনের কর্মচারীগণ বিভিন্ন সরকারী কর্মচারীদের মধ্য থেকেই সরকার দ্বারা মনোনীত হন এবং এই মনোনয়ন অস্থায়ী। এই কর্মচারীরা সরকারে বিভিন্ন পদ থেকে এলেও তা মানবাধিকার সংক্রান্ত নয়। এই এই কর্মচারীদের মানবাধিকার কাজ সম্পন্ন করার জন্য কোন রকম প্রশিক্ষণ থাকেনা। ফলে এদের মানবাধিকার সংক্রান্ত কোন অনুভূতি প্রবনতা কাজ কর না। এবিষয়ে কোন উপলব্ধি ছাড়াই তারা তাদের কাজ সম্পন্ন করে। দক্ষ কর্মী নিয়োগ, উন্নয়ন এবং ধরে রাখার ক্ষেত্রে কমিশনের ব্যর্থতা তার কর্মক্ষমতা বৃদ্ধির পরিপন্থী হয়ে দাঁড়িয়েছে। বর্তমান কর্মীদের দিকে তাকালে দেখা যায় যে কমিশনের নিয়ম ও সমতার দিক দিয়ে লিঙ্গভিত্তিক ধর্মীয়সংখ্যালঘিষ্ঠ মানুষের ও প্রতিবন্ধী মানুষের প্রতিনিধিত্বের অভাব রয়েছে।

কমিশন এছাড়াও বিশেষ যোগ্যতা সম্পন্ন গবেষক হিসেবে বিশেষ র‍্যাপোর্টিয়ার দের নিয়োগ করে, যারা কোন বিশেষ বিষয়ে অথবা বিশেষ ভৌগোলিক অঞ্চলে তাদের তদন্ত চালায়। এখানেও মনোনয়ন এমন এক পদ্ধতির উপর ভিত্তি করে হয়, যা অঙ্কভাবে যোগ্যতা এবং মর্যাদার সমতার উপর ভিত্তি করে প্রতিষ্ঠিত। ফলে যোগ্য এবং অযোগ্য সব ধরনের পদপ্রার্থীই প্রায় এলোপাখারিভাবেই বিশেষ র‍্যাপোর্টিয়ার এর মতো গুরুত্বপূর্ণ পদের জন্য নির্বাচিত হয়। পরিলক্ষণ করা গেছে যে, যে বিশেষ র‍্যাপোর্টিয়ার হিসাবে সরকারী আধিকারিকদের মনোনয়ন একটি রীতিতে পরিনত হয়েছে এবং নাগরিক সমাজ বা শিক্ষাজগতের প্রতিনিধিগণকে ‘অতিরিক্ত স্বাধীন’ হিসাবে বিবেচনা করা হয় এই পদের ক্ষেত্রে।

৫) কমিশনের আইনী অধিকার ও ক্ষমতার পরিধি

কমিশনের ৫ জন সদস্যের হাতে সারা ভারতের নির্যাতিতের অভিযোগ এর পরিচালনার দায়িত্ব বর্তায়। কমিশন গঠনের প্রথম বছরে পাওয়া ৪৮৭ টি মামলা ছিল। বর্তমানে তা নাটকীয় ভাবে বেড়ে সেখানে প্রতিদিন ৪০০ টি অভিযোগ জমা পড়ে, এই অভিযোগ গুলো পরিচালনা করার মতো দায়িত্বপ্রাপ্ত সদস্যসংখ্যা না বাড়ানোর ফলে এটি বিন্দুমাত্র আশ্চর্যের বিষয় নয় যে অভিযোগ সংক্রান্ত কাজ পরিচালনা এর জন্য ব্যাপকভাবে ক্ষতিগ্রস্ত হচ্ছে।

যদিও কমিশনের বক্তব্য অনুযায়ী তাদের শতাধিক মামলা গ্রহণ, পরিচালনা এবং আনুমানিক প্রতিদিন ৬০-৮০ টি মামলা পুনর্বিবেচনা ও রায়দানের ক্ষেত্রে কোন সমস্যা হয়না। যদি এটা সত্যি হয় তবে অপরাধী সদস্য সংখ্যা এবং কমিশনের প্রভূত মামলার চাপ থাকার পর যদি দিনে ১৬ ঘণ্টাও কাজ করে, যা কিনা তাদের প্রাত্যহিক কাজের পরিমানের দ্বিগুণ,এবং তারপর প্রতিদিন যদি ৬০ টি করে মামলাও করা হয়, তবে প্রতিটি অভিযোগের ক্ষেত্রে কমিশন ৫ জন সদস্য ৩০ মিনিটেরও কম সময় দেয়, যে সময়ের মধ্যে তাদের মানবাধিকার লঙ্ঘনের মতো গুরুত্বপূর্ণ সিদ্ধান্ত নিতে ও সুপারিশ করতে হয়।

কমিশনের সদস্যদের অন্যান্য ভারপ্রাপ্ত কার্যকলাপের দিকে তাকালে দেখা যায় যে প্রতিটি মামলার ক্ষেত্রে যে আসল সময়টা ব্যয় করা হচ্ছে তা বাস্তবে ৩০ মিনিটেরও অনেক কম, প্রভূত সাক্ষ্য প্রমাণ আছে যেখানে দেখা যায় যে কমিশন অবহেলিতভাবে এলোপাথারি মামলার ফয়সালা করেছে, এমনকি ‘কেস ল’ বা কারণ বিশ্লেষণ ছাড়াই তারা তাদের সিদ্ধান্ত নিচ্ছে। কমিশন বেশিরভাগ মামলার ক্ষেত্রেই অত্যন্ত সাধারণ এবং তথ্য ছাড়াই কারণ নির্দেশ করেছে। বহু মামলা প্রথমিক পর্যায়েই বাতিল করেছে। এবং সিদ্ধান্তগুলো এক লাইনে সাধারণভাবে বাতিলের কথা লিখে দিয়ে ছেড়ে দিচ্ছে।

শুধুমাত্র অনুন্নত মানের অভিযোগ পরিচালনায় প্রতিটি অভিযোগের ক্ষেত্রে পর্যাপ্ত সময় দিতে না পারার অমনোযোগিতাই নয়, এমনকি যেখানে কমিশনে বৃহৎ, গুরুত্বপূর্ণ মামলা এসেছে সেখানেও কমিশন দৃঢ় ও সাহসী সিদ্ধান্ত নিতে বা একটি শক্তিশালী আইনশাস্ত্রের উৎকর্ষ প্রণয়নে ব্যর্থ হয়েছে। দেশকে শুধুমাত্র বর্তমান মানবাধিকার সংক্রান্ত মানদণ্ড গ্রহণ ও ব্যবহারের ক্ষেত্রে বাধ্য করার চেষ্টা না করে বরং নতুন মানদণ্ড নিরূপন বা আন্তর্জাতিক মানবাধিকার আইন গ্রহণে উৎসাহিত করার ক্ষেত্রে কমিশন নীরব থেকেছে, কমিশন ব্যর্থ হয়েছে মানবাধিকার সংক্রান্ত এমন একটি আইনশাস্ত্র প্রণয়নে যা শুধুমাত্র নির্যাতনকেই সাহায্য করবেনা, বরং সমস্ত ভারতীয়ের মানবাধিকারকেই প্রসারিত করবে।

বেশিরভাগ ব্যবহারিক সিদ্ধান্ত যা কমিশনের কাছে স্বচ্ছতা আনতে প্রয়োজনীয় ছিল তার বেশিরভাগই বর্তমানে অনুসরণ করা হয়না, উপরন্তু বিচারপতি ভেক্টরচেলাইয়ার অবসরের পর, কমিশন সমস্যা সম্বল অঞ্চল চিহ্নিত করা এবং নতুন প্রাসঙ্গিক ব্যবহারবিধি তৈরী করা বন্ধ করে দিয়েছে, যা কিনা কমিশনের কার্যাবলী আরো উন্নতমানের করে তুলতে সক্ষম হত, যেখানে এমনকি প্রয়োজনের তুলনায় বেশী আইনী গঠন ছিল, যার দ্বারা মানবাধিকার লঙ্ঘন সংক্রান্ত অভিযোগ পরিচালনা ও ব্যবস্থা গ্রহণের ক্ষেত্রে কমিশনের ক্ষমতা সেখানে দুর্ভাগ্যজনকভাবে এই সমস্ত কাজ সুষ্ঠুভাবে সংগঠিত করতে ব্যর্থ হয়েছে।

যেখানে কমিশনের ক্ষমতা আছে যে কোন মানবাধিকার লঙ্ঘন সংক্রান্ত ঘটনায় সুপারিশ করার, কমিশন শুধুমাত্র কিছু দুর্লভ মামলার ক্ষেত্রেই তা ব্যবহার করেছে, সংখ্যাগরিষ্ঠ অভিযোগ কমিশন বাতিল করে দিয়েছে এই মর্মে যে সরকার বা পুলিশ রিপোর্ট মানবাধিকার লঙ্ঘনের ব্যাপারটা অস্বীকার করা হয়েছে, কমিশনের পদ্ধতি হল অভিযোগ গুলো ‘সংশ্লিষ্ট কর্তৃপক্ষের’ কাছে পাঠানো, যা বেশিরভাগ ক্ষেত্রেই গিয়ে দাঁড়ায় সেই অভিযুক্ত পুলিশ যার বিরুদ্ধেই নির্যাতনের মূল অভিযোগ, এই ভাবে অভিযোগ পরিচালনার পদ্ধতিটি একটি হাস্যকর বস্তুতে রূপান্তরিত হয়েছে, মানবাধিকার রক্ষায় নিয়োজিত একটি সংস্থাকে নির্যাতনের সপক্ষে হতে হবে, নির্যাতনকারীর সঙ্গীর মতো আচরণ না করে মানবাধিকার লঙ্ঘনের ক্ষেত্রে আবেগপ্রবণ হতে বা নির্যাতিত কেন্দ্রিক আচরণ করতে ব্যর্থ হয়েছে। নির্যাতিত মানুষেরা, যারা অধিকাংশই সমাজের নিচুতলার মানুষ। কমিশনের কাছে এক দ্বিতীয় শ্রেণীর নাগরিক ভিন্ন আর কিছুই নয়, ব্যক্তি বর্গকে সমান ব্যবহার ও মর্যাদা প্রদানে কমিশন যে ব্যর্থ তা বলাই বাহুল্য।

৬) মানবাধিকার রক্ষায় প্রাসঙ্গিকভাবে দায়িত্বপ্রাপ্ত ব্যক্তিবর্গের সাথে সম্পর্ক

কমিশন যোগ্য এবং বিশেষজ্ঞ ব্যক্তিদের নিয়ে একটি কোর্স গ্রুপ গঠন করে, কিন্তু এদের হাতে কোন সাংগঠনিক ক্ষমতা দেয়নি, কমিশন কোথাও সুস্পষ্টভাবে নির্দেশ করেনি যে এই গ্রুপগুলো কিভাবে সাংগঠনিক কাজ করবে এই বিশেষজ্ঞ কোর্স গ্রুপগুলো কিভাবে মানবাধিকার রক্ষায় দায়িত্বশীল ব্যক্তিবর্গের সাথে কমিশন কার্যকরী সংযোগ স্থাপনের মাধ্যমে কমিশনের ক্ষমতা প্রয়োগের ক্ষেত্রে প্রভাব বিস্তার করবে।

কমিশনের সাথে নাগরিক সমাজের সম্পর্ক খুবই সীমাবদ্ধ এবং তার ফলে কমিশন একটি সুশিক্ষিত মানবাধিকারের প্রচার ও সুরক্ষার ক্ষেত্রে একটি শক্তিশালী এবং সুশিক্ষিত অংশীদার পেতে ব্যর্থ হয়েছে।

এই রিপোর্টটি তৈরীর সময় মিডিয়ায় বর্তমান কমিশনের অধ্যক্ষ কে.জি. বালাকৃষ্ণন কমিশনে চেয়ারপার্সনের পদটি গ্রহণ করেছেন। তারপর থেকে মিডিয়াতে তার দুর্নীতি সংক্রান্ত প্রচুর অভিযোগ ওঠে, ফলতঃ তার পদত্যাগ নিয়ে শুধুমাত্র স্বেচ্ছাসেবী সংগঠনগুলো নয় এমনকি সম্মানীয় আইন বিশেষজ্ঞরাও সরব হয়ে ওঠে। বালাকৃষ্ণনের বিরুদ্ধে অভিযোগ আছে। তিনি সুপ্রীমকোর্টের বিচারপতি থাকাকালীন বিচারপতিদের নিয়োগের ক্ষেত্রে উৎকোচ নিয়েছিলেন, তাঁর পরিবারের সদস্যদের হাতে প্রচুর পরিমান সম্পদ কিভাবে এলো সে বিষয়েও প্রচুর প্রশ্ন উঠেছে।

৭) জাতীয় মানবাধিকার কমিশনের বর্তমান নেতৃত্ব

বালাকৃষ্ণনকে নিয়ে এইসব প্রাসঙ্গিক বিতর্ক নাগরিক সমাজকে আবার বাধ্য করেছে কমিশনের বর্তমান মনোনয়ন ও নিয়োগ পদ্ধতি নিয়ে বিতর্ক তুলতে। যদি সত্যিই বালাকৃষ্ণনের বিরুদ্ধে এই অভিযোগ গুলো সঠিক হয়, তবে অবশ্যই তার সততা ও দায়বদ্ধতা নিয়ে প্রশ্ন উঠবে যা মানবাধিকার কমিশনের অধ্যক্ষ নিয়োগের ক্ষেত্রে একটি বিপজ্জনক পরিস্থিতি তৈরী করেছে। এটা কোনকালেই যথেষ্ট ছিলনা যে একজন সুপ্রীমকোর্টের অবসরপ্রাপ্ত বিচারপতিকে সরাসরি কমিশনের অধ্যক্ষ করে দেওয়া হোক। কমিশনে নিয়োগ সংক্রান্ত পদ্ধতি সম্পূর্ণরূপে স্বচ্ছ হওয়া প্রয়োজনীয় এবং কখনোই শুধুমাত্র অবসরপ্রাপ্ত বিচারপতি বা সুপ্রীমকোর্টের প্রধানবিচারপতি বা ভূতপূর্ব আই.এ.এস, আই.পি.এস, আই.এফ.এ বা আইআর.এস ইত্যাদির মধ্যে সীমাবদ্ধ না রাখা বরং উচিত এই পরিধি বাড়িয়ে ভারতে নৈতিক, বৌদ্ধিক ও উৎসর্গীকৃত নেতাদের যুক্তকরা।

**The All India Network of NGOs and Individuals
Working with National Human Rights
Institutions (AiNNI)**

**An NGO Report on the Compliance with the Paris Principles
by the National Human Rights Commission of India**

EXECUTIVE SUMMARY - ORIYA

ଭାରତରେ ଜାତୀୟ ମାନବିକ ଅଧିକାର ପ୍ରତିଷ୍ଠାନ (AiNN) ସହିତ କାର୍ଯ୍ୟ କରୁଥିବା

ବ୍ୟକ୍ତିଗିଗେଷ ଏବଂ ସେକ୍ସାସେବୀ ସଂଗଠନମାନଙ୍କର ନେତୃତ୍ୱାଳ

ଜାତୀୟ ମାନବିକ ଅଧିକାର କମିଶନ (NHRC)

ICC କୁ ପ୍ରଦାନ କରାଯାଇଥିବା ସେକ୍ସାସେବୀ ସଂଗଠନମାନଙ୍କର ସମାନ୍ତରଳ ରିପୋର୍ଟ

ସାରାଂଶ

୧. ଗଠନ

ମାନବିକ ଅଧିକାର ସୁରକ୍ଷା ଆଇନ (PHRA), ୧୯୯୩ ଅନୁସାରେ ୧୯୯୩ ମସିହା ଅକ୍ଟୋବର ୧୨ ତାରିଖରେ ଭାରତରେ ଜାତୀୟ ମାନବିକ ଅଧିକାର କମିଶନ (NHRC ବା କମିଶନ) ଗଠନ କରାଗଲା । ମିଳିତ ଜାତିସଂଘର ମାନବିକ ଅଧିକାର କମିଶନରେ ୧୯୯୨ ମସିହାରେ ଏବଂ ସାଧାରଣ ବୈଠକରେ ୧୯୯୩ ମସିହାରେ ଗୃହଣ କରାଯାଇଥିବା ପ୍ୟାରିସ୍ ନିୟମ ଦ୍ୱାରା ଆନ୍ତର୍ଜାତିକ ତାପର ବଶବର୍ତ୍ତୀ ହୋଇ ଏପରି କରାଗଲା । ଜାତୀୟ ମାନବିକ ଅଧିକାର କମିଶନର ଦୃଷ୍ଟିଭଙ୍ଗୀ ମଧ୍ୟରେ ଭାରତରେ କାର୍ଯ୍ୟରତ ମାନବିକ ଅଧିକାର ସୁରକ୍ଷାକାରୀଙ୍କ ସହ ସହଭାଗିତା ଭିତ୍ତିରେ କାର୍ଯ୍ୟ କରିବା ତଥା ପ୍ରଥମ କମିଶନରେ ସମ୍ପୃକ୍ତ ବ୍ୟକ୍ତିମାନଙ୍କୁ ସଭ୍ୟଭାବେ ଗୃହଣ କରିବା ପାଇଁ ଚିନ୍ତା କରାଗଲା ।

ଜାତୀୟ ତଥା ଆନ୍ତର୍ଜାତୀୟ ତାପକୁ ଆଶ୍ୱରେ ରଖୁ ଆନ୍ତର୍ଜାତୀୟ ମାନବସ୍ଥ ଅନୁସାରେ କାର୍ଯ୍ୟ କରିବା ପାଇଁ ଯଦିଓ ଏହାର ଲକ୍ଷ୍ୟ ରହିଥିଲା, ପ୍ରାଥମିକ ଅବସ୍ଥାରେ ଏହି କମିଶନ ନିଜ ଲକ୍ଷ୍ୟ ପୂରଣରେ କେତେକାଂଶରେ ସଫଳ ହୋଇଥିଲା । ପରବର୍ତ୍ତୀ ସମୟରେ କେତେକ ମାରାତ୍ମକ ଭୁଲ୍ ଯୋଗୁଁ କମିଶନର କାର୍ଯ୍ୟକାରୀତା ସ୍ଥାଣୁ ଅବସ୍ଥାକୁ ଆସିଯାଇଥିଲା । ମାନବିକ ଅଧିକାର ସୁରକ୍ଷା ଆଇନରେ ପରିବର୍ତ୍ତନ ଆଣିବା ନିମନ୍ତେ କମିଶନ ଏବଂ ସଭ୍ୟ ସମାଜର ଅନେକ ଅନୁରୋଧ ସତ୍ତ୍ୱେ ଏହି ନିୟମରେ ସଂଶୋଧନ ଆଣିବା କଥା ଭାରତ ସରକାର ଏବଂ କମିଶନ ଭୁଲିଗଲେ ।

ଏମିତିକି ମାନବିକ ଅଧିକାର ସୁରକ୍ଷା ଆଇନରେ ରହିଥିବା କେତେକ ସକରାତ୍ମକ ବ୍ୟବସ୍ଥା ଯଥା- ଧାରା ୧୨(କ) ଅନୁସାରେ ଜାତୀୟ ମାନବିକ ଅଧିକାର କମିଶନ ସେକ୍ସାସେବୀ ଅନୁଷ୍ଠାନ ତଥା ମାନବିକ ଅଧିକାର ସୁରକ୍ଷା ନିମନ୍ତେ କାର୍ଯ୍ୟ କରୁଥିବା ଅନୁଷ୍ଠାନ ସହ କାର୍ଯ୍ୟ କରିବାର ନିୟମ ଥିଲେ ମଧ୍ୟ ଏହା ଅନୁସରଣ କରାଯାଇ ନାହିଁ । ଅନୁଶୋଚନାର ବିଷୟ ଏହି ଯେ ଜାତୀୟ ମାନବିକ ଅଧିକାର କମିଶନ ଗଠନ ହେବା ପରଠାରୁ ଜାତୀୟ ସ୍ତରର ଅନ୍ୟ ମାନବିକ ଅଧିକାର କମିଶନ ସହ ସମନ୍ୱୟ ରଖୁ ଫଳପ୍ରସ୍ତୁତ ଭାବେ କାର୍ଯ୍ୟ କରିନାହିଁ ।

ଜାତୀୟ ମାନବିକ ଅଧିକାର ମିଶନ କେବଳ ଯେ କାର୍ଯ୍ୟ କରିବାରେ ବିଫଳ ହୋଇଛି ତାହା ନୁହେଁ, ଯୋଜନା କରିବାରେ ମଧ୍ୟ ବିଧିବଦ୍ଧ ଉଦ୍ୟମ କରିନାହିଁ । ଯଦିଓ ଏକ ଦଶନ୍ଧିରୁ ଅଧିକ ସମୟ ପୂର୍ବେ ଭିଏନାଠାରେ ଅନୁଷ୍ଠିତ ମାନବିକ ଅଧିକାର ସମ୍ମେଳନରେ ଭାରତ ଯୋଗ ଦେଇ ଜାତୀୟ ମାନବିକ ଅଧିକାର ନିମନ୍ତେ କାର୍ଯ୍ୟକ୍ଷମତା ପ୍ରସ୍ତୁତି ପାଇଁ ପ୍ରତିଶ୍ରୁତିବଦ୍ଧ ହୋଇଥିଲା, ତଥାପି ଏଯାବତ ଏହି କାର୍ଯ୍ୟକ୍ଷମତା ପ୍ରସ୍ତୁତ କରାଯାଇନାହିଁ ।

୯. ସ୍ବାଧୀନତା

କୌଣସି ମାନବିକ ଅଧିକାର କମିଶନ ବିଭିନ୍ନ ପ୍ରକାରର ସ୍ବାଧୀ, ସରକାରୀ ହେଉ ବା ବେସରକାରୀ ସ୍ବାଧୀ ହେଉ, ସବୁଥିରୁ ମୁକ୍ତ ରହିବା ଆବଶ୍ୟକ । ସୃଷ୍ଟି ହେବା ଦିନଠାରୁ ଜାତୀୟ ମାନବିକ ଅଧିକାର କମିଶନ ସରକାରୀ ସ୍ବାଧୀଠାରୁ ମୁକ୍ତ ହୋଇ ପରିନାହାନ୍ତି ।

ଯଦିଓ ପ୍ରାରମ୍ଭିକ ପର୍ଯ୍ୟାୟରେ ଏହା କେତେକ ସାହସୀ କାର୍ଯ୍ୟ କରିବା ସହିତ ବଳିଷ୍ଠ ନିଷ୍ପତ୍ତି ଗ୍ରହଣ କରିଥିଲେ, ସାଧାନଭାବେ କାର୍ଯ୍ୟ କରିପାରୁ ନ ଥିବା ଏହି ସଂସ୍ଥା ଏକ ପ୍ରକାର ଅଟଳ ହୋଇପଡ଼ିଛି । ମାନବିକ ଅଧିକାର କ୍ଷେତ୍ରରେ କୌଣସି ଦୃଢ଼ ନିଷ୍ପତ୍ତି ନେବା ତ ଦୂରର କଥା, ଏହା ନିଜର ମୌଳିକ ଲକ୍ଷ୍ୟ ପୂରଣରେ ସଫଳ ହୋଇପାରି ନାହିଁ ।

ଭାରତ ସରକାର ଜାତୀୟ ମାନବିକ ଅଧିକାର କମିଶନର ଆର୍ଥିକ ସମ୍ବଳକୁ କଠୋର ଭାବେ ନିୟନ୍ତ୍ରଣ କରିଥାନ୍ତି । ସମ୍ପ୍ରତି ଏହି କମିଶନ ଗୃହ ମନ୍ତ୍ରାଳୟ ନିକଟରେ ଉତ୍ତରଦାୟୀ ରହିଛି । ଏହି ବିଭାଗ ଶ୍ରମିକଚାଲାଣ, ସାମ୍ପ୍ରଦାୟିକ ସତ୍ତାବ, ସଶସ୍ତ୍ରବାହିନୀ ନିୟମ, ସନ୍ଧ୍ୟାସବାଦୀ ହିଂସା ପ୍ରପାତ୍ତିତକୁ ସାହାଯ୍ୟ ପ୍ରଦାନ, ସୀମା ପରିଚାଳନା, ଆଭ୍ୟନ୍ତରୀଣ ସୁରକ୍ଷା, ପୁଲିସ୍ ତଥା ଆଇନ ଶୃଙ୍ଖଳା ଜଡ଼ିତ କର୍ମକର୍ତ୍ତାଙ୍କ ସହ ଜଡ଼ିତ ରହିଛି ।

ପୁଲିସ୍ ଏବଂ ଆଇନ କାର୍ଯ୍ୟକାରୀ କରୁଥିବା ଅଧିକାରୀ ରହିଥିବା ବିଭାଗ ଅଧିନରେ ମାନବିକ ଅଧିକାର କମିଶନକୁ ରଖାଯାଇ ଥିବାରୁ ସେମାନଙ୍କ ବିରୋଧରେ ଆସୁଥିବା ବହୁସଂଖ୍ୟକ ମାନବିକ ଅଧିକାର ଉଲ୍ଲଙ୍ଘନ ଅଭିଯୋଗକୁ ବିଚାର କରିବା ପାଇଁ କମିଶନ ସକ୍ଷମ ହୋଇପାରୁ ନାହିଁ ।

ଜାତୀୟ ମାନବିକ ଅଧିକାର କମିଶନରେ ରହିଥିବା କର୍ମଚାରୀଙ୍କୁ ଦେଖିଲେ ଏହି ସଂସ୍ଥା ସ୍ବାଧୀନ ନୁହେଁ ବୋଲି ଜଣାଯାଏ । ମାନବିକ ଅଧିକାର କ୍ଷେତ୍ରରେ ଦକ୍ଷତା, ଆଗ୍ରହ ଓ ଅନୁଭୂତି ରହିଥିବା ବ୍ୟକ୍ତିମାନଙ୍କୁ ମାନବିକ ଅଧିକାର କମିଶନର ସଭ୍ୟଭାବେ ମନୋନୀତକରିବା ନିମନ୍ତେ ମାନବିକ ଅଧିକାର ସୁରକ୍ଷା ଆଇନରେ ଉଲ୍ଲେଖ ରହିଛି । ସେମାନଙ୍କୁ ଦରମା ପ୍ରଦାନ କରୁଥିବା ସରକାରଙ୍କ କାର୍ଯ୍ୟର ସମୀକ୍ଷା ନିମନ୍ତେ ଜାତୀୟ ମାନବିକ ଅଧିକାର କମିଶନର କର୍ମକର୍ତ୍ତାମାନଙ୍କୁ ଦାୟିତ୍ବ ପ୍ରଦାନ

କରାଯାଇଛି । କମିଶନର ସଭ୍ୟମାନଙ୍କ ନିଯୁକ୍ତି, ଆର୍ଥିକ ଅନୁଦାନ ଏବଂ କର୍ମଚାରୀ ନିଯୁକ୍ତି କ୍ଷେତ୍ରରେ ସରକାରୀ ନିୟନ୍ତ୍ରଣ ରହିଥିବାରୁ କମିଶନ ମୁକ୍ତ ଭାବେ କାର୍ଯ୍ୟ କରିବାକୁ ସକ୍ଷମ ହୋଇପାରୁ ନାହାନ୍ତି । କମିଶନ ଗଠନ ହେବାର ୧୭ ବର୍ଷ ବିତି ଯାଇଥିଲେ ମଧ୍ୟ କମିଶନକୁ ମୁକ୍ତ ଭାବେ କାର୍ଯ୍ୟ କରିବା ପାଇଁ ବା ସ୍ୱାଧୀନନିତ ଦୃନ୍ଦକୁ ଦୂର କରିବା ପାଇଁ ବିଶେଷ କିଛି କରାଯାଇନାହିଁ ।

ଗୋଟିଏ ଦେଶରେ ମାନବିକ ଅଧିକାର ଉଲ୍ଲଙ୍ଘନକୁ ଗମ୍ଭୀରତାର ସହ ନେଇ ସାହାଯିକତାର ସହିତ କାର୍ଯ୍ୟ କରିବା ପାଇଁ ଜାତୀୟ ମାନବିକ ଅଧିକାର କମିଶନ ଏକ ବଳିଷ୍ଠ ଅନୁଷ୍ଠାନରେ ପରିଣତ ହୋଇ ନ ପାରିବା ଅତୀତ ଦୁଃଖଦ ଘଟଣା । ବିଗତ ୨୦୦୨ ମସିହାରେ ଗୁଜୁରାଟରେ ବ୍ୟାପକ ଭାବେ ସଂପ୍ରଦାୟିକ ଦଙ୍ଗା ଘଟିଲା, ଯେଉଁଥିରେ ରାଜ୍ୟ ସଂପୃକ୍ତ ଥିଲା । ଜାତୀୟ ମାନବିକ ଅଧିକାର କମିଶନ ଇତିହାସରେ ଏହା ଏକ ବିରଳ ଦୃଷ୍ଟାନ୍ତ ଯେଉଁଥିରେ କମିଶନ ତରଫରୁ ସତ୍ୟପ୍ରକୃତ ଭାବେ ଅନୁସନ୍ଧାନ କରିବା ସହିତ ରିପୋର୍ଟ ପ୍ରଦାନ କରାଯାଇଥିଲା । ଏଥିସହିତ ଭାରତର ସର୍ବୋଚ୍ଚ ନ୍ୟାୟାଳୟରେ ପିଟିସନ ଦାୟର କରାଯାଇଥିଲା । ପରବର୍ତ୍ତୀ ସମୟରେ ସରକାରଙ୍କ ତରଫରୁ ରାଜନୈତିକ ଚାପ ପ୍ରଦାନ ଯୋଗୁଁ ଜାତୀୟ ମାନବିକ ଅଧିକାର କମିଶନ ନ୍ୟାୟାଳୟରେ ନୀରବ ରହିଲେ । ଏହାପରେ ଦଙ୍ଗାରୁ ବଞ୍ଚିଯାଇଥିବା ଲୋକ ଓ ସେମାନଙ୍କ ସମ୍ପର୍କିତ ଏବଂ ସରକାରଙ୍କ ମଧ୍ୟରେ ଆକଳନଗତ ଯୁଦ୍ଧ ଚାଲୁ ରହିଲା ।

ଚିତ୍ରାର ବିଷୟ ଏହି ଯେ ଦେଶରେ ମାନବିକ ଅଧିକାର ଉଲ୍ଲଙ୍ଘନ ଘଟଣାମାନ ବୃଦ୍ଧି ପାଇବା ସତ୍ତ୍ୱେ କମିଶନ ନିରବ ରହିଲେ । ଯଦିଓ କମିଶନ ଏକ ସାଧ୍ୟଶୀଳ ସଂସ୍ଥା ଯାହାକି ନିରପେକ୍ଷ ଭାବେ ମାନବିକ ଅଧିକାର ସଂପର୍କିତ ନିର୍ଦ୍ଦେଶ ଦେଇଥାଏ, ତଥାପି ଏହା କୌଣସି ଲିଖିତ ନିର୍ଦ୍ଦେଶନାମା ଜାରି କରିବା, ନୀତି ନିର୍ଦ୍ଧାରଣ କରିବା ଅଥବା କର୍ମଶୀଳା ଆନ୍ଦୋଳନ କରିବାରେ ସଫଳ ହୋଇନାହିଁ । ପୁନଶ୍ଚ ସ୍ୱାଧୀନନିତ ଦୃନ୍ଦର ଅବସାନ ନିମନ୍ତେ କୌଣସି ପଦକ୍ଷେପ ନେବା ସଂକ୍ରାନ୍ତୀୟ ତଥ୍ୟ କମିଶନ ପାଖରେ ନାହିଁ ।

୩. ଗଠନ ଶୈଳୀ, ନିଯୁକ୍ତି ପ୍ରକ୍ରିୟା ଓ ଅବଧି

ଜାତୀୟ ମାନବିକ ଅଧିକାର କମିଶନର ଗଠନ ଶୈଳୀରେ ଭାରତ ଏବଂ ଭାରତୀୟ ଜୀବନର ବିବିଧତାର ପ୍ରତିନିଧିତ୍ୱ କରାଯାଇନାହିଁ । ମାନବିକ ଅଧିକାର ସୁରକ୍ଷା କ୍ଷେତ୍ରରେ ଏହା ଜାତୀୟ ସ୍ତରର ନେତୃତ୍ୱ ଦେବା ପାଇଁ ସକ୍ଷମ ହୋଇନାହିଁ । ବରଂ ଅବସର ଗ୍ରହଣ କରିଥିବା ବିଚାରପତି ଏବଂ ସରକାରୀ ଉଚ୍ଚ ପଦାଧିକାରୀଙ୍କ ସମ୍ମାନ ରକ୍ଷା ପାଇଁ ଏହା ଏକ ସଂଗ୍ରହାଳୟ ପାଲଟି ଯାଇଛି । କମିଶନରେ ରହିଥିବା ସଭ୍ୟମାନଙ୍କର ଦକ୍ଷତା ଓ ପଦବୀର ଗୁରୁତ୍ୱ ଦୃଷ୍ଟିରୁ ଏହା ମାନବିକ ଅଧିକାର

ସୁରକ୍ଷା କ୍ଷେତ୍ରରେ ଶକ୍ତିଶାଳୀ ଅସ୍ତ୍ର ହୋଇପାରନ୍ତା, କିନ୍ତୁ ନିୟୁତ୍ତି ପ୍ରକ୍ରିୟାରେ ସଜ୍ଜିତା ଅବଲମ୍ବନ କରାଯାଉ ନଥିବାରୁ ଯୋଗ୍ୟତାସମ୍ପର୍ଣ୍ଣ ଶ୍ରେଷ୍ଠ ପ୍ରାର୍ଥମାନେ ନିୟୁତ୍ତି ପାଇପାରନ୍ତି ନାହିଁ । ମାନବିକ ଅଧିକାର ସୁରକ୍ଷା କ୍ଷେତ୍ରରେ ନେତୃତ୍ୱ ଗ୍ରହଣ କରିବା ନିମନ୍ତେ ସଭ୍ୟମାନଙ୍କର ସ୍ୱତନ୍ତ୍ର ଗୁଣ ରହିଥିବା କଥା ବିଚାରକୁ ନିଆଯାଇପାରେ ନାହିଁ ।

କମିଶନର ଗୁରୁତ୍ୱପୂର୍ଣ୍ଣ ଆଭିମୁଖ୍ୟ ପୂରଣ ନିମନ୍ତେ ନିୟମ ତଥା ଆଇନର ବ୍ୟବସ୍ଥା ରହିଥିଲେ ସୁଦ୍ଧା ଏ ଦିଗରେ ନେତୃତ୍ୱ ଦେବା ନିମନ୍ତେ କମିଶନ ସକ୍ଷମ ହୋଇପାରି ନାହାନ୍ତି । ଆଇନ ପାଳନ ନିମନ୍ତେ କମିଶନର ତିନୋଟି ପଦବୀ ପୂରଣ ପାଇଁ କଠୋର ନିୟମ ରହିଥିବାରୁ ସମାଜର ବିଭିନ୍ନ ବର୍ଗର ଲୋକ ତଥା ମାନବିକ ଅଧିକାର ସୁରକ୍ଷା ପାଇଁ କାର୍ଯ୍ୟ କରୁଥିବା ସଭ୍ୟ ସମାଜର ଦକ୍ଷ ଓ ଅନୁଭୂତି ସମ୍ପନ୍ନ ବ୍ୟକ୍ତିମାନଙ୍କ ପ୍ରବେଶକୁ ବାରଣ କରାଯାଉଛି । ଫଳସ୍ୱରୂପ, ମହିଳାମାନଙ୍କ ଚରମରୁ ହଜାର ହଜାର ଅଭିଯୋଗ ଆସୁଥିଲେ ମଧ୍ୟ ମହିଳାଙ୍କୁ ପ୍ରତିନିଧିତ୍ୱ ମିଳୁନାହିଁ । ଭାରତରେ ରହିଥିବା ଦୃଢ଼ ଏବଂ ସକ୍ରିୟ ସଭ୍ୟ ସମାଜରୁ ସଭ୍ୟ ଗ୍ରହଣ କରାଯାଇନାହିଁ । ଦୁର୍ନୀତି ଅଭିଯୋଗ ରହିଥିଲେ ମଧ୍ୟ ନୂତନ ଭାବେ ଚୟନ କରାଯାଇଥିବା ଅଧ୍ୟକ୍ଷ ସର୍ବସାଧାରଣରେ ପ୍ରକାଶ କରିଛନ୍ତି ଯେ ତାଙ୍କ ମତରେ ସାଧାରଣ ନାଗରିକଙ୍କ ବିରୁଦ୍ଧରେ ସଶସ୍ତ୍ରବାହିନୀକୁ ବ୍ୟବହାର କରିବା ଗ୍ରହଣୀୟ ।

କମିଶନ ପାଇଁ ସଭ୍ୟ ଚୟନ ବେଳେ ସରକାରଙ୍କ ଦ୍ୱାରା ମାନବିକ ଅଧିକାର ସୁରକ୍ଷା ଆଇନରେ ରହିଥିବା ମାନବିକ ଅଧିକାର କ୍ଷେତ୍ରରେ ଜ୍ଞାନ ଓ ପ୍ରତ୍ୟକ୍ଷ ଅନୁଭୂତିକୁ ବିଚାରକୁ ନିଆଯାଇ ନଥାଏ । କ୍ଷମତାରେ ଥିବାବେଳେ ରାଜନୈତିକ ପୃଷ୍ଠପୋଷକତା ଲାଭ କରିଥିବା ବ୍ୟକ୍ତିମାନଙ୍କୁ ପୁରସ୍କାର ସ୍ୱରୂପ ଜାତୀୟ ମାନବିକ ଅଧିକାର କମିଶନରେ ନିୟୁତ୍ତି ମିଳିଥାଏ । କମିଶନଙ୍କ ପାଇଁ ରହିଥିବା ଆଇନରେ ଦର୍ଶାଯାଇଛି ଯେ ଏହାର ଅଧିକାଂଶ ସଭ୍ୟ ବିଚାର ବିଭାଗରୁ ଆସିବେ । କିନ୍ତୁ ବର୍ତ୍ତମାନର ଅଧ୍ୟକ୍ଷ ଜର୍ଜିସ୍ ବାଲକ୍ରିଷ୍ଣନ୍ ସର୍ବସାଧାରଣରେ କହିଛନ୍ତି ଯେ ବେଳେବେଳେ ଏନ୍‌କାଉଣ୍ଟରକୁ ଉପେକ୍ଷା କରିହେବ ନାହିଁ ଆଇନ ଶୃଙ୍ଖଳା ସମସ୍ୟା ବୁଝି ପାଉଛି । ଅପରାଧମାନେ ଆଇନକୁ ସେମାନଙ୍କ ହାତକୁ ନେଇ ପୁଲିସ୍ ଉପରେ ଆକ୍ରମଣ କରୁଛନ୍ତି । ପୁଲିସ୍‌କୁ ଏହି ଅବସ୍ଥାକୁ ନିୟନ୍ତ୍ରଣ କରିବାକୁ ପଡ଼ିବ । ସର୍ବସାଧାରଣରେ ଦିଆଯାଇଥିବା ଅନ୍ୟ ଏକ ବକ୍ତବ୍ୟରେ ସେ ମୃତ୍ୟୁଦଣ୍ଡକୁ ସମର୍ଥନ କରିଛନ୍ତି । ଜର୍ଜିସ୍ ବାଲକ୍ରିଷ୍ଣନଙ୍କ ଏହି ବକ୍ତବ୍ୟମାନ ଜାତୀୟ ମାନବିକ ଅଧିକାର କମିଶନର ପୂର୍ବ କାର୍ଯ୍ୟଦକ୍ଷତା ଉପରେ ତାଙ୍କ ଅଜ୍ଞାନତାକୁ କେବଳ ପ୍ରକାଶ କରୁନାହିଁ, ଏଥିସହିତ ଭାରତୀୟ ସମ୍ବିଧାନର ଅବମାନନା ମଧ୍ୟ କରାଯାଉଛି ।

ସଂଗଠନିକ ଭିତ୍ତିଭୂମି

ଯଦିଓ ଦୀର୍ଘ ସତର ବର୍ଷ ଧରି ଜାତୀୟ ମାନବିକ ଅଧିକାର କମିଶନ ନିଜ ଭିତ୍ତିଭୂମି ବିକାଶ ପାଇଁ ଅତିବାହିତ କରିଛି, ଏହା ନିଜ ସମ୍ବଳର ବିକାଶ ତଥା ସମାଜରେ ପ୍ରଭାବଶାଳୀ ଢଙ୍ଗରେ କାର୍ଯ୍ୟ କରିବାରେ ସଂପୂର୍ଣ୍ଣ ବିଫଳ ହୋଇଛି । ଏହାର କେବଳ ଅର୍ଥନୈତିକ ସମ୍ବଳର ଅଭାବ ନାହିଁ, ତା ସହିତ ଐତିହାସିକ ଜ୍ଞାନ ଓ ବୌଦ୍ଧିକ ସମ୍ପର୍କର ମଧ୍ୟ ଅଭାବ ରହିଛି । ଜାତୀୟ ମାନବିକ ଅଧିକାର କମିଶନ ତରଫରୁ ସମ୍ବଳ ଅଭାବ ବିଷୟ କେବେ ପ୍ରକାଶ କରାଯାଇ ନାହିଁ, ଅଥବା କମିଶନରେ କର୍ମଚାରୀ ଓ ସଭ୍ୟସଂଖ୍ୟା ବୃଦ୍ଧି ପାଇଁ ଅନୁରୋଧ ମଧ୍ୟ କରାଯାଇନାହିଁ । ବରଂ ନିକଟ ଅତୀତରେ କମିଶନ ତରଫରୁ କୁହାଯାଇଛି ଯେ ଏହାର ପାଞ୍ଚ ଜଣ ସଭ୍ୟ ପ୍ରତିଦିନ ଦାୟର ହେଉଥିବା ୪୦୦ ଅଭିଯୋଗର ବିଚାର କରିବାରେ କୌଣସି ଅସୁବିଧାର ସମ୍ମୁଖୀନ ହେଉ ନାହାନ୍ତି ।

ସେବା ଯୋଗାଇବା ପାଇଁ ଉଦ୍ଦିଷ୍ଟ ସମସ୍ତ ଜନସାଧାରଣଙ୍କ ନିକଟରେ ଉପଲବ୍ଧ ହେବା ଜାତୀୟ ମାନବିକ ଅଧିକାର କମିଶନଙ୍କ ପକ୍ଷରେ ସମ୍ଭବ ହେଉନାହିଁ । ଦିଲ୍ଲୀର ଏକ ପ୍ରାସାଦ ମଧ୍ୟରେ ରହି କମିଶନ ଅଧିକାଂଶ କାର୍ଯ୍ୟ କରୁଛନ୍ତି । ଭାରତର ବାକି ଅଂଶ ଅନେକ ଦୂରରେ ରହିଛି ଓ କମିଶନ ପାଖରେ ପହଞ୍ଚି ପାରୁନାହିଁ । ଯଦିଓ ଭାରତର ବିଭିନ୍ନ ସ୍ଥାନରେ କାର୍ଯ୍ୟାଳୟ ସ୍ଥାପନ ପାଇଁ ୧୯୯୩ ମସିହାରୁ ଭାରତ ସରକାରଙ୍କଠାରୁ ଅନୁମତି ମିଳିସାରିଛି, ଏଯାବତ୍ କମିଶନ ସେ କାର୍ଯ୍ୟ କରିପାରି ନାହାନ୍ତି । ଫଳସ୍ୱରୂପ ଭାବେ କାର୍ଯ୍ୟ କରିବା ତଥା ଭାରତର ଏକ ଶହ କୋଟିରୁ ଅଧିକ ଜନସାଧାରଣଙ୍କୁ ସେବା ଯୋଗାଇ ଦେବା ନିମନ୍ତେ କମିଶନ ତରଫରୁ ଦେଶର ବିଭିନ୍ନ ସ୍ଥାନରେ ଚାରିରୁ ପାଞ୍ଚଟି ଆଞ୍ଚଳିକ କାର୍ଯ୍ୟାଳୟ କରାଯିବା ଉଚିତ୍ । ଆଞ୍ଚଳିକ କାର୍ଯ୍ୟାଳୟ ପ୍ରତିଷ୍ଠା ନିମନ୍ତେ ସମ୍ବଳର ଅଭାବ ଥିଲେ କମିଶନ ତରଫରୁ ସଭ୍ୟ ସମାଜ ସହ ସହଯୋଗିତା ଭିତ୍ତିରେ କାର୍ଯ୍ୟ କରିବା ଉଚିତ୍ । ଏମାନେ କମିଶନର ଆଖି କାନ ପରି କାର୍ଯ୍ୟ କରିବେ । ନତୁବା କମିଶନ ତରଫରୁ ଦିଲ୍ଲୀ ବାହାରକୁ ଯାଇ ପ୍ରପାଢ଼ିତ ଲୋକଙ୍କ ସମସ୍ୟା ବୁଝିବା ଉଚିତ୍ । କମିଶନ ଅତ୍ୟାଚାରୀଙ୍କ ପକ୍ଷରେ ନ ରହି ଅତ୍ୟାଚାରିତଙ୍କ ପକ୍ଷ ନେବା ଆବଶ୍ୟକ ।

କେତେକ କ୍ଷେତ୍ରରେ ପ୍ରପାଢ଼ିତ ମାନେ ଦିଲ୍ଲୀ ଆସିବାକୁ ସକ୍ଷମ ହେଲେ ମଧ୍ୟ କମିଶନଙ୍କ ତରଫରୁ ତାଙ୍କ ପ୍ରତି ଅନୁକୂଳ ଆଚରଣ ପ୍ରଦର୍ଶନ କରାଯାଏ ନାହିଁ । ରୁଦ୍ଧ ଦ୍ୱାରା ମଧ୍ୟରେ ବିଚାର ପ୍ରକ୍ରିୟା କରାଯାଏ । ଅନେକ ସମୟରେ ଏଥିପାଇଁ ଅଭିଯୋଗ ବା ମତାମତ ଆହ୍ୱାନ କରାଯାଇ ନଥାଏ । ଅନେକ ବରିଷ୍ଠ ମାନବାଧିକାର କର୍ମୀ ଓ ସେକ୍ତାସେବା ସଂଗଠନ ସକ୍ଷତା ବଜାୟ ରଖିବା ପାଇଁ ବିଚାର ପ୍ରକ୍ରିୟାରେ ଭାଗ ନେବାକୁ ଚାହାନ୍ତି, କିନ୍ତୁ ସଫଳ ହୋଇ ପାରନ୍ତି ନାହିଁ ।

ଲୋକମାନଙ୍କ ନିଜଟିରେ ଉପଲବ୍ଧ ହେବା ନିମନ୍ତେ କମିଶନ ତରଫରୁ ଏକ ଡ୍ରେବସାଇଟ ଗୋଲାଯାଇଛି । ଦୁର୍ଭିକ୍ଷବଶତଃ, କେବଳ ଇଂରାଜୀରେ ଉପଲବ୍ଧ ଏହି ଡ୍ରେବସାଇଟ ଜନସାଧାରଣ ଓ ପ୍ରଯାତିତଙ୍କ ବିଶେଷ କାମରେ ଆସିପାରେ ନାହିଁ । ଡ୍ରେବସାଇଟ ବା ଏହାର କୌଣସି ତଥ୍ୟ ଆଞ୍ଚଳିକ ଭାଷାରେ ଉପଲବ୍ଧ ହେଉ ନଥିବାରୁ ଜନସାଧାରଣଙ୍କ ପାଖରେ ଅପହଞ୍ଚ ହୋଇ ରହିଯାଏ । ଯଦିଓ ଡ୍ରେବସାଇଟ ମାଧ୍ୟମରେ କ୍ଷତିଗ୍ରସ୍ତମାନେ ଅଭିଯୋଗ କରିପାରିବେ, କିନ୍ତୁ କୌଣସି ନିର୍ଦ୍ଦିଷ୍ଟ ସୂଚନା ଏବଂ ଆବଶ୍ୟକୀୟ ତଥ୍ୟ ନଥିବାରୁ ଏହା ଏକ ପ୍ରକାର ଅସମ୍ଭବ ହୋଇପଡ଼େ ।

କ୍ଷତିଗ୍ରସ୍ତମାନେ ତୁରନ୍ତ ସାହାଯ୍ୟ ପାଇବା ନିମନ୍ତେ କମିଶନଙ୍କ ତରଫରୁ ଏକ ହଟଲାଇନ୍ ଟେଲିଫୋନର ବ୍ୟବସ୍ଥା କରାଯାଇଛି । ଦୁଃଖର କଥା ଏହି ଯେ ଏହି ଟେଲିଫୋନ୍ ନମ୍ବରରେ ସବୁବେଳେ ଯୋଗାଯୋଗ କରାଯାଇପାରେ ନାହିଁ । ବହୁ ସମୟରେ ଏଥିରୁ କୌଣସି ଉତ୍ତର ମିଳେ ନାହିଁ । ଏହି ଫୋନରେ କାର୍ଯ୍ୟରତ ବ୍ୟକ୍ତିମାନେ ହିନ୍ଦୀ ଛଡ଼ା ଅନ୍ୟ ଭାଷା ଜାଣନ୍ତି ନାହିଁ । ଭାରତରେ ହିନ୍ଦୀ ଭାଷା ଜାଣି ନଥିବା ଅନେକ ଲୋକଙ୍କ ପାଇଁ ଯୋଗାଯୋଗ ବ୍ୟବସ୍ଥା କରିବାରେ କମିଶନ ବିଫଳ ହୋଇଛନ୍ତି ।

କମିଶନର କର୍ମଚାରୀମାନେ ବିଭିନ୍ନ ସରକାରୀ ପଦବୀରୁ ଆସିଥାନ୍ତି । ବେଳେବେଳେ ସେମାନେ ଭିନ୍ନ ଭିନ୍ନ ବିଭାଗରୁ କମ ସମୟ ପାଇଁ ଡେୟୁଟିରେ ଆସିଥାନ୍ତି । ଏହି କର୍ମଚାରୀମାନଙ୍କୁ କାର୍ଯ୍ୟ କରିବା ପାଇଁ ତାଲିମ୍ ଦିଆଯାଇ ନଥାଏ । ମାନବିକ ଅଧିକାର ସମ୍ପର୍କରେ ସେମାନଙ୍କର ପୂର୍ବ ଅଭିଜ୍ଞତା ନଥାଏ । ତେଣୁ ସେମାନେ ମାନବିକ ଅଧିକାର ବିଷୟରେ ସଚେତନ ହୋଇ କାର୍ଯ୍ୟ କରି ନଥାନ୍ତି । କମିଶନ ତରଫରୁ ନିଜର କର୍ମଚାରୀ ନିଯୁକ୍ତି, ସେମାନଙ୍କର ବିକାଶ ତଥା ଉତ୍ତମ କର୍ମଚାରୀଙ୍କୁ କମିଶନରେ ଅଟକାଇ ରଖିବାରେ ବିଫଳତା ଯୋଗୁଁ କମିଶନର ଅଭିବୃଦ୍ଧି ଓ ପ୍ରଭାବ ହ୍ରାସ ପାଇଥାଏ । ବର୍ତ୍ତମାନ ରହିଥିବା କର୍ମଚାରୀମାନଙ୍କ ମଧ୍ୟରେ ଲିଙ୍ଗଗତ, ସଂଖ୍ୟାଲଘୁ ତଥା ଅକ୍ଷମ ଲୋକମାନଙ୍କର ଉପଯୁକ୍ତ ପ୍ରତିନିଧିତ୍ୱ କରାଯାଇ ନାହିଁ ।

କମିଶନଙ୍କ ତରଫରୁ ନିର୍ଦ୍ଦିଷ୍ଟ ବିଷୟ ବା ଭୌଗୋଳିକ ଅଞ୍ଚଳ ଉପରେ ଗବେଷଣା କରି ତଥ୍ୟ ପ୍ରଦାନ ନିମନ୍ତେ ଯୋଗ୍ୟତାସମ୍ପର୍ଣ୍ଣ ଗବେଷକମାନଙ୍କୁ ନିଯୁକ୍ତ କରାଯାଇଥାଏ । ଏମାନଙ୍କ ନିଯୁକ୍ତି କ୍ଷେତ୍ରରେ ସମ୍ମାନ ଓ ଯୋଗ୍ୟତାକୁ ସମତୁଲ କରି ଦେଖାଯାଏ । ଫଳରେ ସତରଘ ରାପୋର୍ଟିଅର ପରି ଗୁରୁତ୍ୱପୂର୍ଣ୍ଣ ପଦବୀରେ ଉଭୟଯୋଗ୍ୟ ଓ ଅଯୋଗ୍ୟ ପ୍ରାର୍ଥୀ ସ୍ଥାନ ପାଇଥାନ୍ତି । ଏଥିରୁ ଏହି ବାର୍ତ୍ତା ଯାଏ ଯେ କେବଳ ସରକାରୀ ଉଚ୍ଚ ପଦବୀରେ ଥିବା ବ୍ୟକ୍ତିମାନେ ସତରଘ ରାପୋର୍ଟିଅର ଭାବେ ନିଯୁକ୍ତ ହେବେ । ସତ୍ୟ ସମାଜ ତଥା ଶିକ୍ଷାନୁଷ୍ଠାନର ପ୍ରତିନିଧିମାନେ ଏଥିରେ ସ୍ଥାନ ପାଇଁ ପାରିବେ ନାହିଁ ।

୪. ଅର୍ଦ୍ଧବିଚାର ବିଭାଗୀୟ କାର୍ଯ୍ୟ

ସମଗ୍ର ଭାରତରୁ ମିଳୁଥିବା ଅଭିଯୋଗମାନଙ୍କୁ ବିଚାର କରିବା ନିମନ୍ତେ ଜାତୀୟ ମାନବିକ ଅଧିକାର କମିଶନର ପାଞ୍ଚଜଣ ସଭ୍ୟଙ୍କ ଉପରେ ବାର୍ଷିକ ନ୍ୟସ୍ତ କରାଯାଇଛି । କମିଶନ ପ୍ରତିଷ୍ଠା ହେବାର ପ୍ରଥମ ବର୍ଷରେ ମାତ୍ର ୪୮୭ଟି ଅଭିଯୋଗ ଆସିଥିବା ବେଳେ ପରବର୍ତ୍ତୀ ସମୟରେ ଏହା ବୈନିକ ୪୦୦ ରେ ପହଞ୍ଚିଛି । ଏହି ଅଭିଯୋଗର ବିଚାର ପାଇଁ ସଭ୍ୟ ସଂଖ୍ୟା ବୃଦ୍ଧି କରାଯାଇ ନଥାବାରୁ ଅଭିଯୋଗମାନଙ୍କର ବିଚାର ପ୍ରକ୍ରିୟାରେ ଗୁଣାତ୍ମକ ମାନ ହ୍ରାସ ପାଇଛି ।

କମିଶନ କହୁଛି ଯେ ପ୍ରତିଦିନ ମିଳୁଥିବା ଶହ ଶହ ଅଭିଯୋଗ ପରିଚାଳନା କରିବା ସେମାନଙ୍କ ପକ୍ଷରେ କଷ୍ଟକର ନୁହେଁ । ପ୍ରତିଦିନ ୬୦-୮୦ ଟି କ୍ଷେତ୍ରରେ କମିଶନଙ୍କ ତରଫରୁ ଆଦେଶ ପ୍ରଦାନ କରାଯାଇଥାଏ । ଯଦି ଏହା ସତ ହୋଇଥାଏ ତେବେ ସାମିତ ସଂଖ୍ୟକ ସଭ୍ୟ ଓ ମାତ୍ରାଧିକ ଅଭିଯୋଗ ଦୃଷ୍ଟିରୁ ଦିନକୁ ୧୬ ଘଣ୍ଟା କାର୍ଯ୍ୟକଳେ ୬୦ଟି ଅଭିଯୋଗର ବିଚାର ନିମନ୍ତେ କମିଶନର ସଭ୍ୟମାନଙ୍କୁ ପ୍ରତି ଅଭିଯୋଗ ପିଛା ମାତ୍ର ୩୦ ମିନିଟ୍ ସମୟ ମିଳେ । ମାନବିକ ଅଧିକାର ଉଲ୍ଲଙ୍ଘନ ହୋଇଛି କି ନାହିଁ ବା କୌଣସି ଗୁରୁତ୍ୱପୂର୍ଣ୍ଣ ସୁପାରିଶ ପାଇଁ ମାତ୍ର ଏତିକି ସମୟ ମିଳିଥାଏ ।

କମିଶନର ସଭ୍ୟମାନଙ୍କର ଅନ୍ୟାନ୍ୟ କାର୍ଯ୍ୟ କଥା ବିଚାରକୁ ନେଲେ ପ୍ରତିଟି ଅଭିଯୋଗ ପାଇଁ ୩୦ ମିନିଟ୍‌ରୁ କମ୍ ସମୟ ମିଳିବ । ଅନେକ ଦୃଷ୍ଟାନ୍ତରୁ ଜଣାଯାଏ ଯେ ଜାତୀୟ ମାନବାଧିକାର କମିଶନ ତରଫରୁ ଖାମସ୍‌ଆଳି ଭାବେ ଅଭିଯୋଗର ବିଚାର କରାଯାଏ । ଏଥିପାଇଁ ଆଇନଗତ ଡର୍ଜମା ତଥା ଘଟଣାର ବିଧିବଦ୍ଧ ବିଶ୍ଳେଷଣ କରାଯାଏ ନାହିଁ । କମିଶନଙ୍କ ତରଫରୁ ସାଧାରଣ ଜଙ୍ଗରେ କୌଣସି ଯୁଦ୍ଧିଯୁଦ୍ଧ କାରଣ ନ ଦର୍ଶାଇ କେସ୍ ଗୁଡ଼ିକର ପଞ୍ଜସିଦ୍ଧା କରାଯାଏ । ଅନେକ କେଶକୁ ଦଫାରଫା କରାଯାଏ ବା ଗୃହୀତ କରାଯାଇ ନଥାଏ । ଏଥିରେ ଡିସ୍‌ମିସ୍ ବା ଅଗ୍ରାହ୍ୟ ସଂପର୍କିତ ଏକଧାଡ଼ିଆ ଆଦେଶ ପ୍ରଦାନ କରାଯାଇଥାଏ ।

କେବଳ ସାଧାରଣ ଅଭିଯୋଗ କ୍ଷେତ୍ରରେ ଯେ କମିଶନ ନିମ୍ନ ମାନର ଅଭିଯୋଗ ପରିଚାଳନା କରିଥାନ୍ତି ସେ କଥା ନୁହେଁ, କେତେକ ଗୁରୁତ୍ୱପୂର୍ଣ୍ଣ ବିଷୟରେ ମଧ୍ୟ କମିଶନ ସାହସିକ ପଦକ୍ଷେପ ନେଇ ପାରନ୍ତି ନାହିଁ । ଦେଶରେ ପ୍ରଚଳିତ ମାନବିକ ଅଧିକାର ମାନବସ୍ତ ଅନୁଯାୟୀ ନୂତନ ମାନବସ୍ତର ବିକାଶ ହେବା ଉଚିତ୍ । ମାନବିକ ଅଧିକାର ନୀତି ନିର୍ଦ୍ଧାରଣ ସୁଯୋଗ ବିଷୟରେ ନାରଦ ରହିବା କମିଶନ ପକ୍ଷେ ଠିକ୍ ନୁହେଁ । ଏହାଦ୍ୱାରା ପ୍ରଯାଡ଼ିତମାନଙ୍କୁ ନ୍ୟାୟ ମିଳିବା ସହିତ ଭାରତର ସମସ୍ତ ଲୋକଙ୍କ ପାଇଁ ମାନବିକ ଅଧିକାର ଉପଲବ୍ଧ ହୋଇପାରିବ ।

ଏହାର କାର୍ଯ୍ୟଶୈଳୀକୁ ସ୍ପଷ୍ଟ କରିବା ନିମନ୍ତେ ରହିଥିବା ଅଧିକାଂଶ କାର୍ଯ୍ୟ ନିର୍ଦ୍ଦେଶାବଳୀକୁ ଆଜିକାଲି ଅନୁସରଣ କରାଯାଉ ନାହିଁ । ଜର୍ଷ୍ସ ଲେକଟରଲେୟାଙ୍କ ପରେ ଜାତୀୟ ମାନବାଧିକାର କମିଶନ ନୂତନ ସମସ୍ୟାମାନ ଚାଲି କରି କମିଶନଙ୍କ କାର୍ଯ୍ୟର ଉନ୍ନତି ପାଇଁ ନୂତନ ଓ ଯୁକ୍ତିଯୁକ୍ତ ନିର୍ଦ୍ଦେଶାବଳୀ ପ୍ରଣୟନ କରିନାହାନ୍ତି । ମାନବାଧିକାର ଉଲ୍ଲଙ୍ଘନ କ୍ଷେତ୍ରରେ ଅଭିଯୋଗର ସମାଧାନ ନିମନ୍ତେ ଆଇନର ପର୍ଯ୍ୟାପ୍ତ ବ୍ୟବସ୍ଥା ଥାଇ କମିଶନଙ୍କୁ କ୍ଷମତା ପ୍ରଦାନ କରାଯାଇଥିଲେ ମଧ୍ୟ ଏ କ୍ଷେତ୍ରରେ ଫଳପ୍ରସ୍ତ କାର୍ଯ୍ୟ କରିବାରେ କମିଶନ ବିଫଳ ହୋଇଛନ୍ତି ।

ମାନବିକ ଅଧିକାର ଉଲ୍ଲଙ୍ଘନ କ୍ଷେତ୍ରରେ ନିର୍ଦ୍ଦିଷ୍ଟ ସୁପାରିଶ ପ୍ରଦାନ ନିମନ୍ତେ କମିଶନଙ୍କୁ କ୍ଷମତା ପ୍ରଦାନ କରାଯାଇଥିଲେ ମଧ୍ୟ ମାତ୍ର କେତେକ ବିରଳ କ୍ଷେତ୍ରରେ ଏହା କରାଯାଇଛି । ସରକାରଙ୍କ ମତାମତ ତଥା ପୁଲିସ ରିପୋର୍ଟ ଆଧାରରେ ଅନେକ ଅଭିଯୋଗକୁ କମିଶନ ଡିସ୍ମିସ୍ କରିଛନ୍ତି । କମିଶନଙ୍କ କାର୍ଯ୍ୟଧାରା ଅନୁସାରେ ପାଇଥିବା ଅଭିଯୋଗକୁ ସଂପୃକ୍ତ ଜର୍ଜ୍ସପକ୍ଷଙ୍କ ନିକଟକୁ ପଠାଇ ଦିଆଯାଏ । ଅନେକ ସମୟରେ ଅଭିଯୋଗରେ ପୁଲିସ ଅଧିକାରୀଙ୍କ ବିରୁଦ୍ଧରେ ଅଭିଯୋଗ ଥିଲେ ମଧ୍ୟ ତାହାକୁ ପୁଲିସ ଜର୍ଜ୍ସପକ୍ଷଙ୍କ ନିକଟକୁ ପଠାଇ ଦିଆଯାଏ । ଏହିପରି ଜଙ୍ଗରେ ଛତୁବେଶୀ, ପଶ୍ଚାତଦ୍ୱାର କାର୍ଯ୍ୟଧାରା ଦ୍ୱାରା କମିଶନଙ୍କ ସମ୍ମାନ କ୍ଷୁର୍ଣ୍ଣ ହୋଇଥାଏ । ମାନବିକ ଅଧିକାରର ସୁରକ୍ଷାକାରୀ ପ୍ରଯାତ୍ନିତର ପକ୍ଷ ନେବା ଉଚିତ୍ । ମାନବାଧିକାର ଉଲ୍ଲଙ୍ଘନକାରୀଙ୍କ ଅଂଶୀଦାର ହେବା ଅନୁଚିତ୍ । ସଂପ୍ରତିକ ସମୟରେ ପ୍ରଚଳିତ କମିଶନଙ୍କ କାର୍ଯ୍ୟଧାରା ମାନବିକ ଅଧିକାର ଉଲ୍ଲଙ୍ଘନକୁ ଗୁରୁତ୍ୱ ପ୍ରଦାନ କରି ନଥାଏ । ପ୍ରଯାତ୍ନିତ-କୈନ୍ଦ୍ରିକ ନିଷ୍ପତ୍ତି ନେବାରେ ବିଫଳ ମଧ୍ୟ ହୋଇଥାଏ । ଅନେକ ସମୟରେ ଅବହେଳିତ ସମାଜରୁ ଆସିଥିବା ଯାତ୍ନିତ ଲୋକମାନଙ୍କୁ ଦ୍ୱିତୀୟ ଶ୍ରେଣୀ ନାଗରିକ ଭାବେ ବିଚାର କରାଯାଏ । ସମାନ ଅଧିକାର ଥିବା ଜଣେ ସାଧାରଣ ନାଗରିକ ଭାବେ ତାଙ୍କୁ ବ୍ୟବହାର କରାଯାଇ ନଥାଏ ।

୫. ମାନବିକ ଅଧିକାର ସହିତ ସଂପୃକ୍ତ ପକ୍ଷମାନଙ୍କ ସହ ସମ୍ପର୍କ

କମିଶନଙ୍କ ତରଫରୁ ବିଶିଷ୍ଟ ବ୍ୟକ୍ତିମାନଙ୍କ ଜ୍ଞାନର ବ୍ୟବହାର ନିମନ୍ତେ ଏକ କେନ୍ଦ୍ରୀୟ ଗୋଷ୍ଠୀ ଗଠନ କରାଯାଇଛି । କିନ୍ତୁ ଏହି ଗୋଷ୍ଠୀ ବିଧିବଦ୍ଧ ଭାବେ କାର୍ଯ୍ୟ କରୁନାହିଁ । ଏକଥା ଏବେ ବି ଅସ୍ପଷ୍ଟ ରହିଛି, କିପରି ଏହି ଗୋଷ୍ଠୀ କମିଶନଙ୍କ କାର୍ଯ୍ୟରେ ସାହାଯ୍ୟ କରୁଛି ଏବଂ କମିଶନଙ୍କ ଆଭିମୁଖ୍ୟ ପୂରଣ ପାଇଁ କି ପ୍ରଭାବ ପକାଇଛି । ମାନବ ଅଧିକାର ସହ ସମ୍ପର୍କିତ ପକ୍ଷମାନଙ୍କ ସହ ଗଠନମୂଳକ ପଦକ୍ଷେପ ନିଆଯାଇନାହିଁ ।

ସଭ୍ୟ ସମାଜ ସହିତ ମାନବିକ ଅଧିକାର କମିଶନର ସମ୍ପର୍କ ବେଶ୍ ସାମିତ ରହିଛି । ଫଳରେ ଶକ୍ତିଶାଳୀ ତଥା ସ୍ଥାନୋଦୀପ୍ତ ବ୍ୟକ୍ତିମାନଙ୍କ ଦକ୍ଷତାକୁ ଉପଯୋଗ କରି ମାନବିକ ଅଧିକାର ସୁରକ୍ଷା କରିବାର ସୁଯୋଗକୁ କମିଶନ ହାତଛଡ଼ା କରିଛି ।

ଏହି ରିପୋର୍ଟ ଲେଖାଯିବା ବେଳେ, ଜାତୀୟ ମାନବିକ ଅଧିକାର କମିଶନର ଅଧ୍ୟକ୍ଷ ଜର୍ଜିୟ କେ.ଜି. ବାଲକ୍ରିଷ୍ଣନଙ୍କ ନାମରେ ଗଣମାଧ୍ୟମରେ ଅନେକ କଥା ପ୍ରକାଶ ପାଇଛି । ଏହି କମିଶନର ଅଧ୍ୟକ୍ଷତାବେ ଦାୟିତ୍ବ ନେବା ପୂର୍ବରୁ ଜର୍ଜିୟ କେ.ଜି. ବାଲକ୍ରିଷ୍ଣନ ଅନେକ ଦୁର୍ନୀତିରେ ସଂପୃକ୍ତ ବୋଲି ଗଣମାଧ୍ୟମରେ ପ୍ରକାଶ ପାଇଛି । ଏଥିଯୋଗୁଁ କେବଳ ସେଇାସେବା ସଂଗଠନ ନୁହେଁ, ବରଂ ବିଚାର ବିଭାଗର ବିଶିଷ୍ଟ ବ୍ୟକ୍ତିମାନଙ୍କ ପକ୍ଷରୁ ତାଙ୍କ ଇସ୍ତଫା ପାଇଁ ଦାବୀ କରାଯାଇଛି । ଅଭିଯୋଗ ଅନୁସାରେ ସୁପ୍ରିମକୋର୍ଟରେ ଥିବାବେଳେ ବିଚାରପତି ନିଯୁକ୍ତି ନିମନ୍ତେ ସେ ଅର୍ଥ ଗ୍ରହଣ କରୁଥିଲେ । ତାଙ୍କ ପରିବାର ନାମରେ ବିପୁଳ ପରିମାଣର ଅର୍ଥ କିପରି ଆସିଲା ଏ ନେଇ ଅନେକ ପ୍ରଶ୍ନ ଉଦ୍ଧୀମାରେ ।

ଜାତୀୟ ମାନବିକ ଅଧିକାର କମିଶନର ସାମ୍ପ୍ରତିକ ନେତୃତ୍ବ ଜର୍ଜିୟ କେ.ଜି. ବାଲକ୍ରିଷ୍ଣନଙ୍କ ଚତୁଃପାର୍ଶ୍ବରେ ରହିଥିବା ବିବାଦ ଯୋଗୁଁ ସମ୍ପ୍ରତି ଜାତୀୟ ମାନବିକ ଅଧିକାର କମିଶନରେ ସଭ୍ୟ ଚୟନ ନେଇ ସେଇାସେବା ସଂଗଠନମାନଙ୍କ ତରଫରୁ ପ୍ରଶ୍ନ ଉଠାଯାଇଛି । ଜର୍ଜିୟ କେ.ଜି. ବାଲକ୍ରିଷ୍ଣନଙ୍କ ନାମରେ ରହିଥିବା ଅଭିଯୋଗ ଯଦି ସତ୍ୟ ହୁଏ, ତେବେ ଜାତୀୟ ମାନବିକ ଅଧିକାର କମିଶନର ଅଧ୍ୟକ୍ଷ ଚୟନ ବେଳେ ବ୍ୟକ୍ତିର ଚରିତ୍ର, ସଜ୍ଜୋଗତା ଏବଂ ମାନବିକ ଅଧିକାର ପ୍ରତି ପ୍ରତିବଦ୍ଧତା ଉପରେ ଗୁରୁତ୍ବ ଦେବାକୁ ହେବ । କେବଳ ସର୍ବୋଚ୍ଚ ନ୍ୟାୟାଳୟର ଅବସରପ୍ରାପ୍ତ ମୁଖ୍ୟ ବିଚାରପତିଙ୍କୁ ଏହି କମିଶନର ଅଧ୍ୟକ୍ଷ କରିଦେଲେ ଚଳିବ ନାହିଁ । ନିଯୁକ୍ତି ପ୍ରକ୍ରିୟା ସମ୍ପୂର୍ଣ୍ଣ ଭାବେ ସଜ୍ଜ ହେବା ଦରକାର । ଏହା ସୁପ୍ରିମକୋର୍ଟର ଅବସରପ୍ରାପ୍ତ ବିଚାରପତି ବା ମୁଖ୍ୟ ବିଚାରପତି ଅଥବା ଭାରତୀୟ ପ୍ରଶାସନିକ ସେବା, ଭାରତୀୟ ପୁଲିସ୍ ସେବା, ଭାରତୀୟ ରାଜସ୍ବ ସେବା ବା ଭାରତୀୟ ବିଦେଶ ସେବା ଆଦିର ଅବସରପ୍ରାପ୍ତ ଅଧିକାରୀମାନଙ୍କ ମଧ୍ୟରେ ସାମିତ ରହିବା ଉଚିତ୍ ନୁହେଁ । ବରଂ ଏହା ଭାରତରେ ରହିଥିବା ନୈତିକ, ବୁଦ୍ଧିଦୀପ୍ତ ଏବଂ ତ୍ୟାଗପୂର୍ବ ନେତୃତ୍ବ ମଧ୍ୟକୁ ପ୍ରସାରିତ ହେବା ଦରକାର ।

**The All India Network of NGOs and Individuals
Working with National Human Rights
Institutions (AiNNI)**

**An NGO Report on the Compliance with the Paris Principles
by the National Human Rights Commission of India**

EXECUTIVE SUMMARY - TELUGU

జాతీయ మానవహక్కుల సంస్థలతో పనిచేస్తున్న ఎన్జీఓల ఆఖరి భారత నెట్వర్క్ (ఎఐఎన్ఎన్ఐ) జాతీయ మానవ హక్కుల కమిషన్ - ఇసిసికి ఎన్జీఓల సమాంతర నివేదిక

1. ఏర్పాటు

ఐక్యరాజ్యసమితి మానవ హక్కుల కమిషన్ 1992లో, సాధారణ సభ 1993లో ఆమోదించిన 'పారిస్ సూత్రాలు' నృప్తించిన అంతర్జాతీయ ఓత్తిడి ఫలితంగా భారతదేశంలో మానవ హక్కులపరిరక్షణ చట్టం 1993 (పిహెచ్ఆర్ఎ)ను, జాతీయ మానవ హక్కుల కమిషన్ (ఇకనుంచి 'కమిషన్' అని ప్రస్తావించబడుతుంది)ను 1993 అక్టోబర్ 12న ఏర్పాటుచేశారు. దేశవ్యాప్తంగా వున్న మానవ హక్కుల పరిరక్షకుల భాగస్వామ్యంతో, అప్పటికే వున్న మానవ హక్కుల జాతీయ కమిషన్ అధ్యక్షులు సభ్యులుగా మొదటి కమిషన్ను ఏర్పాటు చేశారు.

అంతర్జాతీయంగా ఏర్పాటుచేసిన ప్రమాణాలను అనుసరించాలని దేశంలో, అంతర్జాతీయంగా పెరుగుతున్న ఓత్తిడి ఫలితంగానే జాతీయ మానవహక్కుల కమిషన్ను ఏర్పాటుచేసినా, మానవహక్కులను పరిరక్షించి, ప్రోత్సహించడానికి కమిషన్ తొలిరోజుల్లో గణనీయ కృషి జరిపి, లక్ష్యసాధనలో చెప్పుకోదగ్గ విజయాలనే సాధించింది. అయితే కమిషన్ ఏర్పాటు చట్టంలోగల పలు లోపాల కారణంగా ప్రాథమిక కార్యకలాపాల నిర్వహణలో పలు అవరోధాలు ఏర్పడుతున్నట్లు త్వరలోనే స్పష్టమైంది. పిహెచ్ఆర్ఎలో తగు సవరణలు చేయాలని కమిషన్, పౌరసమాజం కోరినా, ప్రతిపాదిత సవరణలను భారత ప్రభుత్వం పట్టించుకోలేదు. కమిషన్ కూడా తదుపరి చర్యల్ని మరిచిపోయింది.

చివరికి కమిషన్ మానవహక్కుల రంగంలో పనిచేస్తున్న ప్రభుత్వేతర సంస్థలతో కలిసి పనిచేయడాన్ని ప్రోత్సహించాలనే నిబంధన 12(బి) వంటి అంశాన్ని కూడా పట్టించుకోలేదు. తొలినుండి ఇతర నిర్దేశిత జాతీయ మానవహక్కుల కమిషన్లతో అర్థవంతంగా పనిచేయడంలో కమిషన్ విఫలమైంది.

కేవలం స్పందించడంలోనే కాక, అందుకు నిజాయితీతో యోజన జరపడానికి కూడా కమిషన్ తీరస్కరిస్తున్నది. దేశాలు జాతీయ మానవహక్కుల కార్యాచరణ ప్రణాళికలు రూపొందించుకోవాలని కోరిన వియన్నాలో జరిగిన ప్రపంచ మానవహక్కుల మహాసభలో భారతదేశం దశాబ్దం క్రితమే ఘోషించినప్పటికీ, ఇంతవరకూ అటువంటి ప్రణాళికను ప్రభుత్వం విడుదల చేయలేదు.

2. స్వతంత్ర కార్యాచరణ

ఏ జాతీయ మానవహక్కుల సంస్థకైనా, ఇతర ప్రయోజనాలకు .. ముఖ్యంగా ప్రభుత్వానికి, బలమైన ప్రయోజనాలకు అతీతంగా ప్రభుత్వం పనిచేయడం అవసరం. తొలినుంచి ప్రభుత్వంతో స్వతంత్రంగా వ్యవహరించడంలో కమిషన్ సమస్యలు ఎదుర్కొంటున్నది. కమిషన్ ఆవిర్భవించిన తొలి సంవత్సరాల్లో కొన్ని సాహసోపేత, బలీయమైన నిర్ణయాలు తీసుకున్నప్పటికీ, ఇటీవలి సంవత్సరాల్లో స్వతంత్రంగా వ్యవహరించలేకపోతోంది. దాంతో మానవహక్కుల రంగంలో బలమైన చర్యలకు పూనుకోకపోయినా, మౌలిక లక్ష్యాలను సహితం నెరవేర్చలేకపోతున్నది.

కమిషన్ ఆర్థిక వనరులను భారత ప్రభుత్వం నియంత్రిస్తుంది. ప్రస్తుతం పోలీసు, శాంతిభద్రతల అధికారాలతోపాటు విదేశీయానం, మతసామరస్యం, సరిహద్దుల యాజమాన్యాలను .. ముఖ్యంగా అంతర్గత భద్రతను పర్యవేక్షించే అంతరంగిక మంత్రిత్వ వ్యవహారాల శాఖ పరిధిలోనే కమిషన్ పనిచేస్తోంది. మానవహక్కుల ఉల్లంఘనలకు బాధ్యుల్ని నిర్దేశిస్తూ భారతదేశం మొత్తమీద మానవహక్కుల్ని పర్యవేక్షించే సంస్థను .. ఎక్కువగా ఫిర్యాదులు ఎదుర్కొనే పోలీసులు, చట్టం అమలు చేసే అధికారులతో కలిసి ఒకే శాఖలో వుండడం కమిషన్ స్వతంత్రతను, సమర్థవంతంగా పనిచేసే శక్తిని బలహీనపరచడంలో ఆశ్చర్యం లేదు.

యంత్రాంగాన్నీ సిబ్బందిని సమకూర్చడంలో సహితం కమిషన్ కు స్వతంత్రం లేదని స్పష్టమవుతోంది. కమిషన్ సభ్యుల నియామకంలో పిహెచ్ఆర్ఎ కఠినంగా వుండడంతో మానవహక్కుల రంగంలో అనుభవం, సామర్థ్యం, అభిరుదుల కన్నా హెచ్చుతక్కు ప్రాధాన్యత ఇచ్చింది. సిబ్బంది తమ జీతాలను చెల్లించే ప్రభుత్వానికి బాధ్యత వహిస్తున్నారు. కమిషన్ సభ్యులను ప్రభుత్వం నియమించడం, ఆర్థిక వనరులను నియంత్రించడం, సిబ్బందిని కూడా నియమిస్తూ వుండడంతో పలు ప్రయోజనాల ఘర్షణలో కమిషన్ స్వతంత్రతతో రాజీవదాల్చివస్తున్నా స్వతంత్రతను కాపాడుకోవడానికి కనీసం ప్రయోజనాల ఘర్షణలతో తలెత్తుతున్న సమస్యల తీవ్రతను తగ్గించడానికి కమిషన్ ప్రారంభించిన గత 17 సంవత్సరాల్లో ఎటువంటి ప్రయత్నాలూ జరగలేదు.

దేశంలో తీవ్ర ఉల్లంఘనలకు గురవుతున్న మానవహక్కుల గురించి స్పందించే శక్తివంతమైన సంస్థగా రూపొందకపోవడం ద్వారా తగు స్వతంత్రత లేనట్లు కమిషన్ కనిపించడం విషాదకరం. 2002లో ప్రభుత్వంలో వున్న కొందరి ప్రమేయం కూడా వున్న .. మతప్రాతిపదికపై గుజరాత్ తీవ్ర మత ఘర్షణలకు గురయింది. కేవలం ఈ సమస్యను మాత్రమే కమిషన్ సుమోబోగా తీసుకుని, విచారణ జరిపి, నివేదిక జారీచేసి, సుప్రీం కోర్టులో సిడిషన్ దాఖలు చేసింది. అయితే తర్వాత ప్రభుత్వం నుంచి తీవ్ర రాజకీయ ఒత్తిడులు ఎదురుకావడంతో కమిషన్ న్యాయస్థానాల్లో మౌనం పాటించింది. ఈ వ్యవహారం అంతా హక్కుల బృందాలు మద్దతు ఇస్తున్న బాధితులు, ప్రభుత్వానికి మధ్య పోరాటంగానే మిగిలిపోయింది.

దేశంలో తీవ్ర మానవహక్కుల ఉల్లంఘనకు సంబంధించిన అనేక అంశాలపై కమిషన్ మౌనంగా వుండడం విశ్రాంతిని కలిగిస్తోంది. తనది స్వతంత్ర ప్రతిపత్తిగల సంస్థ అని, మానవహక్కుల అంశాలపై తన సొంత నిర్ణయాలతో స్వతంత్రంగా ఆదేశాలు ఇస్తామని అంటున్నా ఎటువంటి లిఖిత మార్గదర్శకసూత్రాలు, విధానాలు, సంప్రదాయాలు ఏర్పాటు చేయడంలో విఫలమైంది. ప్రస్తుతం నెలకొన్న భవిష్యత్లో ఎదురుకానున్న ప్రయోజనాల ఘర్షణల నివారణకు తీసుకున్న చర్యల గురించి ఎటువంటి సమాచారం లేదు.

3. స్వరూపం, నియామకాలు, కాల పరిమితి

మానవహక్కుల పరిరక్షణ, ప్రోత్సాహంలో జాతీయ నాయకత్వం వహించాలనే కమిషన్ నిర్దేశిత లక్ష్యాలను అపార్థం చేసుకునే విధంగా భారతదేశం, భారతీయ జీవన వైరుధ్యాలను ప్రతిబింబించే విధంగా కమిషన్ కూర్పు వుండడంలేదు. న్యాయవ్యవస్థ, ప్రభుత్వ ఉన్నతోద్యోగాలలో ఉన్నత స్థానాల్లో పనిచేసే ఉద్యోగ విరమణ చేసినవారి హెచ్చుతక్కు ప్రదర్శనశాలగా మిగిలింది. మానవహక్కుల కనీస పోరాటంలో కమిషన్ సభ్యుల గౌరవం, హెచ్చుతక్కు బలమైన ఉపకరణం అయినా ఉన్నత అర్హతగల ఉత్తమ అభ్యర్థులను నియమించే పారదర్శక నియామకాల విధానంలో కనపడడంలేదు. మానవహక్కుల రంగంలో సమర్థవంతమైన నాయకత్వానికి, అదనపు అర్హతలు అవసరం అనే స్పృహ లోపించింది.

చట్టంలో ఉదహరించిన భారీ లక్ష్యాలను సాధింపగల సమర్థ నాయకులతో కమిషన్ నింపడానికి అవసరాలను గుర్తించడంలో వైఫల్యం స్పష్టమైంది. న్యాయసూత్రాలలో కమిషన్ ముగ్గురు సభ్యుల నియామకానికి కఠిన నిబంధనల ఏర్పర్చి భీష్మత్వం అవసరాల్ని గుర్తించడంలోగానీ, మానవహక్కుల రంగంలో అనుభవం, అర్హతగల నాయకులను పౌర సమాజం నుంచి ఎంపిక చేయడంలో కానీ విఫలమవుతున్నాడు. ఫలితంగా మహిళలకు సంబంధించిన సున్నిత ఫిర్యాదుల విచారణకు ఇంతవరకూ మహిళా సభ్యులే లేరు. భారతదేశంలో బలమైన పౌరసమాజం నుంచి సభ్యులే లేరు. ఇటీవల నియమించిన

అధ్యక్షుడు అవినీతి ఆరోపణలతో నిందితుడు. చట్టపరంగా నిషేధించిన బలగాలను పౌరులపై ప్రయోగించడం అంగీకార యోగ్యమని ఆయన బహిరంగంగా పేర్కొన్నారు.

కమిషన్ సభ్యులను ప్రభుత్వం నియమించే సమయంలో పిహెచ్ఆర్ఎ నిర్దేశించిన 'మానవహక్కులలో పరిజ్ఞానం, ఆచరణ అనుభవం'ను పరిగణనలోకి తీసుకోవడంలేదు. పైగా తరచుగా అధికారంలో వున్నవారు రాజకీయ బహుమతులుగా కమిషన్లో నియామకాలు జరుపుతున్నారు. కమిషన్ సభ్యులలో అత్యధికులను న్యాయవ్యవస్థనుంచే నియమించాలని చట్టం నిర్దేశించగా ప్రస్తుత అధ్యక్షులు జస్టిస్ బాలకృష్ణన్ "కొన్ని సమయాల్లో ఎన్కౌంటర్లు తప్పనిసరి. శాంతిభద్రతల సమస్యలు పెరుగుతున్నాయి. నేరస్థులు చట్టాన్ని తమ చేతుల్లోకి తీసుకుంటున్నారు. పోలీసులపై కూడా దాడులు చేస్తున్నారు. పరిస్థితిని పోలీసులు అదుపు చేయాల్సిందే" అంటూ బహిరంగంగా పేర్కొనడం విచారకరం. మరో బహిరంగ ప్రకటనలో ఆయన మరణశిక్షను సమర్థించారు. జస్టిస్ బాలకృష్ణన్ చేసిన ఈ ప్రకటనలు ఆయనకు కమిషన్ గతంలో కష్టపడి ఏర్పర్చిన ప్రమాణాల పట్ల అవగాహన లేకపోవడమే కాక భారత రాజ్యాంగ పరిరక్షణ పట్ల నిర్లక్ష్యవైఖరిని వెల్లడి చేస్తుంది.

4. సంస్థాగత సదుపాయాలు

కమిషన్కు మౌలిక సదుపాయాలు సమకూర్చుకోవడానికి 17 సంవత్సరాల సమయం పట్టినా, తన వనరులను పెంపొందించుకుని సమాజంలో సమర్థవంతంగా పనిచేయడంలో విఫలమైంది. ఆర్థిక వనరులే కాకుండా దానిత్రక పరిజ్ఞానం, మేధా సంపద కూడా కొరవడింది. ఆశ్చర్యం ఏమిటంటే కమిషన్ తన వనరుల లేమిని గుర్తించి సిబ్బందిని, సభ్యుల సంఖ్యను పెంచమని కూడా కోరడం లేదు. పైగా ఇప్పుడున్న బడుగురు సభ్యులతో రోజుకు సుమారు 400 కేసులను ఎటువంటి సమస్య లేకుండా సమీక్షింపగలుగుతున్నామని కమిషన్ ఇటీవల పేర్కొన్నది.

కమిషన్ తన సేవలందింపవలసిన ప్రజలందరికీ దాదాపుగా అందుబాటులో లేదు. తన విధులను దాదాపుగా ఢిల్లీలోని ఒక భవనం నుండే నిర్వహిస్తోంది. మిగిలిన భారతదేశం దూరంగా కమిషన్కు అందుబాటులో లేకుండా వుంది. దేశంలోని ఇతర ప్రాంతాలలో కార్యాలయాలు ఏర్పాటు చేయడానికి కేంద్రప్రభుత్వం అనుమతి పొందినా ఆచరణలో విఫలమైంది. సమర్థవంతంగా పనిచేయడానికి సుమారు 100 కోట్ల మంది ప్రజలకు అందుబాటులో వుండడానికి కనీసం 4 లేదా 5 ప్రాంతాల కార్యాలయాలను దేశమంతటా ఏర్పాటు చేయాలి.

ప్రాంతీయ కార్యాలయాలు ఏర్పాటు చేయడానికి కమిషన్ విధులు లేని పక్షంలో పౌరసమాజం తన కళ్ళు, చెవుల వలే పనిచేయమని సమన్వయపరచుకోవడం ద్వారా ఢిల్లీ వెలుపల గరిష్ట పర్యటనలు జరపడం ద్వారా తను బాధితుల వక్షాన ఉన్నానని, హక్కులను ఉల్లంఘించేవారిని కాదని తెలపడానికి సూచనాత్మక పద్ధతులు అనుసరించాలి.

అరుదైన సందర్భాలలో బాధితులు ఢిల్లీకి రాగలిగినా కమిషన్ పరిసరాలు అనుకూలంగా వుండవు. ఏ బాధితులకు సేవలందించడానికి ఏర్పాటు చేశారో వారికే స్వాగతం వలికేలా వుండదు. సమావేశాలను తలుపులు మూసి జరపడంవల్ల ఫిర్యాదులు చేసినవారిని తరచూ పొల్చినడానికి లేదా గమనించడానికి అవ్వనివారు. విచారణలో పాఠదర్శకత, నిజాయితీ కోసం సమావేశాలను పరిశీలించడానికి సీనియర్ ఉద్యమకారులు, ఎన్టీబీలు ప్రయత్నించి విఫలమయ్యారు.

ప్రజలకు ముఖం చూపి మరింత అందుబాటులో వుండేందుకు కమిషన్ ఒక వెబ్సైట్ను ఏర్పరచింది. దురదృష్టవశాత్తూ అది ఆంగ్లంలో మాత్రమే వుంది. వెబ్సైట్తోపాటు కమిషన్ నివేదికలు వివిధ ప్రాంతీయభాషల్లో లభ్యంకావు. అందువల్ల ప్రజలకు అందుబాటులో వుండవు. బాధితులు వెబ్సైట్ ద్వారా ఫిర్యాదులు నమోదు చేసే అవకాశం వున్నా కేసుల పురోగతి కనుగొనడం, బాధితులకు వెంటనే సహకరించే ఎటువంటి సమాచారం లభించదు.

కార్యాలయం మూసివేసిన తరువాత అవసరమైతే బాధితుల కోసం ఒక హాట్లైన్ ఫోన్ ఏర్పాటుచేశారు. అయితే ఈ లైన్ ఎప్పుడూ లభించదు తరచూ సమాధానమే వుండదు. పైగా ఈ ఫోన్ల వద్ద వుండేవారికి హిందీ తప్ప వేరే ఏ భాషా తెలికపోవడం, అంతా హిందీ సొంతభాష కాని అత్యధిక భారతీయులను దూరం చేసినట్లువుతుంది. కమిషన్ సిబ్బందిని

ప్రభుత్వ ఉద్యోగాల నుంచి ఎంపిక చేసి తరచూ డిప్యూటీషన్ పై పంపుతుంటారు. వారికి తమ ఉద్యోగ బాధ్యతల నిర్వహణకు ఎటువంటి శిక్షణనివ్వరు. తరచూ వారికి మానవహక్కుల గురించి ఎటువంటి అవగాహన లేకుండా తమ ఉద్యోగ కాలం పూర్తిచేస్తుంటారు. ప్రతిభగల సిబ్బందిని నియమించుకుని, వారిని అభివృద్ధి చేసి ఉంచుకోవడంలో కమిషన్ వైఫల్యం దాని పురోగతికి, సమర్థతకు అంతరాయం కలిగిస్తున్నది. ప్రస్తుతం వున్న సిబ్బంది మహిళలు, మతపర అల్పసంఖ్యాకులు, అంగవికలురవంటివారికి ప్రాతినిధ్యం లేదు.

అదనపు ఉన్నత పరిశోధకులుగా ఉన్న అంశంపైకాక ఒక ప్రాంతంలోకానీ పరిశోధన జరపడానికి ప్రత్యేక సంధానకర్తలను కూడా కమిషన్ నియమిస్తుంది. తిరిగి ఎంపికలో సమర్థతకన్నా హోదాకు ప్రాధాన్యమిస్తుందడంతో అర్హత వున్నవారిని, లేనివారిని కూడా ప్రాధాన్యతగల పదవుల్లో నియమిస్తున్నారు. కేవలం ప్రభుత్వంలో పనిచేసినవారిని మాత్రమే నియమించాలని, పౌరసమాజం నుంచికానీ, విద్యారంగం నుంచి కానీ నియమిస్తే స్వతంత్రంగా పనిచేస్తారనే అంశాన్ని సందేశం వున్నట్లు కనిపిస్తోంది.

5. క్యాస్ - న్యాయ కార్యకలాపాలు

కమిషన్ బదుగురు సభ్యులకు దేశమంతటినుంచి బాధితులనుంచి వచ్చే ఫిర్యాదులను స్వీకరించే బాధ్యతను అప్పజెప్పారు. కమిషన్ ఏర్పాటుచేసిన మొదటి సంవత్సరంలో 487 ఫిర్యాదులను స్వీకరించడంనుంచి నేడు రోజుకు సుమారు 400 కేసుల పరిశీలనవరకూ పెరిగింది. ఈ కేసుల పరిశీలనకు గల సభ్యులను పెంచకపోవడంతో ఫిర్యాదుల పరిశీలన నాణ్యత దెబ్బతింటుందనడంలో ఆశ్చర్యం లేదు.

అయితే తాము అందుకుంటున్న పందలాది కేసులను సమీక్షించి, రోజుకు 60 నుంచి 80 ఆదేశాలు జారీచేయడంలో ఎటువంటి సమస్యలు ఎదురకావడంలేదని కమిషన్ పేర్కొంటున్నది. అదే నిజమైతే రోజుకు సగటు పనిగంటలకన్నా రెట్టింపు సమయం 16 గంటలపాటు పనిచేసినా, రోజుకు పరిష్కరిస్తున్న కనీసం 60 కేసులకు కమిషన్ సభ్యులు బదుగురికి ఒక్కో కేసులో మానవహక్కుల ఉల్లంఘన జరిగిందా, ఏదైనా సిఫార్సు చేయాలా అని నిర్ణయించడానికి 30 నిమిషాలకన్నా తక్కువ సమయం పడుతున్నట్లు స్పష్టమవుతుంది.

కమిషన్ సభ్యుల ఇతర నిర్దేశిత లక్ష్యాలు, కార్యకలాపాలను పరిగణనలోకి తీసుకుంటే ఒక్కొక్క కేసుకూ 30 నిమిషాలకన్నా తక్కువ సమయం కేటాయిస్తున్నట్లు అర్థమవుతుంది. కమిషన్ చాలా నిర్లక్ష్యంగా సంబంధిత కేసు న్యాయసూత్రాలను వివరించకుండా, విశ్లేషణాత్మక వివరాలనివ్వకుండా కమిషన్ మూకుమ్మడిగా కేసులను పరిష్కరిస్తున్నట్లు చాలా ఆధారాలు కనిపిస్తున్నాయి. కమిషన్ పరిష్కరిస్తున్న అత్యధిక కేసుల్లో ఆదేశాలు, ఎటువంటి వివరణా లేకుండా యధాలాపంగా వుంటున్నాయి. అత్యధిక కేసులను తీరస్కరిస్తున్నారు. ఆదేశాలలో తీరస్కరిస్తున్నట్లు, కొట్టివేస్తున్నట్లు మినహా ఎటువంటి వివరణా వుండడంలేదు.

ప్రతి ఫిర్యాదుపట్ల కమిషన్ తగుశ్రద్ధ చూపకపోవడమేకాక సంచలనం కలిగించిన, విస్తృతమైన అంశాల విషయంలో కూడా దైర్యంగా నిర్ణయాలు తీసుకొని, న్యాయబద్ధంగా వ్యవహరించడంలో కూడా కమిషన్ తరచూ విఫలమవుతోంది. బాధితులకు న్యాయం కలిగించి, భారతీయులందరికీ మానవహక్కులను ప్రోత్సహించేవిధంగా మానవహక్కుల న్యాయబద్ధతను పెంపొందించే అవకాశాల విషయంలో మౌనంగా వుంటున్నది. దేశానికి మానవహక్కుల ప్రయోజనాల్ని అందించి అమలు చేసే విధంగా అంతర్జాతీయ మానవహక్కుల ప్రమాణాలు ఆమోదించేవిధంగా చేయడంలేదు.

తన కార్యకలాపాలను మరింత స్పష్టత కలిగించడానికి రూపొందించినా 'ఆచరణాత్మక ఆదేశాల'లో చాలావాటిని నేడు అనుసరించడంలేదు. జస్టిస్ వెంకటాచలయ్య పదవీకాలం ముగిసిన తరువాత సంశయాత్మక అంశాలను గుర్తించి, కమిషన్ పనితీరు మెరుగుపరచడానికి, నూతన, సంబంధిత ఆచరణాత్మక ఆదేశాలు జారీచేయడం మానివేశారు. మానవహక్కుల ఉల్లంఘనకు సంబంధించిన ఫిర్యాదులను స్వీకరించి, తగు చర్యలు తీసుకునే అధికారం, తగు న్యాయప్రాతిపదిక వున్నా ఈ బాధ్యతను సమర్థవంతంగా నిర్వహించడంలో విఫలం చెందింది.

ఒక్క మానవహక్కుల ఉల్లంఘనను కనుగొన్న తర్వాత సిఫారసులను జారీచేసే అధికారం కమిషన్ కు వున్నా. ఈ అధికారాన్ని చాలా అరుదైన కేసుల్లో మాత్రమే ఉపయోగిస్తున్నారు. అత్యధిక ఫిర్యాదులను కేవలం ఉల్లంఘనలను నిరాకరించే ప్రభుత్వ స్పందన, పాలనా నివేదికలనుబట్టి తిరస్కరిస్తున్నారు. కమిషన్ కార్యవర్గంలో ఫిర్యాదుప్రతిని సంబంధిత అధికారులకు పంపడం వున్నా చాలా సందర్భాల్లో ఫిర్యాదులో నిందితులుగా పేర్కొన్న పోలీసు అధికారులకు పంపుతున్నారు. తెరవెనుక అరిగే ఈ ఫిర్యాదుల పరిశీలనా విధానం కమిషన్ లక్ష్యాలను అపహాస్యం చేస్తున్నది. మానవహక్కులను కాపాడేవారు, బాధితులపట్ల సానుభూతి కలవారే ఉండాలి కానీ, ఉల్లంఘనలకు పాల్పడగలవారి భాగస్వామి కారాదు. ప్రస్తుత కమిషన్ పనివిధానం మానవహక్కుల ఉల్లంఘన తీవ్రత పట్ల స్పందన లోపించి, బాధిత కేంద్రబిందువు వద్దతి అనుసరించడంలేదు. బాధితులు ఎక్కువగా అణగారిన వర్గాలకు చెందినవారు కావడంతో వ్యక్తులందరికీ సమానహోదా, గౌరవం పొందేపకుండా తరచూ కమిషన్ లో ద్వితీయశ్రేణి పౌరులుగా చేస్తున్నారు.

6. సంబంధిత మానవహక్కుల ఉద్యమకారులతో సంబంధాలు

నిపుణతగల ప్రముఖ వ్యక్తులతో కమిషన్ ఒక కోర్ గ్రూప్ ను ఏర్పాటుచేసినా, వాటికెలాంటి పాలనా ప్రాధాన్యం కల్పించడంలేదు. సంబంధిత మానవహక్కుల ఉద్యమకారులతో నిర్వాణాత్మక సంబంధం వుండాలని, కమిషన్ లక్ష్య దిశగా కమిషన్ పనివిధానంలో ఎవరి పాత్ర ఏమిటో, వారి నిపుణతా ప్రభావం ఏమిటో స్పష్టత లేదు.

పౌరసమాజంతో కమిషన్ సంబంధాలు పరిమితంగా వున్నాయి. మానవహక్కుల పరిరక్షణ, పెంపొందించడంలో శక్తివంతమైన, ఆసక్తి, పరిజ్ఞానం గల భాగస్వాములను ఉపయోగించుకునే అవకాశాన్ని కోల్పోతున్నారు.

ఈ నివేదిక తయారుచేసిన సమయంలో కమిషన్ ప్రస్తుత అధ్యక్షుడు జస్టిస్ కె.జి.బాలకృష్ణన్ గురించి మీడియాలో పలు అంశాలు ప్రస్తావనకు వస్తున్నాయి. జస్టిస్ బాలకృష్ణన్ వదవీ బాధ్యతలు స్వీకరించినప్పటినుంచీ ఆయనపై మీడియాలో పలు అవినీతి అంశాలు వెల్లడవుతున్నాయి. దానికి ఎన్ టీవీలో కాకుండా ప్రముఖ న్యాయమూర్తులు కూడా ఆయన రాణీనామాను కోరుతున్నారు. సుప్రీంకోర్టులో తన పదవీకాలంలో న్యాయమూర్తుల నియామకంలో, అనుకూల తీర్పులు ఇచ్చినందుకు దబ్బాలు తీసుకున్నట్లు ఆరోపణలు వస్తున్నాయి. ఆయన కుటుంబసభ్యులు అంతటి భారీ సంపదను ఎలా సమకూర్చుకున్నారని అనేక ప్రశ్నలు తలెత్తుతున్నాయి.

కమిషన్ ప్రస్తుత నాయకత్వం

శ్రీ బాలకృష్ణన్ పై ఇటీవల వస్తున్న వివాదాస్పద అంశాల దృష్ట్యా కమిషన్ సభ్యుల ప్రస్తుత నియామక విధానం, సమర్థత గురించి మరోసారి పౌరసమాజం ప్రశ్నించే అవకాశం కలిగింది. ఈ ఆరోపణలు నిజమని రుజువైతే కమిషన్ అధ్యక్షునిగా నియమించినందుకు స్పష్టమైన శీలం, నిజాయితీ, మానవహక్కుల పట్ల అంకితభావం కీలక అంశం కావాలని స్పష్టమవుతోంది. ఉద్యోగ విరమణ చేసిన సుప్రీంకోర్టు మాజీ ప్రధాన న్యాయమూర్తిని మరలా నియమించడం ఇంకెంతమాత్రం సరిపోదు. సమావేశం పూర్తిగా పారదర్శకంగా వుండాలి. కేవలం సుప్రీంకోర్టు మాజీ న్యాయమూర్తులు లేదా ప్రధాన న్యాయమూర్తులు లేదా ఐఎఎస్, ఐపీఎస్ లు, ఐఎఫ్ ఎ లేదా ఐఆర్ ఎస్ వంటి మాజీ ప్రభుత్వ అధికారులకు పరిమితం కావాలి. భారతదేశానికి వున్న గొప్ప నైతిక లేదా అంకిత భావం గల సేవకుల సంపదను కూడా దృష్టిలో వుంచుకోవాలి.

**The All India Network of NGOs and Individuals
Working with National Human Rights
Institutions (AiNNI)**

**An NGO Report on the Compliance with the Paris Principles
by the National Human Rights Commission of India**

EXECUTIVE SUMMARY - KANNADA

ಭಾರತ ದೇಶೀಯ ಸ್ವಯಂಸೇವಾ ಸಂಸ್ಥೆಯವರ ಮತ್ತು ವೈಯಕ್ತಿಕವಾಗಿ ಮಾನವ ಹಕ್ಕುಗಳಿಗಾಗಿ ಸೇವೆಸಲ್ಲಿಸುತ್ತಿರುವ ಸಂಸ್ಥೆಗಳ ಜಾಲ (AiNNI)

ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗ (NHRC)

ICCಗಾಗಿ ಸ್ವಯಂ ಸೇವಾ ಸಂಸ್ಥೆಯ ಸಮಾಂತರ ವರದಿ

ಕಾರ್ಯಕಾರಿ ವರದಿ

೧. ಸ್ಥಾಪನೆ

೧೯೯೩ರ ಮಾನವ ಹಕ್ಕುಗಳ ರಕ್ಷಣೆಯ ಕಾಯಿದೆಯನ್ವಯ (PHRA) ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗವನ್ನು (NHRC) ೧೨.೧೦.೧೯೯೩ರಲ್ಲಿ ಸ್ಥಾಪಿಸಲಾಯಿತು. ಅಂತರಾಷ್ಟ್ರೀಯ ಮಟ್ಟದಲ್ಲಿ ಉಂಟಾದ ಒತ್ತಡದಿಂದ 'ಪ್ಯಾರಿಸ್ ಪ್ರಿನ್ಸಿಪಲ್ಸ್'ನಂತೆ ೧೯೯೨ರಲ್ಲಿ ಸಂಯುಕ್ತ ರಾಷ್ಟ್ರಗಳ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗವನ್ನು ಅಳವಡಿಸಿಕೊಂಡಿತು ಹಾಗೆಯೇ, ಇದರೊಂದಿಗೆ ೧೯೯೩ರಲ್ಲಿ ಸಾಮಾನ್ಯ ಸಭೆಯು ಅಳವಡಿಸಿಕೊಳ್ಳಲಾಯಿತು. ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗವು ಭಾರತದಾದ್ಯಂತ ಇರುವ ಮಾನವ ಹಕ್ಕುಗಳ ರಕ್ಷಣೆ ಮಾಡುವ ಸಂಸ್ಥೆಯವರೊಂದಿಗೆ ಸಹಭಾಗಿತ್ವವನ್ನು ಹೊಂದುವ ಕಾಣ್ಕೆ ಹೊಂದಿತು. ಪ್ರಸ್ತುತವಿದ್ದ ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗದ ಅಧ್ಯಕ್ಷರು ಮತ್ತು ಸದಸ್ಯರನ್ನು ಯಾವ ಅಡೆತಡೆ ಇಲ್ಲದೆ ಪರಿಗಣಿಸಿತು.

ಭಾರತದಲ್ಲಿ ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗವನ್ನು ಸ್ಥಳೀಯ ಹಾಗೂ ಅಂತರಾಷ್ಟ್ರೀಯ ಮಟ್ಟದಲ್ಲಿ ಉಂಟಾದ ಒತ್ತಡದಿಂದ ಸ್ಥಾಪಿಸಲಾಯಿತು. ಮಾನವ ಹಕ್ಕುಗಳನ್ನು ರಕ್ಷಿಸಲು ಹಾಗೂ ಉತ್ತೇಜಿಸಲು ಆಯೋಗ ಮಾಡಿದ ಪ್ರಾಮಾಣಿಕ ಪ್ರಯತ್ನದಿಂದ ಆಯೋಗದ ಸ್ಥಾಪನೆ ಮಾಡುವಲ್ಲಿ ಯಶಸ್ವಿಯಾಯಿತು. ಆಯೋಗದ ಸುಗಮ ಕಾರ್ಯಾಚರಣೆಗೆ ಬೇಕಾದ ಕಾಯಿದೆ, ಕಾನೂನಿನ ವಿಮರ್ಶಾತ್ಮಕ ಚಲಾವಣೆಗೆ ಇರುವ ನ್ಯೂನತೆಗಳನ್ನು ಗುರುತಿಸಿಕೊಳ್ಳಲು ಸಹಾಯವಾಯಿತು. PHRA ಯಂತೆ ತಿದ್ದುಪಡಿ ಮಾಡಲು ಮಾಡಿದ ಎಲ್ಲಾ ವಾದಗಳು, ಪ್ರಸ್ತಾವನೆ ಸಲ್ಲಿಸಿದ ತಿದ್ದುಪಡಿಗಳು ಭಾರತ ಸರ್ಕಾರದಿಂದ ಗೌರವಾಗಿ ಉಳಿಯಿತು. ಹಾಗೆಯೇ ಆಯೋಗವೂ ಸಹ ಮರೆತು ಬಿಟ್ಟಿತು.

ಅದರಂತೆ ಸಕಾರಾತ್ಮಕವಾಗಿ ಇರುವ ಎಲ್ಲಾ ಅವಕಾಶಗಳು, PHRAಯ ಸೆಕ್ಷನ್ ೧೨(೧)ರಂತೆ ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗವು ಸ್ವಯಂ ಸೇವಾ ಸಂಘ ಮತ್ತು ಮಾನವ ಹಕ್ಕುಗಳಿಗಾಗಿ ಶ್ರಮಿಸುತ್ತಿರುವ ಸಂಸ್ಥೆಗಳ ಸಹಯೋಗದೊಂದಿಗೆ ಕೆಲಸ ಮಾಡುವುದನ್ನು ಪ್ರೇರೇಪಿಸುವುದನ್ನು ಅನುಸರಿಸಲು ಆಗಲಿಲ್ಲ. ಹಾಗೆಯೇ ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗ ಇತರ ರಾಷ್ಟ್ರೀಯ ಮಾನವ

ವಿಶ್ವ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗದ ಸಭೆಯಲ್ಲಿ ಭಾಗವಹಿಸಿ ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಯೋಜನಾ ಪ್ರಕ್ರಿಯೆ (NHRAP) ಯನ್ನು ಸ್ಥಾಪಿಸಿ ಅಳವಡಿಸಲು ಸಾಧ್ಯವಾಗಲಿಲ್ಲ.

೨. ಸ್ವಾತಂತ್ರ್ಯ

ಯಾವುದೇ ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕು ಸಂಸ್ಥೆಗಳ ಆಸಕ್ತಿ, ಉದ್ದೇಶ ಸರ್ಕಾರದ ಮಟ್ಟದಲ್ಲಾಗಲಿ, ಖಾಸಗಿ ಆಗಲಿ ಸ್ಥಾಪಿಸುವ ಸ್ವಾತಂತ್ರ್ಯ ಹೊಂದಿದೆ. ಹಾಗೆ ಸ್ಥಾಪಿಸಲ್ಪಟ್ಟ ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗ ಅದನ್ನು ನಿರ್ವಹಿಸುವ ಹಾಗೂ ಸ್ವಾತಂತ್ರ್ಯವನ್ನು ಕಾಪಾಡಿಕೊಳ್ಳುವ ಸಮಸ್ಯೆಯನ್ನು ಎದುರಿಸಬೇಕಾಗುತ್ತದೆ. ಅದರೂ ಪ್ರಾರಂಭದಲ್ಲಿ ಈ ಬಗ್ಗೆ ದೈರ್ಯದಿಂದ ಹಾಗೂ ದೃಢ ನಿರ್ಧಾರದೊಂದಿಗೆ ಪ್ರಯತ್ನ ನಡೆಸಿತು. ಇತ್ತೀಚಿನ ಆಯೋಗಗಳಿಗೆ ಇರುವ ಕಟ್ಟುಪಾಡುಗಳಿಂದ ಶಕ್ತಿಗುಂದಿದಂತಾಗಿ ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗ ಮೂಲಭೂತವಾಗಿ ಕಾರ್ಯನಿರ್ವಹಿಸುವಲ್ಲಿ ನಿಷ್ಪ್ರಿಯವಾಯಿತು.

ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗದ ಆರ್ಥಿಕ ವ್ಯವಸ್ಥೆಯನ್ನು ಭಾರತ ಸರ್ಕಾರವು ಬಿಗಿಯಾಗಿ ಹತೋಟಿಯಲ್ಲಿಟ್ಟುಕೊಂಡಿದೆ. ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗ ತನ್ನ ಪ್ರತಿಯೊಂದು ಹಾಗೂ ಹೋಗುಗಳನ್ನು ಕೇಂದ್ರ ಸರ್ಕಾರದ ರಕ್ಷಣಾ ಸಚಿವಾಲಯಕ್ಕೆ ವರದಿ ಸಲ್ಲಿಸ ಬೇಕಾಗಿರುತ್ತದೆ. ಕೇಂದ್ರ ಸರ್ಕಾರದ ಕೇಂದ್ರ ಸಚಿವಾಲಯದ ವಿಭಾಗವು, ವಲಸೆ ಬರುವವರ ಬಗ್ಗೆ ಕೋಮು ಸೌಹಾರ್ದತೆ , ಸಶಸ್ತ್ರ ಸೈನ್ಯದ ಕಾಯಿದೆ, ಉಗ್ರಗಾಮಿಗಳ ದಾಳಿಗೆ, ಹಿಂಸೆಗೆ ಒಳಗಾದ ಜನರ ಬಗ್ಗೆ, ಗಡಿ ಪ್ರದೇಶಗಳ ನಿರ್ವಹಣೆ, ವಿಶೇಷವಾಗಿ ಒಳನಾಡಿನಲ್ಲಿ ಶಾಂತಿ ಸೌಹಾರ್ದತೆ ಕಾಪಾಡುವ ಮತ್ತು ಆರಕ್ಷಕರ ಸಹಾಯದೊಂದಿಗೆ ನಾಡಿನಲ್ಲಿ ಕಾನೂನು ಸುವ್ಯವಸ್ಥೆಯಲ್ಲಿ ಪಾಲಿಸುವ ಹೊಣೆಗಾರಿಕೆಯನ್ನು ಜವಾಬ್ದಾರಿಯಿಂದ ನಿರ್ವಹಿಸುತ್ತದೆ. ಭಾರತದ ಮಾನವ ಹಕ್ಕುಗಳ ಸಂಸ್ಥೆಗಳು ಮಾನವ ಹಕ್ಕುಗಳನ್ನು ಉಲ್ಲಂಘಿಸುವವರನ್ನು ನಿಗ್ರಹಿಸಬೇಕಿದೆ. ಆದರೆ ಕೆಲವೊಮ್ಮೆ ಕಾನೂನು ರಕ್ಷಿಸುವ ಆರಕ್ಷಕರು ಮತ್ತು ಇತರ ಕಾನೂನು ರಕ್ಷಣಾ ಸಂಸ್ಥೆಯವರ ಬಗ್ಗೆ ಅನೇಕ ದೂರುಗಳು ಬರುತ್ತಿರುವುದರಿಂದ ಆಯೋಗದ ಸ್ವತಂತ್ರ ನಿರ್ಧಾರಗಳನ್ನು, ಪ್ರಕ್ರಿಯೆಗಳನ್ನು ನಿರ್ವಹಿಸುವಲ್ಲಿ ವಿಫಲವಾಗುತ್ತಿರುವುದು ದಿಗ್ಭ್ರಮೆ ಮೂಡಿಸುತ್ತದೆ.

ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗದ ಸಿಬ್ಬಂದಿ ಮತ್ತು ಅದರ ಕಾರ್ಯವೈಖರಿಯಿಂದಲೂ ಅದರ ಸ್ವತಂತ್ರ ಚಟುವಟಿಕೆಗಳ ಮೇಲೆ ಪ್ರಭಾವ ಬೀರುತ್ತದೆ. PHRAಯು ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗದ ಸದಸ್ಯರನ್ನು ಆಯ್ಕೆಮಾಡಲು ಕಟ್ಟುನಿಟ್ಟಿನ ನಿಯಮಗಳನ್ನು ಹೊಂದಿದೆ. ಅದರಲ್ಲಿ ಮುಖ್ಯವಾದುದು ಮಾನವ ಹಕ್ಕುಗಳ ಬಗ್ಗೆ ಒಲವು, ಅನುಭವ ಮತ್ತು ಅದರ ಅಳವಡಿಕೆಯಲ್ಲಿ ಪ್ರಥಮ ಆದ್ಯತೆ ನೀಡುವುದಾಗಿರುತ್ತದೆ. ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗದ ಸಿಬ್ಬಂದಿ ಸರ್ಕಾರದಿಂದ ನೀಡುವ ವೇತನದ ಬಗೆಗಿನ ನಿರ್ವಹಣೆ ಮಾಡುವ ಹೊಣೆ ಹೊಂದಿರಬೇಕು. ಆಯೋಗವು ತನ್ನ ನಿರ್ವಹಣೆಯಲ್ಲಿ ಆಯೋಗದ ಸದಸ್ಯರ ಸರ್ಕಾರಿ ನೇಮಕಾತಿಯಲ್ಲಿ ಎದುರಾಗುವ ಅನೇಕ ಆಂತರಿಕ ಘರ್ಷಣೆಗಳು, ಆರ್ಥಿಕ ಕಟ್ಟುಪಾಡುಗಳು, ಸಿಬ್ಬಂದಿ ನೇಮಕಾತಿ ಇವುಗಳಲ್ಲಿ ಆಯೋಗ ಸ್ಥಾಪನೆಯಾಗಿ ೧೭ ವರ್ಷಗಳಾದರೂ ಸ್ವತಂತ್ರವಾಗಿ ನಿರ್ವಹಿಸಲು ಸಾಧ್ಯವಾಗಿಲ್ಲ ಹಾಗೂ ಎದುರಾಗುವ ಸಮಸ್ಯೆಗಳನ್ನು ಕಡಿಮೆಮಾಡಲು ಸಾಧ್ಯವಾಗಿಲ್ಲ.

ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗ ಸ್ವತಂತ್ರವಾಗಿ ಕರ್ತವ್ಯ ನಿರ್ವಹಿಸಲು ವಿಫಲವಾಗಿರುವುದು ದುರಂತವೇ ಸರಿ. ದೇಶದಲ್ಲಿ ನಡೆಯುವ ಮಾನವ ಹಕ್ಕುಗಳ ಉಲ್ಲಂಘನೆಯ ಘಟನೆಗಳನ್ನು ಕುರಿತು ಚರ್ಚಿಸುವ, ಉದ್ದೇಶಿಸಿ ಮಾತನಾಡುವ ದೈರ್ಯ ಮತ್ತು ಅಧಿಕಾರ ಹೊಂದಿರುವ ಸಂಸ್ಥೆಗಳೂ ವಿಫಲವಾಗುತ್ತಿವೆ. ೨೦೦೨ನೇ ಸಾಲಿನಲ್ಲಿ ಗುಜರಾತ್ ರಾಜ್ಯದಲ್ಲಿ ತೀವ್ರವಾದ ಕೋಮು ಗಲಭೆ ಹಾಗೂ ಮತೀಯ ಗಲಭೆ ನಡೆಯಿತು. ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗವು ಘಟನೆಯ ಬಗ್ಗೆ ಕೂಲಂಕಷವಾಗಿ ಪರಿಶೀಲನೆ ನಡೆಸಿ ವರದಿಯನ್ನು ಅಹವಾಲಿನೊಂದಿಗೆ ಸರ್ವೋಚ್ಚನ್ಯಾಯಾಲಯಕ್ಕೆ ಸಲ್ಲಿಸುವುದು ಎಂಬ ಐತಿಹಾಸಿಕ ನಿರ್ಧಾರ ತೆಗೆದುಕೊಂಡಿತು. ಆದರೆ ಆಮೇಲೆ ನಡೆದ ಸರ್ಕಾರದ ಮತ್ತು ರಾಜಕೀಯ ಒತ್ತಡಗಳಿಗೆ ಶರಣಾಗಿ ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗವು ಮೌನವಾಗಿ ಉಳಿದು

ಬಿಟ್ಟು. ಆದರೆ ಈ ವಿಷಯಗಳ ಬಗ್ಗೆ ಸರ್ಕಾರ ಮತ್ತು ಮಾನವ ಹಕ್ಕುಗಳನ್ನು ಬೆಂಬಲಿಸಿದ ಸಂಸ್ಥೆಯವರ ನಡುವೆ ವಾಗ್ವಾದಗಳಾಗಿ ಉಳಿಯಿತು.

ನಾಟಕೀಯವಾಗಿ ಹೆಚ್ಚುತ್ತಿರುವ ಘಟನೆಗಳ ಬಗ್ಗೆ ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗ ಮೌನವಹಿಸಿರುವುದು ಹೆದರಿಕೆ ಹುಟ್ಟಿಸುತ್ತಿದೆ. ದೇಶದಲ್ಲಿ ಮಾನವ ಹಕ್ಕುಗಳ ಉಲ್ಲಂಘನೆಯ ಬಗ್ಗೆ ಈ ಘಟನೆಗಳು ಸಾಕ್ಷಿಯಾಗಿವೆ. ಆಗಾಗ್ಗೆ ಹೀಗೆ ನಡೆಯುತ್ತಿರುವ ಉಲ್ಲಂಘನೆಗಳ ಬಗ್ಗೆ ಸ್ವತಂತ್ರವಾದ ನಿರ್ದೇಶನಗಳನ್ನು ಸ್ಥಾಯಿ ಸಂಸ್ಥೆಯಾಗಿ ನೀಡಿದರೂ ಇವುಗಳ ಬಗ್ಗೆ ಯಾವುದೇ ವಿದ್ಯುಕ್ತವಾದ ನಿಯಮಗಳನ್ನಾಗಲಿ, ಮಾರ್ಗದರ್ಶನಗಳನ್ನಾಗಲಿ, ನೀತಿನಿಯಮಗಳನ್ನಾಗಲಿ ನೀಡಲು ವಿಫಲವಾಗಿದೆ. ಈ ಬಗ್ಗೆ ಮುಂಬರುವ ಘರ್ಷಣೆ ಬಗ್ಗೆಯಾಗಲಿ, ಪ್ರಸ್ತುತ ಇರುವ ಸನ್ನಿವೇಶಗಳ ಬಗ್ಗೆಯಾಗಲಿ ಕ್ರಮ ತೆಗೆದುಕೊಳ್ಳುವ ಬಗ್ಗೆ ಯಾವ ಮಾಹಿತಿಯನ್ನೂ ಹೊಂದಿಲ್ಲ.

೩. ಸಂಯೋಜನೆ, ನೇಮಕಾತಿ ಪ್ರಕ್ರಿಯೆ ಮತ್ತು ಕಾಲಾವಧಿ

ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗದ ಸಂಯೋಜನೆಯು ಭಾರತೀಯ ಜೀವನದ ಬಗ್ಗೆ, ಅದರ ಸಂಸ್ಥೆಗಳ ಉದ್ದೇಶಗಳನ್ನು ಅಪಾರ್ಥಮಾಡಿಕೊಂಡ ಬಗ್ಗೆ ಏಕ ಪ್ರಕಾರದವಾದ ನಿರೂಪಣೆಯನ್ನು ಮರೆಮಾಚಿದೆ. ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗವು ಮಾನವ ಹಕ್ಕುಗಳನ್ನು ಉತ್ತೇಜಿಸುವ ಮತ್ತು ರಕ್ಷಿಸುವ ರಾಷ್ಟ್ರೀಯ ನಾಯಕತ್ವವನ್ನು ಹೊಂದಿದೆ. ನಿವೃತ್ತರಾದ ನ್ಯಾಯಾಂಗದ ಸದಸ್ಯರು ಮತ್ತು ಸರ್ಕಾರಿ ಅಧಿಕಾರಿಗಳು ಇರುವ ವಸ್ತುಸಂಗ್ರಹಾಲಯವಾಗಿದೆ ನಮ್ಮ ಆಯೋಗ. ಆಯೋಗದ ಈ ಸದಸ್ಯರು ಮಾನವ ಹಕ್ಕುಗಳ ಪರವಾಗಿ ಶೋರಾಟ ನಡೆಸುವ ಸಾಮರ್ಥ್ಯ ಹೊಂದಲು ಸಾಧ್ಯ ಎಂದು ಆಶಿಸಿದೆ. ನೇಮಕಾತಿ ಪ್ರಕ್ರಿಯೆಯಲ್ಲಿ ಹೆಚ್ಚಿನ ಅರ್ಹತೆ ಮತ್ತು ಅತ್ಯುತ್ತಮ ಅಭ್ಯರ್ಥಿಗಳನ್ನು ಪಾರದರ್ಶಕವಾಗಿ ಆಯ್ಕೆಮಾಡಲು, ಆಯೋಗದ ಸದಸ್ಯರು ಪೂರಕ ಅರ್ಹತೆಗಳೊಂದಿಗೆ ಅವಶ್ಯವಾದ ದಕ್ಷತೆಯುಳ್ಳ ನಾಯಕರನ್ನು ಮಾನವ ಹಕ್ಕುಗಳ ಕ್ಷೇತ್ರಕ್ಕಾಗಿ ಆಯ್ಕೆಮಾಡಬೇಕಿದೆ.

ಆಯೋಗದ ಮೂರು ಸ್ಥಾನಕ್ಕಾಗಿ ಆಯ್ಕೆಮಾಡುವಲ್ಲಿ ಅನಾವಶ್ಯಕವಾದ, ಕಠಿಣವಾದ ಮಾನದಂಡಗಳನ್ನು ನ್ಯಾಯಬದ್ಧವಾದ ಅವಕಾಶಗಳನ್ನು ನಿರ್ವಹಿಸುವ ನಿಯೋಗವನ್ನು ಸಮ್ಮತಿಸುವಂತೆ ಮಾಡಲು ಆಯೋಗವು ಮಾಡಿರುವ ಪ್ರಯತ್ನವು ಅಷ್ಟೇನೂ ಉತ್ತೇಜನಕಾರಿಯಾಗಿರುವುದಿಲ್ಲ. ಇದರೊಂದಿಗೆ ಕಾನೂನನ್ನು ಅನುಷ್ಠಾನದಲ್ಲಿ ತರಲು, ನಾಗರಿಕ ಸಮಾಜದಲ್ಲಿ ಮಾನವ ಹಕ್ಕುಗಳ ಬಗ್ಗೆ ಶ್ರಮಿಸುತ್ತಿರುವ ಅನುಭವಿ ನಾಯಕರನ್ನು ಮತ್ತು ಕಾರ್ಯಕರ್ತರನ್ನು ಆಯ್ಕೆ ಮಾಡಿಕೊಳ್ಳಲು ದೃಢವಾದ ನಿರಾಕರಣೆಗಳನ್ನು ತಡೆಗಟ್ಟಲು ವಿಫಲವಾಗಿದೆ. ಇದರ ಫಲವಾಗಿ ಆಯೋಗದಲ್ಲಿ ಮಹಿಳಾ ಪ್ರತಿನಿಧಿಗಳಿಲ್ಲ. ಮಹಿಳಾ ಪರ ಹಾಗೂ ಅವರಿಗೆ ಸಂಬಂಧಿಸಿದ ದೂರು, ಅಹವಾಲುಗಳ ಬಗ್ಗೆ ಪ್ರತಿಕ್ರಿಯಿಸಲು ಮಹಿಳಾ ಸದಸ್ಯರಿಲ್ಲ. ನಾಗರಿಕ ಸಮಾಜದ ಸಮರ್ಥ ಸದಸ್ಯರೂ ಇಲ್ಲ. ಆಯೋಗದ ಅಧ್ಯಕ್ಷರು ಭ್ರಷ್ಟಾಚಾರದ ಆಪಾದನೆಗೆ ಒಳಗಾಗಿದ್ದಾರೆ.

PHRAಯಲ್ಲಿರುವ ನಿಯಮದಂತೆ ಮಾನವ ಹಕ್ಕುಗಳ ಬಗ್ಗೆ ಜ್ಞಾನ ಮತ್ತು ಪ್ರಾಯೋಗಿಕವಾದ ಅನುಭವದ ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗದ ಸದಸ್ಯರ ಆಯ್ಕೆಯಲ್ಲಿ ಅವಶ್ಯವಾದ ಪ್ರಾಥಮಿಕ ಅರ್ಹತೆ ಎಂಬುದನ್ನು ಪರಿಗಣಿಸಿಲ್ಲ. ರಾಜಕೀಯ ಅಧಿಕಾರದ ಪ್ರಭಾವ ಮತ್ತು ರಾಜಕೀಯ ಹಿತಾಸಕ್ತಿಯನ್ನು ಬೆಂಬಲಿಸಲು ಸದಸ್ಯರ ನೇಮಕಾತಿಯನ್ನು ಆಗಿಂದಾಗ್ಗೆ ಕಂಡು ಬಂದಿದೆ. ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗದ ನಿಯಮದಂತೆ ಇದರ ಸದಸ್ಯರು ನ್ಯಾಯಾಂಗದ ಕ್ಷೇತ್ರದಿಂದ ಬಂದರೆ ಕಾನೂನನ್ನು ರಕ್ಷಿಸಲು ಸಹಾಯಕವಾಗಿರುತ್ತದೆ ಎಂದು. ಆದರೆ ಪ್ರಸ್ತುತ ಅಧ್ಯಕ್ಷರಾದ ಜಸ್ಟೀಸ್ ಬಾಲಕೃಷ್ಣರವರು ಸಾರ್ವಜನಿಕವಾಗಿ ನೀಡಿರುವ ಈ ಹೇಳಿಕೆ "ಕಾನೂನು ಮತ್ತು ಕಟ್ಟಳೆಗಳನ್ನು ಮೀರಿ ನಡೆಯುವ ಸಮಸ್ಯೆಗಳು ಹೆಚ್ಚುತ್ತಿರುವ ಈ ಸಂದರ್ಭಗಳಲ್ಲಿ ಎನ್‌ಕೌಂಟರ್ ಅನಿವಾರ್ಯ. ಇತ್ತೀಚೆಗೆ ಆರೋಪಿಗಳು ಕಾನೂನನ್ನು ತಮ್ಮ ಕೈಗಳಲ್ಲಿ ತೆಗೆದುಕೊಂಡು ಕೆಲವೊಮ್ಮೆ ಪೊಲೀಸರ ಮೇಲೂ ದಾಳಿ ನಡೆಸುತ್ತಿದ್ದಾರೆ. ಪೊಲೀಸರು ಇಂತಹ ಸನ್ನಿವೇಶಗಳನ್ನು ನಿಭಾಯಿಸಬೇಕಾಗುತ್ತದೆ"

ದಿಗ್ಭ್ರಮೆ ಮಾಡಿಸುತ್ತದೆ. ಇನ್ನೊಂದು ಸಾರ್ವಜನಿಕ ಹೇಳಿಕೆಯಲ್ಲಿ ಅವರು ಮರಣದಂಡನೆಯನ್ನು ಬೆಂಬಲಿಸಿದ್ದಾರೆ. ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗ ಅನೇಕ ವರ್ಷಗಳಿಂದ ಶ್ರಮಿಸಿ ಅನುಷ್ಠಾನಗೊಳಿಸಲು ಮಾಡಿದ ಎಲ್ಲ ಪ್ರಯತ್ನಗಳು ಇವರ ಹೇಳಿಕೆಯಿಂದ ವ್ಯರ್ಥವಾಗಿದೆ. ಈ ಬಗ್ಗೆ ಜಸ್ತಿನ್ ಬಾಲಕೃಷ್ಣರವರಿಗೆ ತಿಳಿಯದೆ ಇರುವುದರಿಂದ ಮತ್ತು ಸಂವಿಧಾನದ ಬಗ್ಗೆ ಗಮನ ನೀಡದೆ ಇದ್ದುದರಿಂದ ಈ ಪ್ರಮಾದ ನಡೆದಿದೆ.

ಸಾಂಸ್ಥಿಕ ಮೂಲ ಪರಿಕರಗಳು

ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗವು ಮೂಲ ಪರಿಕರಗಳೊಂದಿಗೆ ಸ್ಥಾಪನೆ ಮಾಡಿ ೧೭ ವರ್ಷವಾದರೂ ಅದರದೆ ಆದ ಸಂಪನ್ಮೂಲಗಳನ್ನು ಅಭಿವೃದ್ಧಿಗೊಳಿಸಲು, ಸಮರ್ಥವಾಗಿ ಕಾರ್ಯಪ್ರವೃತ್ತವಾಗಲು ವಿಫಲವಾಗಿದೆ. ಆರ್ಥಿಕ ಸಂಪನ್ಮೂಲಗಳ ಕೊರತೆಯೊಂದಿಗೆ ಐತಿಹಾಸಿಕ ಜ್ಞಾನ ಮತ್ತು ಬೌದ್ಧಿಕ ಬಂಡವಾಳವನ್ನು ಹೊಂದಲು ಅಸಮರ್ಥವಾಗಿದೆ. ಆರ್ಥಿಕವಾಗಿ ಸಂಪನ್ಮೂಲರಹಿತವಾಗಿದೆ ಎಂಬುದನ್ನು ಒಪ್ಪಿಕೊಳ್ಳಲು ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗವು ಸಿದ್ಧವಿಲ್ಲ. ಹಾಗೆಯೇ ಉತ್ತಮ ಕಾರ್ಯಾಚರಣೆಗಾಗಿ ಸಿಬ್ಬಂದಿಯ ಅವಶ್ಯಕತೆ ಬಗ್ಗೆ ಕೋರಿಕೆ ಸಲ್ಲಿಸಿಲ್ಲ. ಆದರೆ ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗ ಇತ್ತೀಚೆಗೆ ತನ್ನ ೫ ಸದಸ್ಯರು ಸುಮಾರು ೪೦೦ ದೂರುಗಳ ಬಗ್ಗೆ ಒಂದೇ ದಿನದಲ್ಲಿ ಪರಿಶೀಲನೆ ನಡೆಸಿರುವ ಬಗ್ಗೆ ವರದಿ ಮಾಡಿದೆ.

ದೇಶದ ಸಾಮಾನ್ಯ ನಾಗರಿಕನಿಗೆ ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗ ತನ್ನ ಸೇವೆ ಸಲ್ಲಿಸಲು ಸಾಧ್ಯವಾಗಿಲ್ಲ. ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗ ತನ್ನ ಕಾರ್ಯಾಚರಣೆಯನ್ನು ದೆಹಲಿಯಲ್ಲಿ ನಡೆಸುತ್ತಿರುವುದರಿಂದ ಭಾರತದ ಉಳಿದ ಭಾಗದ ಜನರು ಇದರ ಸಹಾಯ ಪಡೆಯಲು ಸಾಧ್ಯವಾಗಿಲ್ಲ. ಕೇಂದ್ರ ಸರ್ಕಾರದಿಂದ ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗಕ್ಕೆ ಭಾರತದ ಇತರ ಸ್ಥಳಗಳಲ್ಲೂ ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗ ಕಛೇರಿ ಸ್ಥಾಪಿಸಿ ನಡೆಸಲು ೧೯೯೩ ರಲ್ಲೇ ಅನುಮತಿ ನೀಡಿದ್ದರೂ ಸಹ ಸ್ಥಾಪಿಸಲು ವಿಫಲವಾಗಿದೆ. ಸಮರ್ಥವಾಗಿ ಕರ್ತವ್ಯ ನಿರ್ವಹಿಸಲು ಹಾಗೂ ೧ ಶತಕೋಟಿ ಭಾರತೀಯರಿಗೆ ಆಯೋಗದ ಸಹಾಯ ದೊರೆಯಲು ಭಾರತದಲ್ಲಿ ಕನಿಷ್ಠ ೪ ರಿಂದ ೫ ಪ್ರಾಂತೀಯ ಕಛೇರಿಗಳನ್ನು ಸ್ಥಾಪಿಸಬೇಕಿದೆ. ಕಛೇರಿಗಳನ್ನು ಸ್ಥಾಪಿಸಲು ಸಂಪನ್ಮೂಲಗಳು ಲಭ್ಯವಿಲ್ಲದಿದ್ದರೆ ಸಮಾಜದಲ್ಲಿನ ಮಾನವ ಹಕ್ಕು ಸಂಸ್ಥೆಗಳ ಸಹಯೋಗದೊಂದಿಗೆ ಕ್ರಿಯಾತ್ಮಕವಾಗಿ ಕಾರ್ಯಪ್ರವೃತ್ತವಾಗಬೇಕು. ಕಣ್ಣು ಮತ್ತು ಕಿವಿಯಾಗಿ ನೋಂದವರಿಗೆ ಪ್ರತಿಕ್ರಿಯಿಸಬೇಕಿದೆ. ದೆಹಲಿಯಲ್ಲಿ ಕುಳಿತಿರದೆ ಎಲ್ಲ ಕಡೆ ಸಂಚರಿಸಿ ಮಾನವ ಹಕ್ಕು ಉಲ್ಲಂಘನೆಯಿಂದ ನೋಂದವರ ನೋವಿಗೆ ಸ್ಪಂದಿಸಬೇಕಿದೆ.

ದೆಹಲಿಯಲ್ಲಿರುವ ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗದ ಕಛೇರಿಗೆ ಹೋಗಲು ಸಮರ್ಥರಿರುವ ನೋಂದವರಿಗೆ ಅಲ್ಲಿನ ವಾತವರಣ ಪ್ರತಿಕೂಲವಾಗಿ ಮತ್ತು ಅನಾಹುತವಾಗಿರುತ್ತದೆ ದೂರು ಸಲ್ಲಿಸಿದವರು ವಿಚಾರಣೆಯ ಸಂಧರ್ಭದಲ್ಲಿ ಭಾಗವಹಿಸಲು, ವಿಕ್ಷೇಪಲು ಅವಕಾಶವಿರುವುದಿಲ್ಲ. ವಿಚಾರಣೆಯ ನಂತರದ ವರದಿಗಳನ್ನು ಮುಚ್ಚಿದ ಕೊಠಡಿಯಲ್ಲಿ ಇಡಲಾಗಿದೆ. ಅನೇಕ ಮಾನವ ಹಕ್ಕುಗಳ ಹಿರಿಯ ಕಾರ್ಯಕರ್ತರು ಮತ್ತು ಸ್ವಯಂಸೇವ ಸಂಘದವರು ಇಂತಹ ವಿಚಾರಣಾ ಅವಧಿಯಲ್ಲಿ ಭಾಗವಹಿಸಿ ವಿಚಾರಣೆಯ ಪಾರದರ್ಶಕತೆ ಬಗ್ಗೆ ತಿಳಿದುಕೊಳ್ಳಲು ಮಾಡುವ ಪ್ರಯತ್ನಗಳೆಲ್ಲ ವ್ಯರ್ಥವಾಗುತ್ತಿದೆ.

ಇತ್ತೀಚೆಗೆ ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗ ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಮತ್ತು ಸಾರ್ವಜನಿಕರನ್ನು ತಲುಪಲು ವೆಬ್‌ಸೈಟ್ ತೆರೆದಿದೆ. ದುರಾದೃಷ್ಟವೆಂದರೆ ವೆಬ್‌ಸೈಟ್ ಇಂಗ್ಲಿಷ್ ಭಾಷೆಯಲ್ಲಿದೆ. ಇದರೊಂದಿಗೆ ಪ್ರಕಟಿಸುವ ಎಲ್ಲಾ ವರದಿಗಳು ಪ್ರಾಂತೀಯ, ಸ್ಥಳೀಯ ಭಾಷೆಯಲ್ಲಿ ಇಲ್ಲದೆ ಇಂಗ್ಲಿಷ್‌ನಲ್ಲಿದೆ. ಇದರಿಂದ ಸಾಮಾನ್ಯ ಜನರಿಗೆ ಇದು ತಲುಪಲು ಸಾಧ್ಯವಾಗುತ್ತಿಲ್ಲ.

ವೆಬ್‌ಸೈಟ್ ಮೂಲಕ ದೂರುಗಳನ್ನು ದಾಖಲು ಮಾಡಿದರೂ ನಿಜವಾದ, ನೇರವಾದ ಪೂರಕವಾದ ಮಾಹಿತಿಗಳು ದೊರೆಯದೆ ಇರುವುದರಿಂದ ನ್ಯಾಯ ದೂರಕಿಸಲು ತಕ್ಷಣ ಸಾಧ್ಯವಾಗದೆ ಇರಬಹುದು. ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗವು ಒಂದು ದೂರವಾಣಿಯ ಸಹಾಯವಾಣಿ ಸೃಷ್ಟಿಸಿ ಮಾನವ ಹಕ್ಕುಗಳ ಉಲ್ಲಂಘನೆಗೆ ಒಳಗಾದವರಿಗೆ ಸಹಾಯ ಒದಗಿಸಿದೆ ದುರದೃಷ್ಟವಶಾತ್ ಈ ಸಹಾಯವಾಣಿ ಕೆಲವೊಮ್ಮೆ ಸಂಪರ್ಕಕ್ಕೆ ದೊರೆಯದಿರಬಹುದು ಮತ್ತು ಉತ್ತರಿಸದೆ ಇರಬಹುದು. ಇದರೊಂದಿಗೆ ಹಿಂದಿ ಮತ್ತು ಇಂಗ್ಲೀಷ್ ಭಾಷೆಯಲ್ಲಿ ಉತ್ತರಿಸುವ ಈ ಸಹಾಯವಾಣಿ ಪ್ರಾಂತೀಯ ಭಾಷೆಗಳಲ್ಲಿ ಮಾತನಾಡುವವರಿಗೆ ಅಷ್ಟೊಂದು ಸಹಾಕಾರಿಯಾಗಿರುವುದಿಲ್ಲ.

ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗದಲ್ಲಿ ಕಾರ್ಯನಿರ್ವಹಿಸುತ್ತಿರುವವರು ಕೆಲವರು ಮಾತ್ರ ಸರ್ಕಾರದಿಂದ ನೇಮಿಸಲ್ಪಟ್ಟವರಾಗಿರುತ್ತಾರೆ ತಾತ್ಕಾಲಿಕವಾಗಿ ಸರ್ಕಾರದ ಇತರ ಕಛೇರಿಗಳಿಂದ ಸಂಸ್ಥೆಗಳಿಂದ ನಿಯೋಜನೆ ಮೇಲೆ ಬಂದವರಾಗಿರುತ್ತಾರೆ. ಈ ಸಿಬ್ಬಂದಿಗಳಿಗೆ ಮಾನವ ಹಕ್ಕುಗಳ ಬಗ್ಗೆ ಪೂರ್ವ ಜ್ಞಾನವಿರುವುದಿಲ್ಲ, ನಿಯೋಜಿಸಿದ ಮೇಲೆ ತರಬೇತಿಯನ್ನು ನೀಡುವುದಿಲ್ಲ. ಇದರಿಂದ ಅವರು ಮಾನವ ಹಕ್ಕುಗಳ ಉಲ್ಲಂಘನೆಯ ಪರಿಣಾಮ ಗುರಿಯಾದವರ ನೋವು ಸಂಕಟಗಳಿಗೆ ಸರಿಯಾಗಿ ಸ್ಪಂದಿಸಲು ಸಾಧ್ಯವಾಗುವುದಿಲ್ಲ. ಹೀಗೆ ತನ್ನದೆ ಆದ ಸಿಬ್ಬಂದಿಯನ್ನು ಆಯ್ಕೆಮಾಡಿ ತರಬೇತಿ ನೀಡಿ ಸಮರ್ಪಕವಾಗಿ ಕಾರ್ಯನಿರ್ವಹಿಸಲು ಬೇಕಾದ ಹಣ ಸಹಾಯ ಇಲ್ಲದಿರುವುದೂ ಒಂದು ನ್ಯೂನತೆ.

ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗದಲ್ಲಿ ಪ್ರಸ್ತುತ ಇರುವ ಸಿಬ್ಬಂದಿಗಳಲ್ಲಿ ಲಿಂಗ,ಧರ್ಮ,ಮತ ಅಲ್ಪಸಂಖ್ಯಾತವರ್ಗ ಮತ್ತು ವಿಶೇಷ ಅಗತ್ಯವುಳ್ಳವರಿಗೆ ಸಮಾನ ಅವಕಾಶ ನೀಡಿಲ್ಲ. ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗವು ಅರ್ಹತೆವುಳ್ಳ ಸಂಶೋಧನಾ ತಜ್ಞರನ್ನು, ವಿಶೇಷ ಸಂಪರ್ಕ ಕಲ್ಪಿಸುವ ವ್ಯಕ್ತಿಗಳನ್ನು ಕ್ಷೇತ್ರವಾರು, ವಿಶೇಷ ವಿಷಯಗಳ ಬಗ್ಗೆ ತನಿಖೆ ನಡೆಸಲು ವರದಿ ಮಾಡಲು ನೇಮಿಸಿಕೊಳ್ಳುತ್ತದೆ. ಆದರೆ ಇಲ್ಲೂ ಅಗತ್ಯವಾದ ಅರ್ಹತೆ ಇರುವ ಕೆಲವೊಮ್ಮೆ ಇದರ ಬಗ್ಗೆ ಆದ್ಯತೆ ನೀಡದೆ ಆಯ್ಕೆಮಾಡುವುದೂ ಇದೆ. ಇದರಿಂದ ಸರ್ಕಾರಿ ಹಿನ್ನೆಲೆಯಿಂದಿರುವವರನ್ನು ನೇಮಿಸುವುದರಿಂದ ಮತ್ತು ನಾಗರಿಕರಾದರೆ ಈ ಹುದ್ದೆ ಅಲಂಕರಿಸಲು ತೀರಾ ಸ್ವತಂತ್ರರಾಗಿ ಬಿಡುವುದರಿಂದ ಸಾಧ್ಯವಾಗುವುದಿಲ್ಲ.

ಕ್ವಾಜಿ ನ್ಯಾಯವ್ಯಾಪ್ತಿಯ ಪ್ರಕ್ರಿಯೆಗಳು

ಇಡೀ ಭಾರತ ದೇಶದಿಂದ ಬಂದ ಎಲ್ಲ ದೂರು, ಅಹವಾಲುಗಳನ್ನು ಸ್ವೀಕರಿಸುವ ಜವಬ್ದಾರಿಯನ್ನು ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗದ ೩ ಸದಸ್ಯರಿಗೆ ವಹಿಸಿದೆ. ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗ ಸ್ಥಾಪನೆಯಾದ ಮೊದಲು ವರ್ಷದಲ್ಲೇ ೪೮೬ ಪ್ರಕರಣಗಳನ್ನು ವಿಚಾರಣೆ ನಡೆಸುವುದಾಗಿ ವರದಿ ಮಾಡಿರುವುದು ಉತ್ಕೃಷ್ಟ ಎನಿಸುತ್ತದೆ. ವಿಚಾರಣಾ ಸದಸ್ಯರ ಸಂಖ್ಯೆ ಹೆಚ್ಚಿಸದೆ ವಿಚಾರಣೆ ನಡೆಸುವುದರಿಂದ ಅದರ ಗುಣಮಟ್ಟವನ್ನು ನಾವು ಸುಲಭವಾಗಿ ಅರಿಯಬಹುದು ಹಾಗೆಯೇ ಪ್ರಕರಣಗಳ ಬಗ್ಗೆ ಇತ್ಯರ್ಥ ಮಾಡಿದ ರೀತಿಯೂ ಸಮಾದಾನಕರವಾಗಿಲ್ಲ.

ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗವು ಹೇಳುವಂತೆ ನೂರಾರು ಪ್ರಕರಣಗಳ ಬಗ್ಗೆ ದೂರು ಪಡೆದರು ಪ್ರತಿದಿನ ೬೦ ರಿಂದ ೮೦ ಪ್ರಕರಣಗಳ ವಿಚಾರಣೆ ನಡೆಸಬಹುದು ಇದರ ಪ್ರಕಾರ ವಾರದ ದಿನದಲ್ಲಿ ೧೬ ಗಂಟೆಗಳ ಕಾಲ ಕರ್ತವ್ಯ ನಿರ್ವಹಿಸಿದರೆ ಮಾತ್ರ ದಿನಕ್ಕೆ ಕನಿಷ್ಠ ೬೦ ಪ್ರಕರಣಗಳ ವಿಚಾರಣೆ ನಡೆಸಬಹುದು. ಪ್ರತಿ ಪ್ರಕರಣಕ್ಕೆ ಕನಿಷ್ಠ ೩೦ ನಿಮಿಷಗಳಾದರೂ ಬೇಕು ಹಾಗೂ ಆಯೋಗದ ೩ ಸದಸ್ಯರು ವಿಚಾರಣೆ ನಡೆಸಿ ಮಾನವ ಹಕ್ಕು ಉಲ್ಲಂಘನೆ ಆಗಿದೆಯೇ, ಇಲ್ಲವೇ? ಎಂದು ಪರಿಶೀಲಿಸಿ ಸಲಹೆ ಸೂಚನೆ ನೀಡಲು

ಅವಕಾಶವಿರಬೇಕು. ಆಯೋಗದ ಸದಸ್ಯರಿಗೆ ಪ್ರತಿ ಪ್ರಕರಣದ ವಿಚಾರಣೆಗೆ ಒದಗಿಸಿರುವ ಸಮಯ ೩೦ ನಿಮಿಷ. ಆದರೆ ಆಯೋಗದ ಸದಸ್ಯರು ಪ್ರಕರಣಗಳನ್ನು ಉದಾಸೀನವಾಗಿ ವಿಚಾರಣೆಮಾಡಿ ಯಾವುದೇ ವಿವರಾಣತ್ಮಕ ಕಾರಣ ನೀಡದೆ ಇತ್ಯರ್ಥ ಮಾಡುತ್ತಾರೆ. ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗದಿಂದ ಇತ್ಯರ್ಥವಾದ ಪ್ರಕರಣಗಳಲ್ಲಿ ವಿನಾಕಾರಣ ಬಹುಸಾಮಾನ್ಯವಾದ ಮಾಹಿತೀರಹಿತ ಕಾರಣಗಳಿರುತ್ತದೆ. ವಿಚಾರಣೆ ವರದಿ ಒಂದೇ ವಾಕ್ಯದಲ್ಲಿ ಪ್ರಕರಣ ಇತ್ಯರ್ಥಗೊಳಿಸಿದ ಬಗ್ಗೆ ಇಲ್ಲ ತಿರಸ್ಕರಿಸಿದ ಬಗ್ಗೆ ಇರುತ್ತದೆ.

ಸಾಮಾನ್ಯ ಅಥವಾ ವಿಶೇಷ ಪ್ರಕರಣಗಳಲ್ಲಿ ವಿಚಾರಣೆ ನಡೆಸಿ ದೈರ್ಯವಾಗಿ, ನಿರ್ಧಾರಯುತವಾಗಿ ಧೃಢವಾದ ನ್ಯಾಯ ತೀರ್ಮಾನ ಹೇಳಲು ಆಯೋಗವು ವಿಫಲವಾಗಿದೆ. ವಾಸ್ತವವಾಗಿ ಹೇಳುವುದಾದರೆ ಆಯೋಗವು ದೇಶವನ್ನು ಪ್ರಸ್ತುತ ಇರುವ ಮಾನವ ಹಕ್ಕು ಮಟ್ಟವನ್ನು ಅಪ್ಪವಸ್ಥಿತ ಪ್ರಯತ್ನಗಳಿಗೆ ಒಡ್ಡುತ್ತಿದೆ. ಜಾರಿಯಲ್ಲಿರುವ ದೇಶದ ಕಾನೂನು ಉಳಿಸುವಲ್ಲಿ, ಅಂತರಾಷ್ಟ್ರೀಯ ಮಟ್ಟದ ಮಾನವ ಹಕ್ಕುಗಳನ್ನು ಅನುಷ್ಠಾನಗೊಳಿಸಲು ಪ್ರೋತ್ಸಾಹ ನೀಡುವಲ್ಲಿ, ಉತ್ತಮ ಅವಕಾಶಗಳನ್ನು ಬಳಸಿಕೊಳ್ಳುವಲ್ಲಿ ಮೌನವಾಗಿದೆ. ಇದರಿಂದ ಭಾದಿತರಿಗೆ ಪರಿಹಾರ ಕೊಡಿಸುವುದಿರಲಿ ಭಾರತೀಯರಲ್ಲಿಗೂ ಮಾನವ ಹಕ್ಕುಗಳನ್ನು ಪರಿಚಯಿಸಿ ದೊರೆಯುವಂತೆ ಮಾಡುವ ಸಾಧ್ಯತೆ ಕಡಿಮೆ. ಕಾರ್ಯಾಚರಣೆ ಅನುಷ್ಠಾನದ ನಿರ್ದೇಶನಗಳು ಬಹುಪಾಲು ಅದನ್ನು ಕಾರ್ಯರೂಪಕ್ಕೆ ತರುವಲ್ಲಿ ಸೃಷ್ಟತೆಯನ್ನು ನಿಖರತೆಯನ್ನು ನೀಡುತ್ತದೆ. ಆದರೆ ಇತ್ತೀಚಿನ ದಿನಗಳಲ್ಲಿ ಅದನ್ನು ಯಾರು ಅನುಸರಿಸುತ್ತಿಲ್ಲ.

ಜಸ್ಟೀಸ್ ವೆಂಕಟಾಚಲಯ್ಯ ರವರ ಅವಧಿಯ ನಂತರ ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗ ಸಮಸ್ಯಾ ಕ್ಷೇತ್ರಗಳನ್ನು ಗುರುತಿಸುವುದನ್ನು ನಿಲ್ಲಿಸಿದಂತಿದೆ. ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗವು ನಿರ್ವಹಿಸಬೇಕಾದ ಕಾರ್ಯಗಳ ಬಗ್ಗೆ ಯಾವುದೇ ಉತ್ತಮಪಡಿಸಿಕೊಳ್ಳುವ ಹೊಸ ವಿಧಾನಗಳನ್ನು ಅಥವಾ ಸಂಬಂಧಿಸಿದ ಯಾವುದೇ ನಿರ್ದೇಶನಗಳನ್ನು ನೀಡಿರುವುದಿಲ್ಲ. ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗ ಕಾನೂನು ಬದ್ಧವಾಗಿ ಮಾನವ ಹಕ್ಕುಗಳ ಉಲ್ಲಂಘನೆಯ ಪ್ರಕರಣಗಳನ್ನು, ದೂರುಗಳನ್ನು ವಿಚಾರಣೆ ನಡೆಸಿ ನಿರ್ವಹಿಸಲು ಸಶಕ್ತವಾಗಿದರೂ ಸಮರ್ಪಕವಾಗಿ ನಿರ್ವಹಿಸಲು ವಿಫಲವಾಗಿರುವುದು ದುರದೃಷ್ಟದ ಸಂಗತಿ.

ಮಾನವ ಹಕ್ಕುಗಳ ಉಲ್ಲಂಘನೆಯಾದಾಗ ಆ ಘಟನೆ ಪ್ರಕರಣದ ಬಗ್ಗೆ ಸಲಹೆ, ಸೂಚನೆಗಳನ್ನು ನೀಡಲು ಅಧಿಕಾರವಿದ್ದರೂ ಅದನ್ನು ಬಳಸದೆ ಕೆಲವೇ ಪ್ರಕರಣಗಳಿಗೆ ಮಾತ್ರ ಸೀಮಿತವಾಗಿರಿಸಿಕೊಂಡಿದೆ. ಬಹುಪಾಲಿನ ಇಂತಹ ಪ್ರಕರಣಗಳ ದೂರುಗಳನ್ನು ರಾಜ್ಯದ ಪ್ರತಿಕ್ರಿಯೆ ಹಾಗೂ ಪೋಲಿಸಿನವರ ವರದಿ ಆಧಾರ ಮೇಲೆ ವಜಾ ಮಾಡಿ ಬಿಡುತ್ತದೆ.

ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗ ಇಂತಹ ಪ್ರಕರಣಗಳನ್ನು ಹೆಚ್ಚಿನ ಸಂದರ್ಭಗಳಲ್ಲಿ ವಿಚಾರಣೆ ಮಾಡಲು ಸಂಬಂಧಿಸಿದ ನಿಯೋಜಿತ ಅಧಿಕಾರವುಳ್ಳವರಿಗೆ ವಹಿಸದೆ ಪೋಲಿಸರಿಗೆ ವಹಿಸಲಾಗುತ್ತದೆ. ಹೀಗೆ ನ್ಯಾಯ ವಿಚಾರಣೆಯ ಪೂರ್ವದಲ್ಲಿ ಅಸಮರ್ಪಕ ರೀತಿಯಲ್ಲಿ ನಡೆಯುವ ದೂರುಗಳ ಆಂತರಿಕ ಪ್ರಕ್ರಿಯೆಯು ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗವನ್ನು ಅಣಕು ಮಾಡಿದಂತಾಗುತ್ತದೆ. ಮಾನವ ಹಕ್ಕುಗಳನ್ನು ರಕ್ಷಿಸುವವರು ಮಾನವ ಹಕ್ಕುಗಳ ಉಲ್ಲಂಘನೆಗಳಿಗೆ ಒಳಗಾದವರಿಗೆ ಬೆಂಬಲವಾಗಿರಬೇಕೆ ಹೊರತು ನ್ಯಾಯ ವಿಚಾರಣೆಯಲ್ಲಿ ಶಬ್ದಶ್ಲೇಷ ಉಂಟು ಮಾಡುವವರೊಂದಿಗೆ ಸಹ ಭಾಗಿಗಳಾಗಿರಬಾರದು.

ಪ್ರಸ್ತುತವಿರುವ ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗದ ಪ್ರಕ್ರಿಯೆಯು ಮಾನವ ಹಕ್ಕುಗಳ ಉಲ್ಲಂಘನೆಯ ಪರಿಣಾಮದ ಆಳವನ್ನು ಅರಿಯಲು, ಸೃಂದಿಸಲು ಅಸಮರ್ಥವಾಗಿದೆ ಮತ್ತು ಉಲ್ಲಂಘನೆಗೆ ಗುರಿಯಾದವರ ದೃಷ್ಟಿಯಿಂದ ನೋಡುವ ಸಾಮರ್ಥ್ಯದಲ್ಲಿ ವಿಫಲವಾಗಿದೆ. ಕೆಲವೊಮ್ಮೆ ಉಲ್ಲಂಘನೆಗೆ

ಉಲ್ಲಂಘನೆಗೆ ಗುರಿಯಾದವರನ್ನು ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗದಲ್ಲಿ ದ್ವಿತೀಯಾ ದರ್ಜೆಯ ನಾಗರೀಕರಂತೆ ನಡೆಸಿಕೊಳ್ಳುವುದಲ್ಲದೆ ಅವರಿಗೂ ಸಲ್ಲಬೇಕಾದ ಸಮಾನತೆ ಹಾಗೂ ಗೌರವ ದೊರೆಯುವುದಿಲ್ಲ.

೬. ಮಾನವ ಹಕ್ಕುಗಳಿಗಾಗಿ ಮದ್ಯಸ್ಥಿಕೆವಹಿಸಿದವರೊಂದಿಗಿನ ಸಂಬಂಧ

ಆಯೋಗವು ಅನುಭವವುಳ್ಳ ಪ್ರಮುಖ ವ್ಯಕ್ತಿಗಳನ್ನು ಒಳಗೊಂಡ ಕೆಲವು ಸಮೂಹಗಳನ್ನು ಸೃಷ್ಟಿಸಿದ್ದರೂ ಅದನ್ನು ವ್ಯವಸ್ಥಿತವಾಗಿ ನಿರ್ವಹಿಸುವ ಬಗ್ಗೆ ತಿಳಿಸಿಲ್ಲ. ಹಾಗೆಯೇ ಮಾನವ ಹಕ್ಕುಗಳನ್ನು ಜಾರಿಯಲ್ಲಿ ತರುವಲ್ಲಿ ಮದ್ಯಸ್ಥಿಕೆವಹಿಸುವವರು ಯಾವ ರೀತಿ ಸಂವಿಧಾನವನ್ನು ಕಾರ್ಯಾಚರಣೆಯಲ್ಲಿ ತರಲು ಸಹಕಾರಿಯಾಗಿರುತ್ತಾರೆ ಮತ್ತು ಆಯೋಗದ ಉದ್ದೇಶಗಳನ್ನು ನೆರವೇರಿಸಲು ಹೇಗೆ ಸಹಕಾರಿಯಾಗಿರಬೇಕು ಎಂಬುದರ ಬಗ್ಗೆ ಸ್ಪಷ್ಟವಾಗಿ ತಿಳಿಸದೆ ಇರುವುದು ಅನಿರೀಕ್ಷಿತವಾಗಿದೆ. ನಾಗರೀಕ ಸಮಾಜದೊಂದಿಗೆ ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗದ ಸಂಬಂಧ ಸೀಮಿತವಾಗಿದೆ. ಹಾಗೆಯೇ ಅಧಿಕಾರಯುತ, ಮಾನವ ಹಕ್ಕುಗಳ ಬಗ್ಗೆ ಭಾವನಾತ್ಮಕವಾದ, ಜ್ಞಾನವುಳ್ಳ ಸಹಭಾಗಿಯಾಗಿ ಮಾನವ ಹಕ್ಕುಗಳ ಸಂರಕ್ಷಣೆಯಲ್ಲಿ ತೊಡಗಿಕೊಳ್ಳುವುದರಲ್ಲಿ ಅಸಮರ್ಥವಾಗಿದೆ.

ಈ ವರದಿಯನ್ನು ತಯಾರಿಸುತ್ತಿರುವಾಗ ಪ್ರಸ್ತುತ ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗದ ಅಧ್ಯಕ್ಷರಾದ ಜಸ್ವೀಸ್ ಕೆ.ಜಿ. ಬಾಲಕೃಷ್ಣರವರ ಬಗ್ಗೆ ಅನೇಕ ವಿಚಾರಗಳು ಮಾಧ್ಯಮಗಳಲ್ಲಿ ಮೂಡಿ ಬಂದಿತು. ಜಸ್ವೀಸ್ ಬಾಲಕೃಷ್ಣರವರು ಅಧಿಕಾರವಹಿಸಿಕೊಂಡ ಮೇಲೆ ಅವರಿಗೆ ಸಂಬಂಧಿಸಿದ ಭ್ರಷ್ಟಾಚಾರಗಳ ಅನೇಕ ಪ್ರಕರಣಗಳ ಬಗ್ಗೆ ಮಾಧ್ಯಮದಲ್ಲಿ ನೀಡಲಾಯಿತು. ಇದರಿಂದ ಅವರ ರಾಜೀನಾಮೆಗಾಗಿ ಅನೇಕ ಸಂಘ ಸಂಸ್ಥೆಗಳು, ದೇಶದ ಪ್ರಮುಖ ನ್ಯಾಯವಾದಿಗಳು ಆಗ್ರಹಿಸಿದರು. ಸರ್ವೋಚ್ಚ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಅವರ ಅಪಧಿಯಲ್ಲಿ ನಡೆದ ವಿಚಾರಣೆಗಳಲ್ಲಿ ಅನುಕೂಲಕರ ತೀರ್ಮಾನಗಳನ್ನು ಪಡೆಯಲು ಬೇಕಾದ ನ್ಯಾಯದೀಶರುಗಳನ್ನು ನೇಮಿಸುವಲ್ಲಿ ಹಣವನ್ನು ಪಡೆದಿದ್ದಾರೆ ಎಂದು ಅಪಾದಿಸಲಾಯಿತು. ಅವರ ಕುಟುಂಬದವರು ಅಕ್ರಮವಾಗಿ ಬಂದ ಈ ಹಣವನ್ನು ಹೇಗೆ ಸಂಗ್ರಹಿಸಿಟ್ಟುಕೊಂಡಿತು ಎಂಬುದರ ಬಗ್ಗೆ ಹಲವಾರು ಪ್ರಶ್ನೆಗಳಾಗಿ ಉಳಿದುಬಿಟ್ಟಿತು.

೭. ಪ್ರಸ್ತುತ ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗದ ನಾಯಕತ್ವ

ನ್ಯಾಯಾದೀಶರಾದ ಬಾಲಕೃಷ್ಣರವರ ಬಗ್ಗೆ ಇರುವ ದೂರು ಮತ್ತು ವಾದವಿವಾದಗಳು ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗದ ಸದಸ್ಯರ ಆಯ್ಕೆ ಮತ್ತು ಸಮರ್ಥ ಕಾರ್ಯಾಚರಣೆ ಬಗ್ಗೆ ಅನೇಕ ಪ್ರಶ್ನೆಗಳೊಂದಿಗೆ ಸಮಸ್ಯೆಯಾಗಿದೆ. ಶೀ ಬಾಲಕೃಷ್ಣರವರ ವಿರುದ್ಧ ಮಾಡಿರುವ ಅಪಾದನೆಗಳು ಸಾಬೀತಾದರೆ ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗದ ಅಧ್ಯಕ್ಷರ ಸ್ಥಾನಕ್ಕೆ ಆಯ್ಕೆಯಾಗುವವರಿಗೆ ಇರಬೇಕಾದ ಗುಣಲಕ್ಷಣಗಳು, ಪ್ರಾಮಾಣಿಕತೆ ಮಾನವ ಹಕ್ಕುಗಳ ಬಗ್ಗೆ ಇರಬೇಕಾದ ಬದ್ಧತೆ, ಕಾಳಜಿಗಳನ್ನು ಗಮನಿಸಬೇಕಾಗುತ್ತದೆ. ಸರ್ವೋಚ್ಚ ನ್ಯಾಯಾಲಯದ ನಿವೃತ್ತ ನ್ಯಾಯಾದೀಶರನ್ನು ನೇರವಾಗಿ ರಾಷ್ಟ್ರೀಯ ಮಾನವ ಹಕ್ಕುಗಳ ಆಯೋಗದ ಅಧ್ಯಕ್ಷರ ಸ್ಥಾನಕ್ಕೆ ತಕ್ಷಣ ನೇಮಿಸುವುದು ಇನ್ನು ಮುಂದೆ ಸಾಧ್ಯವಿಲ್ಲ. ನಿವೃತ್ತ ಸರ್ವೋಚ್ಚ ನ್ಯಾಯಾದೀಶರಾಗಲಿ, IAS, IPS, IFS ಅಥವಾ IRSನ ಅಧಿಕಾರಿಗಳನ್ನಾಗಲಿ ನೇರವಾಗಿ ಅಧ್ಯಕ್ಷರನ್ನಾಗಿ ಆಯ್ಕೆ ಮಾಡದೆ ಆಯ್ಕೆ ಪ್ರಕ್ರಿಯೆಯಲ್ಲಿ ಭಾರತ ದೇಶದ ಬಗ್ಗೆ ನೈತಿಕವಾಗಿ, ಬೌದ್ಧಿಕವಾಗಿ, ಬದ್ಧತೆವುಳ್ಳವರನ್ನು ಮಾನವ ಹಕ್ಕುಗಳಿಗಾಗಿ ಸಮರ್ಪಿಸಿಕೊಂಡ ಸಮರ್ಥ ವ್ಯಕ್ತಿಯನ್ನು ಆಯ್ಕೆ ಮಾಡುವುದು ಉತ್ತಮ.

**The All India Network of NGOs and Individuals
Working with National Human Rights
Institutions (AiNNI)**

**An NGO Report on the Compliance with the Paris Principles
by the National Human Rights Commission of India**

EXECUTIVE SUMMARY - MALAYALAM

**ദേശീയ മനുഷ്യാവകാശ സ്ഥാപനങ്ങളുമായി ചേർന്ന് പ്രവർത്തിക്കുന്ന
വ്യക്തികളുടെയും സന്നദ്ധ സംഘടനകളുടെയും അഭിലേഖന കൂട്ടായ്മ
(അശചചക)**

**ദേശീയ മനുഷ്യാവകാശ കമ്മീഷൻ
കള്ള മുൻപാകെ സന്നദ്ധസംഘടനകളുടെ സമാന്തര റിപ്പോർട്ട്**

സംക്ഷിപ്തം

1. രൂപീകരണം

പാരീസ് തത്വങ്ങൾ (ജമ്യൂശെ ജ്യൂശിരശുഹലെ) 1992 ൽ ഐക്യരാഷ്ട്രസഭയുടെ മനുഷ്യാവകാശ കമ്മീഷനും (ഡചഭഞ്ഞു) 1993ൽ അതിന്റെ പൊതുസഭയും അംഗീകരിക്കുകയുണ്ടായി. ഇതു സൃഷ്ടിച്ച രാജ്യാന്തര സമ്മർദ്ദത്തിന്റെ ഫലമായി ജ്യൂലേരശേനീ ിള ഔാമി ഞശഘഭെ അരഭേ (ജഭഞ്ഞഅ) ന്റെ കീഴിൽ 1993 ഒക്ടോബർ 12-ന് ദേശീയ മനുഷ്യാവകാശ കമ്മീഷൻ നിലവിൽ വന്നു. മനുഷ്യാവകാശ സംരക്ഷകരുടെ, സഹകരണവും മറ്റ് പ്രത്യേക വിഷയങ്ങളിലുള്ള ദേശീയ കമ്മീഷനുകളുടെ ചെയർമാൻമാർ അംഗങ്ങളായിരിക്കുകയും ചെയ്യുന്ന രീതിയിലാണ് ചങ്ങഞ്ഞ വിഭാവനം ചെയ്യപ്പെട്ടത്.

സാർവ്വദേശീയ മാനദണ്ഡങ്ങൾക്കനുസൃതവും ദേശീയ സാർവ്വദേശീയതലത്തിൽ, സാർവ്വത്രികമായി വ്യാപനമുള്ളതുമായ ഒരു മനുഷ്യാവകാശ കമ്മീഷൻ രൂപീകരിക്കുക എന്നുള്ളതായിരുന്നു. ആഭ്യന്തരവും അന്തർദേശീയവുമായ സമ്മർദ്ദങ്ങളുടെ പ്രേരക ശക്തി. കമ്മീഷന്റെ പ്രവർത്തനങ്ങളുടെ ആദ്യഘട്ടങ്ങളിൽ മനുഷ്യാവകാശ സംരക്ഷണത്തിനായുള്ള ആത്മാർത്ഥമായ ശ്രമങ്ങളുണ്ടായിരുന്നു. ഇക്കാര്യത്തിൽ കമ്മീഷൻ ഒരു പരിധിവരെ വിജയിച്ചിട്ടുണ്ട്. എന്നാൽ, കമ്മീഷൻ രൂപീകരണത്തിന് ആധാരമായിട്ടുള്ള നിയമത്തിന്റെ അപാകതകൾ, കമ്മീഷൻ പ്രവർത്തനങ്ങളെ നിശ്ചലമാക്കുമെന്ന് ആദ്യകാലത്തുതന്നെ തിരിച്ചറിയപ്പെട്ടു. സിവിൽ സമൂഹവും കമ്മീഷനും അടിസ്ഥാനനിയമത്തിൽ മാറ്റങ്ങൾ വരുത്തണമെന്ന് ആദ്യകാലത്ത് ആവശ്യപ്പെട്ടിരുന്നു. മുന്നോട്ടുവെച്ച മാറ്റങ്ങൾ സർക്കാർ അവഗണിക്കുകയും കമ്മീഷൻ കാലാന്തരത്തിൽ അത് മറന്നുപോവുകയും ചെയ്തു.

മനുഷ്യാവകാശമേഖലയിൽ പ്രവർത്തിക്കുന്ന സന്നദ്ധസംഘടനകളും സ്ഥാപനങ്ങളുമായി സഹകരിച്ചു പ്രവർത്തിക്കണമെന്ന ജഭഞ്ഞ യുടെ പുരോഗമനപരമായ വകുപ്പുകൾപോലും കമ്മീഷൻ പ്രാവർത്തികമാക്കിയില്ല. തുടക്കം മുതൽതന്നെ മറ്റ് ദേശീയ കമ്മീഷനുകളുമായി ചേർന്നു പ്രവർത്തിക്കുന്നതിൽ ചങ്ങഞ്ഞ പരാജയപ്പെട്ടുവെന്നത് ദുഃഖകരമായ ഒരു വസ്തുതയാണ്.

നിയമത്തിന്റെ പരിമിതികൾകൊണ്ട് മാത്രമല്ല, കൃത്യമായ ആസൂത്രണം ഇല്ലാത്തതും പരാജയകാരണമായി. മനുഷ്യാവകാശത്തെ സംബന്ധിച്ച സാർവ്വദേശീയ സമ്മേളനത്തിൽ ഒരു ദശകം മുമ്പുതന്നെ ഇന്ത്യ പങ്കാളിയാവുകയും എന്നാൽ ഈ കോൺഫറൻസിലെ അംഗരാജ്യമെന്ന നിലയിൽ ചമശേനീമഹ ഔാമി ഞശഘഭെ ജഹമി ിള അരശേനീ (ചഭഞ്ഞഅജ) നാളിതുവരെ പുറത്തിറക്കിയിട്ടില്ല.

2. സ്വാതന്ത്ര്യം

എല്ലാ താൽപ്പര്യങ്ങളിൽനിന്നും, പ്രത്യേകിച്ച് സർക്കാരിന്റെയും മറ്റ് സ്വകാര്യ താൽപ്പര്യങ്ങളിൽനിന്നും സ്വതന്ത്രമായിരിക്കുക എന്നുള്ളത് ഏത് ദേശീയകമ്മീഷന്റെയും അനിവാര്യമായ ഘടകമാണ്. തുടക്കം മുതൽ ചങ്ങഞ്ഞയ്ക്ക് സർക്കാർ താൽപ്പര്യങ്ങളിൽ നിന്ന് സ്വതന്ത്രമാവുക എന്ന കാര്യം

ത്തിൽ വലിയ പ്രശ്നങ്ങളുണ്ടായിരുന്നു. കമ്മീഷന്റെ ആദ്യഘട്ടങ്ങളിൽ ഇതിനെ മറികടക്കാനുള്ള ശക്തവും ധീരവുമായ ചില നടപടികൾ ഉണ്ടായിരുന്നു. പക്ഷേ അടുത്ത കാലത്തുണ്ടായ കമ്മീഷനുകൾക്ക് ഈ പ്രവർത്തനങ്ങൾ മുന്നോട്ടുകൊണ്ടുപോവാൻ കഴിഞ്ഞില്ലെന്ന് മാത്രമല്ല, അതിന്റെ അടിസ്ഥാന കടമകൾപോലും നിർവ്വഹിക്കാൻ പറ്റാത്ത രീതിയിൽ അസ്വാതന്ത്ര്യം പിടിമുറക്കിയിരിക്കുന്നു.

ഇന്ത്യാഗവണ്മെന്റ് ചങ്ങത്തയുടെ സാമ്പത്തിക പ്രവർത്തനങ്ങളെ ശക്തമായി നിയന്ത്രിക്കുന്നു. പോലീസുകാർക്കും മറ്റ് നീതിനിർവ്വഹണ ഉദ്യോഗസ്ഥർക്കുമെതിരെയാണ് മനുഷ്യാവകാശ ലംഘനം സംബന്ധിച്ച ഏറ്റവുമധികം പരാതികൾ ഇന്ത്യയിൽ ഉയരുന്നത്. ഈ രണ്ട് വിഭാഗങ്ങൾക്കും മേൽനോട്ടം വഹിക്കുന്ന കേന്ദ്ര ആഭ്യന്തരവകുപ്പിന്റെ കീഴിലാണ് ചങ്ങത്ത എന്നുള്ളത് അതിനെ ദുർബ്ബലപ്പെടുത്തുകയും ഫലപ്രദമല്ലാതാക്കുകയും ചെയ്യുന്നു. ചങ്ങത്തയുടെ സ്വാതന്ത്ര്യവുമായി ബന്ധപ്പെട്ട പ്രശ്നങ്ങൾ അതിലെ അംഗങ്ങളുടെയും ഉദ്യോഗസ്ഥരുടെയും തെരഞ്ഞെടുപ്പുമായി ബന്ധപ്പെട്ട് ജട്ഞായുടെ കർക്കശ നിർദ്ദേശവുമായി ബന്ധപ്പെട്ടിരിക്കുന്നു. അംഗങ്ങളുടെ നിയമനം മനുഷ്യാവകാശവുമായി ബന്ധപ്പെട്ട അനുഭവങ്ങളുടെയും അറിവിന്റെയും കഴിവിന്റെയും അടിസ്ഥാനത്തിലല്ല, മറിച്ച്, പേരും പെരുമയുമായി ബന്ധപ്പെട്ടു നിൽക്കുന്നു. ശമ്പളം തരുന്ന സർക്കാരിനെത്തന്നെ നിരീക്ഷിക്കാൻ ഉദ്യോഗസ്ഥരെ ഉത്തരവാദിത്വപ്പെടുത്തുന്നു. അംഗങ്ങളുടെയും ഉദ്യോഗസ്ഥരുടെയും നിയമന കാര്യത്തിൽ ഉളവാകുന്ന താൽപ്പര്യങ്ങളുടെ സംഘട്ടനവും സാമ്പത്തിക കാര്യങ്ങളുടെ നിയന്ത്രണവും പല കാര്യങ്ങളിലും ചങ്ങത്തയെ സന്ധിചെയ്തിരിക്കുന്നു. കഴിഞ്ഞ 17 വർഷങ്ങളായി ഇതൊഴിവാക്കുന്നതിനും കമ്മീഷന്റെ സ്വാതന്ത്ര്യം നിലനിർത്തുന്നതിനും യാതൊന്നും ചെയ്തിട്ടില്ല.

ഗുരുതരമായ മനുഷ്യാവകാശ ലംഘനങ്ങളിൽ ചങ്ങത്തയുടെ നിശബ്ദത ഭയപ്പെടുത്തുന്നതാണ്. സ്വാതന്ത്ര്യം ഉറപ്പുവരുത്തുന്നതിനും നിലവിലെയും ഭാവിയിലെയും താൽപ്പര്യങ്ങളുടെ സംഘട്ടനം സംബന്ധിച്ച വിഷയങ്ങൾ കൈകാര്യം ചെയ്യുന്നതിനും യാതൊരുതരത്തിലുള്ള നിർദ്ദേശങ്ങളോ നയങ്ങളോ രൂപീകരിക്കുന്നില്ല എന്നുള്ളത് വസ്തുതയാണ്.

3. സങ്കലനം, നിയമനനടപടികൾ, കാലാവധി

ഇന്ത്യൻ ജീവിതത്തെ പ്രതിനിധാനം ചെയ്യുന്ന മനുഷ്യാവകാശസംരക്ഷണത്തിന്റെയും ഉന്നമനത്തിന്റെയും ദേശീയ ജേതാവിന്റെ മുഖം എന്നതല്ല, മറിച്ച് വിരമിച്ച ന്യായാധിപന്മാരുടെയും ഉന്നത ഉദ്യോഗസ്ഥരുടെയും അന്തസ്സ് നിലനിർത്താനുള്ള ഒരു സ്ഥാപനമായി ചങ്ങത്ത മാറിയിരിക്കുന്നു. മനുഷ്യാവകാശ സംരക്ഷണകാര്യത്തിൽ അംഗങ്ങളുടെ ബഹുമാന്യതയും പൊതുസമൂഹത്തിൽ അവരുടെ സ്ഥാനവും ശക്തമായ ഒരുപകരണമാണെങ്കിലും ചങ്ങത്ത അംഗങ്ങളുടെ നിയമനം ഒട്ടും സുതാര്യമായല്ല നടക്കുന്നത്.

ചങ്ങത്തയുടെ കടമകൾ നിർവ്വഹിക്കുന്നതിൽ അതിനെ സജ്ജമാക്കേണ്ട നേതൃത്വത്തിന്റെ അഭാവം, അടിസ്ഥാനനിയമംകൊണ്ടു മാത്രമല്ല അനാവശ്യവും കർക്കശവുമായ മാനദണ്ഡങ്ങൾ കമ്മീഷനിലെ മൂന്ന് അംഗങ്ങളെ തെരഞ്ഞെടുക്കുന്ന കാര്യത്തിൽ പുലർത്തുന്നതുകൊണ്ടുകൂടിയാണ്. വൈവിധ്യത്തെയും പരിഗണിക്കാതിരിക്കുകയും സിവിൽ സമൂഹത്തിൽനിന്നുള്ള പരിചയസമ്പന്നരായ പ്രവർത്തകരെ നിരന്തരം നിരാകരിക്കുന്നതും വലിയ പരിമിതിയാണ്. അതുകൊണ്ടുതന്നെ നിലവിലെ കമ്മീഷനുകൾ ആയിരക്കണക്കിന് വനിതകളുടെ പരാതികൾ കൈകാര്യം ചെയ്യാൻ ഒരു വനിതപോലുമില്ല. ശക്തമായ ഇന്ത്യയിലെ സിവിൽ സമൂഹത്തിൽനിന്ന് ഒരു പ്രാതിനിധ്യംപോലുമില്ല. ചങ്ങത്തയുടെ, അഴിമതി ആരോപണത്തിന് വിധേയനായ പുതിയ ചെയർമാൻ, സിവിലയൻസിനു നേരെ ബലം പ്രയോഗിക്കുന്നത് അംഗീകരിക്കാവുന്നതാണ് എന്ന അദ്ദേഹത്തിന്റെ പ്രസ്താവന ഈ സന്ദർഭത്തോട് ചേർത്തു വായിക്കുക.

ജദത്തു പ്രകാരം മനുഷ്യാവകാശത്തിലുള്ള അറിവും പ്രായോഗിക പരിജ്ഞാനവും അംഗങ്ങളുടെ നിയമനകാര്യത്തിൽ ഒരു മാനദണ്ഡമാണ്. പക്ഷേ, നിയമനകാര്യത്തിൽ സർക്കാർ ഇത് പിൻതുടരാറില്ല. അംഗങ്ങളുടെ നിയമനം പലപ്പോഴും അധികാരത്തോടു കാണിച്ചിട്ടുള്ള പക്ഷപാതത്തിനുള്ള പാരിതോഷികമായി മാറുന്നു. ഏറ്റുമുട്ടൽ കൊലപാതകങ്ങൾ ചിലപ്പോൾ അനിവാര്യമാണെന്നും മരണശിക്ഷ അംഗീകരിക്കുന്നുവെന്നുമുള്ള ചങ്ങതു ചെയർമാൻ ജസ്റ്റീസ് ബാലകൃഷ്ണന്റെ പരസ്യനിലപാട് കമ്മീഷന്റെ മുൻനിലപാടുകളിൽനിന്ന് വ്യത്യസ്തവും ഭരണഘടനാ വിരുദ്ധവുമാണ്. ഇത് ഈ വിഷയത്തിലെ അദ്ദേഹത്തിന്റെ അജ്ഞതയെ സൂചിപ്പിക്കുന്നു.

4. സംഘടന - അടിസ്ഥാനസൗകര്യങ്ങൾ

അടിസ്ഥാന സൗകര്യങ്ങളുടെ വികസനത്തിന്റെ കാര്യത്തിൽ കഴിഞ്ഞ് 17 വർഷങ്ങൾ ഉണ്ടായിട്ടും സ്വന്തമായി വിഭവങ്ങൾ കണ്ടെത്തുന്നതിനോ, സമൂഹത്തിൽ കാര്യക്ഷമമായി പ്രവർത്തിക്കുന്നതിനോ ചങ്ങതുക്കു കഴിഞ്ഞിട്ടില്ല. സാമ്പത്തിക കാര്യത്തിൽ മാത്രമല്ല ചരിത്രപരമായ അറിവിന്റെ കാര്യത്തിലും ബൗദ്ധികമൂലധനത്തിന്റെ കാര്യത്തിലും പിന്നോക്കമാണ്. രസകരമായ വസ്തുത ഇത് അംഗീകരിക്കാൻ കമ്മീഷൻ ഇതുവരെ തയ്യാറായിട്ടില്ലെന്നുള്ളതാണ്. സാമ്പത്തിക വിഭവത്തിന്റെ കാര്യത്തിലോ കൂടുതൽ ഉദ്യോഗസ്ഥരും കമ്മീഷനംഗങ്ങളും വേണമെന്ന കാര്യത്തിലോ ഒരു തരത്തിലുള്ള ആവശ്യവും നാളിതുവരെ കമ്മീഷൻ ഉന്നയിച്ചിട്ടില്ല. മാത്രമല്ല, പ്രതിദിനം 400 കേസുകളിൽ തീർപ്പു കൽപ്പിക്കാൻ 5 പേരടങ്ങുന്ന കമ്മീഷനു കഴിയുന്നുണ്ടെന്നാണ് കമ്മീഷൻ അവകാശപ്പെടുന്നത്.

കമ്മീഷന്റെ സഹായം ആവശ്യമുള്ള ബഹുഭൂരിപക്ഷത്തിനും കമ്മീഷൻ അപ്രാപ്യമാണ്. കമ്മീഷന്റെ ബഹുഭൂരിപക്ഷം പ്രവർത്തനങ്ങളും ഡൽഹിയിലെ ഒരൊറ്റ കെട്ടിടത്തിലാണ് നടക്കുന്നത്. ഇന്ത്യയുടെ വിവിധ ഭാഗങ്ങളിൽ ശാഖകൾ സ്ഥാപിക്കുന്നതിന് 1993 മുതൽതന്നെ കേന്ദ്രസർക്കാർ അനുമതി നൽകിയിട്ടുണ്ടെങ്കിലും കമ്മീഷൻ ഇക്കാര്യത്തിൽ തികഞ്ഞ പരാജയമാണ്. നൂറുകോടിയിൽ അധികം വരുന്ന ഇന്ത്യയിലെ ജനങ്ങൾക്ക് പ്രാപ്യമായരീതിയിൽ കമ്മീഷന്റെ പ്രവർത്തനം കാര്യക്ഷമമാകണമെങ്കിൽ ചുരുങ്ങിയത് 501ജിയണൽ കേന്ദ്രങ്ങളെങ്കിലും ആവശ്യമുണ്ട്. ഇതിന് വിഭവങ്ങളാണ് തടസ്സമെങ്കിൽ കമ്മീഷന്റെ കണ്ണും കാതുമായി പ്രവർത്തിക്കാൻ സിവിൽ സൊസൈറ്റികളുമായി സഹകരിക്കുകയോ ഡൽഹിക്കു പുറത്ത് അതിന്റെ സന്ദർശനങ്ങളുടെ എണ്ണം വർദ്ധിപ്പിക്കുകയോ ചെയ്യണം. അതുവഴി ഞങ്ങൾ പീഡിതർക്കൊപ്പമാണെന്ന സന്ദേശം നൽകാനും കമ്മീഷനു കഴിയണം.

ചുരുക്കം ചില കേസുകളിലെങ്കിലും കമ്മീഷൻ ഓഫീസിലേക്ക് എത്തിച്ചേരാൻ കഴിയുന്ന പീഡിതർക്ക് അനുകൂലമല്ല കമ്മീഷന്റെ പൊതുവിലുള്ള അന്തരീക്ഷം. ഈ വിഭാഗത്തിനുവേണ്ടിയാണ് കമ്മീഷൻ രൂപീകരിച്ചതെങ്കിലും കമ്മീഷന്റെ പരാതികളുമായി ബന്ധപ്പെട്ട നടപടിക്രമങ്ങൾ സുതാര്യമായല്ല നടക്കുന്നത്. നടപടിക്രമങ്ങളിൽ നിരീക്ഷകരായി പങ്കെടുക്കണമെന്നുള്ള പല സന്നദ്ധസംഘടനകളുടെയും ആവശ്യം ഇതുവരെ പരിഗണിക്കപ്പെട്ടിട്ടില്ല.

കമ്മീഷന്റെ പൊതുമുഖമെന്ന നിലയിൽ പൊതുജനത്തിന് കമ്മീഷൻ സംബന്ധിച്ച വിവരങ്ങൾ കൂടുതൽ പ്രാപ്യമാക്കുന്നതിനുവേണ്ടി ഒരു വെബ് സൈറ്റ്. നിർഭാഗ്യവശാൽ വെബ്സൈറ്റിലെ വിവരങ്ങൾ മാത്രമല്ല കമ്മീഷൻ പ്രതിനിധീകരിക്കുന്ന മിക്കവാറും റിപ്പോർട്ടുകളും പ്രാദേശികഭാഷകളിൽ ലഭ്യമല്ല. അതുകൊണ്ടുതന്നെ പൊതുജനങ്ങൾക്ക് പ്രത്യേകിച്ച് പ്രയോജനമില്ല. പീഡിതർക്ക് ഓൺലൈനായി പരാതികൾ സമർപ്പിക്കാനുള്ള സംവിധാനമുണ്ടെങ്കിലും പരാതികൾക്ക് എന്തു സംഭവിക്കുന്നു എന്നറിയാൻ സംവിധാനമില്ല.

പീഡിതരെ സഹായിക്കുന്നതിനുവേണ്ടി ഒരു ഹോട്ട് ലൈൻ നമ്പരുണ്ടെങ്കിലും മിക്കവാറും ഇതിന്റെ പ്രവർത്തനം ലഭ്യമല്ല. ഉണ്ടെങ്കിൽതന്നെ കൃത്യമായ മറുപടി ലഭിക്കില്ല, മാത്രമല്ല ഇത് കൈകാര്യം ചെയ്യുന്ന വ്യക്തികൾക്ക് ഹിന്ദിയിലാതെ മറ്റൊരു ഭാഷയും അറിയില്ല, ഇന്ത്യയിലെ ബഹുഭൂരിപക്ഷത്തിന് ഹിന്ദി അവരുടെ അടിസ്ഥാന ഭാഷയല്ലാത്തതുകൊണ്ട് ഈ സൗകര്യം പ്രയോജനപ്രദമല്ല.

കമ്മീഷനിലെ ഉദ്യോഗസ്ഥർ മറ്റ് സർക്കാർ തസ്തികകളിൽ നിന്ന് തുല്യമായ പേരിൽത്തന്നെ നേരിട്ട് നിയമിക്കപ്പെടുന്നവരാണ്. ഇവർക്കൊക്കെ പ്രത്യേകിച്ച് ഒരു പരിശീലനവും നൽകുന്നില്ല. മാത്രമല്ല ബഹുഭൂരിപക്ഷത്തിനും മനുഷ്യാവകാശങ്ങളെ സംബന്ധിച്ച് സാമാന്യജ്ഞാനം ഉള്ളവരല്ല. അതുകൊണ്ടുതന്നെ ഏതൊരു സർക്കാർ ജോലിപോലെതന്നെ അവർ ഇവിടെ ജോലിയെടുക്കുന്നു. നിലവിലുള്ള കമ്മീഷനിലെ ഉദ്യോഗസ്ഥരെ പരിശോധിച്ചാൽ സ്ത്രീകൾ, മതസ്ഥാനപക്ഷങ്ങൾ, അംഗ വൈകല്യമുള്ളവർ എന്നിവർക്ക് മതിയായ പ്രാതിനിധ്യമില്ലെന്ന് മനസ്സിലാക്കാം.

ചങ്ങത്ത നിയമിക്കുന്ന പ്രത്യേക വിഷയങ്ങളിലും അല്ലെങ്കിൽ മേഖലകളിലേക്കുമുള്ള ടുലർശമഹ ഫ്യൂഡിലേയ്ക്കു നെ തിരഞ്ഞെടുക്കുന്ന കാര്യത്തിലോ മേൽ വിവരിച്ച ഉദ്യോഗസ്ഥ അംഗങ്ങളുടെതുപോലുള്ള മാനദണ്ഡങ്ങളാണ് പിൻതുടരുന്നത്. സർക്കാർ ജോലിയിൽ നിന്ന് വിരമിച്ചവർക്കു മാത്രമേ ടുലർശമഹ ഫ്യൂഡിലേയ്ക്കു ആകാൻ കഴിയൂ എന്ന അലിഖിത നിയമം തന്നെയാണ്. സിവിൽ സൊസൈറ്റിയിൽ നിന്നും അക്കാദമിക് മേഖലയിൽ നിന്നുമുള്ളവർ വളരെയധികം സ്വതന്ത്രരായിരിക്കും എന്നതായിരിക്കും കാരണം!

5. അർദ്ധ-നീതിനിർവ്വഹണ സംവിധാനം

കമ്മീഷനിലെ 5 അംഗങ്ങളാണ് ഇന്ത്യയിലെ വിവിധ ഭാഗങ്ങളിൽ നിന്നു വരുന്ന കേസുകൾ പരിശോധിക്കുന്നത്. പ്രവർത്തനം ആരംഭിച്ച വർഷം 487 പരാതികളാണ് കമ്മീഷനു ലഭിച്ചതെങ്കിലും ഇന്ന് പ്രതിദിനം ശരാശരി 400 ലധികം പരാതികൾ കമ്മീഷന് ലഭിക്കുന്നുണ്ട്. കമ്മീഷനംഗങ്ങളായ 5 പേർ തന്നെയാണ് ഈ കേസുകളും കൈകാര്യം ചെയ്യുന്നത്. തീർച്ചയായും ഗുണനിലവാരത്തെ ബാധിക്കുമെന്നതിന് സംശയമില്ല.

ഈ കേസുകളത്രയും കൈകാര്യം ചെയ്യുന്നതിൽ ഒരു പ്രശ്നവുമില്ലെന്നും പ്രതിദിനം 6080 കേസുകൾ പരിശോധിക്കുന്നതിന് കഴിയുന്നുണ്ടെന്നുമാണ് കമ്മീഷൻ അവകാശപ്പെടുന്നത്. ഇത് ശരിയാണെങ്കിൽ കമ്മീഷനംഗങ്ങളുടെ പരിമിതമായ എണ്ണവും കേസുകളുടെ ബാഹുല്യവും കണക്കിലെടുത്താൽ കമ്മീഷനംഗങ്ങൾ പ്രതിദിനം 16 മണിക്കൂർ ജോലി ചെയ്തിട്ടാണ് 60 കേസുകൾക്ക് തീർപ്പു കൽപ്പിക്കുന്നത്. മാത്രവുമല്ല, ഒരു കേസ് പരിശോധിച്ച് മനുഷ്യാവകാശലംഘനം നടന്നിട്ടുണ്ടെന്ന് എന്ന് വിലയിരുത്തി ശുപാർശ നടത്തുന്നതിന് കേവലം 30 മിനിറ്റിൽ താഴെയാണ് ലഭിക്കുന്നത്!

കമ്മീഷന്റെ മറ്റ് കടമകളും പ്രവർത്തനങ്ങളും കണക്കിൽ എടുക്കുമ്പോൾ ഒരു കേസിന് 30 മിനിറ്റുപോലും നൽകാൻ കഴിയില്ലായെന്നതാണ് വസ്തുത. ചങ്ങത്ത വളരെ അശ്രദ്ധമായിട്ടാണ് കേസുകൾ അവസാനിപ്പിക്കുന്നതെന്നതിന് വ്യക്തമായ തെളിവുകളുണ്ട്. ഭൂരിപക്ഷം കേസുകളും അശ്രദ്ധമായി അവസാനിപ്പിക്കുകയും അവസാനിപ്പിച്ചുകൊണ്ടുള്ള ഉത്തരവുകൾ ഒറ്റവരിയിൽ തീർക്കുകയും ചെയ്യുന്നു.

പരാതികൾ കൈകാര്യം ചെയ്യുന്നതിലെ കുറഞ്ഞ ഗുണനിലവാരം മാത്രമല്ല, വലുതും ദേശീയ പ്രാധാന്യമുള്ളതുമായ കേസുകളിൽ ദുഃഖവും ധീരവുമായ നിലപാടുകൾ എടുക്കുന്ന കാര്യത്തിലും, ശക്തമായ നിയമശാസ്ത്രം വികസിപ്പിക്കുന്ന കാര്യത്തിലും കമ്മീഷൻ പിന്നോട്ടാണ്. രാജ്യത്തു നില നിൽക്കുന്ന നിയമസംവിധാനങ്ങളും, മനുഷ്യാവകാശത്തെ സംബന്ധിച്ച ദേശീയവും അന്തർദ്ദേശീയവുമായ മാനദണ്ഡങ്ങൾ മുന്നോട്ടു വയ്ക്കുകയും അതുവഴി പീഡിതർക്ക് ആശ്വാസം പകരുകയും,

എല്ലാ ഇന്ത്യാക്കാർക്കും മനുഷ്യാവകാശം ഉറപ്പുവരുത്തുന്ന രീതിയിലുള്ള നിയസംഹിതകൾ ആവിഷ്കരിക്കുകയും ചെയ്യുന്നതിനുപകരം കമ്മീഷൻ നിശബ്ദമായിരിക്കുന്നു.

മനുഷ്യാവകാശ ലംഘനങ്ങൾ തെളിയിക്കപ്പെട്ടാൽ അതിന്മേൽ ശുപാർശകൾ നടപ്പിലാക്കാനുള്ള കമ്മീഷന്റെ അവകാശത്തെ വളരെ കുറച്ചു കേസുകളിൽ മാത്രമേ കമ്മീഷൻ പ്രയോജനപ്പെടുത്തുന്നുള്ളൂ. ബഹുഭൂരിപക്ഷം കേസുകളിലും അവകാശ ലംഘനങ്ങൾ നിരാകരിച്ചുകൊണ്ടുള്ള ഭരണകൂടത്തിന്റെ പ്രതികരണത്തിന്റെയും പോലീസ് റിപ്പോർട്ടിന്റെയും അടിസ്ഥാനത്തിൽ കേസുകൾ അവസാനിപ്പിക്കുന്നു. കുറ്റാരോപിതരായിട്ടുള്ള പോലീസ് അധികാരികൾക്കുതന്നെ പരാതികൾ അന്വേഷിക്കാൻ ചുമതല നൽകുന്ന, കമ്മീഷന്റെ ഇന്നും നിലനിൽക്കുന്ന നടപടിക്രമം, മനുഷ്യാവകാശത്തിന്റെ അടിസ്ഥാന ആശയങ്ങൾക്കും കമ്മീഷന്റെ കടമകൾക്കും വിരുദ്ധമാണ്. അരികുവൽക്കരിക്കപ്പെട്ട സമുദായങ്ങളിൽ നിന്നുള്ള പീഡിതർക്ക് ഒരു രണ്ടാംനിര പൗരന്മാരെപ്പോലുള്ള പരിഗണനയാണ് കമ്മീഷനിൽ നിന്നും പലപ്പോഴും ലഭ്യമാകുന്നത്.

6. മനുഷ്യാവകാശരംഗത്തെ പങ്കാളികളുമായുള്ള ബന്ധം

കമ്മീഷൻ പ്രഗൽഭരായ വ്യക്തികൾ ചേർന്നുള്ള ഒരു കോർഗ്രൂപ്പ് രൂപീകരിച്ചിട്ടുണ്ട്. പക്ഷേ, ഔദ്യോഗികമായി കോർ ഗ്രൂപ്പ് പ്രവർത്തിക്കുന്നതിനെ പ്രോത്സാഹിപ്പിക്കുന്നില്ല. മാത്രവുമല്ല, കോർഗ്രൂപ്പിലെ അംഗങ്ങളുടെ വൈദഗ്ദ്ധ്യം കമ്മീഷന്റെ കടമകളെ പ്രാവർത്തികമാക്കുന്ന രീതിയിൽ ക്രിയാത്മകമായി പ്രയോജനപ്പെടുത്തുന്നില്ല.

സിവിൽ സമൂഹവുമായി വളരെ പരിമിതമായ തോതിൽ മാത്രമേ കമ്മീഷൻ സഹകരിക്കുന്നുള്ളൂ. അതുകൊണ്ടുതന്നെ ശക്തവും പ്രവർത്തനനിരതവും അറിവുള്ളതുമായ ഒരു പങ്കാളിയെ മനുഷ്യാവകാശ സംരക്ഷണരംഗത്തു പ്രയോജനപ്പെടുത്താൻ കമ്മീഷനു കഴിയുന്നില്ല.

ഈ റിപ്പോർട്ടിന്റെ കരട് തയ്യാറാക്കുന്ന വേളയിലാണ് കമ്മീഷന്റെ ഇപ്പോഴത്തെ ചെയർമാനായ ജസ്റ്റിസ് ബാലകൃഷ്ണനെതിരായ നിരവധി ആരോപണങ്ങൾ പുറത്തുവരുന്നത്. ജസ്റ്റിസ് ബാലകൃഷ്ണൻ ചുമതലയേറ്റതു മുതൽ തന്നെ അദ്ദേഹത്തെ ബന്ധപ്പെടുത്തി അഴിമതിയുടെ നിരവധി വെളിപ്പെടുത്തലുകളുണ്ടായി. ഇത് സന്നദ്ധ സംഘടനകളിൽ നിന്നുമാത്രമല്ല, രാജ്യത്തെ പ്രമുഖരായ പല നിയമജ്ഞരും അദ്ദേഹത്തിന്റെ രാജി ആവശ്യപ്പെടുന്ന നിലയിലേക്കെത്തിച്ചു. പണം വാങ്ങി ജഡ്ജിമാരെ നിയമിക്കുന്ന കാര്യത്തിൽ അദ്ദേഹത്തിനെതിരെ ആരോപണങ്ങൾ ഉണ്ട്. അദ്ദേഹത്തിന്റെ കുടുംബം അസാധാരണമാംവിധം ധനം സമ്പാദിക്കുന്നതിനെക്കുറിച്ചും നിരവധി ചോദ്യങ്ങൾ ഉന്നയിക്കപ്പെടുന്നുണ്ട്.

കമ്മീഷന്റെ ഇപ്പോഴത്തെ നേതൃത്വം

ജസ്റ്റിസ് കെ.ജി. ബാലകൃഷ്ണനെ ചുറ്റിപ്പറ്റിയുള്ള ഇപ്പോഴത്തെ വിവാദം കമ്മീഷന്റെ അംഗങ്ങളെ തിരഞ്ഞെടുക്കുന്നതിലെ നിയമന നടപടിക്രമങ്ങളിലുള്ള കാര്യക്ഷമതയെക്കുറിച്ച് ചോദ്യങ്ങൾ ഉന്നയിക്കാൻ സിവിൽ സമൂഹത്തെ നിർബന്ധിതരാക്കുന്നു. ജസ്റ്റിസ് ബാലകൃഷ്ണനെതിരെയുള്ള ആരോപണങ്ങൾ സത്യമാണെന്നു തെളിഞ്ഞാൽ സത്യസന്ധതയും മനുഷ്യാവകാശത്തോടുള്ള പ്രതിബദ്ധതയും കമ്മീഷൻ ചെയർപേഴ്സനെ തെരഞ്ഞെടുക്കുന്നതിലെ നിർണ്ണായക പരിഗണന ആണെന്നു വരും. ഒരു റിട്ടയേർഡ് ചീഫ് ജസ്റ്റീസ് സ്വാഭാവികമായും ചങ്ങത്ത ചെയർ പേഴ്സൺ ആകുമെന്നുള്ളത് വരും കാലങ്ങളിൽ സാധ്യമായ ഒന്നല്ല. അംഗങ്ങളെ തെരഞ്ഞെടുക്കുന്നതിനുള്ള നടപടിക്രമം സമ്പൂർണ്ണമായി സുതാര്യമായിരിക്കുകയും വിരമിച്ച സുപ്രീംകോടതി ചീഫ് ജസ്റ്റീസും ജഡ്ജിമാരും മുൻ ബ്യൂറോക്രാറ്റുകളായ കജട, കഅട, കഎഅ, കങ്ങട വ്യക്തിത്വങ്ങളും എന്ന പരിമിതികൾക്കപ്പുറത്ത് ഇന്ത്യയിലെ അതിസമ്പന്നമായ ധാർമ്മികതയും ഭൗതികനിലവാരവും അർപ്പണബോധവുമുള്ള നേതാക്കളിലേക്ക് വളരണം.

കമ്മീഷന്റെ ഇപ്പോഴത്തെ നേതൃത്വം

ജസ്റ്റിസ് കെ.ജി. ബാലകൃഷ്ണനെ ചുറ്റിപ്പറ്റിയുള്ള ഇപ്പോഴത്തെ വിവാദം കമ്മീഷന്റെ അംഗങ്ങളെ തിരഞ്ഞെടുക്കുന്നതിലെ നിയമന നടപടിക്രമങ്ങളിലുള്ള കാര്യക്ഷമതയെക്കുറിച്ച് ചോദ്യങ്ങൾ ഉന്നയിക്കാൻ സിവിൽ സമൂഹത്തെ നിർബന്ധിതരാക്കുന്നു. ജസ്റ്റിസ് ബാലകൃഷ്ണനെതിരെയുള്ള ആരോപണങ്ങൾ സത്യമാണെന്നു തെളിഞ്ഞാൽ സത്യസന്ധതയും മനുഷ്യാവകാശത്തോടുള്ള പ്രതിബദ്ധതയും കമ്മീഷൻ ചെയർപേഴ്സനെ തെരഞ്ഞെടുക്കുന്നതിലെ നിർണ്ണായക പരിഗണന ആണെന്നു വരും. ഒരു റിട്ടയേർഡ് ചീഫ് ജസ്റ്റീസ് സ്വാഭാവികമായും ചങ്ങതു ചെയർ പേഴ്സൺ ആകുമെന്നുള്ളത് വരും കാലങ്ങളിൽ സാധ്യമായ ഒന്നല്ല. അംഗങ്ങളെ തെരഞ്ഞെടുക്കുന്നതിനുള്ള നടപടിക്രമം സമ്പൂർണ്ണമായി സുതാര്യമായിരിക്കുകയും വിരമിച്ച സുപ്രീംകോടതി ചീഫ് ജസ്റ്റീസും ജഡ്ജിമാരും മുൻ ബ്യൂറോക്രാറ്റുകളായ കജട, കഅട,കഎഅ,കഞട വ്യക്തിത്വങ്ങളും എന്ന പരിമിതി കൾക്കപ്പുറത്ത് ഇന്ത്യയിലെ അതിസമ്പന്നമായ ധാർമ്മികതയും ഭൗതികനിലവാരവും അർപ്പണബോധവുമുള്ള നേതാക്കളിലേക്ക് വളരണം.

**The All India Network of NGOs and Individuals
Working with National Human Rights
Institutions (AiNNI)**

**An NGO Report on the Compliance with the Paris Principles
by the National Human Rights Commission of India**

EXECUTIVE SUMMARY - TAMIL

தேசிய மனித உரிமை நிறுவனங்களோடு இணைந்து பணியாற்றும் அரசு சாரா அமைப்புகள் மற்றும் தனிநபர்களின் அகில இந்தியக் கூட்டமைப்பு

தேசிய மனித உரிமை ஆணையம்
தேசிய மனித உரிமை நிறுவனங்கள் தொடர்பான சர்வதேச
ஒருங்கிணைப்புக் குழுவிற்கு அரசு சாரா அமைப்புகள் வழங்கிய
மாற்று அறிக்கை

1. தோற்றம்:-

இந்தியாவில் தேசிய மனித உரிமைகள் ஆணையம் (NHRC/Commission) மனித உரிமைகள் பாதுகாப்பு சட்டத்தின் கீழ், 12 அக்டோபர் 1993 அன்று உருவாக்கப்பட்டது. “பாரீஸ் பிரகடனம்” மூலமாக உலகளவில் எழுந்த நெருக்குதல்களும், ஐ.நா பொதுமன்றம் 1993இல் ஏற்றுக்கொண்ட செயல்திட்டத்தின் அடிப்படையிலும் இந்தியாவின் மனித உரிமைகள் ஆணையம் உதயமானது. நாடு முழுவதும் உள்ள மனித உரிமைக் காப்பாளர்களுக்கு தோழமை உணர்வை உருவாக்கி தருவது இதன் முதல் இலக்காக இருந்தது.

இந்தியாவில் தேசிய மனித உரிமைகள் ஆணையம் அமைப்பதற்கு உள் நாட்டிலும் உலகளவிலும் தொடர்ந்து வற்புறுத்தப்பட்டுள்ளது. மனித உரிமைகளை பாதுகாக்கவும் வளர்க்கவும் ஆணையம் முதலில் சரியான முயற்சிகள் எடுத்துள்ளது. அதனுடைய கோட்பாடுகளை வெற்றிகரமாக நிறைவேற்றுவதில் ஆணையம் வெற்றி பெற்றுள்ளது. மிக விரைவில், ஆணையத்தின் முக்கியமான அடிப்படை சட்டங்கள், ஆணையத்தின் அடிப்படையான செயல்பாடுகளை மிக மோசமாக பாதிக்கக்கூடிய முறையில் உள்ளன என்பது தெரிய வந்தது. மனித உரிமைகள் பாதுகாப்பு சட்டத்தை (PHRA) திருத்த வேண்டும் என்று ஆணையமும் குடிமை சமூகமும் பல வேண்டுகோள்களை வைத்தன. ஆனால் அந்த வேண்டுகோள்கள் இந்திய அரசால் நிராகரிக்கப்பட்டன. ஆணையத்தினால் அவை மறக்கப்பட்டன.

மனித உரிமைகள் பாதுகாப்பு சட்டம் (PHRA) பிரிவு 12(i) போன்ற முற்போக்கான பிரிவுகள் கூட தேசிய மனித உரிமை ஆணையத்தினால் பின்பற்றப்படவில்லை என்பது வருத்தம் அளிக்கக்கூடியது. இப்பிரிவு மனித உரிமைத்தளத்தில் செயல்படும் அரசு சாரா அமைப்புகள் மற்றும் தனிநபர்களோடு இணைந்து பணியாற்ற வேண்டும் என்று ஆணையத்தைப் பணிக்கிறது.

தேசிய மனித உரிமைகள் ஆணையம் செயல்படாமல் இருந்ததோடு, நன்கு செயல்பட திட்டமிட மறுத்துவிட்டது. பத்தாண்டுகளுக்கு முன்பே, வியன்னாவில் நடைபெற்ற மனித உரிமைகளுக்கான உலக மகாநாட்டில் இந்தியா பங்கு பெற்றது; ஆனால் அங்கு நிறைவேற்றப்பட்ட தேசிய மனித உரிமைகள் செயல்திட்டத்தை (NHRAP) இந்தியா இன்று வரை வெளியிடவில்லை.

2. சுதந்திரம்:-

அரசின் தலையீடும், தனிப்பட்ட விருப்பு வெறுப்புகளுக்கும் இடம் தாராதபடி தன்னிச்சையாக ஆணையம் செயல்பட வேண்டும். ஆரம்பத்தில் இருந்தே தேசிய மனித உரிமைகள் ஆணையம் (NHRC), அரசின்

தலையீடு இல்லாமல் சுதந்திரமாக செயல்படுவதில் சிக்கல்கள் இருந்துள்ளன. ஆரம்ப காலங்களில், தேசிய மனித உரிமைகள் ஆணையம் தைரியமாகவும் உறுதியாகவும் முடிவுகள் எடுத்துள்ளது. ஆனால் தற்பொழுது உள்ள ஆணையங்கள் அதனுடைய அடிப்படை கோட்பாடுகளை நிறைவேற்ற முடியாமல் செயலற்று உள்ளன; மனித உரிமைகள் தொடர்பான ஆக்கப்பூர்வமான முன் முயற்சிகள் கூட எடுக்கப்படவில்லை.

தேசிய மனித உரிமைகள் ஆணையத்தின் நிதி நிலைமை இந்திய அரசின் முழு கட்டிடப்பாட்டின் கீழ் தான் உள்ளது. தற்பொழுது தேசிய மனித உரிமைகள் ஆணையம் தனது ஆண்டறிக்கையை மத்திய உள்துறை அமைச்சகத்துக்கு அனுப்புகிறது. இந்த அமைச்சகம் தான் குடியமர்வு, மதநல்லிணக்கம், எல்லைப்பாதுகாப்பு, உள்நாட்டு பாதுகாப்பு, சட்டம் ஒழுங்கு போன்ற துறைகளை கண்காணிக்கிறது. உரிமை மீறலைக் கண்காணிக்கும் ஆணையத்தை ஒருவகையில் நிர்வாகம் செய்வதே உரிமை மீறலுக்கு துணை போகும் அமைச்சகம் தான். இதிலிருந்து ஆணையத்தின் தன்னிச்சையான செயல்பாடு பாதிக்கப்படுகிறது என்பதை புரிந்து கொள்வது எளிது.

தேசிய மனித உரிமைகள் ஆணையத்தின் சுதந்திரம் இல்லாத நிலை, அதன் தொடரமைப்பினையும் ஊழியர்களையும் பார்க்கும் போதே எளிதில் விளங்கும். தேசிய மனித உரிமை ஆணையத்தின் உறுப்பினராக இருப்பதற்கு மனித உரிமைகள் பாதுகாப்பு சட்டம் கடுமையான விதிகளை கையாள்கிறது; மனித உரிமைகள் சம்பந்தப்பட்ட விசயங்களில் திறமையும், விருப்பமும், அனுபவமும் இருக்க வேண்டும் என்று வலியுறுத்தப்படுகிறது. தங்களுக்கு சம்பளம் வழங்கும் அரசாங்கத்தையே கண்காணிக்க வேண்டிய வேலை தேசிய மனித உரிமை ஆணையத்தின் ஊழியர்களுக்கு அளிக்கப்பட்டுள்ளது. ஆணையத்தின் உறுப்பினர்களை அரசு நியமனம் செய்வதில் எழும் சிக்கல்களால் அதன் சுதந்திரமானது சமரசம் செய்யப்பட்டாலும், நிதி நிலைமையை கட்டுப்படுத்தினாலும் ஊழியர்களை நியமனம் செய்தாலும், கடந்த 17 ஆண்டுகாலமாக தொடக்கத்தில் இருந்தே அதனுடைய சுதந்திரத்தை காப்பாற்றவும் அவ்வப்போது எழும் பிரச்சனைகளை குறைக்கவும் எந்த முயற்சியும் எடுக்கப்படவில்லை.

சுதந்திரமாக தேசிய மனித உரிமைகள் ஆணையம் இல்லாத காரணத்தினால், நாட்டில் நடக்கும் மனித உரிமைகள் மீறலை கண்காணித்து நடவடிக்கை எடுக்கும் தைரியமான அமைப்பு இல்லாமல் போய்விட்டது. 2002-ஆம் ஆண்டு குஜராத் மாநிலத்தில் மத கலவரங்கள் அதிகாரத்தில் இருந்தவர்களின் முழு ஒத்துழைப்போடு நடந்தேறியது. இதன் காரணமாக தேசிய மனித உரிமை ஆணையத்தின் சரித்திரத்தில் ஒரு முக்கிய நிகழ்வு நடைபெற்றது. மதக்கலவரங்களைப் பற்றி விசாரணை மேற்கொண்டு அறிக்கை தர தன்னிச்சையாக முடிவு எடுத்து உச்ச நீதிமன்றத்தில் மனுதாக்கல் செய்தது. அரசாங்கத்திலிருந்த தொடர்ந்து வந்த அரசியல் வற்புறுத்தலால் ஆணையம் அமைதியாக இருந்ததை சுட்டிக்காட்டியே ஆகவேண்டும். நீதிமன்றத்தில் மனித உரிமை அமைப்புகள் கலவரத்தால் பாதிக்கப்பட்டோர்க்காக தொடர்ந்து அரசாங்கத்துடன் போராடியே வருகின்றன. அதிகப்படியான பிரச்சினைகளில் தேசிய மனித உரிமைகள் ஆணையம் அமைதியாக இருப்பது அதிர்ச்சி தருவதாக உள்ளது. மனித உரிமைகள் சம்பந்தப்பட்ட விசயங்களில் தன்னுடைய முடிவின் அடிப்படையில், சுதந்திரமாக உத்தரவுகள் அளிக்கும் தனி நிறுவனமாக செயல்பட்டாலும், எழுத்து பூர்வமான வழிகாட்டு நெறிகளையும், கொள்கைகளையும், மரபுகளையும் ஏற்படுத்த தவறிவிட்டது. மேலும் நடைமுறையில் உள்ள சிக்கல்களுக்கும் பிற்காலத்தில் வரக்கூடிய பிரச்சினைகளுக்கும் என்ன தீர்வு என்பதை பற்றி ஆணையம் எந்த தகவலும் தரவில்லை.

3. ஆணையத்தில் அமைப்பு நியமனமுறை, கால அளவு:-

தேசிய மனித உரிமைகள் ஆணையத்தின் கட்டமைப்பானது இந்தியாவைப் பற்றியும் அதன் வாழ்வியல் நெறி பற்றியும் பிரதிபலிக்கவே இல்லை. இது மனித உரிமைகளை பாதுகாக்கவும், வளர்க்கவும் பணிக்கப்பட்ட தேசிய ஆணையங்களைப் பற்றி தவறான கருத்தை வெளிப்படுத்துகிறது. மேலும் பணி ஓய்வு பெற்ற நீதிபதிகளையும் அரசு அதிகாரிகளையும் உள்ளடக்கிய பெருமைமிகு அருங்காட்சியகமாக ஆணையம் விளங்குகிறது. மேலும் ஆணைய உறுப்பினர்களின் நியமனமும் தெளிவாக இல்லை. அதிக திறமையுள்ள நல்ல உறுப்பினர்கள் வெளிப்படையாகத் தேர்வு செய்யப்படுவதில்லை. மனித உரிமைகள் சம்பந்தப்பட்ட விசயங்களில் முன்னின்று நடத்தி செல்லத் தகுந்த கூடுதல் தகுதிகள் உள்ள உறுப்பினர்கள் தேர்வு செய்யப்படுவதில்லை.

ஆணையத்தை வழிநடத்திச் செல்லக்கூடிய தகுதிவாய்ந்த தலைவர்கள், ஆணையத்தின் வலுவான கட்டளையை நிறைவேற்ற முடியாமல் உள்ளனர். ஆணையத்தின் மூன்று உறுப்பினர்களுக்காக மிகக் கடுமையான தேவையற்ற வரையறைகள் ஆணையத்தின் அடிப்படை சட்டத்தில் கொடுக்கப்பட்டுள்ளன. மனித உரிமைச் சம்பந்தப்பட்ட விசயங்களில் ஈடுபாடுடைய குடிமை சமூகத்தைச் சேர்ந்த தலைவர்களும் அனுபவம் வாய்ந்த ஆர்வலர்களும் ஆணையத்தின் உறுப்பினர்களாகத் தேர்வு செய்யப்படாமல் இருக்கிறார்கள். மேலும் பல்வேறுபட்ட துறைகளைச் சார்ந்தவர்களும் தகுதியுள்ளவர்களும் தேர்வு செய்யப்படுவதில்லை. அதன் காரணமாக ஆணையத்தின் உறுப்பினராக பெண் ஒருவரும் தேர்வு செய்யப்படாமல் இருப்பதால், பெண்கள் சம்பந்தப்பட்ட ஆயிரக்கணக்கான புகார்கள் பரிசீலனை செய்யப்படாத நிலை ஏற்பட்டுள்ளது; குடிமை சமூகத்திலிருந்து வலுவான உறுப்பினர் யாரும் தேர்வு செய்யப்படவில்லை; புதிதாகத் தேர்வு செய்யப்பட்ட ஆணையத்தின் தலைவர் மீது ஊழல் குற்றச்சாட்டு சுமத்தப்பட்டுள்ளது; சாதாரண மக்கள் மீது சட்டத்திற்கு புறம்பாக காவல்துறையினர் பலத்தை பயன்படுத்துவது ஏற்றுக் கொள்ளக் கூடியதுதான் என்று புதிய தலைவர் பேசியுள்ளார்.

தேசிய மனித உரிமைகள் ஆணையத்தின் உறுப்பினர்களை அரசு நியமிக்கும் போது, போதிய அறிவும் அனுபவமும் இருக்க வேண்டும் என்ற மனித உரிமைகள் பாதுகாப்பு சட்டம் கூறியிருப்பதை கருத்தில் எடுத்துக் கொள்வதில்லை. ஆட்சியில் உள்ளவர்களின் விருப்பத்திற்கு ஏற்றவாறு உறுப்பினர்கள் எப்போதும் நியமிக்கப்படுகிறார்கள். ஆணையத்தின் பெரும்பாலான உறுப்பினர்கள் நீதித்துறையிலிருந்து தான் வரவேண்டும் என்ற சட்டம் நடைமுறையில் உள்ளது. தற்பொழுது ஆணையத்தின் தலைவராக உள்ள நீதிபதி பாலகிருஷ்ணன், “போலீஸ் என்சைக்கிள்கள் சில சமயங்களில் தவிர்க்க முடியாதவை” என்று கூறியுள்ளார். மேலும் “சட்ட ஒழுங்கு பிரச்சினைகள் நாளுக்கு நாள் அதிகரித்துக் கொண்டே வருகின்றன; குற்றவாளிகள் சட்டத்தை தங்கள் கையில் எடுத்துக் கொள்கின்றனர்; காவலர்களை தாக்குகின்றனர்; காவல்துறையினர் நிலைமையைக் கட்டுக்குள் கொண்டுவர வேண்டியிருக்கிறது” என்று அவர் கூறியிருக்கிறார். மேலும் மற்றொரு நிகழ்ச்சியில், மரண தண்டனை வழங்குவதை ஆதரித்து பேசியுள்ளார். நீதிபதி பாலகிருஷ்ணனின் மேற்கூறப்பட்ட அறிவிப்புகள், தேசிய மனித உரிமை ஆணையத்தின் தரத்தினைப் பற்றிய போதிய அறிவு அவர்க்கு இல்லை என்பதை சுட்டிக் காட்டுகிறது. மேலும் இந்திய அரசியல் சட்டத்தை மதிக்காத நிலையையும் இது எடுத்துக் காட்டுகிறது.

4. நிறுவனத்தின் கட்டமைப்பு:-

கடந்த 17 ஆண்டுகாலமாக தேசிய மனித உரிமைகள் ஆணையம் தனது கட்டமைப்பை உருவாக்கி வந்தாலும், அதனுடைய ஆதாரங்களை வளர்த்துக் கொள்ளவில்லை; மேலும் சமூகத்தில் நன்கு செயலாற்ற தவறிவிட்டது; நிதி ஆதாரங்கள் குறைவாக இருப்பதோடு பல நேரங்களில் புத்திக்கூர்மையோடும் செயலூக்கத்தோடும் செயல்பட தவறுகிறது. ஆனால் **NHRC** நிதி ஆதாரம் குறைவாக இருப்பதை ஏற்றுக் கொள்ள மறுக்கிறது; மேலும் அதிகப்படியான ஊழியர்கள், உறுப்பினர்கள் வேண்டும் என்று கேட்கவில்லை. மேலும் 400 வழக்கு சம்பந்தப்பட்ட விசயங்களில் ஒரே நாளில் ஆணைகள் பிறப்பிக்க ஐந்து உறுப்பினர்கள் போதும் என்று சமீபத்தில் **NHRC** கூறியிருப்பது வேதனைக்குரியது.

அனைத்து மக்களுக்கும் சேவை செய்ய **NHRC**-யால் இயலாமல் உள்ளது. டெல்லியில் உள்ள ஒரு கட்டிடத்தில் இருந்துக் கொண்டு ஆணையத்தின் பெரும்பாலான காரியங்கள் நடைபெறுகின்றன. ஆனால் இந்தியாவின் பெரும்பகுதியில் வசிப்போர் ஆணையத்தினை அணுகமுடியாமல் உள்ளனர். 1993-ஆம் ஆண்டு முதல் இந்தியாவின் பிற பகுதிகளில் அலுவலகங்கள் ஏற்படுத்த மத்திய அரசாங்கத்திடம் **NHRC** முன் அனுமதிபெற்றுள்ளது; ஆனால் ஆணையம் புது அலுவலகங்கள் தொடங்கவில்லை. 100 கோடி இந்திய மக்களுக்கு சேவை செய்ய, நான்கு அல்லது ஐந்து மண்டல அலுவலகங்களை ஆணையம் தொடங்க **NHRC**-யின் துணை நிலையங்களை நிறுவுவதற்கு நிதி நிலையில்லையென்றால், குடிமை சமூக அமைப்புகளுடன் இணைந்து பணியாற்றி அவர்களை தமது கண்களாகவும் காதுகளாகவும் செயல்படச் செய்யவேண்டும்; டெல்லியிலிருந்து வெளியே சென்று, பாதிக்கப்பட்டோருக்கு உதவ வேண்டும்; குற்றவாளிகள் தப்பிக்கக்கூடாது.

சில வழக்குகளில் பாதிக்கப்பட்டோர் டெல்லி செல்லவேண்டிய நிலையில், **NHRC** அவர்களுக்கு எதிராக செயல்பட்டு யாருக்காக சேவை செய்யவேண்டுமோ அவர்களையே விரக்டிக்கு ஆளாக்குகிறது. வழக்கு விசாரணைகள் மூடிய அறைக்குள் நடத்தப்படுகின்றன; புகார் கொடுத்தவர்கள், விசாரணையில் கலந்து கொள்ளவோ பார்வையிடவோ அழைக்கப்படுவதில்லை. பல மூத்த சமூக ஆர்வலர்களும் அரசு சாரா நிறுவனங்களைச் சார்ந்தோரும் விசாரணையில் கலந்த கொள்ள வந்தால், அவர்களுடைய முயற்சி பலன் அளிப்பதில்லை.

NHRC ஒரு வலைத்தளத்தை ஏற்படுத்தியுள்ளது. அதன் மூலம் பலரும் அதை அணுக முடியும். ஆனால் அந்த வலைத்தளம் ஆங்கில மொழியில் மட்டும் இருப்பதால், பாதிக்கப்பட்டோரும் பொது மக்களும் சில தடைகளை சந்திக்க வேண்டியுள்ளது. அந்த வலைத்தளமும் அதனுடைய அறிக்கைகளும் வட்டார மொழிகளில் இல்லாததால் பொதுமக்கள் அதிகமாக அதனை பயன்படுத்த முடியாமல் உள்ளனர். பாதிக்கப்பட்டோர் தங்களுடைய புகார்களை வலைத்தளத்தில் பதிவு செய்யக்கூடிய வசதி இருந்தாலும், வழக்குகளின் நிலைகுறித்து அறிந்து கொள்ளவும் அது பற்றிய முழு விபரத்தை தெரிந்துக் கொள்ளவும் முடியாத நிலை தொடர்கிறது.

பாதிக்கப்பட்டோருக்கு உதவுவதற்காக, **NHRC** தொலைபேசி வசதி செய்துள்ளது. ஆனால் இந்த வசதி எல்லா நேரத்திலும் கிடைப்பதில்லை; மேலும் தகுந்த பதில்களும் கிடைக்கப்பெறுவதில்லை. இந்தத் தொலைபேசி அழைப்புகளை ஏற்பவர் இந்திமொழி மட்டும் தெரிந்திருப்பதால், வேறு மொழியில் கேட்பவர்களுக்கு பதில் கிடைப்பதில்லை. இதனால் **NHRC** பாதிக்கப்பட்டோருடன் தொடர்பு கொள்ள முடிவதில்லை. இந்தியாவில் உள்ள பெரும்பாலான மக்களுக்கு இந்தி தாய்மொழியாக இல்லை.

NHRC-இல் வேலை பார்க்கும் ஊழியர்கள், அரசு வேலைகளில் உள்ளவர்களிடமிருந்து தேர்வு செய்யப்படுகின்றனர். தற்காலிக அடிப்படையில் அரசுத்துறையிலிருந்து அனுப்பப்படுகிறார்கள்; ஆனால் அவர்கள் பார்த்துக் கொண்டிருப்பது வேறு வகையான அரசுப் பணியாகும். மேலும் இந்த ஊழியர்களுக்கு சரியான பயிற்சியும் அளிக்கப்படுவதில்லை. அவர்களுக்கு மனித உரிமைகள் சம்பந்தமாக அடிப்படை அறிவு கூட இல்லை; மனித உரிமைகள் பற்றி தெரியாமலே, தங்களுடைய வேலைகளைச் செய்கின்றனர். போதிய ஊழியர்களைத் தேர்வு செய்து, பயிற்சி அளித்து, *NHRC*-யிலே தக்கவைத்துக் கொள்ளமுடியாத நிலையில் ஆணையம் இருப்பதால், அதனுடைய வளர்ச்சியும் சரியான செயல்பாடும் பாதிக்கப்படுகின்றது. தற்பொழுது உள்ள ஊழியர்களின் எண்ணிக்கையைக் கணக்கில் எடுத்துக் கொண்டால், போதிய அளவில் ஆண், பெண் ஊழியர்கள் இல்லை என்பது தெரியவருகிறது; அதுபோல் மதத்தின் அடிப்படையில் சிறுபான்மையினர் மற்றும் உடல் ஊனமுற்றோர் தகுந்த விகிதாச்சாரத்தில் இல்லை.

உயர்தகுதியும், ஆய்வு நோக்கும் கொண்ட சிலரை தனது சிறப்பு பிரதிநிதிகளாக ஆணையம் நியமிக்கிறது. அவர்கள் பல நேரங்களில் மீறல்கள் தொடர்பான விசாரணையை மேற்கொள்கின்றன. இவர்களுடைய நியமனமும் திறமையின் அடிப்படையில் இல்லாமல் பல நேரங்களில் அவர்கள் அதற்கு முன்பு வகித்த பதவியின் பொருட்டே வழங்கப்படுகிறது. அதாவது நெடிய அரசுப் பணி அனுபவத்தோடு வருபவர்களே தங்களுக்கு தேவை; மாறாக கல்வியாளர்கள், குடிமைச்சமூக செயல்பாட்டாளர்கள் தன்னிச்சையாக செயல்பட விரும்புவதால் அவர்களை தகுதியுள்ள பொறுப்புகளில் நியமிப்பதை ஆணையம் விரும்புவது இல்லை.

5. நீதித்துறை போன்ற செயல்பாடுகள்:-

இந்தியா முழுவதும் இருந்துபெறப்படும் புகார்களை பார்த்துக் கொள்ளும் பணி *NHRC*-இன் ஐந்து உறுப்பினர்களிடம் ஒப்படைக்கப்பட்டுள்ளது. ஆணையம் ஆரம்பிக்கப்பட்ட ஆண்டில் 487 புகார்கள் கிடைக்கப்பெற்றன. ஆனால் இன்று ஒரே நாளில் 400 புகார்கள் வரை கிடைக்கக்கூடிய சூழல் ஏற்பட்டுள்ளது. ஆனால் இந்தப் புகார்களை பெற்றுக் கொண்டு மேல் நடவடிக்கை எடுக்கவேண்டிய ஊழியர்களின் எண்ணிக்கை உயரவில்லை; அதனால் புகார்களின் மீது மேல் நடவடிக்கை எடுப்பதில் நல்ல தரம் காணப்படுவதில்லை.

ஆனால் ஆணையம் பெறும் நூற்றுக்கணக்கான புகார்கள் குறித்த தீர்ப்புகளை வழங்குவதில் எந்த தொய்வும் ஏற்படவில்லை என்று ஆணையம் கூறுகிறது. ஒரே நாளில் 60-லிருந்து 80 புகார்கள் தொடர்பாக மேல் ஆய்வு செய்து ஆணைகள் பிறப்பிக்கப்படுகின்றன. இந்த அடிப்படையில் பார்த்தால், ஒரு நாளில் 60 வழக்குகளில் தீர்வு அளிப்பதால், ஆணையத்தின் குறைந்த அளவு உறுப்பினர்களும் தினமும் 16 மணி நேரம் வேலை பார்க்க வேண்டியுள்ளது. மேலும் ஒவ்வொரு புகாரும் ஐந்து உறுப்பினர்களிடம் 30 நிமிடத்திற்கும் குறைவாகவே கவனித்து முக்கிய முடிவு எடுக்க வேண்டியுள்ளது; மனித உரிமைகள் மீறப்பட்டனவா என்று கண்டுபிடித்து பரிந்துரை வழங்கப்படுகிறது. ஆணையத்தின் உறுப்பினர்களின் மற்ற வேலைகளைக் கணக்கிட்டால், ஒவ்வொரு வழக்கிற்கும் 30 நிமிடத்திற்கும் குறைவாகவே நேரம் ஒதுக்கப்படுகிறது. பெரும்பாலான வழக்குகள் தன்னிச்சையாகவே முடிக்கப்படுகின்றன. பெரும்பாலான வழக்குள், தகுந்த காரணம் இல்லாமலே *NHRC*-யால் முடிவுக்கு கொண்டு வரப்படுகின்றன. பல வழக்குகள் ஏற்றுக் கொள்ளப்படுவதில்லை, தள்ளுபடி செய்யப்படுகின்றன, அந்த வழக்குகளில் ஒரு வரியில் ஆணைகள் பிறப்பிக்கப்படுகின்றன.

ஆணையம் ஒவ்வொரு வழக்கிலும் சரியான கவனம் செலுத்தாமல் இருப்பதால், புகார்களை முடிவுக்கு கொண்டு வருவதில் நல்லதரம் காணப்படுவதில்லை. வலுவான நீதியின் அடிப்படையில் வழக்காடாமல் ஆணையம் தவறிவிடுகிறது. நமது நாட்டில் அமலில் உள்ள சட்டங்களையும் மனித உரிமை தரத்தையும் நடைமுறை படுத்துவதைக் காட்டிலும், அகில உலக மனித உரிமைதரத்தை நடைமுறைபடுத்த ஆணையம் ஊக்குவிக்க வேண்டும். பாதிக்கப்பட்டோருக்கு நிவாரணம் அளிப்பதோடு, இந்தியர்களிடம் மனித உரிமையை பரப்பவேண்டும்.

வேலை சம்பந்தமான வழிகாட்டல்கள் இன்று ஆணையத்தினால் பின்பற்றப்படுவதில்லை. நீதிபதி வெங்கடாசலய்யாவின் காலத்திற்கு பின்னால், தொந்தரவான பகுதிகள் எவை என்று கண்டுபிடிப்பது இல்லை; ஆணையத்தின் செயல்பாட்டை சரிசெய்யக்கூடிய புதிய வழிகாட்டல்கள் வழங்கப்படவில்லை. மனித உரிமை மீறல் சம்பந்தப்பட்ட வழக்குகளில் ஆணையத்திற்கு சட்டபூர்வமான முறையில் செயல்பட உரிமை வழங்கப்பட்ட நிலையில், ஆணையம் சரியான முறையில் செயல்பட தவறிவிட்டது.

மனித உரிமை மீறல் சம்பந்தப்பட்ட வழக்கில் பரிந்துரை வழங்க ஆணையத்திற்கு அதிகாரம் அளிக்கப்பட்டிருந்தாலும், சில வழக்குகளில் மட்டுமே அந்த அதிகாரம் பயன்படுத்தப்பட்டுள்ளது. அரசு வழங்கும் புரிதலின் அடிப்படையிலும் காவல்துறையினரின் மறுப்பு அறிக்கையின் அடிப்படையிலும் பெரும்பாலான புகார்கள் ஆணையத்தினால் தள்ளுபடி செய்யப்படுகின்றன. புகார்களை சம்பந்தப்பட்ட அதிகாரிக்கு அனுப்பும் ஆணையத்தின் முறையால் குற்றம் செய்த காவல்துறையினரே புகார்களை ஆய்வு செய்யவேண்டிய நிலை உள்ளது. இத்தகைய பின்வாசல் வழிமுறையில் சட்டத்திற்கு புறம்பான துறைநீதியான நடவடிக்கை எடுப்பது கேலிக்குறியதாக உள்ளது. மனித உரிமை காப்பாளர், பாதிக்கப்பட்டோருக்கு நண்பராக இருக்க வேண்டும். குற்றவாளிகளுடைய பங்காளியாக இருக்கக் கூடாது, ஆணையத்தின் தற்போதைய நடைமுறை, கடுமையான மனித உரிமை மீறல்களை சரியாக கையாளவில்லை; பாதிக்கப்பட்டோரை மையப்படுத்தி நடவடிக்கை எடுக்கவில்லை. ஒதுக்கப்பட்ட சமூகத்தைச் சார்ந்த பாதிக்கப்பட்டோர் ஆணையத்தினால் இரண்டாம் தர குடிமக்களாக கருதப்படுகின்றனர்; மற்றவர்களைப்போல் சமமாக மதிக்கப்படுவதில்லை.

6. மனித உரிமை பங்குதாரர்களுடன் உறவு:-

உயர் தகுதி கொண்டோர் அடங்கிய மையக்குழு ஒன்றை ஆணையம் ஏற்படுத்தியுள்ளது. ஆனால் இந்தக்குழுவின் நிர்வாகத்தை தெளிவாக உறுதி செய்யவில்லை. இந்தக்குழு தொடங்கப்பட்டதிலிருந்து இக்குழு எவ்வாறு செயல்பட வேண்டும் என்பது சரிவரத் தெரியவில்லை. ஆணையத்தின் கட்டளைகளை நிறைவேற்றுவதில், இக்குழு என்ன செய்தது என்பதும் மனித உரிமை பங்குதாரர் என்ற முறையில் என்ன பங்கு வகித்தது என்பதும் தெரியவில்லை. குடிமை சமூகத்துடன் ஆணையம் மிகக் குறைந்த அளவில் தொடர்பு வைத்துக் கொண்டுள்ளது. மனித உரிமைகளை வளர்க்கவும் பாதுகாக்கவும் சக்தி வாய்ந்த இரக்கமுள்ள அறிவுடைய பங்குதாரர் ஆணையத்திற்கு இல்லை.

இந்த அறிக்கை தயார் செய்யும்போது, NHRC-இன் தலைவர் நீதிபதி K.G.பாலகிருஷ்ணன் மீது பல குற்றச்சாட்டுகள் ஊடகங்களில் செய்தியாக வந்து கொண்டிருக்கின்றது. நீதிபதி K.G. பாலகிருஷ்ணன் ஆணையத்தின் தலைவராகப் பதவி ஏற்றதிலிருந்து, ஊழல் சம்பந்தப்பட்ட வழக்குகளில் அவர் தொடர்புடையவரா என்ற செய்தி ஊடகங்களில் வெளிவந்து கொண்டுள்ளது. இதனால் அவர் தன்

பதவியிலிருந்து விலக வேண்டும் என்ற குரல் பரவாலாக ஒலிக்கத் தொடங்கியுள்ளது. அரசு சாரா நிறுவனங்களும் நீதித்துறையைச் சேர்ந்தவர்களும் அவருக்கு எதிராக குரல் கொடுக்கின்றனர். நீதிபதி பாலகிருஷ்ணன் உச்ச நீதிமன்றத்தில் தலைமை நீதிபதியாக இருந்த காலத்தில் சக நீதிபதிகளின் நியமனத்திலும், பல வழக்குகளில் சாதகமாக தீர்ப்பு வழங்கியதிலும் லஞ்சம் பெற்றதாக குற்றம் சாட்டப்படுகிறது. அவருடைய குடும்ப உறுப்பினர்கள் அளவுக்கதிகமாக சொத்து சேர்த்த விசயத்தில் பல கேள்விகள் எழுந்துள்ளன.

NHRC-இன் தற்போதைய தலைவர்

நீதிபதி K.G.பாலகிருஷ்ணன் தொடர்பாக எழுந்துள்ள பல குற்றச்சாட்டுகள் விளைவாக NHRC-இன் உறுப்பினர்கள் தேர்வு செய்யப்படும் முறை சம்பந்தமாக குடிமைச் சமூகத்தினர் கேள்வி எழுப்பியுள்ளனர். நீதிபதி K.G.பாலகிருஷ்ணன் மீது கூறப்படும் குற்றச்சாட்டுகள் உண்மை என்று நிரூபிக்கப்பட்டால், NHRC-இன் தலைவராக அவர் நியமனம் செய்யப்பட்ட முறையானது தலைவரின் நற்குணத்தையும் நம்பகத்தன்மையும் மனித உரிமைகள் மீது அவருக்குள்ள ஈடுபாட்டையும் மறுபரிசீலனை செய்ய வேண்டியது அவசியம் என்பதை பறைசாற்றும். உச்ச நீதிமன்றத்திலிருந்து ஓய்வு பெற்றதலைமை நீதிபதியை ஆணையத்தின் தலைவராக நியமனம் செய்வது இனிமேல் நிகழப்போவதில்லை. ஆணையத்தின் தலைவரை நியமனம் செய்வது வெளிப்படையானதாக இருக்க வேண்டும். அந்தப் பதவி உச்ச நீதிமன்றத்தின் ஓய்வு பெற்ற நீதிபதிக்குத்தான் வழங்கவேண்டும் என்னும் முறை செயல்படுத்தக்கூடாது, அதுபோல் முன்னாள் IAS, IPS, IFA, IRS அதிகாரிகளை மட்டும் தேர்வு செய்யக் கூடாது; தலைவர் நியமனத்தில் இந்தியாவில் உள்ள நீதி தவறாத, அறிவுள்ள, அர்பணிப்பு உணர்வுள்ள தலைவர்களும் சேர்க்கப்படவேண்டும்.

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CHAPTER I

Executive Summary: Establishment

The National Human Rights Commission of India was established on October 12, 1993 under the Protection of Human Rights Act, 1993 (PHRA) as a result of the international movement towards establishing

The National Human Rights Commission of India was established ...as a result of the international movement towards establishing national human rights institutions to act as independent monitors and protectors of human rights in a national context

national human rights institutions to act as independent monitors and protectors of human rights in a national context that started in the early 1990s and became formalized through the declaration of Paris Principles, 1991. The Commission was envisioned to be a partnership of human rights protectors throughout India and explicitly deemed the Chairpersons of the existing national human rights commissions as members of the Commission. Despite the main impetus for establishment of an overarching national human rights commission in India being mounting domestic and international pressure to adhere to internationally set standards, the Commission was initially sincere and fairly successful in meeting its mandate and taking initiatives towards protecting and promoting

I. ESTABLISHMENT

The Paris Principles state that a National Human Rights Institution must be clearly set forth in a constitutional or legislative text. In addition to this, the ICC observed that if an NHRI is created by an “instrument of the Executive it would not be adequate to ensure permanency and independence.”

The National Human Rights Commission was established in India on 12 October 1993 under the Protection of Human Rights Act, 1993 as a response to both the increasing acknowledgement of the need for national human rights institutions that would assist in the promotion and protection of human rights, as well as strong international pressure created by the adoption of the “Paris Principles” by the United Nations Human Rights Commission in 1992 and followed by the General Assembly in 1993. With globalization pushing domestic human rights issues into the spotlight, pressure was on India to take steps to address human rights violations or risk losing international trade partners who refuse to support practices like child labour.² They would need to adhere to international standards or risk being left behind. While there were many who supported this move, many also voiced their concerns behind the motives of establishing the NHRC. Mr. K. G. Kannabiran, an eminent human rights lawyer, activist and former

Many agreed with Kannabiran’s feelings in this matter, such as S.P. Sathe who suspected that the government’s motive for establishing the NHRC was based more in concern over avoiding international criticism than out of a concern for human rights

National President of People’s Union for Civil Liberties, was one such dissenter.³ He argued that the creation of a human rights commission in response to criticism of the government’s human rights record was at best only a formal act and it would not reduce human rights violations but simply be used to cover such violations. Mr. Kannabiran also pointed out that India’s Constitution contains a declaration of human rights that should be held up by the courts. With this in mind, it becomes apparent that the problems relating to human rights in India do not come from a lack of legal provisions or a lack of agencies in place to deal with these matters. Rather, Kannabiran suggested that the problem with human rights “is the existence of a political system that guards and supervises an exploitative order... Setting up a human rights commission will not humanize state agencies.”

Many agreed with Kannabiran’s feelings in this matter, such as S.P. Sathe who suspected that the government’s motive for establishing the NHRC was based more in concern over avoiding international criticism than out of a concern for human rights.⁴ Sathe felt there would need to be a number of governmental reforms in the judiciary and administration, which includes Human Rights Education for government employees, judges and magistrates, all in place in order to ensure the formation of the NHRC was not just for show.

Despite the controversy, the government of India passed a legislative act that came into force on 28 September 1993 that specifically provided for the

² Babu, Justice Rajendra, and Et. Al, eds. “Volume 6.” *I Journal of the National Human Rights Commission, India. National Human Rights Commission, India, 2007. Web. 06 Oct. 2010.*

<http://webcache.googleusercontent.com/search?q=cache:1pgIRR1wZrQJ:nhrc.nic.in/library/pdf/PART-3.pdf pressure to form an NHRC india&cd=3&hl=en&ct= clnk&gl=ca>.

³ Kannabiran, KG. “Why a Human Rights Commission?” *Economic and Political Weekly. September 26, 1992 (Commentary). Pages 2092-2094*

<http://archive.epw.in/data/PDF/000303_EPW_26_9_1992_Vol_XXVII_No_39/COMMENTARY_Why%20a%20Human%20Rights%20Commission.pdf>

⁴ SP Sathe. “Towards An Effective Human Rights Commission.” *Economic and Political Weekly. Oct. 3 1992. Pages 155-215*

http://archive.epw.in/data/PDF/000243_EPW_3_10_1992_Vol_XXVII_No_40/Commentary_%20Towards%20an%20Effective%20Human%20Rights%20Commission.pdf

constitution of a National Human Rights Commission to protect and promote human rights throughout India. The National Human Rights Commission (NHRC) was subsequently constituted under Chapter II, Section 3(1) of the Protection of Human Rights Act, 1993 (PHRA).⁵ The Protection of Human Rights Act extends to the whole of India as stated under Chapter I, Section 1(2) of the Act.⁶

No mention of collaborating with the Commission for Minorities is made in any of the annual reports until the 1999-2000, other than to list their chairperson as an ex-officio member in the NHRC roster. If the commission hopes to be successful in fulfilling all its functions it needs to make use of the resources and expertise available to it through its partnerships with the NCW, NCM, and NCSTC.

Chapter II, Section 3(2) of the Protection of Human Rights Act, 1993 establishes the composition of the commission as consisting of a chairperson who has been a Chief Justice of the Supreme Court, one member who is or has been a Supreme Court Judge, one member who is or has been a chief justice of a High Court, and two members to be appointed from amongst persons with experience related to the field of human rights. This section also calls for the inclusion of the Chairperson from the National Commission for Minorities (NCM), the chairperson from the National Commission for Women (NCW), and the chairperson of the National Commission for Scheduled Tribes and Scheduled Castes (NCSTSC), all as ex-officio members.

Prior to the establishment of the NHRC, these thematic commissions were already functioning. Their inclusion is central to the establishment of the Commission, not only for the experience they provide but also to ensure that the concerns of these special

interest groups are addressed. The Protection of Human Rights Act, 1993 proposes that the NHRC should collaborate with these commissions as much as possible. Chapter III Section 3 (12) establishes the functions and powers of the NHRC. The NHRC Annual report notes that these representatives are “deemed to be members of the Commission for the discharge of all functions assigned to it except for the function relating to inquiry into complaints of violations of human rights.”⁷ This provision is in place to ensure collaboration with the thematic commissions. Sadly, from its inception the NHRC has performed poorly in this regard. As early as the first annual report (1993-1994) the NHRC makes only a single reference to collaborating with a thematic commission, stating that it “intends to remain in close touch with its sister organization”, the National Commission for Women in regard to reviewing legislation relating to women’s rights. This solitary reference to collaboration sets a poor precedent for the Commission and appears to set the trend for years to come. Even when it would seem obvious to include either the NCM or the NCSTSC, the NHRC fails to mention any plan for collaboration. Even in the 1996-1997 annual report in which a section specifically mentions preserving the rights of the vulnerable, including the rights of those in scheduled tribes, mentions only that it will “keep in touch” with the National Commission for Safai Karamcharis⁸, almost as an afterthought as the last line in the section.⁹ No mention of collaborating with the Commission for Minorities is made in any of the annual reports until the 1999-2000, other than to list their chairperson as an ex-officio member in the NHRC roster. If the commission hopes to be successful in fulfilling all its functions it needs to make use of the resources and expertise available to it through its partnerships with the NCW, NCM, and NCSTC.

⁵ PHRA, Chapter II, Section 3(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.

⁶ PHRA, Chapter I, Section 1(2). It extends to the whole of India. Provided that it shall apply to the State of Jammu and Kashmir only in so far as it pertains to the matters relatable to any of the entries enumerated in List I or List III in the Seventh Schedule to the Constitution as applicable to that State

⁷ NHRC Annual report 1993-1994 page 6

⁸ The Commission for Manual Scavengers

⁹ NHRC Annual Report, page 44

The World Conference on Human Rights in Vienna took place around the time of the NHRC's establishment. This conference, in which India took part, mandated countries to set up National Human Rights Plans of Action. To this day, India has yet to release its National Human Rights Action Plan (NHRAP). In 1999, the UN held a workshop in Bangkok to assist countries in putting together their NHRAPs. It was at this time that the NHRC and the Ministry of Home Affairs agreed that the NHRC would assist the Government of India in preparing the Action Plan. More than 4 years later, no progress had been made. In the 27 May 2004 meeting of the Commission, it decided to take charge of the preparation of India's NHRAP. No further action on

To this day, India has yet to release its National Human Rights Action Plan (NHRAP).

this matter was taken for almost a full year until the Commission decided in its 18 February 2005 meeting to review a draft put forth by Shri Shankar Sen. For the next 2 years, consultation was made with numerous external organizations about the contents of the NHRAP until a draft was officially submitted in early 2007. According to the NHRC's website, the finalized NHRAP was to be put forth on 31 December 2007, however no record of a finalized copy can be found and no reference is made to the NHRAP after this date.¹⁰

¹⁰ "National Action Plan." *National Human Rights Commission, New Delhi, India*. Web. 07 Oct. 2010. <<http://nhrc.nic.in/dispatcharchive.asp?fno=1550>>.

CHAPTER II

Executive Summary: Independence

Independence from all other interests, in particular that of the government and strong private interests, is essential for any national human rights institution. From the establishment of the National Human Rights Commission under its founding law, the Protection of Human Rights Act, 1993, the

Commission has had problems maintaining its independence from the government. Although the Commission made some courageous and strong decisions in its early years, the lack of independence suffered by recent Commissions has become so debilitating that it has essentially paralyzed the Commission from fulfilling even its basic mandate, let alone undertaking any powerful initiatives in the field of human rights.

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The Commission is tightly controlled financially by the Government of India and currently reports to the Ministry of Home Affairs, the same governmental department responsible for immigration, communal harmony, the Armed Special Forces Act, assistance to victims of terrorist violence, border management, and most notably, internal security – including police and other law and order officials. Placing India's overarching human rights institution, responsible for holding accountable violators of human rights, in the same department overseeing police and law enforcement officers, against whom a large number of complaints are made, unsurprisingly weakens the Commission's independence and its ability to be effective.

The lack of independence of the Commission is also witnessed in the composition of its members and staff. The PHRA has rigid criteria for membership to the Commission that prioritizes perceptions of prestige over competence, passion, or experience in the field of human rights. Staff members are largely deputed temporarily to the NHRC from government posts. While maintaining independence of an institution funded by the government that is designed to monitor the government is natural, it is worrisome that 17 years after its establishment, nothing has been done to ensure independence or even reduce potential problems arising from conflicts of interest. .

II. INDEPENDENCE

Independence, in all forms, is a fundamental pillar of the Paris Principles and is necessary in order to effectively promote and protect human rights. National human rights institutions must act independently of all other interests, namely government and powerful private interests. The Paris Principles require that independence be ensured through composition, representation, infrastructure, and the stable mandate of the NHRI.¹¹ The ICC has noted that as public bodies, national human rights institutions are accountable to the public and must have their funding and reporting arrangements strictly regulated.

Notably, the ICC has observed that NHRIs in which the administration and expenditure of public funds is regulated by the government, such as the NHRC, a clearly defined relationship between the Government and the NHRI must be established. This is to ensure that regulation by the government does not compromise the NHRIs ability to perform its role independently and effectively. The ICC has additionally recommended that provisions be included in national law to protect legal liability for actions undertaken in the official capacity of the NHRI.

Nature of the NHRC's accountability

Here the accountability of the NHRC is being looked at from the point of view of its governing statute, the Protection of Human Rights Act (PHRA).

The NHRC, an administrative body established under the purview of the government, must be autonomous to be effective. In ensuring the NHRC's autonomy, it is especially important and significant to have clearly defined lines of accountability. India's NHRC is directly accountable to the Government of India under the PHRA for reporting on its activities and use of funds. Section 20(1) of the PHRA requires the NHRC to submit an annual report to the Central Government and to the concerned State government on its activities. Additionally, the Commission "may

at any time submit special reports on any matter which, in its opinion, is of such urgency or importance that it should not be deferred until submission of the annual report." These reports, along with a memorandum noting the action proposed or taken on the recommendations of the Commission and the reasons for non-acceptance of the recommendations, in any, must be laid before each House of Parliament or the State Legislature by the Central Government or State Government.¹²

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To demonstrate its financial accountability to the Central Government, the Commission is required to maintain accounts and undergo auditing under Chapter VII, Section 34 of the PHRA. Section 34 sets out detailed rules for maintenance of accounts, audits, and other relevant records. Specifically, the Commission shall "maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India." Further, the NHRC must prepare an annual statement of accounts in "such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

Section 34(2) requires that the Accounts of the Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General. Sub-section 34(3) also allows the Comptroller and Auditor-General the same rights and privileges and authority in

¹¹ *Paris Principles, Composition and guarantees of independence and pluralism.*

¹² *PHRA, Chapter IV, Section 20(2).*

connection with auditing the NHRC as they would have while auditing Government accounts.¹³ The certified accounts¹⁴ of the Commission, together with the audit report are forwarded to the Central Government by the Commission. The Central Government shall lay the audit report before each House of Parliament immediately after its receipt. Since the financial year 1994-1995, audits have been conducted of the NHRC by the Comptroller and Auditor General (CAG), as required by the PHRA.¹⁵

...the NHRC is guaranteed almost no influence on their financial budget...There is no provision in the Protection of Human Rights Act requiring or even allowing the NHRC to propose a budget to the government

Whether or not the NHRC receives instructions from the government

It is difficult to assess whether the government provides instructions or the institutions receives instructions from the government. While the NHRC is empowered to regulate its own procedure for carrying out its mandate,¹⁶ the Central Government may, by notification, make rules to carry out provisions of this Act.¹⁷ Although the power is not to prejudice the generality of the Commission's powers, the government is preserved the ability to make rules regarding 1) salaries and allowances and other terms and conditions of service of the Members, 2) conditions subject to which other administrative, technical, and scientific staff may be appointed by the Commission, 3) any other power of a civil court, 4) the form in which the annual statement of accounts is to be prepared by the Commission, and any other matter which has to, or may, be prescribed. After

any rule is made under the PHRA, it shall be laid immediately for review before each House of Parliament while it is in session for a total period of thirty days. However, unless both Houses agree that the rule should be modified or not be made, the rule made by the government will remain standing.¹⁸

Additionally, while the NHRC is allowed to manage and utilize the funds granted to it by the Government of India, the NHRC is guaranteed almost no influence on their financial budget. Under Section 32, the NHRC receives funds by the Central government only after Parliament appropriates funds by law in behalf of the Commission. Monetary grants are given to the Commission by the Central Government in the amount which the Central Government may think fit for being utilized for the purposes of meeting its mandate.¹⁹ There is no provision in the Protection of Human Rights Act requiring or even allowing the NHRC to propose a budget to the government.

However, the NHRC reports that the Commission's budget is controlled by the Central government through a specially constituted "Steering Committee of NHRC."²⁰ This Committee, responsible for approving the Commission's budget, is headed by a Chairperson of NHRC and consists of two members of the Commission in rotation, Secretary (Exp), and Ministry of Finance serving as Secretary of the Committee²¹. After the budget is approved by the Steering Committee, it is sent to the Ministry of Home Affairs for inclusion in the "Demand for Grant" of the budget document. This is placed before the Parliament, along with the Union Budget. Upon approval from Parliament, the funds are granted by the Ministry of Home Affairs.²²

¹³ *Along with having the right to demand the production of books, accounts, connected vouchers, and other documents and papers, these officials have the right to inspect any of the offices of the Commission.*

¹⁴ *Certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf*

¹⁵ *Can enclose these final audits*

¹⁶ *PHRA, Chapter II, Section 10*

¹⁷ *PHRA, Chapter VIII, Section 40*

¹⁸ *PHRA, Chapter VIII, Section 40(3)*

¹⁹ *PHRA, Article 33 states the same procedure at the state level for funding the State Commissions. After appropriation of funds is determined by the state legislature, the state governments provide grants to the State Commission.*

²⁰ *Response to RTI Petition No. 3306*

²¹ *Id. at RTI 3306*

²² *Complete budget information has been produced by the NHRC for the years 2007, 2008 & 2009.*

If this body is supposed to be an independent body, the institution to which it reports should as far as possible be far removed from the Ministry against which most of the complaints are drawn from...

The Ministry of Home Affairs looks after a whole gamut of subjects most of which are related to bodies against which the NHRC is dealing - like the Army, Para-Military and Law Enforcement Officials. If this body is supposed to be an independent body, the institution to which it reports should as far as possible be far removed from the Ministry against which most of the complaints are drawn from like the Department of Border Management, Department of Internal Security, Department of J & K Affairs, Department of Home, Department of Official Language, Border Management Division, Internal Security Division, Jammu & Kashmir Division, Judicial Division, Naxal Management Division, North East Division, Police Division, Police Modernisation Division, Policy Planning Division²³ etc. Therefore for independence to prevail, the Ministry of Home Affairs should not be the body it reports to or receives instructions or funds from. It should be the Prime Minister's Office or some such body. In response to an RTI Petition sent to the Commission by a colleague from People's Watch in Tamil Nadu, it has said that the budget after approval by the Steering Committee is sent to the Ministry of Home Affairs for inclusion in the Demand for Grant of the budget document and placed in the Parliament along with Union Budget for final approval and the grant is received through the Ministry of Home Affairs²⁴.

While the NHRC has reported that it is permitted to take part in the development of their budget through a Committee mixed with government and NHRC members, there are still no legal provisions guaranteeing this right in either the PHRA or the NHRC (Procedural) Regulations, 1994 (amended in 1997). The only formal record of the existence of this Committee is from a response by the NHRC stating that a Steering Committee had been formed by the government to approve of the Commission's budget. Human rights organizations see this as a government controlled committee despite presence

of the NHRC members on it, given the fact that it is formed by the government and government officials are on it too.

The PHRA should be amended to require the NHRC to first, independently develop a budget proposal, without interference from a government-constituted committee or government members, and only then, place it before the Parliament for approval...

Moreover, even if this was a legally-mandated committee, the "Steering Committee" signals the extent to which the NHRC lacks independence from the Government of India on the allocation of funds to the NHRC i.e. the power to override the budget approved by the Ministry of Home Affairs. The PHRA should be amended to require the NHRC to first, independently develop a budget proposal, without interference from a government-constituted committee or government members, and only then, place it before the Parliament for approval, being presented as part of the budget of either the Prime Minister's Office or the Ministry of Law and Justice but not the Ministry of Home Affairs. There is no need for a committee to approve a proposed budget of the NHRC, before the very same government officially approves or rejects the budget proposal. Here, any possible benefit of a partnership between the sponsoring government and the implementing NHRC is outweighed by the danger of encroachment on the NHRC's independence.

It is the government's control over the NHRC's funding, combined with the government's power to make rules on highly significant matters, such as salary of Members and requirements for hiring staff, that deepens the society's belief that they are merely another government institution and as held by a number of people who were consulted in the focus group meetings that were held across the country.

Independence is closely related to appointment, finance, appointment of staff etc. There needs to be insulation in the founding statute that the institution can function without interference from any branch of the Govt. which is the source of funding. The

²³ *Organizational set-up of the Ministry of Home Affairs available at http://www.mha.nic.in/uniquepage.asp?Id_Pk=277*

²⁴ *RTI Response 3306*

determining of the appointment and dismissal procedures of all categories of staff also should be an independent function of the Commission. Independence is also linked to the method of appointment of chairpersons and members. For example if every Chief Justice of Supreme Court of India by calculation knows that he is going to be assured of a 5 year tenure here, obviously the question of independence is affected there too in the last few months of his tenure as the Chief Justice of India. It is insulated by a variety of other measures put together.

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By what means conflict of interest are avoided

In the past, the NHRC was known to offer clear and strong opinions to the government on pressing human rights concerns. The NHRC was also known to possess the courage to address parliamentarians where the commission had an opinion and they wanted the democratic institutions to know of it. They never addressed the government alone; they also addressed political party leaders. They had the moral courage to tell the government to do something and to tell where they were wrong.

Clear demonstrations of its independence were evident in the early days of the Commission. In its 1993-1994 report, for example, then Secretary General of the NHRC Mr. R.V. Pillai addressed a letter to the chief secretaries of all the States and Union Territories regarding the rising number of custodial deaths and rapes and the attempts to distort the picture of these incidents. In this letter, the Commission firmly requests that a direction be issued to the District Magistrates and Superintendents of Police of every district asking them to report incidents of custodial death and rapes to the Secretary General within 24 hours of occurrence or from the time the officers became aware of the occurrence of these incidents.

In the past, the NHRC was known to offer clear and strong opinions to the government on pressing human rights concerns... They had the moral courage to tell the government to do something and to tell where they were wrong.

During that same year, the NHRC also took notice of a firing incident by the Border Security Forces (BSF) on a group of people at Bijbehara, Anantnag District, Jammu & Kashmir and requested a report from the Government of India on the incident. After reviewing a report submitted by the Minister of Home Affairs, the Commission took an additional step and decided to review evidence given by six witnesses. Upon reviewing this material, the Commission made several concrete observations and recommendations, which were then forwarded to the Central Government²⁵.

The NHRC followed up the critical issue of custodial deaths in the 1995-1996 annual report, recalling its initial call to action in 1993. The Commission noted that ever since this call to action, reports of incidents have been coming in regularly through the official district agencies. The Commission explained that upon reviewing these reports, they have found that often, the post-mortem in many cases has not been satisfactorily completed and the cause of death is not properly determined. The Commission firmly stated that this unsatisfactory completion of reports was in their view, an attempt to obscure the truth and only provided the police version of the facts. Hence, the Commission then requested that all postmortem examination of custodial deaths be video-taped and cassettes be sent to the Commission along with the post-mortem report. The Commission also requested that steps were to be taken immediately and that video-taping of postmortem examinations be implemented within 2 months from the time of the publication of its report (as of 1st October 1995). The Commission even went as far as to requesting a response to its recommendations within 3 weeks²⁶.

On 18 July 1995, the Commission issued a letter specifically to the State Government of West Bengal regarding its status as having the highest reported

²⁵ NHRC's Annual Report for the year 1993-1994

²⁶ 1995-1996 NHRC Annual Report, Annexure IV, Para 3.22. August 10, 1995

number of custodial deaths in the time period of April 1994-May 1995. The Commission requested the West Bengal government to inquire into this matter and take the necessary remedial steps. In addition, the NHRC noted that in 4 cases of custodial deaths in West Bengal, the Commission has not received responses from the state government and requested these responses in a timely manner²⁷.

In February of 1995, the Commission wrote a letter to Parliament opposing the Terrorist and Disruptive Activities Act (TADA). It argued that it was an unjustly harsh law that was irreconcilable with India's cultural traditions, legal history, and treaty obligations. It explained that the Act had been misused over the years and had resulted in the detention of thousands of innocent people. It also further explained that the public viewed this law as a tool for the police to silence any form of dissent or opposition. In this letter, the Commission explained that it was actively engaged with the Kartar Singh case and the months following the judgment in the case, a case through which the Supreme Court attempted to reduce some of the harsh provisions of the act. The TADA Act was then due to expire in May of 1995 and in this letter the Commission appealed to the lawmakers to refrain from extending the Act. The Commission took a firm stand against the view that the Act was necessary for the preservation of the integrity of the country. The letter ended with a strong and persuasive call to action, asking the Indian government to consider seriously the matter and reminding it that the Commission had been entrusted with the responsibility of maintaining human rights and that it will not be able to do so with the existence of the TADA Act²⁸.

During the period 1996-1997, the Commission addressed a report to all of the Chief Ministers on the issue of 'fake encounters' by the police. The Commission explained therein that it has received complaints from the public and from NGOs regarding the increase in fake encounters by the police and that police kill persons instead of allowing them to undergo the due process of law. These incidents were not at all adequately investigated. The Commission

challenged the procedure undertaken by the state of Andhra Pradesh in several cases brought forth by the Andhra Pradesh Civil Liberties Committee (APCLC). The police had claimed that the deceased persons had first opened fire at them, thereby justifying their act of firing back as an act of self-defense. The police version of the facts was the one that had been recorded in the police station and thus, the case was deemed close as a result of the deaths of the accused. No further efforts were made to verify the facts of the case or to determine whether the police were justified by law in killing the deceased.

Following the Gujarat Riots in 2002, the NHRC came out with a path breaking report, suo moto, for which Justice Mr. P.C. Patel who was a sitting Judge then, issued a notice to the Commission. Two years later in 2004 Justice P. C. Patel was appointed to the NHRC in clear disregard to the integrity of the institution.

In its letter, the Commission reminded the Chief Ministers that under the law, the police authorities do not have any right to take the life of another person and that if they do so, they have committed an offence punishable as homicide, unless it is proven that the killing was not an offence under the law. Under India's criminal law code, acts of private defense or causing the death of another person in the use of force to arrest the person accused of an offence punishable with death or imprisonment for life are justifiable. Thus, the Commission pointed out, encounter deaths that are not justifiable under these provisions would make the officer guilty of culpable homicide.

The Commission was proactive in the case of the encounter deaths in Andhra Pradesh and listened to the accounts of all parties and reviewed the relevant statutory provisions. It found that the procedure followed in Andhra Pradesh was wrong and thus the Commission provided recommendations of the procedure that should be followed. The recommended procedure was accepted by the government of Andhra Pradesh²⁹.

²⁷ NHRC Annual report 1995-1996, Annexure II, Para 3:16, http://nhrc.nic.in/ar95_96.htm - top D.O. No. 10053/CH/NHRC/95, 18 July 1995

²⁸ NHRC Annual Report 1994-1995's Annexure I, para 4-5

²⁹ NHRC Annual report 1996-1997's Annexure VI, March 29, 1997

GUJARAT 2002 Carnage and the NHRC

If there has been one occasion in the history of the NHRC wherein the institution has suo moto acted after a grave commitment of human rights violations where the state was also involved, it is with the Gujarat report, suo moto of the NHRC in 2002. This report has enabled civil society groups and human rights groups to litigate in the Supreme Court of India (SCI) to ensure transfer of investigation away from the Gujarat police, transfer of two trials out of the state and also monitoring of the trial process by the Supreme Court. The CEDAW Committee recommendations (October 2010) also reflect this unique endeavour.

After the initial report however and filing of petitions in the SCI (WP 109/2003) the NHRC has been rather silent within the courts where the entire matter has thereafter been between the survivors and rights groups and the State. The historic inquiry into the role and conduct of the chief minister and sixty one others ordered by the SCI on a victim survivor and rights group petition (SLP 1088/2008) saw no comments/interventions from the NHRC though its report had in large measure pointed to state complicity by the perpetrators.

During the nine year old struggle for justice for the victims of the carnage in Gujarat in 2002, there was one more instance when the NHRC role has been exemplary. In October 2007 *Tehelka* news magazine did a sting operation *Operation Kalank* through which it interviewed dozens of perpetrators of the carnage from actually murderers and rapists to complicit policemen, lawyers and politicians. The revelations were chilling and in legal terms have the status of extra judicial confessions., Citizens for Justice and Peace (CJP), a legal rights group immediately moved first the Gujarat High Court (November 2007) and immediately thereafter the Supreme Court of India to order investigation and authentication of these *Tehelka* tapes. Both complaints were turned down. The NHRC in yet another historic move used its statutory powers and ordered the Central Bureau of Investigation (CBI) to authenticate the tapes³⁰. This was done and has in retrospect turned out to be timely and valuable as evidence since even the Special Investigation Team (SIT) appointed by the Supreme Court of India has been faulted for doing a superficial and incomplete job of investigations –including non investigation of documentary evidence and failure to inquire into the destruction of official records by the Gujarat state home department that is headed by the Home Minister who is also the Chief Minister.

Following the Gujarat Riots in 2002, the NHRC came out with a path breaking report, suo moto, for which Justice Mr. P.C. Patel who was a sitting Judge then, issued a notice to the Commission. Two years later in 2004 Justice P. C. Patel was appointed to the NHRC in clear disregard to the integrity of the institution.

In 1997, the Secretary-General of the NHRC addressed a letter to the Chief Secretaries of the States and Union Territories on the topic of visits to police lock-ups. The Commission stated that the State Governments may be asked to allow officers of the NHRC to visit the police lock-ups during their visits to the various States and asked that the States make the necessary arrangements to allow them to do so.

The NHRC also sent a copy of the check-list for NHRC officers visiting lock-ups at police stations to all of the Chief Secretaries and Administrators of the States and Union Territories. The check-list includes a variety of tasks and provisions that the NHRC officers are expected to follow to ensure that the rights and well-being of those in police custody are being protected, including ensuring that those who remain in police custody are examined by a trained doctor after every 48 hours, that clean and sanitary blankets and mattresses are provided, and that access to toilets are provided³¹.

What is worrisome right now is that there is an observed gradual increase on the number of issues that the NHRC has remained silent on.

³⁰ NHRC Order annexed

³¹ NHRC Annual Report 1997-1998, Annexure III, 1 August 1997; Annexure IV

As related above, in the past, the NHRC had been a very proactive institution, advocating and lobbying both the central and state governments of India to respect and protect human rights. Unfortunately, the same cannot be said about the NHRC in the most recent years.

The responsibilities of both protection of human rights and promotion of human rights call for condemnation of certain blatant violations when they take place in the country.

Instances where conflicts of interest arose

Where conflicts of interests are known and inevitable, it is especially significant that the national human rights institutions and the government clearly and openly define their relationship and work to eliminate or minimize the impact of these conflicts. The government must necessarily look after the interests of the public at large; whereas, the NHRC has been explicitly created to protect and promote the fundamental human rights of those victimized in our society. Accordingly, the NHRC must be able to strongly, boldly, and fearlessly take steps to ensure justice for victims and protection for marginalized, vulnerable members of society - especially when the government is the perpetrator.

What is worrisome right now is that there is an observed gradual increase on the number of issues that the NHRC has remained silent on. These issues pertain to the most pressing human rights violations in the country. Indeed, the NHRC does maintain that it is an autonomous organization that gives directions on human rights issues independently based on its own decisions.³² On the other hand, it also acknowledges that it has failed to create any type of written guidelines, policies, or conventions, or has no information whatsoever on steps that may be taken to avoid conflicts of interest.³³

Numerous statements from civil society and the general experience of the public indicate that lack of independence of the NHRC from the government is a major obstacle preventing victims and civil society from utilizing the NHRC as a source of protection. A human rights institution has the responsibility not only to protect and promote human rights but also the duty to condemn. The responsibilities of both protection of human rights and promotion of human rights call for condemnation of certain blatant violations when they take place in the country. When the civil society does not hear the voice of protest, this leads civil society to infer that the institution that is silent is not independent. Protests are important in the process of both protecting and promoting human rights. Mr. K R Mallesha, an activist at Environment Support Group said during a focus group meeting held in Bengaluru, Karnataka on 4th of November 2009 that he is still waiting on a final decision by the NHRC in a case filed in 2002 against police officials for violating his and his groups' fundamental right to have a public hearing. He feels that "since the case was against the state, the Commission has difficulty making political decisions." This sentiment was echoed by Mr. V. B. Ajay Kumar, of RIGHTS, Kerala, who stated that, "The NHRC uses any excuse not to make a decision that could affect them politically."³⁴

Therefore the watchdog role of the parliament is not performed. No watchdog body therefore questions this institution.

Whether or not members incur legal liability for actions taken in their official capacity

Chapter VIII, Section 38 of the PHRA protects members of the NHRC from incurring legal liability, in the form of a suit or any other legal proceeding, for

³² RTI 3305

³³ Follow UP RTI 3304. Query No. 1 raised by the applicant: We are aware that members of the honourable Commission have been drawn from IAS, IPS and IFA with past responsibilities in different departments of the Government of India or of States. Is there any written policy or guideline or conventions that the Honourable Commission has evolved in order to ensure that conflicts of interest are avoided? If yes, kindly do provide us with copies of the relevant documents.' Answer by the NHRC: Appointment of the Members are made as per terms and procedures laid down in Chapter 2 of Protection of Human Rights Act 1993. No such information is available as on date.

³⁴ Focus Group Meeting Kerala held on December 01, 2009

actions taken in their official capacity.³⁵ While the PHRA purports to reserve protection for actions of members taken in good faith, it actually extends much further beyond this to also prevent liability of members for *any* acts intended to be done in pursuance of this Act, rules, orders, or publications by report paper or proceedings under the authority of the Central Government, State Government, Commission or the State Government. Rather, members enjoy an alarmingly low level of accountability for not only acts done while in office, but also responsibilities neglected or entirely omitted while in office.

The mandate under the act is stated in such an ambiguous manner that there is a need also to indicate clearly what the indicators are that the Commission will be judged vis-à-vis functions that it has to perform. That is not there. Annual Reports are placed before the Parliament but not a single training for Members of Parliament or the Political Parties on the functions of the NHRC is given at any point of time by the NHRC to convey the role, responsibilities, functions, powers and mandate of the NHRC under the PHRA as well as under the Paris Principles. Had they been trained they would have raised questions in parliament. They also view this institution as part of the government. Therefore the watchdog role of the parliament is not performed. No watchdog body therefore questions this institution. In fact, Chapter II, Sections 5(2) and (3) of the PHRA provides that the Chairperson or Member of the NHRC may only

be removed from office in a very limited number of circumstances.³⁶

Notably, the lack of independence between the actions of the national and state human rights commissions and the Central and State Governments is evidenced in Chapter VIII, Section 38 by the Government's inclusion of themselves in a clause that clearly establishes protection of liability for acts of the Commission. As the Commission is the only entity that can be directly liable for its acts, the Government's securing of liability protection for the acts of the Commission suggest its belief that the Government and the Commission are either one entity or one in which the Government could be liable for the acts of the Commission.³⁷

Speaking on Independence by appointment, staffing patterns will also determine the extent of independence that the Commission will enjoy. The more the institution depends on civil servants and those transferred from other departments, it will be extremely difficult to expect them to maintain their independence. A civil servant who has worked in dept of the government for a long period of his service, being drawn into NHRC for a shorter tenure, knowing that he or she would be transferred to his parent department, is obviously not going to function independent of the government especially when they are dealing with complaints handling or policy matters where existing policies are looked at critically or while advocating new rights.

³⁵ PHRA, Chapter VIII, Section 38. No suit or other legal proceeding shall lie against the Central Government, State Government, Commission, the State Commission or any Member thereof or any person acting under the direction either of the Central Government, State Government, Commission or the State Commission in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or any order made thereunder or in respect of the publication by or under the authority of the Central Government, State Government, Commission or the State Commission of any report paper or proceedings.

³⁶ PHRA, Chapter II, Section 5(2). Resignation and removal of Chairperson and Members (2) Subject to the provisions of sub-section (3), the Chairperson or any Member shall only be removed from his office by order of the President of India on the ground of proved misbehaviour or incapacity after the Supreme Court, on reference being made to it by the President, has, on inquiry held in accordance with the procedure prescribed in that behalf by the Supreme Court, reported that the Chairperson or the Member, as the case may be, ought on any such ground to be removed. (3) Notwithstanding anything in sub-section (2), the President may, by order, remove from office the Chairperson or any Member if the Chairperson or such Member, as the case may be— (a) is adjudged an insolvent; or (b) engages during his term of office in any paid employment outside the duties of his office; or (c) is unfit to continue in office by reason of infirmity of mind or body; or (d) is of unsound mind and stands so declared by a competent court; or (e) is convicted and sentenced to imprisonment for an offence which in the opinion of the President involves moral turpitude.

³⁷ As the Central Government and State Government could not be directly liable for the actions of the Commission unless it were the same entity, this explicit provision ensuring protection from liability for the actions of the Commissions suggest that the government themselves presume they could be vicariously liable under a theory of respondeat superior (literally translating to "let the master answer"). Under the theory of respondeat superior, the employer is responsible for the actions of an employee performed within the course of their employment.

CHAPTER III

Executive Summary: Composition, Appointment Process And Tenure

the Commission has become a museum of prestige for highly accomplished retired members of the judiciary and government officials. While respectability and stature of the Commission members could potentially be a powerful tool in the fight for human rights, the appointment process lacks transparency that allows for the most qualified and best candidates to be openly selected and is not sensitive to ensuring that Commission members have the additional qualities that are essential for effective leadership in the field of human rights.

The composition of the National Human Rights Commission masks a real depiction of India and Indian life in its homogeneity and reveals a misunderstanding of the institution's stated purpose: to be a national leader in protecting and promoting human rights.

Rather, the Commission has become a museum of prestige for highly accomplished retired members of the judiciary and government officials. While respectability and stature of the Commission members could potentially be a powerful tool in the fight for human rights, the appointment process lacks transparency that allows for the most qualified and best candidates to be openly selected and is not sensitive to ensuring that Commission members have the additional qualities that are essential for effective leadership in the field of human rights.

The failure to appreciate what is necessary to equip the Commission with leaders capable of fulfilling its heavy mandate is indicated in both the founding law, through legal provisions creating overly and unnecessarily rigid criterion for three seats of the Commission, to implementation of the law, such as the failure to recognize the need for diversity and the consistent refusal to select even eligible and experienced activists and leaders in the field of human rights from civil society. The result is a Commission that has no women to review the thousands of complaints involving issues sensitive to women, no members of India's strong and vibrant civil society, and a newly selected Chairperson who has been accused of corruption and has publicly made statements that in his opinion, legally prohibited use of force against civilians is acceptable.

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III. COMPOSITION, APPOINTMENT PROCESS AND TENURE

1. Composition

The composition of the national institution and the appointment of its members, whether by means of an election or otherwise, shall be established in accordance with a procedure which affords all necessary guarantees to ensure the pluralist representation of the social forces (of civil society) involved in the promotion and protection of human rights.³⁸ In particular, the Paris Principles require effective cooperation be established with the following groups or their representatives: 1) non-governmental organizations responsible for human rights and efforts to combat racial discrimination, including trade unions and concerned social and professional organizations, such as associations of lawyers, doctors, journalists and eminent scientists; 2) Trends in philosophical or religious thought; 3) Universities or qualified experts; 4) Parliament; 5) Government departments (if these are included, their representatives should participate in the deliberations only in an advisory capacity).³⁹

In order to ensure pluralism of the NHRI's composition in accordance with the Paris Principles, the importance of the NHRI maintaining consistent relationships with civil society was emphasized by the ICC.⁴⁰ Outside of this, the ICC offered a variety of ways in which pluralism may be achieved through the composition of the NHRI, such as 1) representing different segments of society in the membership of the governing body; 2) suggesting or recommending candidates from diverse societal groups in the appointment procedures of the NHRI's governing body; 3) establishing procedures that enable effective cooperation with diverse societal groups, for example

advisory committees, networks, consultations or public forums; or 4) hiring of diverse staff representing the different societal groups within the society. Notably, the ICC Sub-Committee emphasized that ensuring pluralism required the meaningful participation of women in the NHRI.

Eligibility

The Protection of the Human Rights Act, 1993 sets rigid criteria for membership into the National Human Rights Commission. The National Human Rights Commission must be composed of one Chairperson and up to four members. Chapter II, Section 3(2) of the PHRA requires that the Chairperson has been a Chief Justice of the Supreme Court. Of the four sitting members, one must be or have been a Judge of the Supreme Court and one must be or have been a Chief Justice of a High Court. Of the five members comprising the NHRC, only two members, or less than half, must be appointed from amongst persons having any type of "knowledge of, or practical experience in, matters relating to human rights."

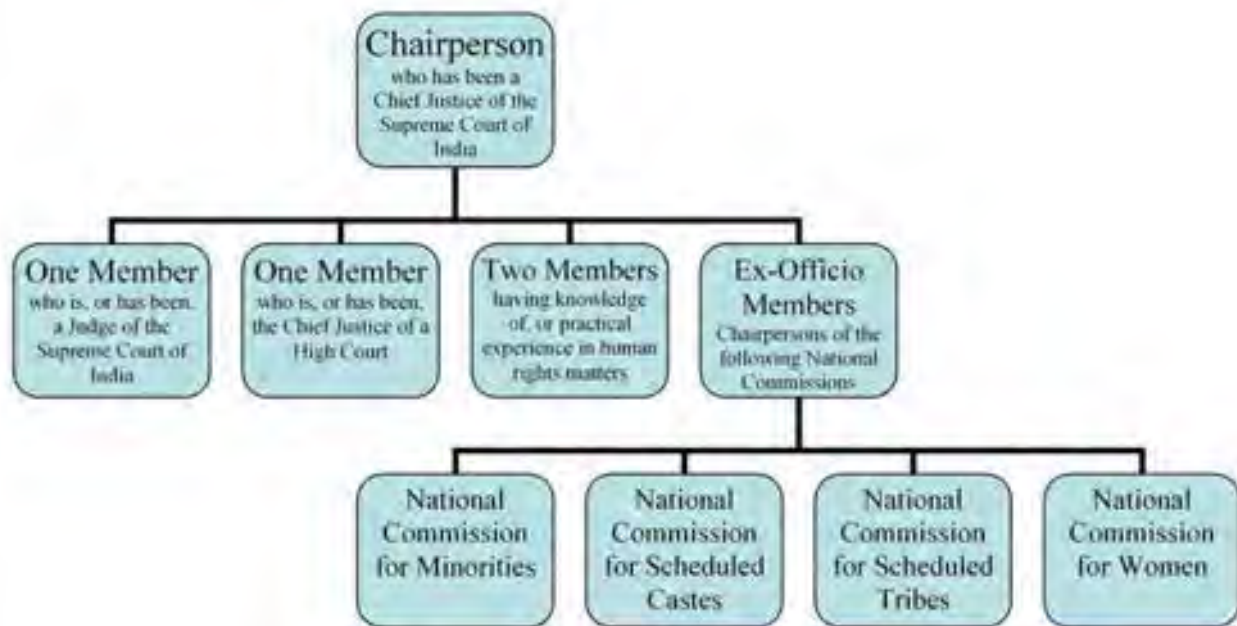
Further, Chairpersons of the National Commission for Minorities, the National Commission for the Scheduled Castes and Scheduled Tribes and the National Commission for Women shall be deemed to be Members of the Commission for the discharge of functions specified in clauses (b) to (j) of section 12.⁴¹ There shall also 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.

³⁸ *Paris Principles evaluation*

³⁹ *Paris Principles evaluation*, p. 2

⁴⁰ *The ICC noted that the NHRIs maintenance of consistent relationships with civil society should and will be taken into consideration in the assessment of accreditation applications.*

⁴¹ *Note: "National Commission for Scheduled Castes and Scheduled Tribes" stated as a member of the NHRC has been divided into two commissions, National Commission of Scheduled Castes and the National Commission of Scheduled Tribes.*



India is a country that has a wealth of social activists who have been recognized both nationally and internationally for their work in various human rights fields. Right from the days of independence, and particularly after the Emergency in India in 1975, the Human Rights, Civil Liberties voice in this country has been a strong and independent voice that even fought the Emergency, which led to the formation of a group called the People's Union for Civil Liberties (PUCL) and Democratic Rights. The leader of this group was the late Jaya Prakash Narayan, who in 1965 received the Magsaysay Award for Public Service and was posthumously awarded the Bharat Ratna, India's highest civilian award in 1988. The Indian human rights movement has also given birth to numerous winners of Nobel Prize for Peace, Ramon Magsaysay Awards and the Alternative Nobel Prize. Many Indian human rights defenders have also appointed to hold mandates in the UN special procedure mechanisms, become members of UN Treaty Bodies, posts in international and intergovernmental organizations, not mentioning the many jurists and the activists who continue their fight for human rights in the most interior of the country, drawn from different professions. It is this civil society mass which has consistently engaged itself internationally and nationally as well as the grassroots for the protection and promotion of human rights. It

India is a country that has a wealth of social activists who have been recognized both nationally and internationally for their work in various human rights fields. It is therefore a matter of serious concern for civil society that no person coming from this movement has ever been appointed as member of the NHRC.

is therefore a matter of serious concern for civil society that no person coming from this movement has ever been appointed as member of the NHRC. Clearly, any person from the movement would have more than sufficiently fulfilled the requirement of having "knowledge and practical experience" in human rights.

Many human rights groups in the country believe that "knowledge and practical experience in human rights" is not the primary consideration by the government when it appoints members of the NHRC. More often than not, appointments to the NHRC are made as rewards for political favors owed by those in power. For instance, the appointment in 2004 of Mr. P. C. Sharma, a current member of the NHRC, reappointed by the President of India for another term as Member of NHRC from 25th March, 2009, to the commission was challenged by Justice A S Anand, who was then the head of the NHRC. It was alleged that Mr. Sharma was appointed as member of the

NHRC as a reward for withdrawing charges against a political leader while acting as Director of the Central Bureau of Investigation (CBI)⁴² The spokesman of the Congress at that time, Mr. Kapil Sibal said, “This is a reward for the decision of the CBI to retract conspiracy charges against Advani.” He also publicly pronounced Mr. Sharma’s appointment as “very unfortunate.” Mr. Kapil stated that the former CBI chief should not have accepted the post as it undermined the independence of the premier investigating agency. “It just shows how these offices are used by the government to its political advantage,” he added.⁴³ Despite Justice J.S. Anand writing to Prime Minister Vajpayee, requesting him to “reconsider the appointment to prevent criticism at national and international levels,” Sharma was appointed to the NHRC in 2004.⁴⁴ Though this occurred under the Bharatiya Janata Party (BJP) government, the Congress government also reappointed Mr. Sharma in 2009.

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Another problem with the requirement under the PHRA that only a Chief Justice of the Supreme Court can be appointed as Chairperson of the NHRC is that this also effectively means that no woman can be eligible to sit as Chairperson of the NHRC for the next few years. In the past, the NHRC had women members, namely, Justice Fathima Beevi (1993) and

Justice Sujata Manohar (1999). At present, however, no woman sits as member of the NHRC

Plurality or the lack thereof in the NHRC

The Paris Principles requires plurality in the composition of an NHRI’s membership so that all

Limiting the membership to those coming from the judiciary or have served in government, as what the enabling law of the NHRC does, effectively alienates and silences a large part of civil society that has worked in the human rights movement in India.

views from all sectors of society are heard and considered in the work of promoting and protecting human rights. Limiting the membership to those coming from the judiciary or have served in government, as what the enabling law of the NHRC does, effectively alienates and silences a large part of civil society that has worked in the human rights movement in India. Moreover, since the NHRC’s enabling law ensures that majority of its members should come from the judiciary, it inevitably would find it difficult to reach out to grassroots and local human rights defenders. Members of the judiciary, because of the nature of their work, would have difficulty appreciating the value of open consultation and cooperation with human rights defenders.

Human rights work in India is also to a large extent viewed as anti-state work and if a person has worked only for the state, the person may not be able to adequately grasp the struggles and complexities of

⁴² *Times of India, Former CBI Director Sharma Joins NHRC*, 4.3.2004, available at <http://timesofindia.indiatimes.com/india/Former-CBI-director-Sharma-joins-NHRC/articleshow/535560.cms>

⁴³ *Id.*

⁴⁴ *Sharma’s appointment did generate much criticism, notably, within the NHRC itself. Ravi Nair, Executive Director of the South Asia Human Rights Documentation Centre, resigned from the NHRC’s NGO Core Committee due to the appointment of Sharma. Nair stated that the commission was not “forthright in its condemnation of an appointment that appeared to have been practically forced on it.” Nair has also objected to the fact that a “significant proportion of NHRC staff is drawn from the intelligence services— an injudicious step for a body charged with protecting and promoting human rights.” In a letter to NHRC chief Justice A. S. Anand, Nair said Sharma’s appointment is “another indication of NHRC’s continuing emasculation by the state. I believe, it reflects the extent to which the establishment is willing to undermine the cause of human rights in this country,” Nair wrote. He argued that Sharma’s appointment “runs counter to the provisions of the Human Rights Act, 1993, and the Paris Principles which lay down the maximum standards for national human rights institutions.” Clarifying that he had no “personal animus” against Sharma, Nair said: “He (Sharma) has not demonstrated substantive knowledge of human rights issues nor has he shown any commitment towards the same.” (*Times of India* 15.1.05), available at NHRC/ Rights Panel-2005*

working for human rights at the grassroots level. There is the tendency for this person to maintain a pro-state point of view. There is a tendency to become a defender or an apologist for the state's actions. This would not be helpful or would even be dangerous for human rights defenders working on the ground.

The mandate of the NHRC also includes the promotion of human rights and this entails the creativity of a vigorous advocate, a characteristic that members of judiciary are not often identified with.

Human rights is not about judgment, law and judges alone. The NHRC, which has been tasked to promote and protect human rights, has largely been viewed in the past few years as a mere complaints handling mechanism. However, the NHRC should be more than this. The mandate of the NHRC also includes the promotion of human rights and this entails the creativity of a vigorous advocate, a characteristic that members of judiciary are not often identified with. It is indeed true that the experience former judges can bring into the NHRC is invaluable. It must be pointed out though that a Commission with a membership composed mostly of former judges cannot be said to be a diverse Commission. One of the arguments put forth by NHRC on the question of diversity is that they have diversity of experience. This however refers mainly to their rich judicial and governmental experience but does not take into account the lack of academic and we are talking of academic and civil society experience in the office bearers of the commission.

Narrowing down the candidates for Chairperson of the NHRC to only those who have been former Chief Justices of the Supreme Court may also negate the eligibility requirement of "knowledge and practical experience in matters relating to human rights." For instance, Justice Balakrishnan, the current Chairperson, had clearly been appointed solely because of his being a former Chief Justice of the Supreme Court. This can be said because in his most recent statements to the media, it can be inferred that he does not have a good grasp of human rights

standards and principles, which the NHRC itself, in the past, had spearheaded the implementation in Asia. In July 2010, a month after his appointment, Justice Balakrishnan publicly said that "encounters are unavoidable sometimes...the law and order problem is increasing. Criminals are taking the law into their hands, attacking even the police. Police have to take control of the situation."⁴⁵ He did add a concession that there must be checks and balances to ensure that fake encounters do not take place, but he further justified his position and argument that extrajudicial executions could solve law and order issues, by citing examples of the extrajudicial executions of persons suspected to be involved with the Mumbai underworld gangs and those alleged as Naxalites in Andhra Pradesh state. At best, these comments are irresponsible and unbecoming of a judicial officer and public servant, mandated to chair the NHRC, an institution that hundreds of victims approach to seek redress in cases of extrajudicial executions⁴⁶.

In another public statement, he endorsed the death penalty. He said, "In India, different types of crimes are on increase. The death penalty will have a deterrent effect on the people...if you analyze (the cases), many of those who were given death penalty really deserved it in the cases imposed (on them),"⁴⁷

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At best, these comments are irresponsible and unbecoming of a judicial officer and public servant, mandated to chair the NHRC, an institution that hundreds of victims approach to seek redress in cases of extrajudicial executions.

The above statements of Justice Balakrishnan manifest a lack of knowledge of the very standards that the NHRC in the past worked hard to instill in the region. In 2000, the Advisory Council of Jurists (ACJ) issued a reference on the death penalty. There, the ACJ commended India "for its ratification of the International Covenant on Civil and Political Rights (ICCPR) and Convention on Rights of the Child."

⁴⁵ Can be accessed at <http://www.expressindia.com/latest-news/At-times-encounters-unavoidable/652721/>

⁴⁶ Statement by the Asian Legal Resource Centre ALRC-STM-004-2010 dated July 30, 2010

⁴⁷ Can be accessed at <http://www.thehindu.com/news/national/article546402.ece>

India was encouraged to move towards ratification of the Second Optional Protocol to the ICCPR and Convention against Torture. India was commended for its constitutional provision regarding the fostering of respect for international law and treaty obligations. However, the ACJ expressed concern about the stated intention of the Government to increase the list of offences which are punishable by death and drew particular attention to its comments regarding the criteria for what constitutes “most serious crimes.” The ACJ endorsed the comments of the Human Rights Committee in relation to India’s obligation to ensure that its Penal Code does not permit the execution of a person who commits a crime while under the age of eighteen. The ACJ noted that religious and cultural traditions cannot justify the breach of international human rights law. In this regard, the Council drew attention to the Declaration on the Elimination of all Forms of Intolerance and Discrimination Based on Religion or Belief. India was encouraged to take progressive steps towards *de facto* abolition of the death penalty and ultimately its *de jure* abolition”.⁴⁸

In 2009, due to the narrow requirement that the Chairperson of the NHRC must be a retired Chief Justice of the Supreme Court of India, the list of possible candidates eligible to replace former Chairperson Rajendran Babu for appointment as the

In 2009, due to the narrow requirement that the Chairperson of the NHRC must be a retired Chief Justice of the Supreme Court of India, the list of possible candidates... were literally limited to two individuals in a country of over 1 billion people.

Unfortunately, no changes have been made to this day on what may be said to be an absurdly restrictive appointment criterion.

Chair of the NHRC were literally limited to two individuals in a country of over 1 billion people. The Centre admitted to the High Court in Parliament that the appointment of a new NHRC Chairperson was delayed on account of difficulty faced in appointing former CJIs.⁴⁹ Realizing the practical difficulty in limiting eligible candidates to such an exclusive list, the Delhi High Court heard a petition filed by the Centre for Public Interest Litigation seeking an amendment to the 1993 PHRA Act that would enable even a retired Supreme Court judge to head the NHRC. Additional Solicitor General (ASG) A.S. Chandhiok informed the Delhi High Court on October 7, 2009 that the Supreme Court was contemplating changes in the PHRA to include retired Chief Justices of any High Court or a retired Supreme Court judge in the list of those eligible to be appointed as Chairperson of the NHRC.” Unfortunately, no changes have been made to this day on what may be said to be an absurdly restrictive appointment criterion.

In order to ensure the diversity and pluralism of the NHRC, one of the members of the National Core Group on NGOs who wished to remain anonymous emphasized the need to create a national pool of possible candidates from which potential members may be chosen.

The NHRC, in response to questions regarding the pluralism and diversity in the Commission, point to the inclusion of the Chairpersons from the National Commission on Women and the National Commission on Minorities as “deemed members” of the Commission. In reality, however, from the day the NHRC was established until 2008, these “deemed members” hardly ever attend Full Commission meetings. Full attendance of the deemed members, is rarely seen as illustrated by the table:⁵⁰

⁴⁸ Information got from the Commission in response to an RTI Petition **Reference No. R.C. No. 16(I)/PIO/2005 (RTI)/2586**

⁴⁹ Govt in spot over not appointing ex-CJI as NHRC chief, News of AP, available at http://www.newsofap.com/news_details.php?new_auto_id=2898&name=25-govt-in-spot-over-not-appointing-ex-cji-as-nhrc-chief-news-of-ap&start=360; Appointment of NHRC Chairperson after SC Order, Zeenews.com, available at <http://www.zeenews.com/news614409.html>

⁵⁰ Information obtained from NHRC in response to an RTI petition - Reference note R.C.No. 16(1)/2005 (RTI)/2645

Sl.No.	Details of all the meetings of the Full Commission of the NHRC comprising the 'Deemed Members'	Attendance in each of the meetings of the Full Commission of the NHRC of its 'Deemed Members'
1	28.01.98	NCM: Prof(Dr.) Tahir Mahmood, Chairperson
2	27.02.98	NC SCs/STs: Sri H. Hanumanthappa, Chairperson NCM: Prof(Dr.) Tahir Mahmood, Chairperson
3	24.04.98	NC SCs/STs: Sri H. Hanumanthappa, Chairperson NCM: Prof(Dr.) Tahir Mahmood, Chairperson
4	31.7.98	NCM: Prof(Dr.) Tahir Mahmood, Chairperson
5	30.10.1998	NCM: Prof(Dr.) Tahir Mahmood, Chairperson
6	29.01.1999	NC SCs/STs: Shri Dileep Singh Bhuria, Chairperson
7	29.4.1999	NCM: Prof(Dr.) Tahir Mahmood, Chairperson
8	30.7.1999	NCW: Smt. Vibha Parthasarathi, Chairperson NC SCs/STs: Shri Dileep Singh Bhuria, Chairperson
9	15.10.1999	NC SCs/STs: Shri Dileep Singh Bhuria, Chairperson NCM: Prof(Dr.) Tahir Mahmood, Chairperson NCW: Smt. Vibha Parthasarathi, Chairperson
10	3.11.2000	NCW: Smt. Vibha Parthasarathi, Chairperson NCM: Justice Shri Mohammed Shamim, Chairperson NC SCs/STs: Shri Dileep Singh Bhuria, Chairperson
11	25.01.2001	NCW: Smt. Vibha Parthasarathi, Chairperson NCM: Justice Shri Mohammed Shamim, Chairperson NC SCs/STs: Shri Dileep Singh Bhuria, Chairperson
12	27.04.2001	NCM: Justice Shri Mohammed Shamim, Chairperson NC SCs/STs: Shri Dileep Singh Bhuria, Chairperson
13	27.7.2001	NCM: Justice Shri Mohammed Shamim, Chairperson NC SCs/STs: Shri Dileep Singh Bhuria, Chairperson
14	1.11.2001	NCM: Justice Shri Mohammed Shamim, Chairperson NC SCs/STs: Shri Dileep Singh Bhuria, Chairperson NCW: Smt. Vibha Parthasarathi, Chairperson

Sl.No.	Details of all the meetings of the Full Commission of the NHRC comprising the 'Deemed Members'	Attendance in each of the meetings of the Full Commission of the NHRC of its 'Deemed Members'
15	16.01.2002	NCW: Smt. Vibha Parthasarathi, Chairperson
16	07.05.2002	NCM: Justice Shri Mohammed Shamim, Chairperson
17	12.07.2002	NCM: Justice Shri Mohammed Shamim, Chairperson NCW: Dr. Poornima Advani, Chairperson
18	28.11.2002	NCM: Justice Shri Mohammed Shamim, Chairperson
19	25.04.2003	NCM: Justice Shri Mohammed Shamim, Chairperson NCW: Dr. Poornima Advani, Chairperson
20	18.9.2003	NC SCs/STs: Dr. Bizay Sonkar Shastri, Chairperson NCW: Dr. Poornima Advani, Chairperson NCM: Shri Tarlochan Singh, Chairperson
21	15.10.2004	NCM: Shri Tarlochan Singh, Chairperson,
22	29.04.2005	NCM: Shri Tarlochan Singh, Chairperson, NCW: Dr(Ms.) Girija Vyas, Chairperson
23	17.11.2005	NCM: Shri Tarlochan Singh, Chairperson, NCW: Dr(Ms.) Girija Vyas, Chairperson
24	13.7.2006	NCM: Shri Tarlochan Singh, Chairperson NCW: Dr(Ms.) Girija Vyas, Chairperson
25	20.7/2007	NC SC: Dr. Buta Singh, Chairperson NC ST: Smt. Urmila Singh, Chairperson NCW: Dr(Ms.) Girija Vyas, Chairperson
26	25.04.2008	NCM: Mr. Mohammed Shafi Qureshi, Chairperson NCW: Dr(Ms.) Girija Vyas, Chairperson

Current Membership of the NHRC

In June 2010, more than a year of remaining vacant, the position of Chairperson of the NHRC was filled by Justice K.G. Balakrishnan, replacing Acting Chairperson Justice Mr. Govind Prasad Mathur. The members of the NHRC are now Justice Mr. Babulal Chandulal Patel, Mr. Satyabrata Pal, and Mr. P.C. Sharma. The Chairperson of the National Commission for Minorities Mr. Mohammad Shafi Qureshi and Chairperson of the National Commission for Women Dr. Girija Vyas also sit on the board of the National Human Rights Commission as ex-officio members.

As mentioned earlier, no women are official members of the NHRC. Further, there are currently no women even eligible for the position of Chairperson of the NHRC. There are also no persons with disabilities as members. While Chairperson Balakrishnan is the first Dalit Chairperson of the NHRC, his reputation has been widely and publicly questioned.⁵¹ Two members, Mr. P.C. Sharma and Mr. Satyabrata Pal, were said to have been selected for their “knowledge and practical experience in matters relating to human rights.” However, neither of the two is observed to have exhibited any great commitment to promoting human rights in India. In fact, Mr. P.C. Sharma has been widely accused of being rewarded the position in the NHRC due to his withdrawal of charges against political party BJP leader LK Advani when he was still Director of the Central Bureau of Investigation.⁵² Mr. Satyabrata Pal, on the other hand, as a member of the Indian Foreign Service has spent over 30 years abroad as a bureaucrat. While his academic and theoretical knowledge, experience with international politics, and adeptness at bureaucracy may be strong, he has not exhibited any signs of being able to advocate for marginalized victims, nor does he possess any experience on the ground, grassroots human rights issues facing Indians today. The current substandard

composition of the NHRC’s membership leaves the Commission with absolutely no representation by civil society and leaves it extremely ill-equipped to offer protection to victims and address human rights violations in India.

1. Selection and Appointment

Formation of a Selection and Appointment Committee

ICC Subcommittee emphasizes the following factors in the selection and appointment process: 1) transparency; 2) broad consultation throughout the selection and appointment process; 3) advertising vacancies broadly; 4) maximizing the number of potential candidates from a wide variety of societal groups; and 5) selecting members to serve in their own individual capacity rather than on behalf of the organizations they represent. None of these elements can be said to have been even remotely followed in the selection and appointment of the NHRC.

The PHRA provides a specific procedure for appointing the Chairperson and other Members to the National Human Rights Commission under Chapter II, Section 4. The founding law states that the Chairperson and other Members shall be appointed by the President by warrant under his hand and seal after obtaining the recommendations of a Committee consisting of the following members: 1) The Prime Minister serving as Chairperson; 2) Speaker of the House of the People (Member); 3) Minister in-charge of the Ministry of Home Affairs in the Government of India - Member; 4) Leader of the Opposition in the House of the People - Member; 5) Leader of the Opposition in the Council of States - Member; 6) Deputy Chairman of the Council of States - Member. Notably, 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.⁵³

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⁵¹ *Infra* note 7.

⁵² *Infra* note 11.

⁵³ A Chart of members of the appointment committee is annexed

The NHRC has stated their belief that the “high level and politically balanced Committee, together with the statutory requirements relating to the qualifications of the Chairperson and Members of the Commission, invest the Commission with a very high degree of credibility.”⁵⁴ In the response to the India Chapter of the ANNI Report for the year 2010 the Commission has said, “The Appointment Committee has always chosen as Members those who bring diverse experience to the work of the NHRC.”

Selection and Appointment Process in Reality

The selection and appointment process has been widely criticized by the public. While the PHRA provides for an open, transparent process, many members of society from throughout India reveal that the appointment criteria and process for membership to the NHRC is not fair, transparent, or open. Further, there is a strong sentiment that the lack of diversity and representation of minorities with relevant backgrounds to issues addressed by the Commission were large impediments to the effective functioning of the NHRC. Mrs. Prathibha, of Civil Initiatives for Development and Peace India (CIVIDEP), pointed out many members joined the Commission as political appointees, not from a fair and transparent process.

Mr. Pushkar Raj of the General Secretary of – People’s Union for Civil Liberties (PUCL) in Rajasthan stated that the current composition had been due to the poor appointment process, leading to an ineffective, homogenous Commission, and is a struggle for the entire nation. He further commented that almost all the one hundred and fifty Commissions, which includes the NHRC, the various specialized national human rights commissions, and the State

Mrs. Prathibha, of Civil Initiatives for Development and Peace India (CIVIDEP), pointed out many members joined the Commission as political appointees, not from a fair and transparent process.

The Commission, now more than ever, is in need of strong, ethical, and courageous leadership.

While it looks very prestigious for the country to be headed by a former Chief Justice of India which really is the case, it is not the case that every former Chief Justice of India is a person who has the potential capabilities as well as creativity to head a body such as the National Human Rights Commission of India.

Human Rights Commissions, were places of rehabilitation for retired judges and government officials.

The criticisms of civil society are founded in a very harsh reality that the NHRC has been abused as a highly political mechanism in which the government’s appointment committee has made many publicly and widely criticized appointments. Less than a month after demitting his position as Chief Justice of the Supreme Court of India, the 6th and current Chairperson of the National Human Rights Commission K.G. Balakrishnan was appointed as the NHRC chief on June 3, 2010. As expected, less than a month after demitting his position as Chief Justice of the Supreme Court of India, the sixth and current Chairperson of the NHRC was appointed on 3 June 2010.⁵⁵ Despite his candidature being widely criticized for a number of his controversial stands – such as blocking the prosecution of former Justice Nirmal Yadav for corruption,⁵⁶ attempting to exempt the Office of the Chief Justice of India from the purview of the Right to Information Act,⁵⁷ and delaying action against Justice P.D. Dinakaran after Parliament initiated an impeachment motion in connection with a land dispute and corruption case – the government waited more than a year to appoint Justice K.G. Balakrishnan to lead the NHRC. The Commission, now more than ever, is in need of strong, ethical, and courageous leadership.

⁵⁴ NHRC India Report 2005-2006.

⁵⁵ Balakrishnan stepped down as Chief Justice of the Supreme Court of India on May 11, 2010. Deccan Herald, June 3, 2010, available at <http://www.deccanherald.com/content/73161/justice-balakrishnan-nhrc-chief.html>

⁵⁶ Ajay Sura, Cash-for-judge: HC Bar flays CJI, TIMES OF INDIA, Feb. 10, 2010, available at <http://timesofindia.indiatimes.com/india/Cash-for-judge-HC-Bar-flays-CJI/articleshow/5554244.cms>

⁵⁷ CJI’s Office Comes Within RTI Act: Delhi HC, OUTLOOK INDIA.COM, Jan. 12, 2010 (quoting, “The 88-page verdict is being seen as a personal setback to CJI KG Balakrishnan, who has consistently been maintaining that his office does not come under the transparency law and hence cannot part with information like disclosure of judges’ assets under it.”), available at <http://news.outlookindia.com/item.aspx?672590>

This is not the first time the NHRC has appointed a controversial member, with an allegedly less than honest reputation. When the appointment of former Director of the Central Bureau of Investigation and current Member of the NHRC P.C. Sharma was proposed, Congress widely questioned his appointment, alleging that he was being rewarded for “withdrawal of charges” against political party BJP leader LK Advani in the *Ayodhya* case. Congress spokesman Kapil Sibal reported, “This is a reward for the decision of the CBI to retract conspiracy charges against Advani,” and termed the appointment as “very unfortunate.” Kapil stated that the former CBI chief should not have accepted the post as it undermined the independence of the premier investigating agency. “It just shows how these offices are used by the government to its political advantage,” Sibal added.⁵⁸ Despite Justice Anand even writing a letter to Prime Minister Vajpayee, requesting him to “reconsider the appointment to prevent criticism at national and international level,” P.C. Sharma was appointed to the NHRC in 2004.

While it looks very prestigious for the country to be headed by a former Chief Justice of India which really is the case, it is not the case that every former Chief Justice of India is a person who has the potential capabilities as well as creativity to head a body such as the National Human Rights Commission of India. What the Commission needs are persons who are able to give leadership to this body without converting it into another judicial forum. Some of them have succeeded and some have not and therefore we are of the opinion that only having the criteria of having a former Chief Justice of India will not be sufficient for heading this commission. After the affidavit filed by Mr. Shanti Bhushan after the contempt proceedings of the Court of Law on Prashant Bhushan, the country’s collective conscience is shaken that 8 out of 16 Chief Justices of India, starting with Justice Ranganath Mishra and ending with Justice Y. K. Sabharwal, were known to be corrupt is more than sufficient information that someone who is Chief Justice of India or serving judges of India of

Chief Justice of a high court by itself cannot be valid criteria for this position⁵⁹.

2. Tenure

Terms of office of members

The Paris Principles provide ... To further promote independence and prevent conflicts of interest, a Chairperson or a Member who has ceased to hold his position in office shall be ineligible for further employment under the Government of India or under the Government of any State.

The ICC observed that members of the NHRI should include full-time remunerated members in order to ensure that the NHRI is independent and free from actual or perceived conflicts of interest, has a stable mandate for the members, and has ongoing and effective fulfillment of the mandate of the NHRI. As such, any possible grounds for dismissal of members of governing bodies must be in conformity with the Paris Principles and included in the founding law of the NHRI. The ICC recommends that dismissal or forced resignation of any member should result in a special review of the accreditation status of the NHRI and be in strict conformity with all substantive and procedural requirements as prescribed by law. Dismissal should not be allowed based solely on the discretion of appointing authorities.

The Paris Principles provide that appointment of national human rights institution members shall be effected by an official act which shall establish the specific duration of the mandate. The mandate may be renewable, provided that the pluralism of the

This direct tie between salaries and the government has led many members of Commissions to inwardly and often outwardly perceive the government as their employer. Financial control by the government affecting the independence of the Commission directly violates the Paris Principles.

⁵⁸ Available at <http://timesofindia.indiatimes.com/india/Former-CBI-director-Sharma-joins-NHRC/articleshow/535560.cms>

⁵⁹ Affidavit available at http://www.judicialreforms.org/files/pb_contempt_case_additional_affidavit_15092010.pdf

institution's membership is ensured. Accordingly, Chapter II, Section 6 of the PHRA provides that a person appointed as Chairperson or Member shall hold office for a term of five years from the date on which he enters upon his office. The PHRA further allows that members shall be eligible for re-appointment for an additional term of five years. At no time may an individual hold office as a Chairperson or a member of the NHRC after he has attained the age of seventy years.

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Whether members receive adequate remuneration

Chapter II, Section 8 provides the terms and conditions of service for Members of the NHRC. It provides that salaries, allowances, and other terms and conditions of service of the Members are given "as may be prescribed," but ensures that these may not be varied to his disadvantage after his appointment. However, Chapter VIII, Section 40(2)(a) reveals that the power to "prescribe" the salaries of the Commission members lay with the Central Government. This direct tie between salaries and the government has led many members of Commissions to inwardly and often outwardly perceive the government as their employer. Financial control by the government affecting the independence of the Commission directly violates the Paris Principles. Almost all of them are retired government servants and their salaries with all the perks are usually adequate

Grounds and Procedures for Dismissal and/or Resignation

In protecting the independence of the judiciary, it is important to ensure that judges enjoy a certain

amount of freedom from political pressure and protection from retribution. Accordingly, a Chairperson or Member of the NHRC may voluntarily resign under Chapter II, Section 5(1) by notice in writing under his hand addressed to the President of India, but may only be dismissed or removed from office under very limited circumstances. Chapter II, Section 5(2) of the PHRA states that a Chairperson or Member "shall only be removed from his office by order of the President of India on the ground of proved misbehaviour or incapacity after the Supreme Court, on reference being made to it by the President, has, on inquiry held in accordance with the procedure prescribed in that behalf by the Supreme Court, reported that the Chairperson or the Member, as the case may be, ought on any such ground to be removed." Section 5(3) states that, notwithstanding anything in sub-section (2), the President may, by order, remove from office the Chairperson or any Member if the Chairperson or such Member is adjudged an insolvent, engages during his term of office in any paid employment outside the duties of his office, is unfit to continue in office by reason of infirmity of mind or body, is of unsound mind and stands so declared by a competent court, or is convicted and sentenced to imprisonment for an offence which in the opinion of the President involves moral turpitude.

In the event that a Chairperson is unable to discharge his functions, due to death, resignation, or otherwise, the President may, by notification, authorise one of the Members to act as the Chairperson until the appointment of a new Chairperson to fill such vacancy.⁶⁰ If the Chairperson is unable to discharge his functions owing to absence on leave or otherwise, such one of the Members as the President may, by notification, authorise in this behalf, shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties.⁶¹

⁶⁰ PHRA, Chapter II, Section 7(1).

⁶¹ PHRA, Chapter II, Section 7(2)

CHAPTER IV

Executive Summary: Organizational Infrastructure

Although the National Human Rights Commission has had 17 years to build up its infrastructure, it has completely failed to develop its resources and effective

The Commission conducts the overwhelming majority of its functioning in one building in Delhi, while the rest of India resides far away and unable to access the NHRC.

functioning in society. It lacks not only financial resources, but historical knowledge and intellectual capital. Puzzlingly, the NHRC refuses to acknowledge how dramatically under-resourced it is financially and has not requested for an increase in staff or Members to the Commission. Rather, the Commission has recently stated that its five Members are able to provide orders in the approximately 400 cases a day without any problems.⁶²

The NHRC remains inaccessible to almost the entire population it is purported to serve. The Commission conducts the overwhelming majority of its functioning in one building in Delhi, while the rest of India resides far away and unable to access the NHRC. Even in rare cases where victims are able to journey to Delhi, the environment is hostile and unwelcoming to the very victims it was created to serve. Even the NHRC website, only available in English, removes few barriers to victims and the public.

Commission staff members are hand-selected from government posts, often deputed temporarily from similarly titled, but very different, government positions. These staff members are given no training for completing their jobs and as they frequently have no background in human rights, complete their job with no additional sensitivity or understanding of human rights. Again, prestige is blindly equated with competence – resulting in both qualified and unqualified candidates almost randomly being chosen for important posts, such as Special Rapporteur of the NHRC.

⁶² Note that even if each of the five members worked 16 hours per day, double the average 8 hour work day, and reviewed and gave orders in the minimum amount of cases they have stated they go through in a day – 60 cases – each complaint alleging a human rights violation would receive less than 30 minutes of attention per Member.

IV. ORGANIZATIONAL INFRASTRUCTURE

The organizational infrastructure of a national human rights institution is the entire collection of resources with which it may fulfill its mandate and includes not only tangible goods, such as its premises, library, and budget, but also intangible elements, such as attitudes of the staff, reputation of the NHRI in society, years of experience, and intellectual capital. Its organizational infrastructure, then, is the essence of the NHRI – who it is and how it functions in society.

The Paris Principles require that the NHRI be equipped with infrastructure which is suited to the smooth conduct of its activities, in particular, adequate funding. Accordingly, the NHRI must have sufficient funds to enable it to hire adequate and competent staff, have one or more premises such that it is accessible to the public, and expertise and dedicated leadership to efficiently perform the many functions it has been entrusted with by the public. In order to do this effectively, the national human rights institution must be independent of the Government and not subject to its financial and political control. As such, a thorough understanding of the national human rights institution also requires an appreciation for how it has

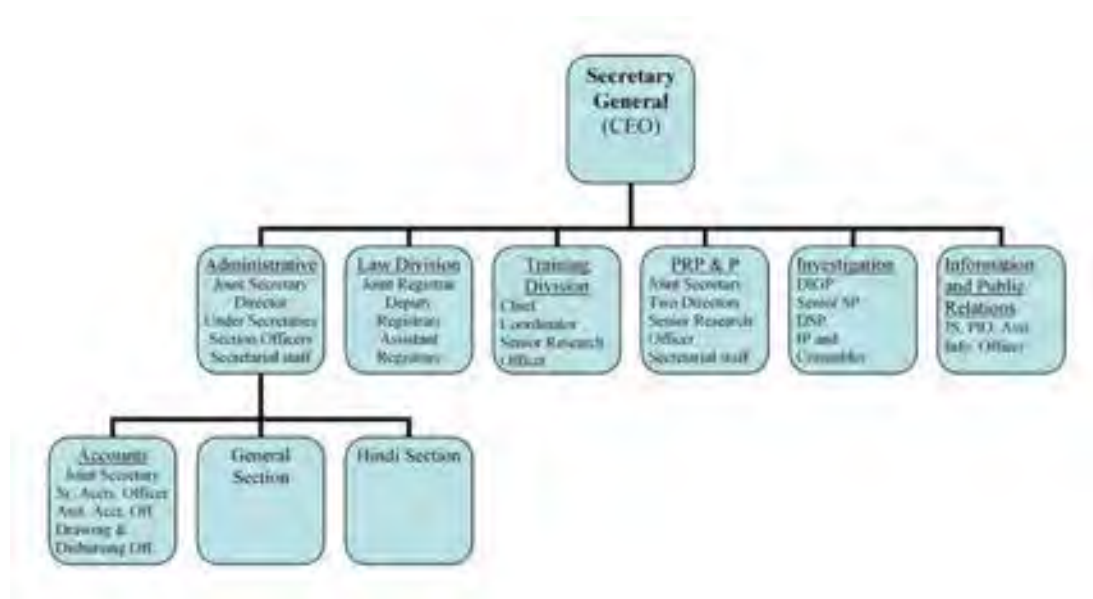
structured itself, as well as the relationships it has built with other national and state human rights institutions and other important stakeholders.

1. Infrastructure

The National Human Rights Commission has been given a very wide mandate with many functions and accordingly, has been given many powers to fulfill these in the PHRA.⁶³ Accordingly, the NHRC has set up an organizational structure that will enable it to fulfill its work efficiently and effectively.

The Chief Executive Officer (CEO) of the National Human Rights Commission is the Secretary General, selected from an officer of the rank of Secretary to the Government of India. The Secretary General has a Secretariat working under his/her general supervision. There are six divisions of the Commission that, while entrusted with specific tasks, work in close consultation and coordination with each other, and include the following: 1) Administrative Division, 2) Law Division, 3) Training Division, 4) Policy Research, Projects and Programmes Division, 5) Investigation Division, and 6) Information and Public Relations Division⁶⁴.

Figure 4.1 NHRC Divisions



⁶³ Section 12 and 13 of the Protection of Human Rights Act

⁶⁴ Can be accessed at <http://nhrc.nic.in/>

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The Administrative Division is headed by a Joint Secretary and assisted by a Director, Under Secretaries, Section Officers, and other secretarial staff. It functions under the overall guidance of the Secretary-General and looks after the administrative, personnel, establishment, and cadre matters of the staff and officers of the Commission. The Administrative Division includes an Accounts Branch, General Section, and the Hindi Section. The Accounts Branch functions under the overall guidance of the Joint Secretary and consists of a Senior Accounts Officer, Assistant Accounts Officers, a Drawing and Disbursing Officer, and other staff. The General Section takes care of housekeeping, repairs, and maintenance. The Hindi Section is responsible for translation of complaints, annual reports, and publications.

The Law Division is headed by the Registrar (Law) and is responsible for the disposal of complaints relating to human rights violations. The Registrar (Law) is assisted by a Joint Registrar, Deputy Registrars, Assistant Registrars, and others. There are also four Presenting Officers coming from the subordinate judiciary⁶⁵, who assist the Commission in fulfilling its very important complaints handling function. These presenting officers and investigation wing personnel should ideally have proper and extensive training on handling human rights cases.

The Training Division has been created to disseminate information and focus attention on sensitizing various agencies and NGOs, civil society

These presenting officers and investigation wing personnel should ideally have proper and extensive training on handling human rights cases.

to heighten respect for Human Rights by organizing Human Rights Training Programmes. The Division is headed by a Chief Coordinator (rank of a Joint Secretary) and is assisted by a Senior Research Officer and other secretarial staff.

The Library, containing a collection of books and a variety of documents of the United Nations, All India Reporter (AIR) Manuals, Supreme Court Reports, Government Reports, NGO bulletins, etc., not only serves the Commission, but is also a resource centre for interns, researchers, and NGOs. The Computer Cell, in coordination with the National Informatics Centre (NIC) has developed a user-friendly package for monitoring the status of complaints, from receipt to final disposal.

The Policy Research, Projects and Programmes Division develops projects and programmes on topics that have been determined to be of generic importance on the basis of hearings, deliberations or otherwise, and undertakes and promotes research in human rights and organizes seminars, workshops and conferences on pertinent issues. The PRP & P Division is headed by the Joint Secretary and consists of two Directors, a Senior Research Officer and secretarial staff.

The Investigation Division, headed by the Director General of Police (DGP), conducts independent inquiries when required. This division also assists the Commission in examining complaints, scrutinizing reports received from police and other investigation agencies, and analyzes the intimations and reports from the State authorities. These reports regard violations such as deaths in police and judicial custody, encounter deaths and advising the Commission. The Investigative Division also assists the Training Division in spreading human rights literacy as envisaged in Section 12(h) of the PHRA. The DGP is assisted by a Deputy Inspector General of Police, Senior Superintendents of Police, Deputy Superintendents of Police, Inspectors of Police and Constables.

Finally, the Information and Public Relations Division disseminates information relating to the activities of the Commission, through print and electronic media, and is headed by an Information and Public Relations Officer, who also functions as

⁶⁵ Subordinate Judiciary in India refers to the District Courts that are under the High Courts of every State in the Country

the Editor of the monthly Human Rights Newsletter. This division is responsible for the website and publications of the Commission, and has an Assistant Information Officer and has been appointed a Public Information Officer for the purpose of facilitating information under the Right to Information Act. The Appellate Authority is the Joint Secretary.

The Special Rapporteurs of the NHRC

The NHRC also employs the services of “special functionaries,” to serve as Special Rapporteurs and members of thematic Core Groups.

Special Rapporteurs are to be selected by the NHRC from among very senior retired officers who had previously served as Secretaries to the Government of India or Directors General of Police or have done exemplary service in a human rights related field. These Special Rapporteurs are given either a theme, or a group of subjects to themes, such as Bonded Labour, Child Labour, Custodial Justice, Dalit Issues or Disability. These Special Rapporteurs may also be assigned particular territorial jurisdictions to cover.⁶⁶ This system of maintaining a pool of Special Rapporteurs is a concept very unique to and patterned after the United Nations. It is therefore expected that these Special Rapporteurs, like their counterparts at the UN, are people who are recognized in their field and known for their independence and integrity. At the outset, when this system was initially put in place, the Special Rapporteurs who were appointed were indeed recognized experts in their own fields. Some of the first Special Rapporteurs of the commission like Mr. Chaman Lal, former DGP of Nagaland, Mr. K. R. Venugopal, former Secretary to the Prime Minister of India were people of eminence, competence and

knowledge in a particular area and their work in the Commission did contribute to the body of work of the institution. In the recent years, however, the system of maintaining a pool of Special Rapporteurs has come into question as more and more Special Rapporteurs coming from government instrumentalities have been appointed.

Over the years, it has become rarer and rarer for individuals coming from the human rights movement and even the academe to be appointed as a Special Rapporteur. There seems to be an underlying message that only persons with a government background can be appointed as Special Rapporteurs and that representatives from civil society or the academe may be “too independent” to hold these positions.

It is therefore unfortunate that such a system that started out so positively has degenerated into another manifestation of the unfounded mistrust that the current NHRC holds against members of the human rights movement or human rights defenders.

The Core Groups of the NHRC

Core Groups are composed of very eminent persons, or representatives of bodies, in their respective fields in the country, who voluntarily agree to serve, in an honorary capacity, as members of such groups. Core groups have been previously created to address a variety of human rights issues including, Health, Disability, Unsafe Drugs & Medical Devices, NGOs, Legal Issues, Right to Food, Emergency Medical Care, and Refugees.

A lengthier discussion on the NGO Core Group will be made in the chapter discussing the NHRC's relationship with civil society.

Accessibility of the NHRC

The National Human Rights Commission is located in India's capital city, Delhi, as provided under Chapter

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Unfortunately, to the hundreds of millions of marginalized, impoverished Indians living far away from Delhi in the North Eastern, Western, Southern, and Central regions of India, the National Human Rights Commission is wholly inaccessible. Although, the NHRC has had prior approval from the Central Government to establish offices in other parts of the vast country of India since 1993, the NHRC has failed to do so.

⁶⁶ Information received in response to an RTI Petition to the Commission (RC No.16(1)/PIO/2005(RTI)/2639 dated 25.09.2009

I, Section 5 of the Protection of Human Rights Act, 1993. Unfortunately, to the hundreds of millions of marginalized, impoverished Indians living far away from Delhi in the North Eastern, Western, Southern, and Central regions of India, the National Human Rights Commission is wholly inaccessible. Although, the NHRC has had prior approval from the Central Government to establish offices in other parts of the vast country of India since 1993,⁶⁷ the NHRC has failed to do so. Its Delhi based offices remain both its headquarters and only offices.

In the NHRC's 17 year history, it has only reached out to the rest of India and provided two opportunities for decentralized hearings on complaints, both in Northern India. In 2004, two hearings were held in Patna, Bihar and Lucknow, Uttar Pradesh. From 15 to 16 September 2010, the NHRC's DGPs or their representatives, and the Chief Secretaries of the Southern States met in Bangalore to look into pending complaints of human rights violations in the South.⁶⁸ However, the proceedings were held behind closed doors and the complaints were not invited to either participate or even observe. Many senior activists and NGOs attempted to enter and observe the proceedings, but their efforts were in vain. Hence, the proceedings were heavily criticized by human rights groups as not being transparent. The outcomes of these proceedings were also not even made public. Moreover, even if the proceedings were opened to the public, many of the victims of human rights violations would not have shown up due to the presence of around 100 policemen, purportedly there to provide security to the NHRC Chairperson.

It may be true that the NHRC Chairperson may need some amount of security as he travels. Nevertheless, traveling around with a security detail as massive as that of the Home Minister's does not make the Commission appear accessible to human rights defenders and victims of human rights violations who would need to approach them with their concerns.

Even when NHRC Chair and members occasionally make visits to other states for seminars,

training programs, to deliver an inaugural or valedictory address at events, they unfortunately, remain elite, figureheads, inaccessible to the public. The security scenario around the place where they stay and where their formal meetings take place with the heads of the police or district officials or state officials of the government is heavy. Often no discussions are held with NGOs. There is no allotted time for victims, nor any effort to afford these victims easy access to them without the presence of the officials of the districts against whom most of the complaints are. This is the routine way they behave and conveys the message that this is a Commission of the Government to protect the Government and its officials and not to help the ordinary victims of violations.

If resources are not available to establish satellite offices of the NHRC, then the NHRC must maximize visits outside Delhi to project that it is on the side of victims and not the perpetrators. More often than not, when members of the NHRC travel outside Delhi, they generally choose to locate themselves in circuit houses (state guest houses) which are usually difficult to access and very difficult for anyone, let alone victims, civil society, and common citizens, to enter. No advance program schedule is sent if the Chairperson or the Members visit and there is no time made for people to meet. The Chairperson should be in a publicly accessible place or one that is made accessible to the public. Only then the principle of accessibility will be established.

The protection and security of these highly accomplished, distinguished persons and proper adherence to regulation can be ensured without being abused as excessive barriers to protection and justice.⁶⁹ If even an *invited guest* is barraged by police officers at the gate, what kind of reception can unsolicited victims hope to get? The very people from which they may be seeking protection from may be literal barriers to their security. Hurt, vulnerable victims of tragic human rights violations should not be forced to seek protection from such an inaccessible, intimidating, and frightening environment.

⁶⁷ PHRA, Chapter I, Section 5.

⁶⁸ Information can be accessed at <http://nhrc.nic.in/dispatch.asp?fno=2153>

⁶⁹ Story: In a recent request for information under the Right to Information Act, 2005, even a well-known core group member of the NHRC was asked to "Prove that you are an Indian citizen" because **the stamp on the postal order was not accepted**. These institutions are more dedicated to protecting the interests of government over society.

Fortunately, not all NHRC members and officials keep such significant barriers between themselves and the public. Indeed, many NHRC members are open and very welcoming to victims. However, whether a victim will feel safe and protected is highly dependent on these individual members, who are few and far between, rather than an adequate and appropriate infrastructure that is set up to guarantee this environment.

There is no written policy on accessibility of members coupled with their security concerns. This should not be left to the chance element of a particular member being good and accessible. Only having police officers to investigate is wrong. The team should have doctors, lawyers, psychologists and Human Rights activists and they should collectively carry out a Human Rights investigation. Crime investigations by police and Human Rights investigations are two different procedures.

To function effectively and reach the over 1 billion Indians who require access to the NHRC, four to five offices must be established throughout India. Particularly, branch offices of the NHRC should be established in the southern, central, north eastern and western regions of India. From these branch offices, investigation staff should be trained to investigate and report on human rights violations. To make the NHRC a truly national institution working for the protection and promotion of human rights, honorary Special Rapporteurs should be appointed to monitor violations of human rights in each of the 620 districts of India. Additionally, volunteers, drawn from social workers, police officers, prison officials, retired judiciary, academics, district level officers, and elected and formerly elected representatives, could be trained to provide support to existing Special Rapporteurs by working as the “eyes and ears” of the NHRC in all 620 districts. A small beginning could be made in this direction with the appointment of Special Rapporteurs in the selected NHRC districts of the country.

Working together, this team of volunteers, local investigators, and Special Rapporteurs, can scrutinize the situation on the ground and either make recommendations to the NHRC, notably, requests for in-person visits for cases of highest priority requiring

NHRC members’ and officers’ direct presence to investigate the violation and give the matter additional attention. A network of local and national representatives working together will enhance the breadth, quality, and speed of investigation of violations, while maximizing the limited resources of the NHRC. Because access to justice requires *timely* access to justice, any follow-up investigations and relief orders must be issued speedily.

The NHRC must change its relationship with the public by first, both literally and symbolically, opening its doors. The NHRC should have its own building that is physically welcoming and unimposing. The entire approach of the NHRC must be victim-centered, compassionate, and open. The NHRC must be clear that it is an institution established wholly to promote human rights and serve and protect the victims of human rights violations. The NHRC must work hard to overcome the reputation that it has built as a bureaucracy, dedicated to managing files and politics, rather than an institution dedicated to serving the public.

The NHRC must change its relationship with the public by first, both literally and symbolically, opening its doors...The NHRC must work hard to overcome the reputation that it has built as a bureaucracy, dedicated to managing files and politics, rather than an institution dedicated to serving the public.

State Human Rights Commissions (SHRCs): How can they help the NHRC?

There are currently 18 State Human Rights Commissions (SHRCs) in India, plus the public pronouncements from the state governments of Jharkhand and Sikkim of the impending establishment of their SHRCs. The NHRC, however, has not developed a strong working relationship with these SHRCs.⁷⁰ The argument put forth by the NHRC, and very often heard from chairpersons and members from the SHRCs, is that nowhere under the PHRA is it mentioned that the NHRC has been bestowed with any form of a supervisory role over the SHRCs. There is also no evidence, either on the NHRC’s annual

⁷⁰ Listed in the NHRC website <http://www.nhrc.nic.in/>

reports or its website, of any kind of statement or effort by the NHRC to the Parliament to make the SHRCs come under the NHRC. Many activists believe that integrating the SHRC into the structure of the NHRC would only be practical and a matter of good governance.

It must be noted though that there have been annual meetings of the NHRC where some representatives of the SHRCs were invited to attend. Still, it is not always the chairpersons of the SHRCs who attend these annual meetings of the NHRC. Moreover, there is an apparent effort from the NHRC to call SHRCs for consultation, albeit these consultations never lead towards a system whereby the SHRCs become the eyes and ears of the NHRC on the ground. For example the frequency of encounter deaths⁷¹ that have taken place in recent times have been alarming. Of the cases of encounter deaths that occurred between the NHRC's origination on 12 October 1993 to 31 April 2010, 2,956 have been registered with the NHRC either by public authorities or the public. There is no evidence that would show that there has been any communication between the NHRC and the SHRCs on this issue. Also, there is no evidence to show that the NHRC had been liaising with the SHRCs regarding its queries to State Governments on encounter deaths. What usually happens is that the NHRC merely forwards complaints it receives to the SHRCs.

... the frequency of encounters deaths that have taken place in recent times have been alarming. . There is no evidence that would show that there has been any communication between the NHRC and the SHRCs on this issue.

It should also be noted that even when the NHRC members visit a particular state, it is not usual that they meet with the SHRC or the other state human rights commissions that are existing⁷².

The principle of cooperation established under the Paris Principles requires NHRIs to cooperate with

NGOs, intergovernmental organizations, and other NHRIs. If this principle is put into practice, even though it is not explicitly provided in the NHRC's enabling law, this would indeed go a long way in transferring lessons of NHRC to the newly formed SHRCs. This is not carried out at all. For putting human rights into practice, law, procedural guidelines and rules alone cannot be the recourse. Attempts and new efforts and the development of creative methods of working with new stake holders should be a constant endeavor by any institution in the field of human rights and it applies much more to the NHRC. This is one reason why the law makers thought of the former Chief Justice of India to head the commission because he will have the power of persuasion. This power of persuasion is not used to the full. In the last 17 years of its existence if this had been done, principles of engagement with the SHRCs and code of conduct would have been evolved. The SHRCs as strategic partners of NHRC in putting the functions under section 12 of the PHRA would have been put into practice rather than they being subordinates. While a hierarchy is suggested between the NHRC and SHRCs through Section 21 of the PHRA, which establishes that the State Commission shall not inquire into any matter which is already being inquired into by the Commission or any other Commission duly constituted under any law for the time being in force, the NHRC has no policy on how to work with these state human rights commissions.

Rather than allowing the NHRC to fulfill its mandate, the NHRC's staffing has created an atmosphere of a governmental bureaucracy, rather than an open, safe sanctuary in the face of dangerous, brutal human rights violations. NHRC staff members are recruited almost exclusively from the government sector. These current or former government employees perceive themselves as quasi-government employees even after they start working at the NHRC, rather than independent monitors of human rights.

⁷¹ *Extrajudicial killings are euphemistically called "encounter killings. They are unlawful murders of individuals by law enforcement officials or persons acting in direct or indirect compliance with the State when the use of force is inconsistent with the criteria of absolute necessity and proportionality*

⁷² *There are specialized human rights commissions / commissioners totaling to about 173, in the different states of India, on different thematic areas like Women, Minorities, Disability, Right to Information etc.*

Staffing

The Paris Principles require that the NHRI has its own staff. The ICC also explained in its General Observations that the NHRI should be empowered to appoint its own staff, but recommended that in order to guarantee the independence of the NHRI, senior level posts should not be filled with secondees. Where seconded staff members are hired, they should not exceed 25% and never be more than 50% of the total workforce of the NHRI. Notably, the requirement of hiring and maintaining staff also requires that the NHRI hire *adequate and competent* staff to effectively and efficiently fulfill its mandate. A full and active staff is essential for any institution to work at its best capacity, build its intellectual capital, and reach its institutional goals.

Rather than allowing the NHRC to fulfill its mandate, the NHRC's staffing has created an atmosphere of a governmental bureaucracy, rather than an open, safe sanctuary in the face of dangerous, brutal human rights violations. The NHRC and its staffing permeate a value system that is governmental, rather than non-governmental, in nature. In fact, NHRC staff members are recruited almost exclusively from the government sector. These current or former government employees perceive themselves as quasi-government employees even after they start working at the NHRC, rather than independent monitors of human rights.

The Secretary General holds the rank of a Secretary to the government. Mr. R. V. Pillai has been the longest serving in his chief executive's post. Senior Executive Officers can be drawn from the government, as it is role of the Institution to liaison from the government but they should have a minimum tenure of 3 or 4 years as it takes at least 1 year to understand the Commission. This is a special institution and it takes time to understand it and usually by the time they get to understand, their tenure is over and so they only firefight and are not able to do real work. Persons appointed to the post of Director General of Investigation most often are persons who have never done any work in Human Rights. They are too senior to be sent for Trainings before assuming office.

Thus, a principle of learning through doing has to happen but by the time they get a grasp of what has to be done, they realize that their powers are limited as the decision making is by the Commission and bureaucrats who have served in these positions who often want to remain anonymous, several of them, have expressed the fact that they feel the dominance of the judges and their points of view in every decision making process. Ultimately it is a judge - heavy decision making process which used to be, for a very long time, as said by people, balanced by persons like Virendra Dayal. When persons like him retired and the first 10 years were over, a balancing personality was not there to challenge the others. The experience too is not transferred to the next person. He starts from scratch. Presently the Country is shaken by the fact that 8 Chief Justices have been accused of being corrupt by lawyer Prashant Bhushan in a case in the Supreme Court. There is a former Chief Justice who is facing impeachment. Perhaps due to this improperly limited candidate list, the NHRC has consistently been under staffed, as per its workload and also its sanctioned capacity. The table (Table 4.1) below illustrates the repeated under-utilization of its staff, its most valuable resource.

The failure of the NHRC to recruit, develop, and retain talented staff to its maximum sanctioned amount is an impediment to its growth and effectiveness. As of April 23, 2010, the NHRC had a total of 317 staff and consultants. The category of employees working as "consultants" comprised individuals who are re-employed, employed as contract staff, and consultants. In fact, only 222 of the 317, or 70% were regular staff members. Thus, the NHRC is currently only working with 65% of its sanctioned regular staff, leaving 35% of the capacity of NHRC staff unfilled.

In 2002-2003, the NHRC recognized in its Annual Report that "the constantly increasing workload of the Commission...necessitated the engagement of [20] consultants to cope with the additional work." Rather than filling the open staff positions quickly, the Commission determined that it "must proceed with care to build and develop its own cadre."⁷³ The NHRC stated that it would use a "variety of methods...to

⁷³ NHRC Annual Report 2002-2003.

Table 4.1 Number of NHRC Staff

Year	Total Sanctioned Strength of the Staff	Staff stood	Vacancies	No. of Complaints Received by the NHRC
1993-1994	247	-		496
1994-1995	247	-		6,835
1995-1996	250	194	56	10,195
1996-1997	282	235	47	20,514
1997-1998	282	223	59	36,791
1998-1999	297	218	79	40,724
1999-2000	297	231	66	50,634
2000-2001	331	249	82	71,555
2001-2002	341	284	57	60,083
2002-2003	341	289	52	68,779
2003-2004	341	306	35	72,990
2004-2005	341	326	15	74,401
2005-2006	341	326	15	74,444
2006-2007	343	322	21	82,233
2007-2008	-	-	-	94,559
2008-2009	-	-	-	
2009-2010		222		

The failure of the NHRC to recruit, develop, and retain talented staff to its maximum sanctioned amount is an impediment to its growth and effectiveness.

appoint staff in the Commission.” These methods include the appointment of personnel on deputation, re-employment and direct recruitment. The exact same statement appeared in the following year’s Annual Report.⁷⁴ Recruitment rules are there for officers, presenting officers and judges. Why not for lawyers? Rather, the NHRC could gain a platform for recruitment of dedicated staff cadre if they

cooperated with academic institutions, civil society groups NGOs who have specialized in thematic human rights issues. Several well-known, reputed institutions, such as People’s Union for Civil Liberties (PUCL), People’s Union for Democratic Rights (PUDR), Centre for Justice and Peace (CJP), People’s Watch, Action Aid India, Commonwealth Human Rights Initiative (CHRI), Human Rights Law Network (HRLN), Housing and Land Rights Network (HLRN), National Alliance of Women’s Organisation (NAWO), Campaign Against Child Labour (CACL), CEHAT, Ekta Parishad, and Bandhua Mukti Morcha, NCAS, ASMITA, IHRE, FIAN, Disabled Rights Group have played very

⁷⁴ NHRC Annual Report 2003-2004.

Based on the current staff, the NHRC does not have fair and equal means of representation in terms of gender, religious minority groups and disabled populations.

specific poignant roles in the field of specific thematic human rights across the country. These agencies with their rich and diverse experiences could provide a very good platform for recruitment of dedicated staff cadre, with their knowledge, skill, and passion for human rights, helping the NHRC grow as an independent human rights institution across the country.

Based on the current staff, the NHRC does not have fair and equal means of representation in terms of gender, religious minority groups and disabled populations. Of the 317 staff and consultants working at the NHRC, only 2 members are persons with disability.⁷⁵ 266 or 84% of the NHRC is male, whereas only 51 staff/consultants at the NHRC are female (16%). Hindus make up an overwhelming majority of over 92% of the NHRC, or 292 of the 317 staff/consultants, even though they are only around 80% of the overall population.⁷⁶ There are only 6 Muslims, 11 Christians, 8 Sikhs, and 0 Buddhists. Of the 317 staff, 52 come from Scheduled Castes (SC) and 14 from Scheduled Tribes (ST); 3 individuals are from Other Backwards Classes (OBC). We have govt. appointed commission saying that diversity has to be maintained and we do not see it reflected in the staff. Sixty Six persons of SC/ST origin work in the Commission and this works to 20.82 %. While it is balanced, our presumption is that most of them are in lower cadre even though the chairperson now is from a Scheduled Caste Community.

The Commission says that over the last 4 years it has received on an average 400 complaints a day ... No other national institution for human rights in the world has a remotely comparable case-load.

Even with a full staff, the NHRC would certainly face challenges in adequately addressing the growing workload and dramatically rising number of complaints filed by victims of human rights violations. While the number of complaints registered with the NHRC has increased from 496 in 1993-94 The Commission says that over the last 4 years it has received on an average 400 complaints a day⁷⁷. Even after weeding out frivolous complaints and transferring 5933 others to the SHRCs, in the financial year 2009 - 10 (April - March) the NHRC registered 83021 fresh cases and completed action on 86050 cases. No other national institution for human rights in the world has a remotely comparable case-load. Moreover, complaints-handling is only one of ten major functions assigned to the Commission.

If the NHRC are even able to make a genuine attempt to fulfill its legal mandate, its sanctioned and actual staffing must dramatically increase both in number and diversity. The heavy and demanding functions of the NHRC must be analyzed and an assessment made of how many staff members are required to effectively fulfill its mandate. Currently, the NHRC does not have adequate staff to carry out its mandated functions under the PHRA. More high quality staff are urgently needed that come from a variety of disciplines, such as social work, forensic sciences, medical colleges, law, social work, psychology, development professionals, and international relations. In reply to the ANNI Report however it is surprising that the reply by NHRC is "Incredible as it might appear to the ANNI, this indeed is the level at which the NHRC works. Between July 2009 and May 2010, It registered 75283 new cases, dealt with 84483, including the backlog of earlier years, and closed 78917, The Chairperson and four Members each have a Registry that processes and puts up between 60-80 files a day. On a 5-day week, and assuming a 48-week working year, the NHRC therefore can process 80 x 5 x 5 x 48=96,000 files a year. The NHRC's Registries are run by senior law officers. The Members are also helped in the processing of cases by the officers and consultants of the Investigation Division and, occasionally, by

⁷⁵ RTI response

⁷⁶ Demographics of India, http://www.fact-index.com/d/de/demographics_of_india.html

⁷⁷ Report of the NHRC of India to the 15th APF covering the period 2009 – 2010

Special Rapporteurs. Their efficiency has made it possible for the Commission to process very large numbers of cases each year”. If this was true and quality also reflected the numbers, then you would have a constituency in the country which would only be praising the NHRC. We want a constituency of that sort but unfortunately such a constituency is not there. Why then does the Commission take years to dispose a case? A sample study of the 500 cases that People’s Watch, an NGO, sent, revealed the following:

- The average wait time for an initial response – a communication indicating receipt and acceptance of the complaint – from the Commission is 66 days, but some victims waited up to a maximum of 884 days.
- Even after an initial response is received, the average wait time to receive the report of the concerned authority once the commission has accepted the complaint is 316 days.
- The average total time from initial response to final disposition of the case is 322 days. When summary dismissals are removed from the pool (transfers and § 36 transfers), complainants wait an average of 717 days.

Hiring Staff of the NHRC

While the NHRC staff was initially modestly sized, with only a relatively few positions in the various grades of Inspector, Assistant, Personal Assistant, Private Secretary, and Staff Car drivers as late as 2003-2004, today the NHRC list the following staff positions: Secretary General, Registrar Law, Director General (Investigation), Joint Secretary, Deputy Inspector General (DIG), Director, Joint Registrar,

Rather than assessing relevant characteristics when hiring staff members of the NHRC, the NHRC selects an overwhelming number of its staff on deputation and/or from individuals holding analogous posts under the government.

Private Secretary, Senior Superintendent of Police (SSP), Assistant Registrar, Under Secretary, Senior Research Officer, Special Assistant/Private Secretary/Principal Private Secretary, Senior System Analyst, Information & Public Relations Officer, Programmer, Private Secretary, Librarian, Senior Accounts Officer, Section Officer, Court Master, Deputy Superintendent of Police (DSP), Inspector, Assistant Accounts Officer, Assistant Director (Hindi), Senior Translator (Hindi), Protocol Assistant, Research Assistant, Personal Assistant, Assistant, Programmer Assistant, Junior Translator (Hindi), Junior Accountant, Presenting Officer, Deputy Registrar, and Accountant.⁷⁸

While the NHRC is led by its small and venerable group of the NHRC Chairperson and Members, the core functions could not be performed without a strong, supportive, and dedicated staff. It is for this reason that the adequacy, role, and composition of staff are particularly significant. The NHRC does not follow the principle of pluralism⁷⁹. Rather than assessing relevant characteristics when hiring staff members of the NHRC, the NHRC selects an overwhelming number of its staff on deputation and/or from individuals holding analogous posts under the government.

⁷⁸ *Response to RTI Petition on Organizational Infrastructure*

⁷⁹ *As per the General Observations of the ICC Subcommittee on accreditation of NHRIs: The Sub-Committee observes that there are different ways in which pluralism may be achieved through the composition of the National Institution, for example:*

- a) *Members of the governing body represent different segments of society as referred to in the Paris Principles;*
- b) *Pluralism through the appointment procedures of the governing body of the National Institution, for example, where diverse societal groups suggest or recommend candidates;*
- c) *Pluralism through procedures enabling effective cooperation with diverse societal groups, for example advisory committees, networks, consultations or public forums; or*
- d) *Pluralism through diverse staff representing the different societal groups within the society.*

The Sub-Committee further emphasizes that the principle of pluralism includes ensuring the meaningful participation of women in the National Institution.

The Chief Executive of the NHRC, the Secretary General, may be hired by transfer on deputation or by transfer of officers holding an analogous post to the Secretary General under the Central Government or State Government.

Next, the Registrar - Law may be hired either by transfer or on deputation from Indian Legal Service Officers holding analogous posts under the Central Government or from any officers holding analogous posts under the Central Government, Supreme Court, High Court and possessing experience as Registrar or higher judiciary or any other post involving interpretation or application of statutes. Additionally, Officers in the pay scale of Rs. 1,84,00-2,24,00 with a regular service of 3 years in the grade in the Central Government, Supreme Court, or High Court and possessing experience as Registrar or higher judiciary or any other post involving interpretation application of statutes are eligible for the post of Registrar Law. A post graduate degree in law from a recognized university or equivalent and research experience in Constitutional Law and its Theory, Human Rights jurisprudence, including interpretation and application of statutes, are required. Registrars serving a short-term contract/re-employment, not exceeding three years, must have held an analogous post under the Central Government, Supreme Court, and High Court, and possess experience as a Registrar of a higher judiciary or of any other post involving interpretation and application of statutes.

The Director General (Investigation) is hired by transfer on deputation or transfer from Indian Police Service Officers holding analogous posts under the Central Government or officers eligible to be empanelled as Director General in the scale of Rs. 2,40,50 - 2,60,00/-. A Director General of Investigation may also be hired by short-term contract or re-employment from amongst Indian Police Service officers who have retired at the level equivalent to Director General of Police in the scale of Rs. 2,40,50 – 2,60,00/- under the Central Government or State Government.

The Joint Secretary of the NHRC is hired by transfer on deputation or by transfer of empanelled All India or Central Service Officers or officers holding analogous posts under the Central Government, or officers holding posts in the scale of

Rs. 1,43,00 -1,83,00/-. Three years of regular service in the grade or in the scale of Rs. 1,20,00 -1,65,00/- with 8 years regular service in the grade is required.

... the guidelines that the NHRC have stated on hiring seems to suggest a belief that they may only select officers who are currently holding “analogous posts under the Central Government or State Government” for open NHRC staff positions... . Not only does this lead to the NHRC having the feel of another bureaucratic governmental agency, but it also narrows the possible applicant pool in a way that eliminates the possibility of many eligible, qualified candidates being considered for NHRC staff positions.

The NHRC hires a Deputy Inspector General of Police (DIG) by transfer on deputation or transfer of (i) Officers of the Indian Police Service or Central Police Organizations holding analogous posts on a regular basis; or (ii) Officers of the Indian Police Service or Central Police Organizations who are approved for appointment as DIG under the Central Government. Officers of Indian Police Service with 14 years service shall be eligible for consideration for promotion as DIG. The DIG may also be hired for a short-term contract or re-employment, not exceeding two years, from amongst officers of Indian Police Service and Central Police Organizations who have held analogous post on regular basis.

A Director of the NHRC may be hired by transfer on deputation or transfer of officers under the Central Government holding analogous posts on a regular basis or 5 years regular service in the scale of Rs. 1,20,00 – 1,65,00/- or its equivalent. Further, they must also possess experience in personnel and general administration matters. Directors hired by re-employment or short term contract, not exceeding two years, may be selected from persons who have held analogous posts on a regular basis under the Central Government and possess experience in personnel and general administrative matters.

While the National Human Rights Commission doesn't actually have an official policy or limitation on whom they can hire under the Protection of Human Rights Act, the guidelines that the NHRC

have stated on hiring seems to suggest a belief that they may only select officers who are currently holding “analogous posts under the Central Government or State Government” for open NHRC staff positions.⁸⁰ Indeed, closer examination of the eligibility criteria for the posts of Secretary General, Director General (Investigation), Joint Secretary, Deputy Inspector General of Police (DIG), and Director reveals the almost exclusive preference of the NHRC for hiring former government officials. This criterion of experience in government is not relaxed for even short

term positions. Not only does this lead to the NHRC having the feel of another bureaucratic governmental agency, but it also narrows the possible applicant pool in a way that eliminates the possibility of many eligible, qualified candidates being considered for NHRC staff positions. While these few served as an example, the hiring criteria for the rest of the NHRC staff positions also continue in this light.

As an example, the following criteria are listed for selecting the following staff under deputation for the named positions:

Staff Position	Criteria
Secretary General	By transfer on deputation / transfer of officers holding analogous post under the Central Government or State Government
Registrar Law	<p>Deputation/transfer of</p> <ul style="list-style-type: none"> (i) Indian Legal Service Officers holding analogous posts under the Central Government or (ii) Officers holding analogous post under the Central Govt/ Supreme Court/ High Court and possessing experience as Registrar or higher judiciary or any other post involving interpretation / application of statutes or (iii) Officers in the pay scale of Rs. 18400-22400 with a regular service of 3 years in the grade in the Central Govt./ Supreme Court / High Court and possessing experience as Registrar or higher judiciary or any other post involving interpretation application of statutes. Post Graduate Degree in law from a recognized university or equivalent. (iv) Research experience in one of the following fields: Constitutional Law and its Theory Human Rights jurisprudence. By short-term contract/ reemployment: Persons who have held an analogous post under the Central Govt./ Supreme Court/ High Court and possessing experience as Registrar of a higher judiciary or of any other post involving interpretation application of statutes. The period of short- term contract/re- employment shall not exceed three years

⁸⁰ See Annex of RTI responses that state the criteria

Staff Position	Criteria
Director General (Investigation)	By transfer on deputation/transfer of Indian Police Service Officers holding analogous posts under the Central Government or officers eligible to be empanelled as Director General in the scale of Rs. 24050 - 26000/-. By short-term contract or re-employment: To be selected from Indian Police Service officers who have retired at the level equivalent to Director General of Police in the scale of Rs24050 - 26000/- under the Central Govt./ State Govt. The period of short-term / re-employment shall not exceed three years
Joint Secretary	By transfer on deputation / transfer of empanelled All India or Central Service Officers or officers holding analogous posts under the Central Government or officers holding posts in the scale of Rs. 14300 -18300/- with 3 years regular service in the grade or in the scale of Rs. 12000 - 16500/- with 8 years regular service in the grade
Deputy Inspector General (DIG)	<p>By transfer on deputation / transfer of</p> <ul style="list-style-type: none"> (i) Officers of the Indian Police Service or Central Police Organizations holding analogous posts on a regular basis; or (ii) Officers of the Indian Police Service or Central Police Organizations who are approved for appointment as DIG under the Central Govt.; <p>NOTE: Officers of Indian Police Service with 14 years service shall be eligible for consideration for promotion as D 1 G. By re-employment / short-term contract from amongst officers of Indian Police Service and Central Police Organizations who have held analogous post on regular basis. The period of short-term contract / re-employment shall not exceed two years</p>
Director	<p>By transfer on deputation / transfer of officers under the Central Government:</p> <ul style="list-style-type: none"> (i) holding analogous posts on regular basis; or 5 years regular service in the scale of Rs. 12000 - 16500/- or equivalent, and (ii) Possessing experience in personnel and general administration matters. <p>By re-employment /short term contract from persons who have held analogous posts on regular basis under the Central Govt and possessing experience in personnel and general administrative matters. The period of short-term contract / re-employment shall not exceed 2 years</p>
Joint Registrar	By transfer on deputation / transfer of officers possessing a degree in Law and holding analogous post in the Central Govt / Supreme Court / High Court / Central Administrative Tribunal / Custom & Gold Tribunal / Income-Tax Appellate Tribunal /Foreign Exchange Regulation Appellate Board or in the scale of Rs. 12,000 - 16,500 with a minimum of 5 years regular service in that grade, and possessing experience of court matters in higher judiciary or of any other post involving interpretation / application of statutes. By re-employment / Short term contract from persons who have held analogous posts on regular basis in the Central Govt / Supreme Court / High Court / Central

Staff Position	Criteria
Joint Registrar	Administrative Tribunal / Custom and Central Excise Gold Control Appellate Tribunal / Income Tax Appellate Tribunal / Foreign Exchange Regulation Appellate Board and possessing a degree in Law and possessing experience in Court matters in higher judiciary or any other post involving interpretation / application of statutes. The period of short-term contract / reemployment shall not exceed 2 years.
Private Secretary	<p>By transfer on deputation / transfer of officers holding analogous posts under the Central Govt. / Supreme Court or officers under the Central Govt. / Supreme Court in the pay scale of Rs. 10,000 -15,200/- with 5 years regular service in the grade.</p> <p>By re-employment / short-term contract from persons who have held analogous posts on regular basis under the Central Govt./ Supreme Court.</p> <p>The period of short-term contract / reemployment shall not exceed 2 years.</p>
Senior Superintendent of Police (SSP)	<p>By transfer on deputation/transfer of</p> <ol style="list-style-type: none"> Officers of the Indian Police Service working in the Selection Grade; or Officers of the Central Police Forces /Organizations holding analogous posts or officers in the scale of pay of Rs. 12,000 - 16,500 with 5 years regular service or officers in the scale of pay of Rs. 10,000 - 15,200/- with 10 years regular service; or Officers of the State Police Force holding analogous posts or officers in the scale of pay of Rs. 12,000 - 16,500/- with 5 years regular service or officers in the scale of pay of Rs. 10,000 - 15,200/- with 10 years regular service. <p>By re-employment / short-term contract from the Indian Police Service Officers who have retired at the level of selection grade or from retired officers of Central Police Forces / Organizations or from retired officers from State Police Forces who have held analogous posts on regular basis. The period of short-term contract / re-employment shall not exceed two years.</p>
Assistant Registrar (Law)	<p>By transfer on deputation / transfer of officers possessing a degree in law and holding analogous posts in Central Government / Supreme Court / High Court / Central Administrative Tribunal or officers of Central Government / Supreme Court / Central Administrative Tribunal / High Court in the scale of Rs. 6,500 - 10,500 with a minimum of 8 years of regular service.</p> <p>By re-employment / short-term contract from persons who have held analogous posts on regular basis in Central Government / Supreme Court / High Court / Central Administrative Tribunal and possessing a degree in Law.</p> <p>The period of short-term contract / re-employment shall not exceed two years.</p>

Staff Position	Criteria
Under Secretary	<p>Promotion : Section Officers in the Commission having not less than 8 years of regular service in the grade. Transfer on deputation / transfer:</p> <p>Officers under the Central Govt.</p> <ul style="list-style-type: none"> (i) holding analogous posts on regular basis; or (ii) with 8 years regular service in the scale of Rs. 6500 - 10500/- or equivalent. Desirable Experience of working in National Human Rights Commission for at least 2 years. <p>By re-employment / short-term contracts from persons who have held analogous posts under the Central Govt on regular basis.</p> <p>The period of short term contract / reemployment shall not exceed 2 years</p>
Senior Researcher	<p>Essential:</p> <ul style="list-style-type: none"> (i) Masters degree in Political Science, History, Statistics, Sociology of a recognized university or equivalent. (ii) Degree in Law of a recognized University or equivalent. (iii) 4 years research experience in any of the social science.
Special Assistant/Private Secretary/ Principle Private Secretary	<p>Promotion :</p> <p>Private Secretary in the National Human Rights Commission with 8 years of regular service in the scale of Rs. 6,500- 10,500/-</p> <p>Transfer on deputation / transfer: Officers under the Central Govt. / Supreme Court / Central Administrative Tribunal:</p> <p>holding analogous posts on regular basis: or with 8 years regular basis in the scale of Rs. 6,500- 10,500/-or equivalent.</p> <p>By re-employment short-term contract from persons who have held analogous posts under the Central Govt. / Supreme Court/ / Central Administrative Tribunal on regular basis. The period of short-term contract / re- employment shall not exceed 2 years</p>
Senior System Analyst	<p>By transfer on deputation / transfer of officers holding analogous posts on regular basis in Central Govt. / National Informatic Centre or similar organization.</p> <p>(*) By re-employment / short term contract from persons who have held analogous posts on regular basis in Central Govt / National Informatic Centre or similar organization. The period or short term contract / re-employment shall not exceed two years.</p> <p>OG.S.R. 609(E) dated 23rd August. 1999. The period or short term contract / re-employment shall not exceed two years.</p> <p>OG.S.R. 609(E) dated 23rd August. 1999.</p>
Information & Public Relations Officer	<p>Transfer on deputation / transfer:</p> <ul style="list-style-type: none"> (i) Officers of Indian Information Service holding analogous posts on regular basis; or with 5 years of regular service in the grade Rs.8000 - 13500/- or 8 years of regular service in the grade of Rs.6500-10500/- and having experience of handling media, editing of news letter/ magazines and public relations, or

Staff Position	Criteria
Information & Public Relations Officer	<p>(ii) Officers under the Central Govt with 5 years of regular service in the grade of Rs. 8000 - 13500 or 8 years of regular service in the grade of Rs. 6500 - 10500.</p> <p>(*) By re-employment / short term contract of officers of Indian Information Service holding analogous post on regular basis or officers of Central Govt, holding analogous posts on regular basis.</p> <p>The period of short-term contract / re-employment shall not exceed 2 years. (*) G.S.R. 609(E) dated 23'August, 1999</p>
Programmer	<p>By Transfer on deputation / transfer:</p> <p>Officers holding analogous posts on regular basis in National Informatics Center or similar Central Govt. organization. (*) By re-employment / short-term contract from persons who have held analogous posts on regular basis in National Informatic Centre or similar Central Govt. Organisation. The period of short-term contract / re-employment should not exceed 2 years. (*) G.S.R. 609(E) dated 23rd August, 1999</p>
Private Secretary	<p>Promotion :</p> <p>Personal Assistant in NHRC with 8 years regular service in the grade.</p> <p>Transfer on deputation: Officers under the Central Govt.</p> <p>(a)</p> <p>(i) holding analogous posts on regular basis; or</p> <p>(ii) with 8 years regular service in a post of Stenographer in the pay scale of Rs. 5500 - 9000 or equivalent; or</p> <p>(iii) with 8 years of regular service in a post of Stenographer in the pay scale of Rs. 5000- 8000</p>
Librarian	<p>Transfer on deputation / transfer:</p> <p>Officers under the Central Govt.:</p> <p>(i) Holding analogous posts on regular basis; or</p> <p>(ii) with 3 yrs regular service in posts in the scale of Rs. 5500 - 9000/- or with 8 yrs regular service in posts in the scale of Rs. 5000 - 8000/-or equivalent.</p> <p>possessing the educational qualifications and experience prescribed for direct recruits under column 8.</p> <p>(The period of deputation including the period of deputation in another ex-cadre post held immediately preceding this appointment in the same or some other organization / department of the Central govt, shall ordinarily not exceed 3 years.) The maximum age limit for appointment by transfer on depuration / transfer shall be not exceeding 56 years as on the closing date of receipt of applications.</p> <p>(*) By short term contract / reemployment from persons who have held analogous posts on regular basis under Central Govt. and possessing qualifications and experience prescribed for direct recruits under column 8. The period of short-term contract/re-employment shall not exceed 2 years.</p>

Staff Position	Criteria
Librarian	<p>(*) G.S.R. 609(E) dated 23rd August, 1999 Essential:</p> <ul style="list-style-type: none"> (i) Degree of a recognized University or equivalent. (ii) Bachelor's Degree or equivalent diploma in Library Science of a recognized University/ Institute or equivalent; (iii) 2 years professional experience in a Library of Standing; or Diploma in Computer Application from a recognized University / Institute or equivalent. Note 1: Qualifications are relaxable at the discretion of the Central Govt, in the case of candidates otherwise well qualified. <p>Note 2; The qualification(s) regarding experience is/are relaxable at the discretion of the Central Govt, in the case of candidate belonging to the Scheduled Castes and the Scheduled Tribes, if at any stage of selection. The Central Govt is of the opinion that sufficient number of candidates from these communities possessing the requisite experience are more likely to be available to fill up the vacancies reserved for them. Desirable:</p> <p>Master's Degree in Library Science from a recognized University or equivalent.</p>
Senior Accounts Officer	<p>By transfer on deputation / transfer of officers holding analogous posts in the accounts organization. Officers in the scale of Rs. 7450 - 11500/- working in the Accounts organization with 2 years regular service in the grade.</p> <p>(*) By re-employment / short-term contract from persons who have held analogous posts on regular basis in the Accounts Organization. The period of short-term contract/ re-employment shall not exceed 2 years.</p> <p>(*) G.S.R. 609(E) dated 23rd August, 1999</p>
Section Officer	<p>Promotion : Assistant in N.H.R.C. with 8 years regular service in the grade. Transfer on deputation; Officers under the Central Government :-</p> <ul style="list-style-type: none"> (a) (i) holding analogous posts on regular basis; or (ii) with 8 years regular service in a post in the pay scale of Rs. 5500 - 9000 or equivalent; and (b) Possessing experience of Administration / establishment accounts matters (c) Desirable: a degree in Law
Court Master	<p>Transfer on deputation / transfer:</p> <p>Persons working under Central Government / Supreme Court / High Court / Central Administrative Tribunal:</p> <ul style="list-style-type: none"> (a) (i) holding analogous posts on regular basis; or (ii) holding posts of Stenographer Grade 'C' or equivalent in the scale of Rs. 5,500 - 9,000 with 6 years' regular service; and

Staff Position	Criteria
Court Master	<p>Desirable:</p> <p>(a) possessing the educational qualifications prescribed for direct recruits in column 8.</p> <p>By re-employment / short-term contract from persons who have held analogous posts on regular basis under the Central Government / Supreme Court / High Court / Central Administrative Tribunal.</p> <p>The period of short-term contract / reemployment shall not exceed two years.</p>
Deputy Superintendent of Police	<p>Promotion:</p> <p>Inspectors in NHRC with 5 years regular service in the grade.</p> <p>Transfer on deputation / transfer of officers under Central / State Police Organizations</p> <p>(a) (i) holding analogous posts on a regular basis; or (ii) Inspectors of Police with 5 years regular service in the grade or equivalent; and</p> <p>(b) possessing experience in investigation of criminal cases.</p> <p>By re-employment / short-term contract from persons who have held analogous posts on regular basis under the Central Govt. / State Police Organization and possessing experience in investigation of criminal cases.</p> <p>The period of short-term contract / re-employment shall not exceed two years.</p>
Inspector	<p>By transfer on deputation/transfer of:</p> <p>(a) (i) Working in similar or equivalent grade in the Central / State Police Forces / Armed Forces of Union; or (ii) Sub-Inspector in the Central/State Police Forces / Armed Forces of the Union with 5 years regular service as Sub-Inspector; or (iii) Officers working in the equivalent grade on regular basis under the Central Govt./State Govt. Departments / Central Public Undertakings; and</p> <p>(b) possessing at least 5 years experience in vigilance or investigation or intelligence work.</p> <p>By re-employment / short-term contract from persons who have held analogous posts on regular basis in the Central/State Police Forces / Armed Forces of Union and possessing at least 5 years experience in vigilance or investigation or intelligence work.</p> <p>The period of short-term contract / re-employment shall not exceed two years.</p>
Assistant Accounts Officer	<p>Transfer on deputation / transfer:</p> <p>(i) officers under the Central Govt. holding analogous posts on regular basis who have undergone training in cash and Accounts in the Institute of Secretariat Training and Management or equivalent and possess experiences in cash and accounts work; or</p>

Staff Position	Criteria
Assistant Accounts Officer	(i) Junior Accounts Officers or equivalent in the pay scale of Rs. 5500 - 9000/- with 8 years regular service in the grade
Assistant Director (Hindi)	<p>Promotion: Senior Translators in NHRC with 8 years regular service in the grade. Transfer on Deputation / Transfer :-</p> <p>(i) Officers holding analogous posts under the Central Govt, on a regular basis; or</p> <p>(ii) Persons holding posts of Senior Translator in the pay scale of Rs. 5500 – 9000 with 8 years regular service in the grade.</p> <p>(*) By re-employment / short-term contract from persons who have held analogous posts under the Central Govt, on regular basis.</p> <p>The period of short-term contract / re-employment O G.S.R. 609(E) dated 23rd August, 1999</p>
Senior Translator (Hindi)	<p>Promotion: Junior Translators in NHRC with 5 years regular service in the grade. Transfer on Deputation / Transfer :-</p> <p>(i) Persons holding analogous posts on regular basis in Central Govt, and possessing qualifications prescribed for direct recruits in Column 8; or</p> <p>(ii) Persons holding posts in the scale of Rs. 5000 - 8000 with 5 years regular service in the grade in Central Govt. and possessing qualifications prescribed for direct recruits in Column 8.</p> <p>(*) By re-employment / short term contract from persons who have held analogous posts on regular basis in the Central Govt. and possessing educational qualifications prescribed under column 8.</p> <p>(*) GSR 609(E) dated 23rd August, 1996.</p>
Protocol Assistant	<p>Transfer / transfer on deputation :-</p> <p>(i) Officers under the Central Govt. holding analogous posts on regular basis; or</p> <p>(ii) Officers with 5 years regular service in the post in the scale of Rs. 4000-6000/- or above.</p> <p>Desirable:-</p> <p>Experience in protocol work for two years.</p> <p>By re-employment / short term contract from persons who have held analogous posts on regular basis under the Central Govt and possessing experience in Protocol work for 2 years.</p> <p>The period of short-term contract / reemployment shall not exceed 2 years.</p>
Research Assistant	<p>Transfer on deputation / transfer-Officers under the Central Govt. / Universities/ Research Institutes.</p> <p>(a) (i) holding analogous posts on regular basis; or</p> <p>(ii) with 5 years regular service in a post in the pay scale of Rs. 4000-6000 or above.</p>

Staff Position	Criteria
Research Assistant	<p>(b) possessing the following educational qualifications / experience;</p> <p>Qualifications: Essential: Bachelor Degree from a recognized university or equivalent.</p> <p>Experience: Research experience in any of the social sciences or in the application of law and procedure.</p> <p>Desirable: Degree in Law from a recognized university or equivalent.</p> <p>By re-employment / short-term contract from persons who have held analogous post on regular basis under the Central Govt./ Universities / Research Institutes and possessing qualifications and experience prescribed for deputationists.</p> <p>The period of short-term contract / re-employment shall not exceed 2 years.</p>
Assistant	<p>Transfer on deputation :</p> <p>Officer under the Central Government:</p> <p>(i) holding analogous posts on regular basis; or</p> <p>(ii) with 5 years regular service in the posts in the scale of Rs. 4000 - 6000.</p>
Programmer Assistant	<p>By transfer on deputation / transfer of officers holding analogous posts on regular basis in the National Informatics Center or similar organizations.</p> <p>By re-employment / short-term contract from persons who have held analogous posts on regular basis in the National Informatics Center or similar organization and possessing qualifications and experience prescribed for direct recruits under column 8. The period of short-term contract / reemployment shall not exceed two years.</p>
Junior Translator (Hindi)	<p>By transfer on deputation / transfer of officers holding analogous posts on regular basis in the central Govt.</p> <p>(*) By re-employment / short-term contract from persons who have held analogous posts on regular basis under the Central Govt. and possessing qualifications prescribed for direct recruits under column 8. The period of short-term contract / re-employment shall not exceed 2 years.</p> <p>(*) G.S.R. 609(E) dated 23rd August, 1999. Masters Degree in English / Hindi with Hindi / English as a compulsory and elective subject at degree level or Bachelor's degree with English / Hindi as main subjects (which includes the term compulsory and elective subject).</p>
Junior Accountant	<p>Transfer / transfer on deputation :-</p> <p>(i) Junior Accountant having experience of departmental accounting system under Controller General of Accounts / Postal and Telegraph Accounts, Defence and Railway Accounts or Auditors under Comptroller and Auditor General.</p>

Staff Position	Criteria
Junior Accountant	<p>(ii) Failing - (i) above Upper Division Clerk in Central Secretariat Clerical Service or subordinate offices with Cash and Accounts training conducted by the Institute of Secretariat Training and Management.</p> <p>(iii) Failing (i) & (ii) both Lower Division Clerks with 5 years regular service in the grade with experience in Cash/Accounts section in the above offices.</p>
Presenting Officer	<p>(a) By Deputation / Absorption of a Judicial Officer who has held the post of District / Addl. District & Sessions Judge / Special Judge for a period of three years. Or</p> <p>(b) By re-employment or on contract for not more than three years of a retired Judicial officer who had held the post of District / Addl. District & Sessions Judge / Special Judge for a period of three years.</p>
Deputy Registrar	<p>Promotion :-</p> <p>Assistant Registrar / Under Secretary in NHRC with not less than 5 years regular service in that grade and having a Degree in Law.</p> <p>By transfer on deputation / transfer of officers possessing a degree in Law and holding analogous post in the Central Government / Supreme Court/ High Court / Central Administrative Tribunal / Custom & Gold Tribunal / Foreign Exchange Regulation Appellate Board OR Officers with five years regular service in the scale of pay of Rs. 10,000 - 15,200 and possessing a Degree in Law AND possessing experience of Court matters in higher Judiciary or of any other post involving interpretation / application of statutes.</p> <p>By Short-term Contract / Re -Employment.</p> <p>Persons who have held an analogous post under the Central Government / Supreme Court / High Court / CAT / Custom & Gold Tribunal / Foreign Exchange Regulation Appellate Board and possessing experience of Court matters in higher judiciary or of any other post involving interpretation / application of Statutes. The period of short - term contract / re-employment shall not exceed two years</p>
Accountant	<p>Promotion:</p> <p>Junior Accountant with 6 years experience in the Accounts Department of National Human Rights Commission.</p> <p>Deputation:</p> <p>holding analogous posts on regular basis: or with 5 years regular service in a post in the pay scale of Rs.5000-8000 / 4500-7000 or with 8 years regular service in posts in the pay scale of Rs.4000-6000 or equivalent; and who have undergone training in cash and accounts work in the ISTM or equivalent and possess three years experience of cash, accounts and budget work.</p>

Those who are at the helm of affairs in a division are usually the people who are part and parcel of the system, the Government, affecting the independence of the commission.

Upon examining the above criteria for NHRC staff members, it is unsurprising that the NHRC staff functions just like any other governmental institution. You will therefore find that in the case of most of the Presenting Officers who are Presenting Officers on deputation, they are middle level officers of the commissions. Those who are at the helm of affairs in a division are usually the people who are part and parcel of the system, the Government, affecting the independence of the commission.

These government employees receive no further instruction or training and thus, understandably assume that they are hired to essentially perform the same job that they had under a different division of the government. Diversity must enter the NHRC if it is to effectively function. Moreover, the NHRC must also educate its staff about the specific and unique nature of its work.

Even if staff members are familiar with the work of the NHRC prior to their appointment, a training program is necessary to ensure that the work of the NHRC is carried out in an intentional, appropriate, and systematic manner. Currently, there is no known, compulsory induction program for staff and this leads to the ineffective, bureaucratic mindset of the NHRC. The NHRC is a special institution created precisely to fulfill the need for an additional system that is different than regular, government courts. NHRC staff members who approach their positions in the same manner as they did in their previous government positions offer no additional value and are unable to serve as protectors of victims of human rights violations.

It is unfair and impossible to expect a registrar from a regular court, with different jurisprudence to

function as a registrar of the NHRC with a victim-centered approach without adequate training. The difference in mindset becomes emphasized when examining even more political or polarizing positions. The work of police officers in investigating the potential occurrence of a crime is related, but categorically different than examining whether the line between acceptable police enforcement and the violation of a victim's rights has occurred. The latter requires a victim-centered approach that is concerned about the protection of fundamental rights of the minority, rather than a macro protector of society at large view. As such, even an honest, reputable Deputy Superintendent of Police (DSP) requires training to adapt his/her strong investigation skills, developed from years in the police force, to focus on the protection of human rights violations.

As part of the Asia Pacific Forum of National Human Rights Institution's Professional Development Program, the Australian Human Rights & Equal Opportunity Commission (HREOC) developed a training program for the Commission on Human Rights of the Philippines (CHRP).⁸¹ The training program provides and consolidates foundational knowledge and skills necessary to investigate alleged violations of human rights. The program provides an overview of the various models of investigation and most importantly, an opportunity to clarify model(s) of investigation within the CHRP context. It also overviews key international human rights instruments, international perspectives of stages in a human rights complaint process, and considerations relevant to acceptance of matters for investigation and resolution by human rights institutions. The training program educates on key principles and procedures that guide the conduct of human rights investigations, as well as offers a model to plan investigations. The training program spends significant time thoroughly training participants on investigation strategy, skills, and documentation. However, what makes this program special is that it is prefaced and founded in the context of human rights.

⁸¹ *Australian Human Rights and Equal Opportunity Commission for the Commission on Human Rights of the Philippines, Investigating Human Rights: A training program for the Commission on Human Rights of the Philippines (2005).*

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In addition to increasing the number and diversity of existing staff positions, the NHRC must also add new staff positions in order to effectively fulfill its mandate. For example, while the NHRC examines many cases of custodial violence and consequently, is responsible for sending post mortem reports, it does not have medical experts or a single doctor on its full time staff. The NHRC also does not have any clinical psychologists on staff. Additionally, positions or internships should also be created for paid law clerks or interns to assist judges in analyzing cases, writing judgments, final orders, and developing a strong jurisprudence. Evaluating and developing not only the number, but also the type, of positions the NHRC will improve the functioning of the NHRC.

Improper Hiring of Staff

An investigation wing of a Human Rights Commission should not be one that comprises only of police. It is so in the NHRC of India. These are also police drawn from CISF, BSF and Railway Police they are important wings of the police but not necessarily people who can deal Human Rights. Human Rights investigation is different from crime investigation.

In the case of an arbitrary arrest and false case on 5 trainees of a training program organized by Dalit Foundation for seeking information from a police station in Veeravanallur in the Tirunelveli District of Tamil Nadu as part of a fact finding mission, complaint was sent to the Commission. The Commission ordered an enquiry into it and one of the investigating officers sent was a Railway Police Officers who was 2 month old in the NHRC. He might be a good investigator but not in Human Rights investigation which has to start from the basic Human Rights standards. Human Rights standards are also to ensure that victims' and witnesses' rights are thoroughly protected throughout

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and people should be able to understand how false cases are registered by the police. While one can be a very good crime investigator it needn't ensure that he / she is a good HR investigator. His / her handling of victims of Human Rights violations should be completely different from the manner in which he / she would deal a crime victim.

Special Rapporteurs

Seeking to multiply its capacity to monitor situations of which the NHRC had taken cognizance, follow-up on directions and recommendations, and help it discharge responsibilities entrusted to it by the Supreme Court, the NHRC began appointing Special Rapporteurs to assist in the work of the Commission in 1997-1998. They have also occasionally hired some "Special Representatives" to perform similar work.⁸²

There is no clear system by which the NHRC Special Rapporteurs are given tasks. The NHRC website indicates that the Special Rapporteur is either given an issue or region.⁸³ The website provides some unclear information, stating that currently only three Special Rapporteurs are appointed. Of these three, two Special Rapporteurs are responsible for monitoring a zone or area of India, while the remaining Special Rapporteur is mandated to monitor an issue. The way in which the Special Rapporteurs have been delegated geographic regions to monitor leaves the majority of India without any Special Rapporteur monitoring it. Indeed, only the central (Gujarat, Maharashtra, Goa, Dadra & Nagar Haveli, and Daman & Diu) and east zone 1 are (Sikkim, West Bengal, Orissa, Andaman & Nicobar Islands) are covered by a Special Rapporteur. Only one of these two Special Rapporteurs responsible for a zone has a tenure date. The Special Rapporteur responsible for monitoring a subject also has a tenure date. In the

⁸² For example, Mr. A.B. Tripathy, the Ex-DGP of Orissa served as a Special Representative, not Special Rapporteur, of the NHRC.

⁸³ NHRC website, available at <http://nhrc.nic.in>. NHRC website, contact us, scroll to SR:

year 2008, nine different Special Rapporteurs were appointed. Sri Damodar Sarangi, IPS (Retd.) who formerly served as the Director General of Investigation of the NHRC and retired in the year 2007 was appointed as a SR on 21st January, 2008 for the East zone. Mr. R.K. Bharagava IAS (Retd.) who retired as the Secretary General of the NHRC earlier in the year 2008 has been appointed as a SR for the Central Zone on 1.4.2008. Mr. P.C. Sen IAS (Retd) who served as NHRC's Secretary General after Mr. Bharagava for a short while has been appointed as a SR for Economic, Social and Cultural Rights on 17.7.2008. Ms. Asha Das, IAS (Retd) was appointed as SR on 1.2.2008, Ms. Kanchan Choudhary Battacharya, IPS (Retd) was appointed as SR for the North Zone on 25.2.2008. Ms. Sunila Basant, IAS (Retd) has been appointed as SR on 1.6.2008 for East Region. Mr. Sheo Kishore Tiwari IAS (Retd) has been appointed as SR on 21.5.2008 for North East zone. Mr. Wilfred Lakra, IAS (Retd) has been appointed as SR on 2.6.2008 for West Zone. Ms. S.K. Agnihotri IAS (Retd) has been appointed as SR for Human Rights issues relating to Civil and Political Rights on 15.7.2008.⁸⁴ All were IAS / IPS officials.

The NHRC appointed its first Special Rapporteur, Mr. K.R. Venugopal, a highly regarded, eminent promoter of human rights. This was followed by the appointment of such reputable individuals such as Mr. Chaman Lal and Ms. Anuradha Mohit. These three

individuals had been selected for their shown commitment to serving the country and protecting human rights. The output they produced as Special Rapporteurs further reveals their level of commitment to human rights. Reports prepared by K.R. Venugopal are available online⁸⁵ and thoroughly examines the situation on the ground, issues insightful observations, strong recommendations, and sound conclusions. These reports are of a high quality and the standard for which NHRC Special Rapporteurs should strive.

While these three individuals also happened to be retired officers of the prestigious Indian Administrative Service (IAS) of the Government of India, they were also much more.⁸⁶ However, in examining appointments from recent years, it seems that the NHRC has overlooked checking the actual experiences of candidates and focused exclusively on whether they had been a retired government officer.

Consequently, of the twenty-five Special Rapporteurs hired by the NHRC to investigate the human rights situation in India, all twenty-five have formerly held prestigious government posts. Specifically, fifteen former Special Rapporteurs have previously served in the highly elite, esteemed Indian Administrative Service (IAS), while the remaining six were selected from the Indian Police Service (IPS). This selection of only Indian civil service officers who have passed highly competitive, but elitist entrance

⁸⁴ ANNI Report for the year 2009

⁸⁵ Sentinel-Venugopal.in, available at <http://www.sentinel-venugopal.in/reports.html#four>

⁸⁶ **Mr. Venugopal** had a long, illustrious career working in several important government posts for 33 years, serving as an Indian Administrative Service (IAS) officer from 1962 and retiring as Secretary to the Prime Minister of India in 1995. Venugopal also served with the United Nations in 1996 as Senior Policy Adviser on Poverty Policy for SAARC (South Asian Association for Regional Cooperation), designed a comprehensive Public Distribution System for the state of Andhra Pradesh aimed at food security for the poor that has come to be known popularly as the "Two rupees per KG rice schemes, and researched and published "Deliverance from Hunger – the Public Distribution System in India" in 1992. Venugopal started assisting the NHRC between 1999 and June 2006 as its Special Rapporteur in the Southern Region. **Mr. Chaman Lal** has served as Former Director of BSF Academy, Additional Director General of BSF and Director General of Police, Recipient of the President's Police Medal for Distinguished Service and the National Award of Padma Shri. **Ms. Anuradha Mohit**, Special Rapporteur for Disability, has been visually impaired since the age of 10. She is trained in special education and administration, research methodologies and music, she has served as Deputy Chief Commissioner in the office of Chief Commissioner for persons with disabilities, Government of India, Executive Director of the National Association for the Blind, India and Lecturer in Research Methodology in Fine Arts. Ms Mohit is well known as founder member of the Disabled Rights Group and has worked for the implementation of the Disabilities Act 1995 and related media campaigns. She has held positions in several disability bodies, including Convenor of the Asian and Pacific Network of Women with Disabilities, and Consultant for UNESCO on ICT and people with disabilities. Ms. Mohit has contributed immensely to the cause of people with disabilities, in areas such as inclusive education, women with disabilities, community based rehabilitation, and prevention of disability.

exams is intentional. While the clear preference for Indian Civil Service members has been evident since the NHRC's first hiring of Special Rapporteurs, it is one in which they have developed over time and more boldly and openly proclaimed.

In 1999, a letter from Secretary General Gopalaswami appointing Shri A.B. Tripathy as Special Rapporteur stated that, "The Commission has been availing the services of *eminent persons* in order to help the Commission in monitoring compliance at the field level (emphasis added)."⁸⁷ Whereas, in 2006, the same type of appointment letter inviting Sri Verma to serve as a Special Rapporteur from Mrs. Aruna Sharma stated that in order for the NHRC to further their mandate given under the PHRA, the "Commission has been availing of the services of *very senior retired officers* whose rich experience in particular areas of human rights would be of immense value."⁸⁸ There is also an explicit change in the annual reports from earlier reports to 2004-2005 and 2005-2006. Whereas earlier annual reports did not list any specific criteria for appointing Special Rapporteurs, by 2004-2005, the NHRC stated a "scheme" that, "engages eminent persons as Special Rapporteurs to function as representatives of NHRC for the concerned State in the area of civil and political rights, on human rights violations and to provide guidance to citizens regarding the provisions of the PHRA for seeking redressal from the Commission." The NHRC explicitly stated that these Special Rapporteurs are drawn from among "eminent persons who have had meritorious record of service and have retired from senior positions, both in the Indian Administrative Service and in the Indian Police Service with a commitment for human rights concerns."⁸⁹

in examining appointments from recent years, it seems that the NHRC has overlooked checking the actual experiences of candidates and focused exclusively on whether they had been a retired government officer.

Not only has the NHRC's narrowing of the pool of potential candidates to retired government officials and not requiring a demonstrated commitment to human rights work resulted in many appointed Special Rapporteurs being ill-equipped to adequately perform their job, the NHRC has also failed to channel the enormous skills and talents of eminent people for this job of SR who are not government officials.

The NHRC's intention to remain a bureaucratic government institution could explain why, despite awareness of these talented individuals and the tremendous resources that they could offer, the NHRC remains steadfast and has not hired a single civil society member to serve as a NHRC Special Rapporteur.

This slight but significant change in the letter indicates that retired IAS and IPS officers are synonymous with eminent persons with a meritorious record of service suitable for serving as a NHRC Special Rapporteur. While it is true that several reputable, dedicated Special Rapporteurs have been selected from among former IAS and IPS officers, limiting the pool to only these individuals reflects at best, a misunderstanding of the requirements of the Paris Principles and skills required by Special Rapporteurs to effectively investigate and monitor human rights, or even worse, a growing arrogance that they can disregard internationally mandated Paris Principles requiring pluralism and cooperation with civil society.

Not only has the NHRC's narrowing of the pool of potential candidates to retired government officials and not requiring a demonstrated commitment to human rights work resulted in many appointed Special Rapporteurs being ill-equipped to adequately perform their job, the NHRC has also failed to channel the enormous skills and talents of eminent people for this

⁸⁷ RTI response, Letter to Mr. A.B. Tripathy from Secretary General Gopalaswami dated 19 July, 1999.

⁸⁸ RTI response, Letter to Mr. Verma from Mrs. Aruna Sharma dated August 23, 2006.

⁸⁹ Annual reports 2004-2005; 2005-2006 - Under Administrative and Logistics, Special Rapporteur

job of SR who are not government officials. These leaders and activists, such as Dr. Haragopal, the late Dr. Balagopal, Mr. K.G. Kannabiran, Mr. Miloon Kothari, Dr. Ruth Manorama, Mr. Harsh Mander, and Ms. Teesta Setalvad, have much to offer India and the world in knowledge, passion, and expertise. Ironically, even prominent Indian leaders, such as Mr. Miloon Kothari, that have been recruited to serve at the international level as a United Nations Special Rapporteur, have never been invited or even considered as a candidate to serve as a NHRC Special Rapporteur. The NHRC's intention to remain a bureaucratic government institution could explain why, despite awareness of these talented individuals and the tremendous resources that they could offer, the NHRC remains steadfast and has not hired a single civil society member to serve as a NHRC Special Rapporteur. Where did the nomenclature of SRs emanate from? It is from the UN, where they have thematic and country SRs and for those SRs there is an open roster where people can send their CVs. There is a model of how SRs should be drawn from a pool of resource persons who offer their services to the commission. The Commission looks at specialty they want and select according to that. But keeping it as a post retirement service is what we are critical about. Particularly in the context of the commission not coming forward with a Civil Society member as its SRs in the last 17 years, not wanting to appoint from or draw from the professional skill of NGO activists into the staff of NHRC. It is surprising that even in the post of SRs it is only IAS and IPS who are appointed. Pluralism, diversity and independence is therefore lost.

Despite the lack of pluralism, it is possible that the Special Rapporteurs have produced some helpful and important information from investigating and monitoring the human rights situation in India. However, when asked for a listing of the visits undertaken by the NHRC Special Rapporteurs and reports written, the NHRC mysteriously responded that the reports of the Special Rapporteur are voluminous and under examination in the Commission, concluding that it would not be feasible to send the reports.⁹⁰ As such highly educated and polished

Special Rapporteurs are likely to type, rather than handwrite, such "voluminous" reports, it seems that the reports could be sent in electronic form. The NHRC's response suggests that all the reports of the Special Rapporteurs, who have been engaged by the NHRC since before 2002-2003, are only *now* under consideration, begging the question, what use have they been put to until now?

Post Durban the NHRC had wanted a status report to be prepared on the atrocities on SC/ST people and chalk out the initiatives that could be undertaken by the NHRC. The NHRC further constituted a Dalit cell in the commission and placed it under the charge of a member one Mr. Singh. It is as a result that the report on prevention of atrocities on SC people was prepared by this SR and published in 2004 (completed in 2002). In the foreword to this book the then chair of the NHRC, Dr. A. S. Anand proposed to have this book printed in different languages. This report drew its recommendations from a variety of sources and became one of the very effective of recent studies that have been conducted on the prevention of atrocities against SC people. What is most surprising however is that this report was not felt to be a document worth sending to the UN CERD committee when the Secretary of the UN CERD Committee addressed the letter to the NHRC in the year 2006, once again pointing out the quality of reports generated by SRs which are never followed up and worst still, the institution hesitates to identify itself by placing such reports on its website or presenting such reports to the relevant UN Bodies. The Dalit Cell has not been followed up. The report was not translated and neither has the NHRC shared it in the recent 20th anniversary events related to SC/ST Prevention of Atrocities Act.

1. Premises (accessibility)

The Paris Principles require that the National Human Rights Commission have its own premises and that within the framework of its operation, the NHRI shall set up local or regional sections to assist it in discharging its functions. However, as mentioned previously, the one and only building of the National Human Rights Commission is in the capital city and

⁹⁰ *Information received in response to an RTI Petition 3215*

Today, the entire expansive two-story palace is surrounded by gates and occupied exclusively by the NHRC. . While the members of the NHRC are located on the ground floor, complaints handling, the Secretary General, Joint Secretary, Coordinator for Training, Research, and the Director General of Investigation are all located on the first floor and inaccessible to persons with disabilities.

political center of India, Delhi. Easily blending in with the many government buildings, tourist spots, and beautiful buildings near and on Copernicus Marg, the NHRC is itself located in a former palace, Faridkot House.⁹¹ Faridkot House was home to Sir Harinder Singh Brar, the Maharaja of Faridkot, as well as Commander-in-Chief of the British Army during World War II, Lord Mountbatten. The NHRC is located on busy Copernicus Marg and accessible by bus. Notably, the NHRC's closest neighbors are the Kerala government quarters, Kapurtala, official guest house for the Maharashtra government, Maharashtra Sadan,⁹² and the temporary housing accommodation for officers of Army, Navy, and Air Force, the Patiala House.⁹³

Today, the entire expansive two-story palace is surrounded by gates and occupied exclusively by the NHRC. The premises are monitored like its neighboring government buildings, not allowing common citizens to enter the building unless they are allowed past the main gate blocked by police officers acting as guards. Once permitted beyond the gates, victims walk through a pristine, well-manicured lawn to enter the building. However, the color and brightness of these gardens ends at the door of the NHRC. The two story building has no elevators to the second floor and thus, the NHRC is only partially accessible to those with physical disabilities. While the members of the NHRC are located on the ground floor, complaints handling, the Secretary General, Joint Secretary, Coordinator for Training, Research, and the Director General of Investigation are all located

Starting in 1993, reports of torture, rape, and murders in the form of extra-judicial killings of poor, tribal villagers, many of Scheduled Tribes and Scheduled Castes, by the Special Task Force (STF) steadily arose... Despite all the attention created from these public acts, the NHRC failed to inquire into the reports of torture or provide any assistance.

on the first floor and inaccessible to persons with disabilities.

The unused spaciousness of the building leaves the NHRC feeling empty. The undecorated walls of the building intimidate, rather than welcome victims and visitors. Former annual reports of the NHRC are available for review. While these reports may impress and be useful in informing government officials, victims seeking protection are unlikely to feel welcome and secure by these reports or the overall atmosphere of the NHRC.

The following experience of activist C.J. Rajan, Mr. Balamurugan and Mr. V. P. Gunasekaran and 25 victims of brutal police torture (representatives of the Campaign for Relief and Rehabilitation of victims of the Special Task Force appointed to nab forest brigand Veerappan in Tamil Nadu and Karnataka indicates the type of hardship and institutional failure that occurs when accessibility to the NHRC is so limited that the protection of human rights is left to the mercy of individual NHRC members. It illustrates the need for dramatic and immediate change in the infrastructure and culture of the NHRC. This happens very often to victim of human rights violations. This shows the lack of a victim-centred approach in the commission and also lack of an engaging receptionist and a counselor who speaks to victims that come. The NHRC's reception desk should be different - although security and verification of identity is essential there should be a welcoming attitude.

Starting in 1993, reports of torture, rape, and murders in the form of extra-judicial killings of poor, tribal villagers, many of Scheduled Tribes and

⁹¹ *National Human Rights Commission, Faridkot House, Copernicus Marg, New Delhi, PIN 110001 Tel.No. 23382742 Fax No. 23384863 E-Mail: covdnhrc@nic.in, ionhrc@nic.in*

⁹² *Construction of a new, larger, official guest house for the Government of Maharashtra, the New Maharashtra Sadan, is currently undergoing construction and will be located directly opposite the NHRC.*

⁹³ *Also located nearby the NHRC are the Baroda House Northern Railway Station and the Travancore Palace.*

Scheduled Castes, by the Special Task Force (STF) steadily arose. The STF was a police force especially created to capture the famous and notorious Veerappan in the forests of Tamil Nadu. Since this time, advocates and activists from civil society began trying to provide protection and secure justice for these vulnerable victims.

They were never contacted or reached out to by the NHRC members or staff. The only protectors of human rights these victims knew were members of civil society – who due to the highly political environment at the time, were only the very strong, but few activists from NGOs. These victims had no real knowledge that the NHRC existed or that there was an institution that should be a haven of protection and security for them. It is with the help and resources of these NGOs, that many investigations, demonstrations, and panels were conducted on behalf of these victims. Despite all the attention created from these public acts, the NHRC failed to inquire into the reports of torture or provide any assistance. Finally, in 2001, the NHRC issued a Commission to take place in Tamil Nadu headed by Karnataka judge Justice Sadashiva. The first impression of the NHRC then, was created far before they ever entered the building premises; these hurt, uneducated victims initially witnessed many of the very same police officers who had raped them, stripped them naked and electrocuted them, and/or killed their husbands, proudly saluting these highly formal officials, appointed by the NHRC, seated far above them in large cushioned chairs. Rather than taking a sensitive, victim-centered approach to assessing the situation of human rights in Tamil Nadu, the Justice Sadashiva committee appointed by the NHRC both physically and emotionally distanced themselves from the vulnerable victims seeking protection. NGOs had to draw attention to their behavior and insisted that they act with sensitivity.

The Committee led by Justice Sadashiva was one of a series of panels held under the NHRC that continued until 2004. Two years after the NHRC had finished hearing statements of countless tragic and unthinkable atrocities, they had still issued no order. Despite the lack of assistance they had received, the poor, tribal victims wanted to visit the NHRC in person and demand protection. As the NHRC provides no travel, food, or lodging allowances to victims,

... in October 2006, eight vulnerable victims of intense police brutality were stopped at the main-gate and refused entrance... Having never experienced regular Indian villagers, barefoot and simply dressed... the police officers guarding the NHRC didn't even let these victims past the main gate... It was NHRC Chairperson Dr. A. S. Anand who, while finding time to meet with police officers and government officials, refused to see the group of victims.

regardless of their level of poverty, the victims were only able to come to make the trip to the NHRC with the financial and emotional support of NGOs who comprised the campaign for the relief and rehabilitation of victims of STF violence in Karnataka and Tamil Nadu.

After making the long journey from the forests of Tamil Nadu to the large, heavily populated city of Delhi in October 2006, eight vulnerable victims of intense police brutality were stopped at the main-gate and refused entrance into the very institution created wholly for their protection. Having never experienced regular Indian villagers, barefoot and simply dressed, approaching the NHRC Headquarters, the police officers guarding the NHRC didn't even let these victims past the main gate. Even at a national institution created to protect their rights, these victims were back in the control of the all-powerful police officers – the same institution of “security” that was responsible for the inhumane violations of rights these victims had suffered – and physically prevented from seeking protection.

Upon finally entering the premises, they met another cold, harsh barrier: the reception. Where a reception to a human rights institution should be warm, welcoming, and ready to handle emergencies, the NHRC reception was cold, catering to the elite, and dismissive of marginalized, poor individuals. The reception, however, as the first gateway to an institution, is just reflective of the NHRC itself. It was NHRC Chairperson Dr. A. S. Anand who, while finding time to meet with police officers and government officials, refused to see the group of victims. There was no seating area for individuals, so the victims were forced to sit on the floor and in the grounds outside. After waiting for one and a half

hours, the victims were “fortunate” to run into him for a brief meeting in the corridor as he quickly fled from the premises for his lunch. Notably, while NHRC Chairperson Anand was too busy to meet with such an unpolished group of vulnerable victims, President Manmohan Singh, even while injured with a cast on his arm, made time to meet this group from Tamil Nadu desperately seeking help.

In order to finally have their meeting with Chairperson Anand, the group had to make another trip from Tamil Nadu to Delhi in November 2006. Still, no order was issued. Indeed, no compensation order would be issued while the NHRC was under the direction of Chairperson Anand because the files were “safely hidden” in the registry of the NHRC. After these two encounters in October and November, Justice Shivaraj Patil who was the senior most member after the Chair took interest, met the victims for over 2 hours, patiently listened to each of their stories solicited the members of the campaign and the victims to also meet the other members of the commission ensured that the file was brought for the full commission for hearing by which Dr. Anand completed his term as the Chair. A file, which was almost ready for 2 years, could then be disposed in 2 months. This was the result of the access the victims finally got with Shivaraj Patil intervening. It calls for the commission’s quality of access - space for providing counseling and details to victims. It is noteworthy that there is no seating arrangement for visitors in the waiting hall) It was only on January 15, 2007, ten years after the NHRC first became involved and three years after it had completely finished hearing witnesses that a compensation order was finally issued by the NHRC under the direction of Acting Chairperson Shivaraj Patil.⁹⁴

It took the victims of a horrendous, publicly known series of human rights violations years of public hearings, physical protection from NGOs, and numerous trips across the country to secure any form of condemnation of these acts. These victims were only able to fight for justice because they had the financial, physical, and emotional support of resourced NGOs. However, the majority of victims of human

rights violations do not have these resources; to them, the NHRC is a distant entity that is wholly unapproachable. The lack of access to the NHRC experienced by these visitors indicates that the NHRC currently provides almost no additional value to the protection and promotion of human rights for the average, poor citizens of India living far away from Delhi. People should be allowed, guided inside and should be provided information, allowed to meet the Chair. Human rights are advanced when the Chairperson is able to physically hold the dirtied hands of victims who have traveled over a thousand miles in the hope of a few words of consolation. Human rights are also attended by that and not just the pen of the Chair. The final meeting with the Chair can be preceded by the Registrar, the Counselor etc but the final words from the Chair and assurance of speedy action and sympathetic words enquiring about their health will go into the healing process. Access also in terms of information has to be looked at - from the inside to the outside and from outside to the inside. There are layers of bureaucracy that it doesn’t reach the highest person and vice versa. The STF victims’ group did not go without intimation. Two weeks prior to their visit, fax was sent.

The Commission should be different from the Government institutions and it should be a ‘pro - victim house’. Access should also be in the presence of people speaking different languages so that there can be effective communication with people from the different states of the country. When there are no women on the Commission it reduces access as women will feel more confident and comfortable speaking to women. Anybody coming to the commission and seeing the Chair / Members of the commission walking out of the building and leaving immediately without paying them attention is not comforted by the Commission. That portrays them only as the Ambassador, Chief Justice that they previously were. Staff members are so groomed that they prevent the Chair / Members from meeting visitors. There is need for a warm welcoming place in the NHRC. Security personnel needn’t be in police attire as the police are the accused in most of the

⁹⁴ Justice Shivaraj Patil served as the Acting Chairperson of the NHRC from the 1st of November 2006 to 2nd of April 2007 when Justice Rajendra Babu was appointed as the Chairperson of the NHRC.

complaints that the NHRC receives and are seen by victims as symbols of violence. A Dispensary for victims who might come with injuries and a place where they can stay the night if they are traveling from far with some advance booking arrangement is also essential. Human Rights also have a very strong humanitarian concern component built into it. It cannot be brought just through law, judgments and there is a need for 'human' beings in the NHRC. Attire of the persons in the Commission should not be intimidating to the victims.

For the vast majority of citizens of India who will never be able to make the journey to the NHRC premises in Delhi, the NHRC has created a website designed to give wider accessibility to the public through an "online" premise.⁹⁵ However, as recent as June 14, 2010, the first thing a visitor reads is a running line stating, "There is no provision for membership/registration/affiliation/enrolment of NGOs and individuals with the NHRC. Hence no request on these issues will be entertained by the Commission." This strong message is not only in direct violation of the Paris Principles, encouraging a strong relationship between the NHRIs and civil society, it provides a strong warning to the many NGOs that are working on behalf of many computer illiterate, poor victims. Indeed, as the vast majority of Indians, in particular the more than 75% marginalized, rural poor people still living in poverty,⁹⁶ are unlikely to have access to the internet or sufficient English or computer literacy, the NHRC website does little to improve their access to the NHRC without the help of civil society.

While the webpage is neat and organized, it is devoid of any pictures and full of English text. The website is not available in any regional languages. It

should at least have a Hindi version - this indicates an intentional unwillingness to improve access to the website. The left side of the website lists the available contents, with the right side stating some important recent headlines entitled, "News Update/What's new." On June 14, 2010, two headlines report that the NHRC has taken *suo moto* cognizance on cases of poisonous manholes and polluted water and issued notices to government officials of these findings. A third headline reports a long-awaited happy ending for a small village in Rajasthan when the Home Ministry stated that it had no objection if the name of the village 'Chamaron Ka Vas' is changed back to 'Kuan Ka Vas'.⁹⁷

While these steps prove positive, the website also hints at the political influence over the NHRC. The website proudly reports their appointment of a new Chairperson, the controversial, widely-contested former Chief Justice of the Supreme Court of India Balakrishnan. The NHRC also reports on the highly politicized incidents of "police encounters," in which police allege to have killed an individual in self-defense, but which evidence often suggests are actually intentional murders or fake "encounters" by police. After investigating cases, the NHRC reports finding only 27 fake "encounters" by police in the over 2,956 cases registered with the NHRC since the NHRC's inception in October 12, 1993 to April 31, 2010. In the last 17 years, the NHRC has only made efforts to complete investigations of 1,846 cases of the possible murders, leaving 1,110 cases, or 38%, of

While the webpage is neat and organized, it is devoid of any pictures and full of English text. The website is not available in any regional languages.

⁹⁵ The NHRC website, titled, "National Human Rights Commission, New Delhi, India" is available at <http://nhrc.nic.in/>.

⁹⁶ According to an estimate by the Planning Commission

⁹⁷ The article posted by the NHRC notes, "It is highly frustrating that a matter which was represented against in the year 2006 has dragged on, on account of the bureaucratic rigmarole. If enough sensitivity had been displayed, the name of the village could have been changed much earlier and the feelings of a particular community could have been assuaged."

possible murders in unlawful extra-judicial killings in various stages of incompleteness.⁹⁸

Despite the website's failure to build initial confidence in the NHRC, those able to access the NHRC website can learn a great deal about the NHRC and its available resources. Through the website, individuals from across the country, and internationally, can read the Protection of Human Rights Act, 1993, access selected library resources of the NHRC, including issues of the *Journal of the National Human Rights Commission*, learn about available human rights courses and their internship program, and read important decisions, lectures, and speeches. Also, the website has a very useful function in allowing complaints to be registered directly online.

Despite this positive wealth of information available through the NHRC website, the website is missing real, substantive information that can assist victims immediately. Even an experienced activist, Mr. S. Anand of the Anti-Corruption Forum of Karnataka reported having problems gaining information from the National Human Rights Commission. He complained that the rules of the NHRC are not available on the website. "On the website there is a huge lack of information." He stated that it is necessary for the Commission to clarify rules regarding even the basic definition of what exactly constitutes a human rights violation to more detailed questions regarding circumstances in which victims can be denied entrance into Magistrate courts. If even experienced activists are not able to capture essential information required to effectively utilize the NHRC, the NHRC website would only marginally, if at all, improve accessibility to the NHRC for average and poor Indian citizens, silenced by the political climate and suffering from a lack of education, wealth, and resources. An archive of all decisions of the NHRC with full text and summary of orders that would constitute jurisprudence by the NHRC of India is not there. For students, lawyers visiting the website, it should be a place for generating new jurisprudence for human rights and that is not seen here. NHRC has practice guidelines / directions for complaints handling (give headings here) but these are not made available there. If the Commission is providing

quarterly information on expenditure, it should give the latest and why should it be quarter. Item 14 under the sub link RTI is wrong - not all their information is in soft copy and not all orders which are all available in e form are uploaded on the website and not all their SR reports are available on the website. In Item No.16 there is information on a facilitation centre but the telephone number or email id has not been provided. These are instances to show that the website has to be better equipped.

NHRC has encounter guidelines and it says that it should receive half yearly reports from states. Why can't these reports or at least status of reporting on whether the States following the guidelines and if they are effective too, be uploaded on the website?

All materials relating to the ICC on NHRIs which public should have access to, as they are invited to make shadow reports, are not found on the website

Section on reports has no posting after 2005. This has only reports of Mr. Chaman Lal, a former Special Rapporteur of the Commission. This is why the reports of another Special Rapporteur Mr. K. R. Venugopal had to be posted on his own website the Sentinel⁹⁹.

In the prison population statistics given on the website, the figures that are there are as old as 30 June 2008 and not current

Nowhere are statistics current on the website. There is no Human Rights Education material / teaching module, excepting for the publications. These are essential because the mandate is to protect *and promote*

If applications for information under the RTI Act have to be reduced the Commission would essentially have to put all institutional material on the website. There is no information on the NHRC core group, not even a mention. Even minutes of the meetings of the full commission, if uploaded, can help Civil Society analyse what the areas covered are but it is not done.

The website also does not have a link to the National Commission for Women, National Commission for Minorities, the Central Information

⁹⁸ *Out of 1846 cases, NHRC finds 27 encounters by police as fake since its inception in 1993 till the 31st April, 2010*, <http://nhrc.nic.in/dispArchive.asp?fno=2040>.

⁹⁹ Can be accessed at www.sentinel-venugopal.in

Commission and the National Commission on Protection of Child Rights

The NHRC has also envisioned a phone helpline after office hours but many a time it goes unanswered and the persons manning it are not conversant in languages other than Hindi hampering this method of reaching out to people. The hotline is not always available and is often unresponsive, this system works very poorly.¹⁰⁰

Other than the website and the dysfunctional helpline, it seems that the NHRC has made no further efforts to ensure accessibility to the broader population, or even those individuals or communities more likely to be exposed to or victims of human rights violations, such as women, ethnic, linguistic, religious, and other minorities, persons with disabilities, non-nationals, or the impoverished. The NHRC has made no advertisements in newspapers, televisions, or movie previews. The NHRC has not issued any informational posters to Collector's offices or the Superintendent of Police offices at the district or taluk level telling common people when and how they can approach the NHRC or the SHRCs or the nodal officers. This lack of awareness and understanding of the NHRC and its functions further contributes to the current lack of accessibility to the NHRC. The slowly growing awareness that has arisen is largely from civil society, encouraging victims to seek assistance from the NHRC.

2. Budget

The NHRC must be adequately funded in order to perform its functions under the mandate of the Protection of Human Rights Act, 1993. The Paris Principles state that the NHRI shall have adequate funding and not be subject to financial control that might affect its independence. The ICC developed some criteria to clarify what "adequate funding" by the state requires. First, provisions of adequate funding by the state must include, as a minimum: 1) allocation of funds for adequate remuneration, at least its head office, 2) salaries benefits awarded to its

staff comparable to public service salaries and conditions, 3) remuneration of Commissioners (where appropriate), and 4) establishment of communications systems including telephone and internet.

In addition, the ICC provides that adequate funding should ensure the gradual and progressive realization of the improvement of the organization's operations and the fulfillment of their mandate. This then, suggests that adequate funding requires consideration of factors, such as the dramatically rising number of complaints, and appropriately increases funding to account for the growing need of staff to fulfill its complaints-handling functions.¹⁰¹

While the NHRI may seek funding from external sources, such as from development partners, these grants should not compose the core funding of the NHRI. The ICC observed that it is the responsibility of the state to ensure the NHRI's minimum activity budget in order to allow it to operate towards fulfilling its mandate. They further state that financial systems should be such that the NHRI has complete financial autonomy. This should be a separate budget line over which it has absolute management and control.

Chapter VII of the PHRA, 1993, entitled "Finance, Accounts, and Audit," sets out rules for ensuring adequate funding for the NHRC. The PHRA does not allow the NHRC to develop or submit for approval a budget of its own making. Rather, under Section 32, the NHRC receives funds by the Central Government only after Parliament appropriates funds by law on behalf of the Commission. Monetary grants are given to the Commission by the Central Government in the amount which the Central Government may think fit for being utilized for the purposes of meeting its mandate.¹⁰²

While the NHRC is allowed to manage and utilize the funds granted to it by the Government of India, the NHRC is guaranteed almost no influence in developing their financial budget.

¹⁰⁰ The hotline as on 17.11.2010 was +91- 9810298100

¹⁰¹ PHRA, Section 12.

¹⁰² PHRA, Article 33 states the same procedure at the state level for funding the State Commissions. After appropriation of funds is determined by the state legislature, the state governments provide grants to the State Commission.

While the NHRC is allowed to manage and utilize the funds granted to it by the Government of India, the NHRC is guaranteed almost no influence in developing their financial budget. Notably, the NHRC has no legally-mandated power, either in the PHRA or the NHRC (Procedural) Regulations, 1994 (amended in 1997). The NHRC requires a provision that protects its right to have a direct, independent opportunity to propose a budget that communicates the needs and plans of the Commission, and demand the funds it requires to adequately fulfill its mandate. The lack of legal provisions that ensure the effective, meaningful participation of the NHRC not only undermines the independence of the NHRC, but leaves the government with a great void of knowledge while forming its budget.

However, the NHRC has reported that before the proposed budget is presented for approval by Parliament, the Commission's budget is developed by the Central government through a specially constituted "Steering Committee of the NHRC."¹⁰³ This Committee, responsible for approving the Commission's budget, is headed by the Chairperson of NHRC and consists of two members of the Commission in rotation, Secretary (Expenditure) from the Ministry of Finance serving as Secretary of the Committee. After the budget is approved by the Steering Committee, it is sent to the Ministry of Home Affairs for inclusion in the "Demand for Grant" of the budget document. This is placed before Parliament, along with the Union Budget. The NHRC further reported that upon approval from Parliament, the funds are allocated to the NHRC in the form of monetary grants by the Ministry of Home Affairs.¹⁰⁴ Section 34(2) states that the Commission is permitted to spend as much of these granted funds as it deems

fit for performing its functions and exercising its powers, and money spent from these aforementioned grants shall be treated as "expenditure payable."¹⁰⁵

Even if the NHRC has this limited opportunity to shape the development of its budget, it is not sufficient in the face of the large, powerful influence of the Government of India. So, while the management and expenditure of allocated funds rests with the NHRC, the determination of how much funding is required to fulfill the Commission's mandate is overwhelmingly controlled by the limited knowledge and discretion of the government.

Notably, while the Paris Principles state that the NHRI should be predominantly funded by the state, it allows some funding from external sources. However, the NHRC currently receives 100% of its funding from the Central Government of India.¹⁰⁶

The lack of real, effective control of the NHRC in developing its budget manifests in an inadequate budget reflecting the government's ignorance in allocating funds adequate for fulfilling the depth and scope of the functions entrusted to the NHRC and a constant under-appreciation of the continual, often dramatic changes in its workload. For example, while the number of complaints filed with the NHRC has continually increased since its origination, the budget has not been adjusted to reflect these dramatic changes. Under-funded and drowning in work, even a well-intentioned NHRC would be left overwhelmed and resigned that the tasks before them are beyond their ability.

While the NHRC's budget has increased over time, it has not been adjusted sufficiently to allow the NHRC to fulfill its mandate. The NHRC requires more qualified, competent, and compassionate staff dedicated to protecting and promoting human rights. The NHRC requires not only the existing staff to be provided adequate remuneration through salary and benefits, but also more staff to be recruited to fulfill

Under-funded and drowning in work, even a well-intentioned NHRC would be left overwhelmed and resigned that the tasks before them are beyond their ability.

¹⁰³ RTI 3306. Follow up RTI folder.

¹⁰⁴ Complete budget information has been produced by the NHRC for the years 2007, 2008, and 2009.

¹⁰⁵ PHRA, Article 34(2). Article 33(2), likewise, treats the use of these sums as "expenditure payable" at the state level.

¹⁰⁶ Response from NHRC to an RTI petition on EIDHR funding proposal

... although the number of complaints filed with the NHRC has increased dramatically every year since the establishment of the NHRC, from a mere 487 to almost 100,000 in 2009, the hiring of staff responsible and equipped to handle these complaints has not increased proportionately, or more importantly, adequately.

Human Rights and the budget for NHRC being dealt by this ministry (of Home Affairs) conveys that Human Rights is controlled by those who control Law Enforcement Officials.

its functions and serve the people of India. For example, although the number of complaints filed with the NHRC has increased dramatically every year since the establishment of the NHRC, from a mere 487 to almost 100,000 in 2009, the hiring of staff responsible and equipped to handle these complaints has not increased proportionately, or more importantly, adequately. The Ministry of Home Affairs however is the Ministry that looks after subjects like border management, internal security, in turn meaning police, law & order etc, foreigners, immigration and it also

has a Human Rights division dealing with matters related to communal harmony, assistance to victims of terrorist violence, the NHRC, international governance, a whole set of laws, the UN Decade on Human Rights Education etc. It is very unfair that Human Rights is placed in the Ministry of Home Affairs which deals with the AFSPA. Human Rights and the budget for NHRC being dealt by this ministry conveys that Human Rights is controlled by those who control Law Enforcement Officials. It is a mismatch. If the NHRC is a recommending organization, it should report to the highest level and it should therefore be to the Prime Minister's Office.

This is not only reflected in the case load of staff members, but also the backlog of pending cases and decreasing quality of jurisprudence.¹⁰⁷ The table below (Table 4.3) details the amount of granted funding and expenditures by the NHRC from its establishment in 1993 until 2010, as well as the number of complaints received by the NHRC.

Table 4.3 Allocation of Funding and Expenditures by the NHRC (1993-2007)

Year	Plan Funding	Non-Plan Funding	Total Budget	Expenditures	No. of complaints received by NHRC
1993-1994			150 Lakhs	94.6 Lakhs	496
1994-1995			--	NA	11,153
1995-1996			225 Lakhs	216 Lakhs	
1996-1997			--	--	16,823
1997-1998			450 Lakhs		
1998-1999			650 Lakhs	--	
1999-2000			650 Lakhs		
2000-2001			620 Lakhs	566.08 Lakhs	
2001-2002			720 Lakhs	693.05 Lakhs	
2002-2003			860 Lakhs	817.62 Lakhs	
2003-2004	100 Lakhs	1033 Lakhs	1133 Lakhs	1061.15 Lakhs	
2004-2005	188 Lakhs	1070 Lakhs	1158 Lakhs	1063.51 Lakhs	
2005-2006		1228 Lakhs	1228 Lakhs	1119.82 Lakhs	
2006-2007		1348 Lakhs	1348 Lakhs	1322.50 Lakhs	
2007-2008					
2008-2009					

¹⁰⁷ See Chapter on Quasi-jurisdictional Functions

The NHRC of India serves over 1 billion individuals. The Government of India must take seriously the broad and demanding mandate of the NHRC and dramatically and appropriately increase its funding and resources to the NHRC. Moreover, while funding should be monitored to ensure accountability, the NHRC should be allowed greater participation in shaping their budget to meet their needs and maintain independence. An adequate budget, responsibly and transparently used, is required for the NHRC to be effective in protecting and promoting human rights and serve the over 1 billion people living in India. NHRCs budgets should be in relation to its functions. The functions of the NHRC are many. It is not only complaints handling. It is also to intervene in any proceeding involving human rights violations before any court with its approval. This task means the identification of several litigations in courts all over the country and the possibility of NHRC intervening in them to provide the best available Human Rights standards, the opportunity to influence judgments at various courses with the highest available national and international Human Rights standards and norms - this requires high quality lawyers, almost working full time and researchers. The Law has been amended in 2005 giving them opportunity to visit jails

and other institutions where people are detained. For this to be done effectively the NHRC needs resources to appoint people to visit persons in jail. Studying treaties calls for major intervention of NHRC because India is always late in its periodic reports to the UN bodies and in the absence of the country doing it, an independent commission should be able to send a Shadow Report on how the country is doing. The NHRC not providing this will be construed as lack of independence. For this work highly qualified researchers are needed to look at facts across the country, follow activities of NGOs in the country and produce a report. There is no money for this and the NHRC does not do this. By now the commission should have had an effective research wing to create awareness. Research scholarships for students should have been issued and resources are needed for that. Research is currently being looked at from the point of view of a Judge or a law enforcement official and not as a promoter of human rights. If that had happened the Commission would have come out with advertisements, TV programs etc. The country needs resources for human rights and the NHRC is the one to do it. The NHRC should have created a constituency for itself outside. It should invest in both houses of Parliament and in political parties and that is still not done.

CHAPTER V

Executive Summary: Quasi-Jurisdictional Function

The 487 cases that were received during the first year of the Commission's establishment have dramatically escalated to approximately 400 cases in a single day. With no increase at all in the number of members responsible for disposal of these cases, it is no surprise that the quality of complaints handling is suffering greatly.

Five members of the National Human Rights Commission have been entrusted with the responsibility of handling complaints received from victims throughout India. The 487 cases that were received during the first year of the Commission's establishment have dramatically escalated to approximately 400

cases in a single day. With no increase at all in the number of members responsible for disposal of these cases, it is no surprise that the quality of complaints handling is suffering greatly.

The Commission, however, maintains that they have not had problems disposing of hundreds of cases they receive and that they review and give orders in approximately 60-80 cases per day. If true, the limited number of members and the enormous case load of the Commission indicates that even working 16 hours, twice the average workday, and disposing of the minimum 60 cases per day, each complainant receives less than 30 minutes of the five Commission members attention before a pivotal decision on whether a human rights violation has occurred and any potential recommendations.

Given the other tasks of Commission members, the actual time spent on each case is far less than 30 minutes. Not only does the lack of attention the Commission gives to each complaint draw attention to the low quality of complaints-handling, even where the Commission addresses large, high-profile cases, the Commission often fails to take a bold or courageous stand or develop a strong jurisprudence. Rather than pushing the country to incorporate and exercise existing human rights standards and laws existing in this country or develop new standards or encourage adoption of international human rights standards, the Commission remains silent in the face of precious opportunities to foster an human rights jurisprudence that can not only provide relief to victims, but promote human rights for all Indians.

V. QUASI-JURISDICTIONAL FUNCTIONS

Legal Authority of the NHRC's Quasi-jurisdictional Functions

The Paris Principles state that a national institution may be authorized to hear and consider complaints and petitions concerning individual situations. Cases may be brought before it by individuals, their representatives, third parties, non-governmental organizations, and associations of trade unions or any other representative organizations. The functions entrusted to them may be based on the following principles: a) Seeking an amicable settlement through conciliation or, within the limits prescribed by the law, through binding decisions or, where necessary, on the basis of confidentiality; b) Informing the party who filed the petition of his rights, in particular the remedies available to him, and promoting his access to them; c) Hearing any complaints or petitions or transmitting them to any other competent authority within the limits prescribed by the law; and d) Making recommendations to the competent authorities, especially by proposing amendments or reforms of the laws, regulations and administrative practices, especially if they have created the difficulties encountered by the persons filing the petitions in order to assert their rights.

The legal authority for the NHRC's quasi-jurisdictional functions is derived from the NHRC's founding law, PHRA, and the procedure for ensuring its effective functioning has been subsequently provided for in the NHRC (Procedure) Regulations, 1994 (amended in 1997) and periodically issued Practice Directions.

Protection of Human Rights Act, 1993

The mandate and accompanying power to conduct quasi-jurisdictional functions are granted under

Taking seriously the Commission's responsibility to investigate complaints and wanting to ensure that it would be able to effectively conduct inquiries, the Commission has been granted all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908.

Chapter III, Sections 12(a) and 13 of the Protection of Human Rights Act, 1993. Section 12(a) of the PHRA provides that the NHRC shall inquire suo motu or on a petition presented to it by a victim or any person on his behalf, into complaint of (i) violation of human rights or abetment thereof or (ii) negligence in the prevention of such violation, by a public servant; (b) intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court. Further, the Commission may intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court.

Taking seriously the Commission's responsibility to investigate complaints and wanting to ensure that it would be able to effectively conduct inquiries, the Commission has been granted all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908. In particular in respect of the following matters, namely (a) summoning and enforcing the attendance of witnesses and examine them on oath; (b) discovery and production of any document; (c) receiving evidence on affidavits; (d) requisitioning any public record or copy thereof from any court or office; (e) issuing commissions for the examination of witnesses or documents; (f) any other matter which may be prescribed.

The PHRA was amended in 2006 to permit the transfer of complaints from the NHRC to state human rights commissions (SHRCs) under Section 13(6), where the Commission considers it necessary or expedient to 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. Section (7) provides that every complaint transferred under sub-section (6) shall be dealt with and disposed of by the State Commission as if it were a complaint initially filed before. While it is beneficial to work with the SHRCs, this provision undercuts the discretion of complainants who want to pursue their claims with the NHRC in light of its expertise and greater resources.

Section 15 also establishes that all newly registered complaints shall be placed before the commission for preliminary consideration as expeditiously as possible, but in no case, later than seven days from the date of its receipt.

NHRC (Procedure) Regulations, 1994 (amended in 1997)

In addition to the PHRA, the Commission has promulgated internal regulations, the NHRC (Procedure) Regulations, 1994 (amended in 1997), which states the procedure to be followed in handling complaints. In particular, Section 8 establishes that in dealing with complaints and suo motu actions, complaints may be made to the Commission in English or Hindi, but the NHRC may also entertain complaints in any other language included in the Eighth Schedule of the Constitution. The Commission does not charge fees for submitting complaints. The complaint shall disclose a complete picture of the matter leading to the complaint. The Commission may seek further information/affidavit as may be considered necessary.

Section 9 of the regulations also restricts which complaints would not ordinarily be entertained by the Commission and thus, may be dismissed in limine. Accordingly, the Commission may only dismiss complaints in limine that are illegible, vague, anonymous or pseudonymous, trivial or frivolous, barred under section 36(1) of the Act,¹⁰⁸ barred under section 36(2)¹⁰⁹ of the Act. Further, the Commission may dismiss in limine cases in which the allegation is not against any public servant, or the issue raised relates to a civil dispute, such, as property rights or contractual obligations, service matters, or labour/ industrial disputes. Cases may also be dismissed if the allegations do not make out any specific violation of human rights, or if the matter is already sub judice before a Court/Tribunal, covered by a judicial verdict/ decision of the Commission, or outside the purview of the Commission on any other ground.

Section 15 also establishes that all newly registered complaints shall be placed before the commission for preliminary consideration as expeditiously as possible, but in no case, later than seven days from the date of its receipt. Complaints requiring urgent consideration shall be placed before the Commission, as far as possible, within 24 hours of its receipt. Notably, Section 32 of the NHRC (Procedural) Regulations strips parties of the right to review an order or proceedings of the Commission.

Practice Directions

It should be noted that, many of these practice directions are not being followed today. ...the NHRC has stopped identifying problem areas and has no longer issued new, relevant practice directions to improve the functioning of the NHRC

The NHRC has also issued a series of guidelines under the name of “Practice Directions” for providing more clarity on its functioning. The directions were largely issued in the early years of the NHRC under the leadership of Chairperson Justice Mr. M.N. Venkatachaliah and discussed and set out procedure for dealing with a wide range of concerns, such as recommendations for grants of interim relief and punishment, fast-track movement of urgent cases, processing of cases of custodial death, and compliance of recommendations. The practice direction states the existing or potential problem it seeks to address. It assigns procedure, responsibilities, and time frames. For example, on 24 February 1998, the NHRC issued “Practice Direction No. 7” on transferring cases. These directions state that in cases in which complaints have been simply transmitted for taking appropriate action without calling for action taken reports, the Law Division may select and make a list of such cases at the end of each quarter and 2% of all such cases, selected by a systematic sample along with the particulars of the orders made by the Commission, will be sent to the Investigation Division.

¹⁰⁸ 36(1) provides that the Commission shall not inquire into any matter which is pending before a State Commission or any other Commission duly constituted under any law for the time being in force.

¹⁰⁹ 36(2) provides that the Commission or the State Commission shall not inquire into any matter after the expiry of one year from the date on which the act constituting violation of human rights is alleged to have been committed.

Notably, the practice directions state that on receipt of these cases, the Director General of Investigation shall cause enquiries to be made in respect of cases to find out whether the authorities to whom the petitions are transmitted have indeed taken any action or not. Further, a report of the results of the monitoring will be placed before the Commission every quarter.

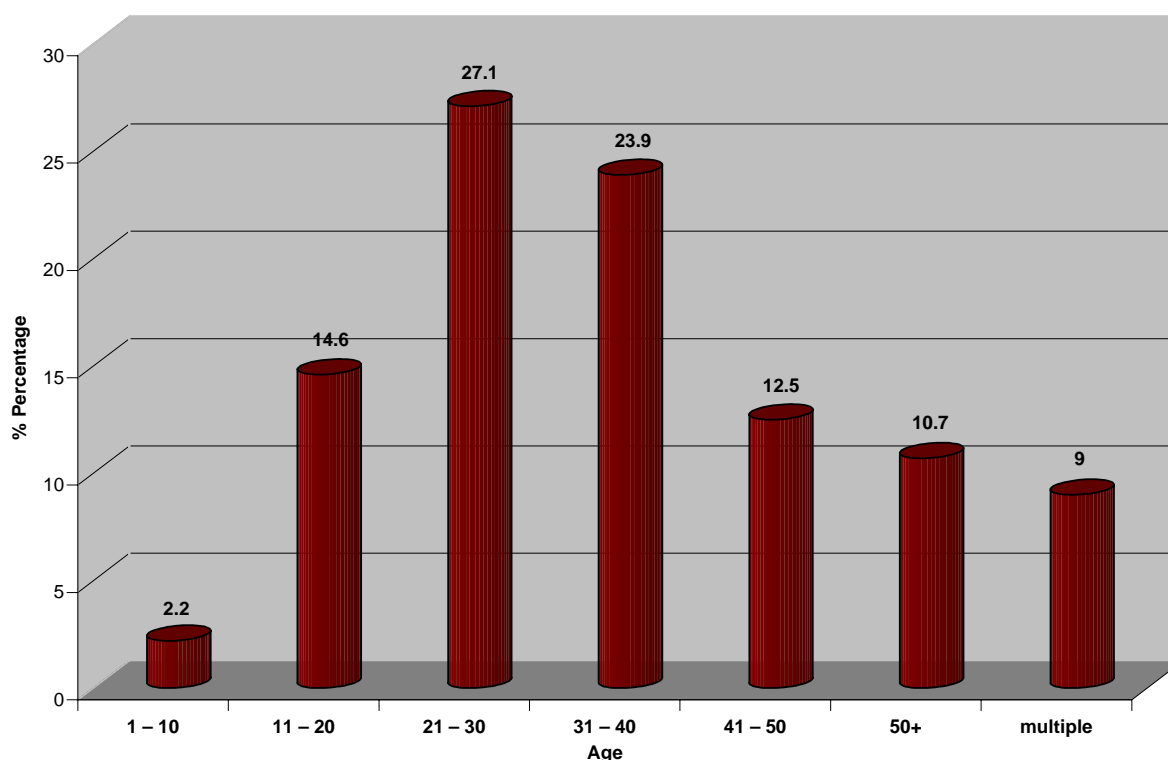
It should be noted that, many of these practice directions are not being followed today. Further, after Justice Venkatachaliah's tenure, the NHRC has stopped identifying problem areas and has no longer issued new, relevant practice directions to improve the functioning of the NHRC¹¹⁰.

People's Watch, a human rights organization in India, transmitted to the NHRC 551 cases of human rights violations within the period from 2005 to 2010. These cases are presented here as a case study of how the NHRC receives and processes complaints of human rights violations. Below are the findings in the critical aspects of the NHRC's duties.

Demographic Information

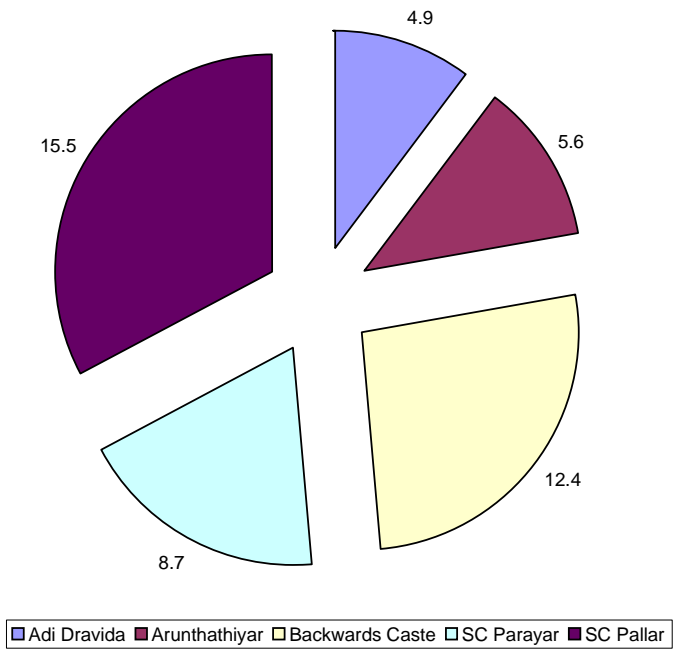
Of the 551 reported human rights violations that this study looked at, 53.5% of victims belonged to Scheduled Castes, and 5.6% were members of Scheduled Tribes. A vast majority (77.9%) of the complainants were Hindus; 4.7% were Christian, and the religion of 13.1% of complainants was unknown. 62.8% of complainants were male and between the ages of 20 and 39. Of the 46 classifications of violations, the most common violation by far was police torture (48.6% of cases), followed by Dalit Atrocities (10.5%), and Caste Discrimination (9.1%)

Classification of Victims: Age-wise

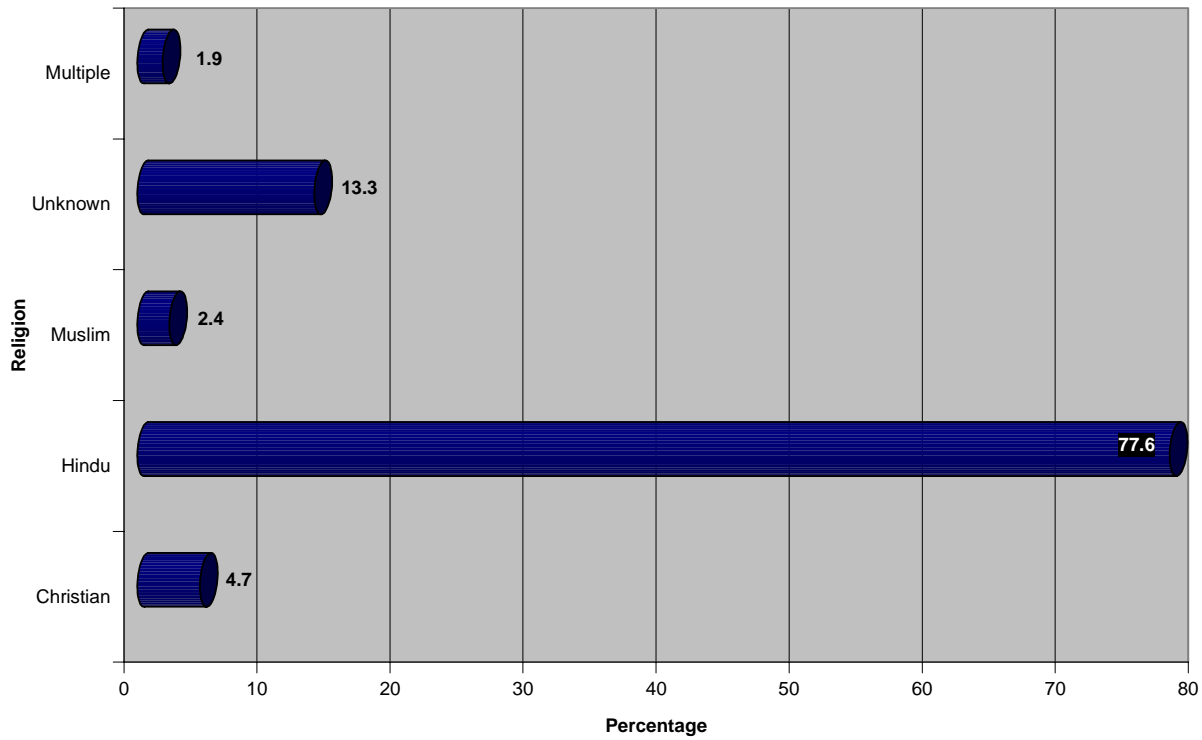


¹¹⁰ See *Practice Directions of the NHRC in Annexure*

Classification of Victims: Caste-wise



Classification : Religion Wise



Accessibility

The NHRC does make an initial response to most cases by way of acknowledging receipt and informing the complainant of the number assigned to them. Of the 551 complaints lodged by People's Watch from 2005 to 2010, 519 were accepted and assigned a case number. However, in 39 cases, no response has been received to date.

The average time that these cases have been on the file is 793 days but the waiting times in these cases range from 378 - 1859 days and still pending.

Investigation and Fact-Finding

The NHRC rarely uses its investigatory powers. In the 551 cases in this study, they did not conduct a single investigatory visit, nor did they hold even a single hearing.

Dismissal of cases under Section 36 of the Human Rights Act

Of the accepted cases, the NHRC rejected 73 (14.1%) of them under Section 36 of the Human Rights Act. This section allows for dismissal of cases which either i) are under review by a State or other Commission, or ii) allege events that happened more than a year prior to the complaint.

It should be noted that only 4 of the 73 cases dismissed under Section 36 had passed the time limitation and there is no evidence to indicate that any of the cases were being reviewed by another commission.

Transfers to Other Bodies

The NHRC transferred 237 of the total complaints to other bodies during the time period. This represents 45.7% of the 519 accepted cases.

The NHRC sent 70 cases to the Tamil Nadu SHRC. They also sent 147 to various "Concerned Authorities" which means that the complaint was referred for disposal mostly to police authorities. This is indeed a matter of concern since most of the complaints involved police authorities as perpetrators. There have been several instances when the NHRC refers the complaint to the very same person against whom the complaint was made. Many victims have also experienced reprisals from their perpetrators because of this practice.

Cases that have not been dismissed or transferred are almost always deemed closed after the "concerned authorities" reported back to the NHRC that the matter has been resolved.

Timeliness

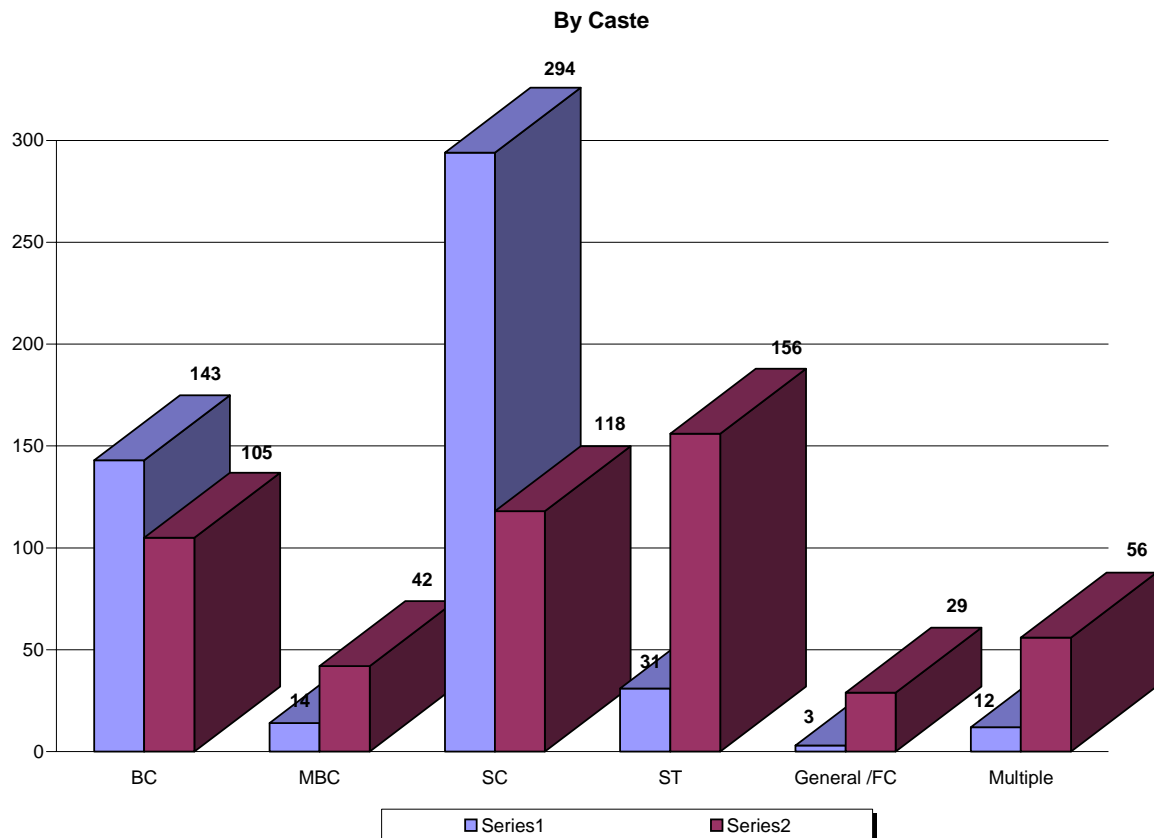
The average waiting time for an initial response – a communication indicating receipt and acceptance of the complaint – from the Commission is 66 days, but some waited up to a maximum of 884 days.

After an initial response is received and the NHRC has accepted the complaint and forwarded it to a "concerned authority", the average waiting time to receive the report from the "concerned authority" is 316 days.

The average total time from the NHRC's acknowledgment of receipt as initial response to the final disposition of the case is 322 days.

By Violation

Peoples Watch submitted complaints regarding 46 different types of violations. Of these 46 violations the shortest average wait time to receive an initial response was 13 days for cases of ethnic clashes, and the longest average wait time for an initial response was 173 days on a report of violations against a person in a Prison in Karur, Tamil Nadu.



- d. *How the NHRI carries out this complaints handling function in practice (i.e. an overview of the mechanisms and procedures adopted to receive, investigate, and handle complaints received).*

a.Failure to carry out complaints handling function in practice

The complaints handling procedure is managed by the Law Division, which is headed by the Registrar (Law). The Registrar (Law) is assisted by a Joint Registrar, Deputy Registrars, Assistant Registrars, and others. There are also four Presenting Officers coming from the subordinate judiciary, who assist the Commission in fulfilling its very important complaints handling function.

While there is more than enough legal basis upon which the NHRC has been empowered to handle and act on complaints on human rights violations, the

NHRC has unfortunately failed to carry out effectively this function.

Despite the number of cases received by the NHRC increasing dramatically from just 487 in the year of its establishment in 1993 to an incredible 100,000 in 2009, there has been no proportionate

While there is more than enough legal basis upon which the NHRC has been empowered to handle and act on complaints on human rights violations, the NHRC has unfortunately failed to carry out effectively this function.

India has thousands of human rights organisations and human rights defenders who may be brought into the NHRC or partner with NHRC to add a human rights perspective in handling these complaints.

increase in staff or resources. In fact, the NHRC is not even permanently staffed to full capacity. At a minimum, the NHRC has not even taken advantage of the procedures provided to it under Section 12(a) and 13 of the PHRA to handle complaints and has not put in place a system that will ensure that victims have a source to secure justice and protection against human rights violations, as was first envisioned by the creation of the NHRC.

All staff in the NHRC's division tasked to handle complaints are court staff. While knowledge and expertise on legal procedures may be necessary to handle these complaints, it is also important to consider the human rights aspect of these cases. As mentioned earlier, India has thousands of human rights organisations and human rights defenders who may be brought into the NHRC or partner with NHRC to add a human rights perspective in handling these complaints. Upon receiving a complaint, it is not enough to pass this complaint through a process of legal procedures. More often than not, it would also be necessary to undertake fact-finding missions, investigation, and even do the simple task of talking to the victim, which the NHRC does not do in this process.

It is absolutely necessary that a careful reading of the complaint is done from a human rights perspective. It is also doubtful if any of the members of the NHRC ever peruse over these complaints on their own.

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Procedure for Registering and Processing a Complaint

The majority of complaints received by the NHRC come directly from victims, or their representatives. A minority of cases are taken *suo moto* under the Commission's powers under Section 12(a) of the PHRA. The complaint must be in writing, either in the suggested format¹¹¹ or in any other format that is complete with all details.

The complaint first requires the complainant's information, including name, sex, and full address, complete with pin code, district, and state, and the incident details, including the date and location of the incident. Next, the victim's complete details are required, including the number of victim(s), the name of the victim(s), full address, sex, religion, caste, age, whether person has a disability. The complainant must provide a brief summary of the facts/allegations of human rights involved. Specific questions seek information on whether the complaint is against a member of the Armed Forces/paramilitary and whether a similar complaint has been previously filed before any Court/State Human Rights Commission. Finally, the complainant must include what prayer or relief he or she is seeking. The NHRC offers a mobile phone number which may be called after office hours and this is made public on its website which victims may seek to help to register complaints or pass on vital information to the commission.

Upon receiving a complaint, a single member of the NHRC immediately ranks complaints according to their importance either issues a notice thereon and/or places the complaint before a full commission, either before a single bench, division bench, or a full bench. Notices are sent to the relevant government authorities, the investigation wing, or a Special Rapporteur of the NHRC.

Reports received from the government are rarely sent to the concerned complainants for their comments. Occasionally, where the complainant insists, parties are given a hearing, which had previously been held in an open court. Lastly, final recommendations are passed.

¹¹¹ NHRC complaint format, available at <http://nhrc.nic.in/Documents/Compformat.pdf>

A majority of complaints are dismissed by the NHRC wholly on the basis of state responses or police reports that deny the violation.

A majority of complaints are dismissed by the NHRC wholly on the basis of state responses or police reports that deny the violation. Often, in cases of custodial death and custodial rape, the police are registered as complainants because they are obliged by law to report the cases within 24 hours. Though there are no guidelines prohibiting the registration of multiple complainants in cases before the NHRC, and indeed there are numerous examples of multiple-complainant cases, in practice, in cases in which the police are registered as complainants, families of the specific victims are precluded from bringing their claims since another party has already brought them. There is no legal basis for this peculiar practice, and it does have grave implication. Not only does this deny victims and their families a chance for a fair hearing of their claims, but it also allows the police, as registered complainants, to control the prosecution of claims against their very own members. This regularly leads to an illegitimate dismissal of case, even though clear evidence can be easily procured to prove the perpetrator's guilt.

The experience of prejudicial treatment precluding consideration of a complaint was experienced by Mr. Suhas Chakma, of the Asian Centre for Human Rights, who while filing several cases with the NHRC was never provided a single opportunity to review and rebut the police's response.¹¹² One such case handled by Mr. Chakma involved the alleged torture of six individuals by the Assam Rifles in 2005. Relying on solely the state's reply, the NHRC went on to close the complaint without affording Mr. Chakma a hearing or access to the state's reply. Mr. Chakma later petitioned for information on this case, using the Right to Information Act. The information that was revealed was that the police's report had corroborated the victims' claims of police torture.

As mentioned earlier, the procedure of the NHRC involves sending the complaint to "concerned authorities", which more often than not, would be the very police authorities named in the complaint as the perpetrators. What happens therefore is that the complainant or the victim is called by the "concerned authority" into his office and is made to discuss the complaint with the perpetrator. Some examples of cases are provided below to illustrate.

forcing a victim to confront, without any protection, the perpetrator is a highly traumatic experience. Moreover, it reveals the true dynamics of human rights protection that leaves the victim feeling betrayed, vulnerable, and cheated of his dignity.

This masked backdoor, prejudicial, internal processing of complaints is a mockery of the mandate of the NHRC. A supposed protector of human rights must be an ally for victims, not a partner to potential perpetrators. At a minimum, the NHRC's current practices result in delays due to improper handling of complaints. More importantly, forcing a victim to confront, without any protection, the perpetrator is a highly traumatic experience. Moreover, it reveals the true dynamics of human rights protection that leaves the victim feeling betrayed, vulnerable, and cheated of his dignity.

The current procedure of the NHRC lacks sensitivity for the victims of human rights violations. When such encounters take place between the victims and the alleged perpetrator, what actually takes place is that the only hope of an alternate institution on which the victim genuinely relied upon no longer exists for the victim. And the victim is left almost at a stage where he or she wants to settle the matter and buy peace since he or she realizes that it is better to buy peace than to fight for the enforcement of a human right that he or she thought was possible.

Since the NHRC is a public institution, the status of cases registered with the NHRC must be accessible to the public. Compared to the prior unacceptable

¹¹² Human Rights Watch inter view with Suhas Chakma, ACHR office, New Delhi , December 6, 2008 featured in a publication titled *Broken System* <http://www.hrw.org/en/node/84624/section/8 - ftn357# ftn357>

The Police Search of the People's Watch Office in Tamil Nadu

To take an example of cases that have been closed without giving opportunity to the complainant to respond to the State, we give below the case of the raid of the offices of People's Watch – India

On 5 November 2003, police carried out a search in the office premises of People's Watch (PW). Under a search warrant issued by the Judicial Magistrate, Sivakasi, the police were apparently looking for two accused who they believed to be hiding in the premises. It is

worth mentioning that during their over 1 ½ hour long search, the police did not adhere to the statutory procedures for search and committed several excesses with ulterior motive. The police did not want to produce the copy of the order purportedly issued by the Judicial Magistrate to search the premises and refused to hand over an attested copy of the search memo.

Shortly before the search of its offices, PW had been instrumental in processing several cases of serious human rights violations presented at two public hearings under the banner of the National Commission for Women and the Tamil Nadu State Commission for Women, where instances of police violence and negligence were highlighted. Following these hearings Mr. Henri Tiphagne was personally warned by some very senior police officers who were present at the hearings.

Immediately after the search of its offices, PW filed a complaint before the NHRC. It is worth mentioning here that the Executive Director of PW Mr. Henri Tiphagne has been a member of the NHRC Core Group on NGOs since the year 2001. The commission on 17 November 2003 requested a report and comments from the Director General of Police, Tamil Nadu on the petition made. On 24 November 2003 such report was submitted to the NHRC denying the allegations. The Commission took no further action for almost a year after receipt of the said report.

Then on October 20, 2004, the Commission requested information about the case registered at M. Pudhupatti Police Station in which the 2 persons allegedly hiding in PW's offices were implicated and also sought a copy of the charge sheet in the said case. On perusal of the report and receipt of the charge sheet NHRC closed the case on 21 March, 2005, without further investigation and without an opportunity to the complainant, PW, to comment on the report of the police¹¹³

action of destroying all records after six months of adjudication in case there is no positive recommendation made in the case(s) the NHRC has after 2009 improved their system of complaints handling documentation

Only cases from late 2008 onwards are available online. With the exception of a small minority of cases, complainants who have filed cases prior to 2008 will not have their cases posted on the website and have no avenue to track the progress of their complaints.

Also, the status of pending cases registered before 2008 are predominantly unavailable on the NHRC

Only those who are fortunate to have had their case uploaded and updated on the NHRC website, and receive a precise and accurate complaint number can attempt to trace the outcome of their case online. However, due to the NHRC's many clerical errors, notably in entering misspelled names and providing incomplete or inaccurate complaint numbers, it is almost impossible to access many cases.

¹¹³ *Response of the Commission has been annexed*

The Custodial Death of Ms. Karuppee

In the case of the death of one Ms. Karuppee in police custody in the year 2002, a complaint was sent by People's Watch to the NHRC, but no response was received. It was only later on that People's Watch came to know that the NHRC has also received a complaint (NHRC Case NO 937 / 22 / 2002-2003-CD) on a custodial death from the District Superintendent of Police of Ramnad District, Tamil Nadu, dated 12 January 2002. This apparently was the very same case of the death of Ms. Karuppee. According to the database maintained in the NHRC's website, the NHRC requested additional information on 2 April 2009. However, no communication was received by People's Watch from the NHRC on this case. On 06 September 2008, the court directed the Additional Director General of Police (CB-CID) to nominate a team for this case and to file the final report within a period of six months. Further, it was directed that the State Government pay Rs. 3 lakhs - including Rs. 1 lakhs already awarded by the order of the State Government dated 01 March 2006 to the family of the victim (ROC.C2/13493/2006) by the proceedings of the District Collector, Ramanathapuram¹¹⁴.

website. In spite of this having been brought to the attention of the NHRC in meetings of the Core Group of NGOs and in private meetings with very senior officials there has been no effort to rectify this at all. This is not a matter of finance and is a matter of determination and accountability to victims. This is one more indication that complaints handling is complaints disposal for the NHRC.

The NHRC claims that it makes recent cases accessible to the public, but in reality, it is extremely difficult to track down cases that have been registered after 2008. Their website includes a section called "Frequently Asked Questions" which outlines the procedure through which complaints would go after having been received by the NHRC. However, there is no information of how a complainant could track his or her case through the various stages. Only those who are fortunate to have had their case uploaded and updated on the NHRC website, and receive a precise and accurate complaint number can attempt to trace the outcome of their case online. However, due to the NHRC's many clerical errors, notably in entering misspelled names and providing incomplete or inaccurate complaint numbers, it is almost impossible to access many cases. Not only does the sloppy information processing cause the information to be unreachable to even an educated or sophisticated

complainant, but these errors are also an indicator of the carelessness and lack of importance the NHRC gives to victims of human rights violations in India.

Despite the issue of transparency and the lack of information available on the website being raised at 20 September 2009 meeting of NGO Core Group and the reassurance of the NHRC Chairperson that information would become available on the website, no progress has been made on this matter.

How the NHRC Conducts its Proceedings

The NHRC fails to take a victim-centered approach. The Law Division and Investigation Division are responsible for assessing the hundreds of thousands of complaints received by the NHRC. These officials in-charge of the complaints-handling process, generally former police officials, ranking from Constables to Deputy Inspector General of Police, do not seem to possess any code of conduct or rules of business in

... seating priority is always given to uniformed officers and individuals in high positions, leaving ordinary people without seating or forced to sit on the lawns or stand in a corner.

¹¹⁴ *Report of the ANNI for the year 2009 Page 62*

writing that govern their investigation methods as investigators of human rights violations committed by the instrumentalities of the state. Accordingly, it is unsurprising, although extremely problematic, that these officials, who receive no specialized human rights training to be incorporated in investigation methods, find themselves more comfortable following the methods of crime investigation that they have known in the past or methods of investigation actually followed in the paramilitary forces like the BSF, Assam Rifles, CISF etc, bodies from which a large section of our investigation officers are drawn from. It should be noted that there is a clear distinction between human rights investigation and crime investigation. Thus, it is really questionable that people in the BSF, CISF, or Assam Rifles are deemed fit by the NHRC to investigate human rights violations.

Victims are often treated as second-class citizens at the NHRC, rather than as individuals deserving the same equality and respect as all other individuals in the room. While these prejudices are sometimes blatant, they are often subtle, but definite. In the rare case in which the Commission holds a full hearing, the Commission addresses victims directly by name and addresses only alleged perpetrators respectfully as “Ms.” and “Mr.” or “Madam” and “Sir.” Similarly, seating priority is always given to uniformed officers and individuals in high positions, leaving ordinary people without seating or forced to sit on the lawns or stand in a corner. Often the alleged perpetrator is accommodated with much courtesy at the NHRC office upon his arrival at the NHRC office. Not only does this suggest a lack of independence of the

During the hearing, the victims saw, as they entered the building premises, the very same police officers who had raped them, stripped them naked and electrocuted them, and/or killed their husbands, proudly saluting these highly formal officials seated far above them in large cushioned chairs

NHRC, but it is a manifestation of the utter disregard by the NHRC to keep the investigation victim-centered.

In 2001, the NHRC constituted a Committee, headed by the retired Karnataka High Court judge, Justice Sadasiva, to look into the complaints of the victims in Tamil Nadu of alleged violations perpetrated by the Special Task Force. During the hearing, the victims saw, as they entered the building premises, the very same police officers who had raped them, stripped them naked and electrocuted them, and/or killed their husbands, proudly saluting these highly formal officials seated far above them in large cushioned chairs in Gobichettipalayam, Kolathur and Madheswaran Hill Temple. Rather than taking a sensitive, victim-centered approach to assessing the situation of human rights in Tamil Nadu, the NHRC appointed committee both physically and emotionally distanced themselves from the vulnerable victims seeking protection. NGOs had to draw attention to their behavior and insisted that they act with sensitivity.¹¹⁵

Access to Justice by Victims of Human Rights Violations

Although the PHRA allows for hearings of the NHRC to take place anywhere in India, most, if not all, of these hearings exclusively take place in Delhi. The only exception occurred during the 2006-2007 tenure of Acting Chairperson Justice Shivaraj Patil when the NHRC undertook an initiative to conduct “camp sitting” type hearings outside of Delhi. After the success of the first camp in Lucknow, Uttar Pradesh in January 2007, a second camp was conducted in Patna, Bihar in May, shortly after Justice Babu assumed the Chairperson position.¹¹⁶ Notably during Patil’s tenure, the Commission also carried out a special drive from 1 February to 15 May 2007, wherein they disposed of 1678 cases. Despite the success of these camps, the camps were not continued by the NHRC.

¹¹⁵ Interview of C.J. Rajan, activist and community organizer, held at People’s Watch office in May 2010.

¹¹⁶ Because of the success of the first “camp sitting” in Lucknow in January 2007, a second camp Commission was held at Patna from May 17 to 19, 2007. <http://nhrc.nic.in/dispatch.asp?fno=1465>. Note Justice Shivaraj Patil was Acting Chairperson from 1.11.2006 and 1.04.2007 until the Chairperson position was filled by Justice Rajendran Babu from 2.04.2007 and 31.05.2009.

This leaves the vast majority of Indians without physical access to the NHRC. No explanation whatsoever has been provided by the then chairperson Justice Rajendra Babu or his successor Justice Mathur on why this practice initiated during the tenure of Justice Shivraj Patil as the acting Chief Justice and about which Justice Rajendra Babu had chosen to comment so favourably in terms of decentralization and camp commission sittings etc. Thus one aspect of functioning of the NHRC which was actually favourably commented upon by the ANNI 2008 report on page 57 has now been withdrawn without an explanation. These explanations have also not been made in any meeting formally of National Core Group of NGOs. Whereas on the contrary, these camp commission sittings were initiated after formally being mentioned in the national core group meetings. This only indicates the lack of a belief in decentralized functioning, sittings of the commission to carry out a vital function of the NHRC and the tendency to conduct regional sittings only to review cases with Chief Secretaries, Additional Chief Secretaries, DGPs, additional DGPs, IGP, DMs and SPs.

The principle of access to justice has to be understood and interpreted and thereafter implemented from the point of view of the ultimate beneficiary of justice, this being the victim. Although the NHRC had made efforts to move towards this direction in 2007, it has regressed in its efforts afterwards with no explanation whatsoever why this is so in any of its reports.

Access to justice therefore has to mean access to all the states in the country at least once a year if not by the full commission, at least by benches of 3 persons. Such sittings can also be jointly organized as joint sittings of both the SHRC and the NHRC so that the lessons learned through 17 years of experience of the NHRC gradually gets transferred to the SHRCs and where SHRCs have evolved. A joint sitting of

India continues to experience a high occurrence of extrajudicial killings, euphemistically called “encounter killings,”

Since 1,110 cases remain unexamined on encounter death after 17 years, it is clear that the NHRC is unable to handle the workload it has been entrusted.

both an SHRC and the NHRC may, however, be out of the question at this point since the NHRC seems to perceive itself as a far more superior body than an SHRC. Hierarchy seems to be the paramount consideration of the NHRC on this point.

Additionally, most victims of human rights violations are also economically impoverished. The NHRC does not offer pro bono legal services for impoverished victims seeking protection before the Commission. Victims come before the NHRC in many matters in which they would be eligible for pro bono assistance; however, these same victims are ineligible to have competent, free legal services before the NHRC. It is essential that a legal aid program, like the National Legal Services Authority (NLSA) and the State Legal Services Authority (SLSA) be established for victims of human rights commissions when they are presenting their case and seeking justice before the NHRC. A strong alliance needs to be built between the NHRC and NLSA and SLSA.

Handling of Encounter Death Cases

India continues to experience a high occurrence of extrajudicial killings, euphemistically called “encounter killings,” which are unlawful murders of individuals by law enforcement officials or persons acting in direct or indirect compliance with the State when the use of force is inconsistent with the criteria of absolute necessity and proportionality. Often, the murdered individual is not in a position to pose any threat against law enforcement personnel, yet the law enforcement personnel use lethal force against them, causing severe injuries or death, and claim self-defense. Deaths due to attacks or killings by security forces of the State, or by paramilitary groups, death

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squads, or other private forces cooperating with or tolerated by the State are also considered extrajudicial killings.

Due to the severity and frequency of this problem, the NHRC issued guidelines as early as 1996, and then again on 2 December 2003, regarding encounter killings. The NHRC claims that it receives information on encounter killings, particularly on compliance with the guidelines regarding deaths in police or judicial custody, as well as killing in police encounters and that it “also receive[s] the requisite reports in accordance with its guidelines”¹¹⁷ However, as experienced by many human rights groups, these guidelines have, unfortunately, been largely ignored across India.¹¹⁸

On 21 May 2010, the NHRC reported information regarding the results of their investigations of encounter deaths. Of the 2,956 cases registered with the NHRC from the period starting 12 October 1993 to 31 April 2010, 1590 cases had been registered on the basis of information received from the public authorities about an encounter that occurred involving the police and the remaining 1,366 cases were registered as complaints received from the public alleging a fake encounter by police. These numbers suggest then, that there were no cases in which both the public authorities and the public attempted to register a complaint.

After 17 years, the NHRC had only completed investigations of 62% of these killings, leaving 1110 unexamined in 2010, through consideration of various reports, materials on record, and through notices and examinations of the concerned public authorities. The NHRC found that of the investigated 1,846 cases, only 27 were the result of intentional murders staged during a fake encounter by the police. As such, the remaining 1,819 killings were determined by the NHRC to be the result of genuine police encounters. It is unclear whether the cases investigated were the killings registered by the public authorities or the public. In the 27 cases of fake encounters, the Commission recommended that the state authorities take punitive action against the guilty officials and pay monetary

relief to the next of the kin of the deceased depending on the facts and circumstances of the case.

Since 1,110 cases remain unexamined on encounter death after 17 years, it is clear that the NHRC is unable to handle the workload it has been entrusted. The cases of encounter deaths are only a small fraction of the cases that the NHRC must dispose of per year. While the number of NHRC members has remained at 5, the number of complaints received by the NHRC has risen for a few hundred to over hundred thousand complaints per year. A dramatic increase in the body and membership of the NHRC is required if it is to be adequately equipped to effectively perform the task of thoroughly investigating these complaints and reach considered conclusion. Additionally, if the NHRC enlisted the assistance of the SHRC in enforcing these guidelines and started taking suo moto actions on these encounters, the number of pending cases would be dramatically decreased. Instead, the NHRC fails to work with any other institution or group to stop this exceedingly serious matter of halting extrajudicial killings in India.

The carelessness and disregard for responsibly fulfilling its mandate, as shown in the case above, is unacceptable and appalling. If the NHRC can't even take the time to investigate an extremely high profile, controversial case with strong evidence indicating suspicious behavior and a violation of human rights in its very own headquarters, then what chance do the majority of vulnerable, marginalized, uneducated victims, from India's largely rural background, geographically spread throughout its vast lands, with very little ability to save and protect evidence, have in gaining protection from this supposedly national human rights institution?

... even if this wasn't a staged encounter and the police were truly defending themselves, the NHRC should have recommended a full, judicial inquiry into the matter in order to ensure that the use of force by the police was lawful in protecting themselves.

¹¹⁷ Information received in response to RTI petition regarding development of jurisprudence in NHRC from 12.10.1993 – 31.8.2009 - 16(1)/PIO/2005(RTI)/2641

¹¹⁸ ADD IN SOURCES. Over the past 7 years, the NHRC has remained silent, despite consistent reminders from civil society members, about the complete lack of adherence to these guidelines. (can add in PW reminders post ED)

Batla House Encounter

The Batla House Encounter is a well-known case in the country where, two suspected Indian Mujahideen terrorists, Atif Amin and Mohammed Sajid, were shot dead in a gun battle with the police in South Delhi's Jamia Nagar locality on 19 September 2008.¹¹⁹ Also killed in the alleged battle was Inspector Mohan Chand Sharma, an encounter specialist.

These murders were widely covered by the press, with human rights activists, media, lawyers, and citizens widely speculating, based on post-mortem reports and other evidence, the authenticity of the police's encounter theory.¹²⁰ Under the directions of the Delhi High Court the NHRC conducted an inquiry into the incident and concluded on 22 July 2008 that there had been no violation of human rights by actions of police in which two alleged terrorists were gunned down on.¹²¹ The NHRC stated in its sealed 30-page report that, "We are clearly of the opinion that having regard to the material placed before us, it cannot be said that there has been any violation of human rights by action of police." It further stated that because the police did not act in a premeditated, pre-calculated manner in killing the two young men, they were not wrong in deciding to shoot and kill. Additionally, the NHRC declined to institute a judicial probe into the gun-battle.

Relying on the inquiry of the NHRC, the High Court, headed by Chief Justice A. P. Shah, rejected the plea of an NGO seeking a judicial inquiry into the case on the grounds that the NHRC had failed to conduct a proper investigation and consequently, reached the incorrect conclusion that the encounter was not fake.¹²²

Indeed, it was not until about a year after the NHRC publicly validated the legality of the actions of the Delhi Police in killing two young men in the Batla House encounter case that the NHRC admitted that it relied solely on the official documents provided to it by the concerned department. It admitted that it did not send its probe team to the Batla House area as part of its enquiry into the September 2008 encounter, did not talk to the families of Atif Ameen and Mohammad Sajid, or interview the family of Inspector Mohan Chand Sharma.¹²³

When asked if the NHRC talks to accused or plaintiff or their witnesses in investigating fake encounter cases, and why it did not meet the families of M.C. Sharma, Atif and Sajid, the NHRC replied that it "conducts [an] inquiry under 1993 NHRC law." First it asks reports from the concerned department. If the report is found satisfactory, enquiry is closed, otherwise continued. In the Batla House case, NHRC did not send its team to Batla area because to reach conclusion reports by concerned department were found enough.¹²⁴

¹¹⁹ *Indian Express*, *Batla House Encounter: HC Rejects Plea for Judicial Inquiry*, Aug. 26, 2009, available at <http://www.indianexpress.com/news/batla-house-encounter-hc-rejects-plea-for-j/507495/>

¹²⁰ *CanaryTrap*, *Delhi Police and Batla House Encounter*, March 22, 2010, available at <http://canarytrap.in/2010/03/22/delhi-police-and-batla-house-encounter/>

¹²¹ *Times of India*, *Batla House encounter: NHRC gives clean chit to Delhi police*, Jul. 22, 2009, available at <http://timesofindia.indiatimes.com/city/delhi/Batla-House-encounter-NHRC-gives-clean-chit-to-Delhi-police-/articleshow/4807885.cms>

¹²² *Indian Express*, *supra* note 7 at Aug. 26, 2009.

¹²³ *UMMID*, *Batla Encounter: NHRC admits it relied on official reports, didn't visit spot*, 14 June 2010, available at http://www.ummid.com/news/2010/June/14.06.2010/nhrc_admits_fault_in_batla_encounter.htm. The NHRC finally responded to an RTI petition filed by Afroz Alam Sahil on 6 April 2010 and admitted it relied on reports from concerned departments.

¹²⁴ *Id.* at *UMMID*.

Furthermore, even if the NHRC's finding that no staged encounter took place and its reliance on the report of the concerned authorities was correct, a true protector of human rights would still have issued an inquiry into the investigation. Even if the NHRC believed the evidence that the encounter was not pre-meditated or pre-calculated, it does not eliminate the possibility of a violation of human rights. There are extremely limited circumstances in which the state, or a representative of the state, may be permissibly involved in an extra-judicial killing. In a system of law and order, even a police officer acting in self-defense still has no right to kill citizens. As such, even if this wasn't a staged encounter and the police were truly defending themselves, the NHRC should have recommended a full, judicial inquiry into the matter in order to ensure that the use of force by the police was lawful in protecting themselves.

b. Legal basis of the NHRC's decisions/recommendations

The majority of cases are dismissed in limine or rejected. The orders offer a mere one line generally rejecting or dismissing the case in limine under Section 36 of the PHRA.

Most worrisome about the quasi-judicial functions of the NHRC is the quality of complaints handling. Overwhelming evidence indicates that the NHRC carelessly disposes of cases at random, without issuing reasoned orders based on case law and analytical reasoning. Orders issued by the NHRC dispose of the majority of cases with extremely general, uninformative reasoning. The majority of cases are dismissed in limine or rejected. The orders offer a mere one line generally rejecting or dismissing the case in limine under Section 36 of the PHRA. These orders do not even specify whether it is rejected under Section 36(1) because it is deemed by the NHRC to be pending before another Commission or Section 36(2) because it has been found that the act constituting a violation of human rights occurred more than a year prior.

Although the NHRC maintains that it issues well-argued and documented directions having reference

to the case law of the Supreme Court of India and statutory provisions, it does not claim to refer to international human rights instruments to which India is a state party and admits that case law is not always cited. When asked about the NHRC's process of disposing of cases, the NHRC (states that it refers to important cases in every Annual Report of the Commission.)

While documentation of cases is important, this response indicates a misunderstanding of the use of cases and unawareness of the need for judicial reasoning that fosters consistency, legitimacy, and equal protection of rights. Because of this practice of summarily dismissing cases without any legal basis, no jurisprudence is developed. The importance of developing a body of sound jurisprudence cannot be emphasized enough for an institution where members are constantly changing and where most of the members and staff are without grassroots experience in human rights.

For example in a case from Ogalur in Perambalur District, Tamil Nadu, during the tenure of Justice Verma as the Chair, the precedent was laid that in a full court hearing where lawyers of the State appearing for the District Magistrate and the Superintendent of Police sought an adjournment, the NGO appearing in public interest on behalf of the victims before the NHRC should be paid their airfare to Delhi and back. This information is known only to the concerned persons in this case and not even to the NHRC, its new members or its staff because it has not been reported anywhere. Precedence of this sort in matters of compensation prosecution and paying costs and very intelligent remedies provided could act as very strong direction on which the investigation team, the Special Rapporteurs and Presenting Officers could then rely upon.

The importance of developing a body of sound jurisprudence cannot be emphasized enough for an institution where members are constantly changing and where most of the members and staff are without grassroots experience in human rights.

c. An account of complaints-handling statistics (e.g. number and typology of complaints received and processed; resolved; dismissed; referred)

Complaints handled by the NHRC may be disposed of and categorized into one of the four following categories: 1) Closed cases, 2) Rejected/Dismissed in limine, 3) Disposed with Direction, and 4) Under Consideration. Closed cases include both i) cases finally disposed of by the Commission after consideration of the report of the authority(s) without making any positive recommendation/direction to the concerned authority requiring a further act of compliance on the part of the authority and (ii) cases finally disposed of by the Commission on consideration of the report of compliance of the Commissions' recommendations/ directions by the concerned authority. Tellingly, a small minority of the NHRC's cases fall into this "Closed" category. Rather, the majority of cases are Rejected/Dismissed in Limine, which refers to complaints which are not entertained as per NHRC procedure regulations, after consideration at the preliminary stage. The NHRC commonly dismisses cases in limine as out of the

jurisdiction of the NHRC under Section 36 of the PHRA¹²⁵ read with Section 9 of the NHRC (Procedure) Regulations, 1994.¹²⁶

NHRC cases may also be "disposed with direction" if it is forwarded to the appropriate authority for taking appropriate action in the matter. The entire Commission's order in these cases provide no further information than stating, "the complaint may be transmitted to the concerned authority for such action as deemed appropriate."¹²⁷ This category includes referral of cases to state human rights commissions. The final category includes cases that are "under consideration," meaning that the case is still pending with the Commission for final disposal.

An Examination of a sample of cases and their disposal reveals the extremely worrisome carelessness with which the NHRC handles cases. A sample of cases disposed of over a two-week period, 1 August to 15 August, in three different years, 2007, 2008, and 2009, was analyzed. The results revealed that the overwhelming number of cases had been rejected, later described in 2008 and onwards as being dismissed in limine, by the NHRC. The percentage of cases rejected without any consideration has been increasing with a shocking 75% or three out of every four victims' cases being dismissed in limine in 2009. Therefore, only 1 out of every 4 victims seeking protection before the NHRC was not immediately rejected. In 2008 and 2009, 10% and 11%, respectively, of cases were transferred to state human rights commissions. In 2009, only 1 out of 3,111 cases, or .03% of all cases, disposed of by the NHRC was actually closed in 2009. Table 8.1 includes the number and percentage of cases disposed of by India's NHRC.

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¹²⁵ Section 36 provides that the Commission shall not inquire into any matter which is pending before a State Commission or any other Commission duly constituted under any law for the time being in force. RTI 2643.

¹²⁶ Notably, Section 9 of the NHRC (Procedure) Regulation, 1994 states numerous grounds under which a complaint is "not ordinarily entertainable." Under Section 9, "the Commission may dismiss in limine complaints of the following nature: i) illegible; ii) vague, anonymous or pseudonymous; iii) trivial or frivolous; iv) barred under section 36(1) of the Act; v) barred under section 36(2) of the Act; vi) allegation is not against any public servant; vii) the issue raised relates to civil dispute, such, as property rights, contractual obligations and the like; viii) the issue raised relates to service matters; ix) the issue raised relates to labour/ industrial disputes; x) allegations do not make out any specific violation of human rights; xi) matter is sub judice before a Court/Tribunal; xii) matter is covered by a judicial verdict/decision of the Commission; xiii) the matter is outside the purview of the Commission on any other ground."

¹²⁷ Information received in response to an RTI petition - RTI 2643

Table 8.1

Cases Disposed by India's NHRC During 1/8-15/8 of 2007, 2008, and 2009			
<i>By Number of Cases</i>	1/8-15/8/2007	1/8-15/8/2008	1/8-8/15/2009
Under Consideration	179	100	98
Closed	279	83	1
Disposed of with Directions	1492	675	334
Dismissed in Limine	0	2149	2336
Rejected	2987	0	0
Transfer to SHRC	23	336	342
TOTAL CASES	4960	3343	3111
<i>By Percentage</i>	1/8-15/8/2007	1/8-15/8/2008	1/8-8/15/2009
Under Consideration	3.61%	2.99%	3.15%
Closed	5.63%	2.48%	0.03%
Disposed of with Directions	30.08%	20.19%	10.74%
Dismissed in Limine	0.00%	64.28%	75.09%
Rejected	60.22%	0.00%	0.00%
Transfer to SHRC	0.46%	10.05%	10.99%

Throwing Cases into an Abyss: Need for a Defined Relationship among NHRIs

In a 2008 meeting of the NGO Core Group, the NHRC Chairperson defended the NHRC's right to transfer cases to state authorities and openly acknowledged that it will not be possible for the Commission, due to its own limitations, to process the enormous number of complaints and look after all matters throughout the country.¹²⁸ As victims come to the NHRC seeking protection from a broad,

powerful national institution, the Commission claims that it considers all cases on the merits and only transfers cases to State authorities for appropriate action if it "feels that the grievance raised in any particular complaint can be dealt appropriately and expeditiously by State authorities."¹²⁹

However, when cases are transferred to the poorly run or inactive SHRCs, they often fall into a dark abyss and victims lose their ability to seek justice from a human rights commission. As the below data in Table

¹²⁸ *Minutes of the Meeting of the Core Group of NGOs, 18.07.2008, 11.30 a.m. at the National Human Rights Commission, New Delhi (received in response to an RTI petition).*

¹²⁹ *Follow Up Right to Information Request, RTI 3194.*

7.2 indicates, a substantial number of cases are routinely transferred to the 18 state human rights commissions across India, as permitted under the 2006 amendment of section 13(6) of the PHRA. The number of complaints transferred to state authorities has grown, with approximately 20-30% of complaints filed to the NHRC being transferred annually.

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Table 7.2 Cases Transferred by the NHRC to State Authorities

Year	No. of Complaints Received by the NHRC	No. of Cases Transmitted to Concerned State Authorities	Percentage of Cases Transferred to State Authorities
2000-2001	71,555	16192	22.6%
2001-2002	60,083	15082	25.1%
2002-2003	68,779	16249	23.6%
2003-2004	72,990	13217	18.1%
2004-2005	74,401	21117	28.4%
2005-2006	74,444	22708	30.5%
2006-2007	82,233	26478	32.2%
2007-2008	94,559	26398	27.9%
2008-2009 ¹³⁰	--	17580	--
2009-2010 ¹³¹	--	5527	--
TOTAL		180548	

While the NHRC has been increasingly utilizing this section to transfer cases, it has still not created an effective and supportive working relationship with the SHRCs. In 2006, through a committee headed by Justice Ahamadi, there were efforts to integrate the SHRCs into the organizational infrastructure of the NHRC, but these efforts were in vain. Currently, the NHRC does not monitor cases to ensure transferred cases are appropriately considered by the SHRC. As it would be inefficient, ineffective, and encroach upon the authority of the SHRC for the NHRC to monitor

every case transferred to SHRCs, Practice Direction No. 7¹³² issued guidelines to select a random sample and ensure proper consideration of transferred cases. As mentioned previously, Practice Direction No. 7 directs the Law Division to select 2% of the cases from a pool that have been transferred to SHRCs at the end of each quarter and send details of these cases to the Investigation Division. To date, the NHRC has failed to follow its own directions and appears to have made no attempt to conduct any follow-up.

¹³⁰ The information was sourced through an RTI petition in 2009 and therefore the actual cases received and those transferred in 2009 and 2010 could not be furnished. The data on cases transmitted is from the complaints database of the Commission available on its website.

¹³¹ Number of cases as of 7.10.2009

¹³² PRACTICE DIRECTION No.7, Issued on 2 February 1998, Re: Action taken reports not received by the Commission

It therefore appears that SHRCs are still not held accountable by the NHRC for disposing of these cases appropriately, ultimately resulting in a loss of justice for victims of human rights violations. This is evidenced by the fact that the NHRC still has not released publicly any data pertaining to cases forwarded to SHRCs. It should be noted that under Section 4 of India's Right to Information Act, the NHRC is required to publish or post online this type of information.

It should be noted that while the enabling law of the NHRC does not grant it supervisory functions over the SHRCs, the law does not preclude them from establishing a system of cooperation with the SHRCs. More cooperation and coordination with SHRCs would certainly lead to less workload for the NHRC, as well as better handling of cases that the SHRC might have more capacity to look into.

The Indian government should consider amending the NHRC's enabling law to clearly elaborate on the relationship between the NHRC and the SHRCs. The NHRC's failure to take a leadership role and establish an effective working relationship with the 158 state human rights commissions and thematic human rights institutions actually results in the NHRC being over-worked and unable to implement its message of human rights at the local level.

Below is a case study illustrating how victims of human rights violations are not able to get redress or are denied access to justice due to the lack of an effective working relationship between the NHRC and the SHRCs.

The Case of Encounter Deaths in Karnataka

Mr. Kalkuli Vittal Hegde is from the organization called *Okkuta Adivasi Girijana Hitharakshana Samithi*, a group working on the rights of tribal people in the state of Karnataka. From his work, he discovered that in many encounter deaths, the evidence and testimonies of witnesses reveal that many of the victims were killed with a close range bullet to the head. It was found out that these cases, the policemen would force the victims to lie down on the floor of their house and executed them.

Out the rare cases in which the NHRC has issued a recommendation, 387 cases still remain pending for compliance at various stages. This indicates that only 0.136% of the victims of human rights violations who have sought assistance and protection from the NHRC have actually received some type of justice or compensation.

In one case, one child, a witness to the brutal massacre, escaped. Mr. Hegde filed a complaint to the NHRC and SHRC but appeared hesitant to take on this controversial case. The, contrary to its own guidelines that it issued in 2003, sat on this case for 8 months before transferring the case to the SHRC of Karnataka. For two years, this case shuttled between the NHRC and the SHRC. At the end, in April, 2008 the SHRC of Karnataka finally addressed the case and ordered judicial inquiry thereon. The SHRC of Karnataka did not undertake its own inquiry of the case. The judicial inquiry resulted into findings that said that the police were merely protecting themselves. No compensation was awarded to the families of the victims. It only ordered that education be ensured for the surviving child.

Steps taken against non-implementation of recommendations

Under Section 18 of the PHRA, the NHRC has the power to take various steps after the completion of an inquiry held under the PHRA. Notably, in cases where the inquiry discloses the commission of a violation of human rights or negligence in the prevention of violation of human rights by a public servant, the NHRC has the power to recommend to the Government or concerned authority the initiation of proceedings for prosecution or such other appropriate action against the concerned person or persons.¹³³ The NHRC may also recommend the concerned Government or authority to grant immediate interim relief to the victim or the members of the family.¹³⁴ Section 18 of the PHRA also provides that the Commission must send a copy of its inquiry report and recommendations to the concerned Government

¹³³ PHRA, Section 18(1).

¹³⁴ PHRA, Section 18(3).

or authority and then must receive, within a period of one month or longer, if permissible by the Commission, comments on the report, including the action taken or proposed to be taken thereon, from the Government or authority.¹³⁵

While the NHRC has the power to issue recommendations upon finding a violation of human rights, it has reserved use of this power for only the very rarest of cases. During the period between 12 October 1993 and 31 August 2009, the Commission has considered over 800,000 cases.¹³⁶ Of these cases, the NHRC made recommendations for compensatory monetary relief and/or disciplinary action against public servants or prosecution of public servants in a mere 1431 cases. This represents less than 0.2% of total cases brought before the NHRC.¹³⁷ Out the rare cases in which the NHRC has issued a recommendation, 387 cases still remain pending for compliance at various stages. This indicates that only 0.136% of the victims of human rights violations who have sought assistance and protection from the NHRC have actually received some type of justice or compensation.

The NHRC, under the leadership of former Chairperson Justice Mr. M.N. Venkatachaliah, issued Practice Direction No. 10, which states the proper action to take in cases in which the NHRC's directions/recommendations have not been complied with. Practice Direction No. 10 states that in cases where the compliance is not forthcoming despite pursuing the matter with the concerned authority/authorities, or where there is undue delay in compliance or the concerned authority has expressed its intention or inability to make compliance of the orders/directions of the Commission, such cases shall be put up before the Commission for further directions in the matter. The Registrar may also put up any case before the Commission for further directions necessary in order to secure the compliance of the original directions/recommendations of the Commission.

A register shall be maintained by the Board Branch of all the compliance cases and all such cases shall be put up before the Registrar periodically for directions on a weekly basis until such time the compliance is received. In appropriate cases, the Registrar may issue conditional summons for appearance of the concerned authority before the Commission with a stipulation that the personal appearance of the authority shall be dispensed with if full compliance is reported to the Commission by a particular date which shall ordinarily be about 10 days prior to the date fixed for appearance of authority before the Commission.

It appears however that at present, the NHRC has forgotten or is unaware of these Practice Directions. In response to a petition filed under the Right to Information Act, asking for the procedure it follows to monitor the compliance with its recommendations, the NHRC responded that in cases of non-compliance with the NHRC's recommendations by the State Government and the Government of India, the "NHRC tries to ensure compliance by persuasion and going public."¹³⁸

Assignments undertaken by the NHRC on the orders of the Supreme Court

Occasionally, the Supreme Court refers cases of great severity involving gross violations of human rights

The NHRC's inquiry into the extrajudicial execution of thousands of Sikhs by security forces during a violent Sikh separatist movement in Punjab during the 1980s was initiated in 1997 ... the NHRC limited its investigation to the 2,097 unlawful cremations occurring in Amritsar and to look into the liability of the state. It did not look into direct liability of individual perpetrators, for violations of the right to life and dignity of the dead.

¹³⁵ PHRA, Section 18(5). Section 18(6) also provides for publication of the inquiry report, 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.

¹³⁶ From 1993 to 2008, the NHRC had already considered 765,233 complaints.

¹³⁷ A conservative estimate of the percentage of cases in which the NHRC made a recommendation for relief is 1,341 cases out of the 765,233 complaints received through 2008, or 0.187% of total cases. A more accurate figure would include cases through August 2009, revealing an even smaller percentage of cases considered worthy of a recommendation by the NHRC. or 0.136%

¹³⁸ RTI petition 16(1)/PIO/2005(RTI)/2641. Request received on 8.9.2009 regarding development of jurisprudence in NHRC from 12.10.1993– 31.8.2009.

to the NHRC for disposal. In 1998-1999, the NHRC undertook five assignments on orders passed by the Supreme Court of India. These five assignments include the following: i) Inquiry into allegations of fake encounters and mass cremations by the Police in Punjab; ii) Food Scarcity and starvation in the KBK Districts of Orissa; iii) Monitoring the administration of laws against bonded labour; iv) Monitoring the functioning of Mental Hospitals at Ranchi, Agra and Gwalior; v) Overseeing the Agra Protecting Home for Women.

Practice Direction No. 12 was issued as a guideline for how the NHRC should fulfill their responsibilities under the court order. In addressing the first two orders, the guidelines state that these matters be heard in a session of the full commission and that orders may be issued thereby from time to time. Further, in these two cases, the Registrar (Law) should ensure that definite dates be calendared for the hearings. The remaining three projects were assigned procedural requirements and safeguards to ensure prompt follow up action by the Commission. In all cases, periodic reports were required to be submitted to the Supreme Court as to the progress of these projects, and the matter brought up at the sessions of the Commission every fortnight.¹³⁹

the NHRC should have taken a more active leadership role in both holding perpetrators liable for their unlawful conduct and securing available and comprehensive psychological rehabilitation facilities to all those requiring services.

The NHRC's inquiry into the extrajudicial execution of thousands of Sikhs by security forces during a violent Sikh separatist movement in Punjab during the 1980s was initiated in 1997 after the Supreme Court's petition transferring jurisdiction of this case to the

NHRC. Although the NHRC was mandated to look into all issues relating to the human rights violations, which included disappearances, extrajudicial killings, and mass cremations occurred throughout all of Punjab, the NHRC limited its investigation to the 2,097 unlawful cremations occurring in Amritsar and to look into the liability of the state. It did not look into direct liability of individual perpetrators, for violations of the right to life and dignity of the dead.

The NHRC was then widely criticized by civil society and human rights organizations for failing to tackle the broad range of issues mandated to it by the Supreme Court. However, the NHRC concluded most of the main issues in its investigation by 2006 and delegated the task of identifying the remaining unknown 814 cremation victims to a secondary commission, headed by retired Punjab and Haryana High Court judge, Justice K.S. Bhalla. After the nine-month time frame elapsed, the Bhalla Commission had still failed to identify 657 victims. The Bhalla Commission's attention was called by the NHRC in an order dated 25 February 2008 for using arbitrary procedures and an erroneous approach that adversely affected the participation rights and compensation entitlements of victims' families.¹⁴⁰

While the NHRC recognized the "obligation of every civilized State to ensure that its acts, which have been found to be in violation of humanitarian laws and/or which impinge on human rights of the citizens, do not reoccur..." and the need for "medical/psychological assistance to a member/members of any such family which has suffered as a result of the tragedy, who approaches it,"¹⁴¹ the NHRC should have taken a more active leadership role in both holding

Civil society activists were outraged at the poorly-conducted, heavily-biased investigation and reporting conducted by the NHRC.

¹³⁹ Practice Direction No. 12, issued under Chairperson Justice M.N. Venkatachaliah, on 6 October 1998.

¹⁴⁰ South Asian Human Rights Documentation Centre, *A Step Forward in the Punjab Cremations Case*, HRF/184/08, available at <http://www.hrdc.net/sahrdc/hrfeatures/HRF184.htm>

¹⁴¹ NHRC order dated 9 October 2006, Reference Case No. 1/97/NHRC, available at <http://nhrc.nic.in/Punjab.htm#9th%20October,%202006> (Last visited 11 August 2010).

perpetrators liable for their unlawful conduct and securing available and comprehensive psychological rehabilitation facilities to all those requiring services.

In 2008, the NHRC was again called to conduct an inquiry into allegations, this time “relating to violation of human rights by the Naxalites and Salwa Judum.” The Salwa Judum is an anti-Maoist movement, started by the state government in 2005 to bring the area dominated by armed rebels back under government control. The Salwa Judum, meaning “Peace March” or “Purification Hunt,” has been occurring in the state of Chhattisgarh and is considered one of the worst manifestations of the struggle between the state army and civilians. The state has recruited local indigenous people, including many children, who had previously been fighting the Naxalite insurgency in India to fight as state “Special Police Officers” (SPOs). The violence, accounting for 65 percent of the Naxalite violence in the country, has escalated dramatically and

is responsible for the burning of at least 644 villages, forcing 300,000 people to flee their homes and leaving 40,000 individuals living in displacement camps.¹⁴² However, upon completing the investigation with a team of former police officers employed by the NHRC, the NHRC reported that while the state extended support to the Salwa Judum, it did not directly sponsor it and was not “deliberately and actively” pursuing a policy of displacing the civilian population.¹⁴³ The NHRC concluded that the Salwa Judum was not state-sponsored, but rather the direct consequence of the decision by a section of the tribals to fight Naxalites.¹⁴⁴ Civil society activists were outraged at the poorly-conducted, heavily-biased investigation and reporting conducted by the NHRC.¹⁴⁵ Defending itself, the Acting Chairperson Rajendran Babu reported that the NHRC did not give “a clean chit to Salwa Judum. What we said in our report to the Supreme Court was that the problems afflicting Chhattisgarh are not law and order problems but socio-economic ones.”¹⁴⁶

¹⁴² *Campaign for Peace and Justice in Chhattisgarh, What is Salwa Judum?*, available at <http://cpjc.wordpress.com/what-is-salwa-judum>

¹⁴³ NHRC Report on Salwa Judum <http://nhrc.nic.in/Chattisgarh.pdf>, pg. 101, Conclusions, Section 7, 7.06

¹⁴⁴ NHRC Report on Salwa Judum <http://nhrc.nic.in/Chattisgarh.pdf>

¹⁴⁵ K.G. Balagopal, *The NHRC on Salwa Judum: A Most Friendly Inquiry*, available at <http://www.epw.in/uploads/articles/12988.pdf> (quoting “The report, prepared by a group set up by the police wing of the NHRC makes no pretence of neutrality or objectivity. It reads like a partisan statement, whose tone and tenor is to protect the Salwa Judum and its image from being tarnished by allegations of crime.”).

¹⁴⁶ *We haven't given clean chit to Salwa Judum: NHRC Chief*, 9 October 2008, http://www.thaindian.com/newsportal/sci-tech/we-havent-given-clean-chit-to-salwa-judum-nhrc-chief_100105085.html

CHAPTER VI

Executive Summary: Relationship with Relevant Human Rights Stakeholders

The Commission has created Core Groups to draw from the expertise of eminent persons but has not ensured that any formal administration of these groups occurs. Unsurprisingly, it remains unclear how these

groups have been used throughout their constitution and what impact the expertise of core groups has made towards the fulfillment of the Commissions' mandate to have constructive engagements with relevant human rights stakeholders.

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VI. RELATIONSHIP WITH RELEVANT HUMAN RIGHTS STAKEHOLDERS

1. Relationships with Civil Society

In recognition of the fundamental role played by non-governmental organizations in expanding the work of national institutions, a core principle of the Paris Principles remains that national institutions shall develop relations with non-governmental organizations involved in a variety of areas promoting and protecting human rights, from involvement in economic and social development, combating racism, protecting particularly vulnerable groups (especially children, migrant workers, refugees, physically and mentally disabled persons), to other specialized areas.

Unfortunately, in practice, the NHRCs relationship with civil society is very limited and deprives the NHRC of the opportunity to engage with a powerful, passionate, and knowledgeable partner in promoting and protecting human rights.

While the relationship between the NHRC and civil society is not specifically formalized in the Protection of Human Rights Act, 1993, Sections 12(h) and (i) indicate that the NHRC must interact with India's diverse and active civil society as part of its mandate. Section 12 (h) requires that the NHRC spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, the media, seminars and other available means, while Section 12(i) directs the NHRC to encourage the efforts of non-governmental organisations and institutions working in the field of human rights.

Unfortunately, in practice, the NHRCs relationship with civil society is very limited and deprives the NHRC of the opportunity to engage with a powerful, passionate, and knowledgeable partner in promoting and protecting human rights.

The Establishment of the Core Group of NGOs

As mentioned earlier, in 2000, the NHRC established a variety of core groups to enrich and shape its work with the knowledge and expertise of "eminent people working in the field," including legal, medical, and mental health professionals, retired government officials, non-governmental organization members, academics, and activists in the field. Core groups have been established on a temporary basis or long term basis. Some of the most important core groups that have been established include the following: Health, Disability, Mental Health, Right to Food, NGOs, and Lawyers.¹⁴⁷

In each of these core groups, the NHRC has engaged a team of civil society members who, together, have a valuable combination of professional, grassroots, international, practical, and/or technical expertise and can actively contribute to the discussion on the promotion and protection of human rights in specific areas. Unfortunately, the NHRC's first proactive steps to engage with civil society have not been followed up with subsequent effective action.

Notably, the NHRC constituted a Core Group under the Chairmanship of Shri Chaman Lal, Special Rapporteur of the NHRC, to work specifically with non-governmental organizations. This Core Group of NGOs was to serve as a monitoring mechanism for Consultation with NGOs in the Commission on 17 July

¹⁴⁷ Other core groups have been established on a temporary basis, including an expert group on unsafe drugs and medical devices; legal issues; Refugees and emergency medical care; child prostitution (according to meeting minutes from 28.1.98)

2001, and was re-constituted on 10 October 2006, 10 November 2006, 6 August 2008, 4 September 2008, and 7 August 2009.¹⁴⁸ With the “view to utilize the knowledge, experience, and expertise of credible NGOs working in the field of Human Rights,” the Core Group of NGOs group was constituted under Section 12(i) of the PHRA, 1993 to have “consultation with the NGOs on a regional basis and thereafter, work in partnership with selected NGOs with good track records to jointly take up issues concerning human rights and spread awareness and human rights literacy amongst the people in different parts of the country.”

In addition to its Chairperson Chaman Lal, Special Rapporteur of the NHRC, the first core group had the following nine members: Ms. Aruna Roy (Mazdoor Kisan Shakti Sangathan), Mr. Henri Tiphagne (People’s Watch), Mr. Harsh Mander (Action Aid India), Mr. Javed Abidi (National Centre for Promotion of Employment for Disabled People), Mr. Ravi Nair (South Asian Human Rights Documentation Centre), Dr. Y.P. Chhibbar (People’s Union for Civil Liberties), Ms. Meera Shiva (Voluntary Association of India), Mr. Ashok Rawat (Helpage India), and Ms. Federica Donati (UNICEF).¹⁴⁹

The group was given a broad mandate to 1) identify the NGOs engaged in the field of human rights with a

good track record for the purpose of consultation and interaction on a regular basis on issues concerning human rights and to build up a database of NGOs, 2) identify broad areas of cooperation between the NHRC and the selected NGOs from the different regions, and 3) consider any other issues relevant to the consultation with NGOs. In later re-constitutions, the third mandate was modified to “identify important human rights issues which could be jointly taken up with the NGOs after considering the suggestions/ proposals received from them.” The core group was loosely scheduled to “meet at intervals deemed as necessary by the group” and had no real reporting requirements, other than to submit their reports from “time to time” to the Secretary General of the NHRC.

Unfortunately, the interaction of the NHRC with these civil society members does not produce the level of enhancement of the protection and promotion of human rights from the knowledge and expertise that was originally envisioned with the creation of core groups. The meetings of the Core Groups do result in sharing of new viewpoints that challenge and encourage creativity in the NHRC, but it seems that the irregularity of core groups meetings and lack of transparent, established procedures contributes to ineffective functioning of these core groups, which ultimately results in the failure of the NHRC and civil society to make a meaningful partnership. The NHRC’s initiative to start these core groups comprised of civil society members must be followed with a systematic, deliberate method for forming, using, and maintaining these groups.

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¹⁴⁸ R.C. No. 16(I)/PIO/2005 (RTI)/ 2642 dated 9.9.2009. Including Order No. 7(2)/2001-Coord.(Vol-II), National Human Rights Commission from Under Secretary Shoba George, dated 17 July 2001; Order F. No. 7/6/2005-Coord, National Human Rights Commission from Under Secretary B.B. Roy, dated 10.10.2006; Order No. 7/6/2005-Coord, National Human Rights Commission from Under Secretary B.B. Roy, dated 10.11.2006; Order No. 7/6/2005-Coord, National Human Rights Commission from Under Secretary B.S. Nagar, dated 4.9.2008; Order F. No. 7/6/2005-Coord, National Human Rights Commission from Under Secretary B.S. Nagar, dated 6.8.2008; Order No. 7/6/2005-Coord, National Human Rights Commission from Under Secretary B.S. Nagar, dated 7 August 2009.

¹⁴⁹ Notably, only two members of the original core group were part of the reconstituted core group of 2006, including the convener of the group.

Epilogue: The Current Leadership of the NHRC

As this report was being drafted, several issues emerged in the media surrounding the current Chairperson of the NHRC, Mr. Justice K.G. Balakrishnan. Initially, the team of human rights defenders preparing this report thought not to discuss these issues in the report. However, it was decided that a report meant to look into the compliance of the NHRC of India with the Paris Principles would not give a complete picture unless there is a discussion on the current leadership of the Commission. As written in the regional analysis of the 2009 Report of the Asian NGOs Network on National Human Rights Institutions (ANNI), “[f]or a national human rights institution, its independence and effectiveness to promote and protect human rights in its countries relies to a great extent on the integrity, commitment, and capacity of its leaders.”¹⁵⁰ Indeed, it cannot be denied that what make an institution are its people.

It should also be made clear that in including this discussion in this report, there is no intention to disparage a single person in the Commission. The writers of this report merely felt that they will be failing in their duty to the larger civil society in the country if this issue is not discussed in the report.

Mr. Justice K.G. Balakrishnan assumed his post as Chairperson of the NHRC in 2010, after the NHRC went for more than a year without a Chairperson. Despite his candidature being widely criticized for a number of his controversial stands – such as blocking the prosecution of former Justice Nirmal Yadav for corruption, attempting to exempt the Office of the Chief Justice of India from the purview of the Right to Information Act, and delaying action against Justice P.D. Dinakaran after Parliament initiated an impeachment motion in connection with a land dispute and corruption case the government appointed Justice K.G. Balakrishnan to lead the NHRC.

Since Mr. Justice K. G. Balakrishnan assumed his post at the NHRC, there have been several revelations in the media that associated him with cases of corruption. This prompted a widespread call for his

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resignation, not only from NGOs, but also from eminent jurists in the country. Mr. Balakrishnan is being alleged of receiving sums of money for brokering the appointments of judges and in exchange for favorable decisions during his tenure at the Supreme Court. Many questions also emerged regarding how his family unusually amassed vast wealth.

As mentioned earlier, there is now a call for Mr. Balakrishnan’s resignation from civil society, as well as eminent jurists in the country, such as Justice V.R. Krishna Iyer (Former Judge of the Supreme Court of India 1973 -1980), Justice J. S. Verma (Former Chairperson of the NHRC and Former Chief Justice of India), Mr. Sudharshan Aggarwal (Former Governor of Sikkim and Member of the NHRC), and Mr. Fali Nariman, a jurist of international repute and a Former Member of the Advisory Council of Jurists (ACJ) of the Asia Pacific Forum of NHRIs (APF). Furthermore, there is currently a petition filed in the Supreme Court of India seeking a probe into the allegations against Mr. Balakrishnan’s kin.

The recent controversies surrounding Mr. Balakrishnan has prompted civil society to again question the effectiveness of current selection and appointment processes for members of the NHRC. If the accusations against Mr. Balakrishnan are proven true, it is clear therefore that it is not enough to merely automatically install a retired Chief Justice of the Supreme Court as the Chairperson of the Commission. The process needs to be totally transparent and not restricted to only retired Judges or Chief Justices of the Supreme Court or to former bureaucrats – IAS or IPS or IFA or IRS etc. It is clear that the system that has been envisaged has not been proven to be useful now in the year 2010 – it also does not ensure diversity in a country known for its varied diversity.

¹⁵⁰ 2009 ANNI REPORT ON THE PERFORMANCE AND ESTABLISHMENT OF NATIONAL HUMAN RIGHTS INSTITUTIONS IN ASIA, A Regional Overview: How do Asian NHRIs choose their members and how do they receive our complaints?, 2009 at p. 12.

It is this case that singularly points out to the urgent need for reforms in the selection and appointment process to make it more inclusive, transparent and participatory. What is important is not the prestige of the position that a candidate had previously held. What should be a paramount consideration in the selection and appointment process is the candidate's firm belief in internationally accepted principles of human rights and his willingness advocate for the rights of victims.

Below is a list of articles from the Indian media regarding the recent controversies surrounding Mr. Balakrishnan: *(The official enquiry is yet to conclude its work)*

S.No	Title	Publication	Date	Link
1.	Ex-CJI Balakrishnan distances himself from Raja's latest scam	The times of India	Dec 7, 2010	http://www.timesnow.tv/Ex-CJI-Balakrishnan-distances-himself-from-Rajas-latest-scam/articleshow/4360005.cms
2.	Balakrishnan: I did not receive any letter from Regupathi when I was CJI	The Hindu	Dec 09, 2010	http://www.hindu.com/2010/12/09/stories/2010120965791300.htm
3.	Telecom Raja and former CJI Balakrishnan in the dock ! S C judge confirms former CJI hid Raja facts	Times Chennai	Dec 14, 2010	http://www.timeschennai.com/index.php?mod=article&cat=National&article=15230
4.	'Ex-CJI Was Aware Of Raja Trying To Corrupt Judge'	Asian Age	Dec 14, 2010	http://www.asianage.com/india/ex-cji-was-aware-raja-trying-corrupt-judge-449
5.	Balakrishnan Letter Did Not Name Raja: Moily	Asian Age	Dec 17, 2010	http://www.asianage.com/india/balakrishnan-letter-did-not-name-raja-moily-826
6.	Did not suppress Madras High Court Chief's report: Balakrishnan	The Times of India	Dec 15, 2010	http://timesofindia.indiatimes.com/india/Did-not-suppress-Madras-High-Court-Chiefs-report-Balakrishnan-/articleshow/7107518.cms
7.	Ex-CJI rebuts judge version	The Telegraph	Dec 15, 2010	http://www.telegraphindia.com/1101216/jsp/nation/story_13307954.jsp
8.	Was ex-CJI Balakrishnan aware of Raja influencing judge?	NDTV	Dec 15, 2010	http://www.ndtv.com/article/india/raja-case-top-judge-counters-ex-chief-justice-of-india-72558?cp
9.	Ex-CJI Balakrishnan was informed about Raja, says SC Judge	Indian Express	Dec 15, 2010	http://www.indianexpress.com/news/excji-balakrishnan-was-informed-about-raja-says-sc-judge/724951/
10.	Judge puts ex-CJI Balakrishnan in dock over Raja	Times of India	Dec 15, 2010	http://www1.timesofindia.indiatimes.com/india/Judge-puts-ex-CJI-in-dock-over-Raja/articleshow/7102365.cms
11.	Balakrishnan insists that Raja's name was not mentioned	The Statesman	Dec 15, 2010	http://www.thestatesman.net/index.php?option=com_content&view=article&show=archive&id=352173&catid=35&year=2010&month=12&day=15&Itemid=66
12.	No cogent ground for case against Raja in Gokhale's report: Justice Balakrishnan	The Hindu	Dec 16, 2010	http://www.hindu.com/2010/12/16/stories/2010121668081200.htm
13.	Raja not named in Balakrishnan's letter: Moily	Andhra Headlines	Dec 16, 2010	http://www.andhraheadlines.com/national/raja-not-named-in-balakrishnans-letter-moily-3-76550.html
14.	Ex-CJI didn't mention Raja's name: Moily	Deccan Herald	Dec 16, 2010	http://www.deccanherald.com/content/121112/ex-cji-didnt-mention-rajas.html
15.	Nation must know who is telling the truth	Pioneer	Dec 16, 2010	http://www.dailypioneer.com/304001/Make-the-letters-public.html

S.No	Title	Publication	Date	Link
16.	2G scam: Justice Regupathi says not interested in blame-game	Indian Express	Dec 19 2010	http://www.indianexpress.com/news/2g-scam-justice-regupathi-says-not-interested-in-blamegame/726687/0
17.	Former CJI's kin amassed crores in 4 yrs'	The Hindustan Times	Dec 26, 2010	http://www.hindustantimes.com/rssfeed/thiruvananthapuram/Former-CJI-s-kin-amassed-crores-in-4-yrs/Article1-643170.aspx
18.	Krishna Iyer wants NHRC chief to resign	The Hindu	Dec 27, 2010	http://www.thehindu.com/news/national/article995690.ece
19.	Former SC judge wants ex-CJI probed for corruption	Deccan Herald	Dec 27, 2010	http://www.deccanherald.com/content/124053/former-sc-judge-wants-ex.html
20.	Scams embroil top ex-judges Balakrishnan and Krishna Iyer	Indian Express	Dec 27, 2010	http://www.expressindia.com/latest-news/Scams-embroil-top-exjudges-Balakrishnan-and-Krishna-Iyer/729883/
21.	Former NHRC member demands Balakrishnan's resignation	Deccan Herald	Dec 31, 2010	http://www.deccanherald.com/content/125200/former-nhrc-member-demands-balakrishnans.html
22.	Need To Verify Charges Against Balakrishnan's Kin: Moily	Asian Age	Dec 28, 2010	http://www.asianage.com/india/need-verify-charges-against-balakrishnans-kin-moily-626
23.	Jurist For Probe Into Assets Of Ex-CJI's Family	Asian Age	Dec 28, 2010	http://www.asianage.com/india/jurist-probe-assets-ex-cji%E2%80%99s-family-569
24.	CJI's brother quits post on health grounds	Economic Times	Jan 1, 2011	http://economictimes.indiatimes.com/news/politics/nation/cjis-brother-quits-post-on-health-grounds/articleshow/7235891.cms
25.	Kerala CM orders probe against former CJI Balakrishnan's son-in-law	Times of India	Jan 3, 2011	http://timesofindia.indiatimes.com/india/Kerala-CM-orders-probe-against-former-CJI-Balakrishnans-son-in-law/articleshow/7212169.cms
26.	'Asked not to write to PM about Balakrishnan'	Indian Express	Jan 3, 2011	http://expressbuzz.com/states/kerala/%E2%80%98asked-not-to-write-to-pm-about-balakrishnan%E2%80%99/236526.html
27.	Nariman for probe into ex-CJI kin wealth	Indian Express	Jan 3, 2011	http://www.indianexpress.com/news/nariman-for-probe-into-excji-kin-wealth/732341/
28.	Now, former CJI's brother in dubious land deal	The Hindustan Times	Jan 03, 2011	http://www.hindustantimes.com/rssfeed/kerala/Now-former-CJI-s-brother-in-dubious-land-deal/Article1-645749.aspx
29.	Wealth glare on second CJI son-in-law	Telegraph	Jan 04, 2011	http://www.telegraphindia.com/1110105/jsp/nation/story_13394123.jsp
30.	Sreenijan quits YC, plea against KGB in vigilance court	Deccan Herald	Jan 5, 2011	http://www.deccanherald.com/content/126395/sreenijan-quits-yc-plea-against.html
31.	Another son-in-law of ex-CJI in land tangle	Times of India	Jan 5, 2011	http://timesofindia.indiatimes.com/india/Another-son-in-law-of-ex-CJI-in-land-tangle/articleshow/7220309.cms

S.No	Title	Publication	Date	Link
32.	Krishna Iyer blasts CPM stance	Indian Express	Jan 6, 2011	http://expressbuzz.com/states/kerala/krishna-iyer-blasts-cpm-stance/237193.html
33.	Steps against ex-CJI's brother if govt gets complaint: CM	The Hindustan Times	Jan 05, 2011	http://www.hindustantimes.com/rssfeed/thiruvananthapuram/Steps-against-ex-CJI-s-brother-if-govt-gets-complaint-CM/Article1-646589.aspx
34.	Another son-in-law of ex-CJI in land tangle	Times of India	Jan 5, 2011	http://timesofindia.indiatimes.com/india/Another-son-in-law-of-ex-CJI-in-land-tangle/articleshow/7220309.cms
35.	Balakrishnan's brother goes on medical leave	The Hindu	Jan 5, 2011	http://www.thehindu.com/news/cities/Kochi/article1032923.ece
36.	Balakrishnan's son-in-law resigns from Youth Congress	The Hindu	Jan 5, 2011	http://www.thehindu.com/news/cities/Thiruvananthapuram/article1034832.ece
37.	Ex-CJI under pressure to resign from NHRC	IBN Live	Jan 05, 2011	http://ibnlive.in.com/news/former-cji-under-a-cloud-of-controversy-again/139447-3.html
38.	Will act against ex-CJI's brother if govt gets complaint: Kerala CM	Times of India	Jan 5, 2011	http://timesofindia.indiatimes.com/city/thiruvananthapuram/Will-act-against-ex-CJIs-brother-if-govt-gets-complaint-Kerala-CM/articleshow/7222011.cms
39.	Cloud Over The Judiciary	Asian Age	Jan 06, 2011	http://www.asianage.com/editorial/cloud-over-judiciary-977
40.	CPI(M) has no links to K. G. Balakrishnan: Kodayeri	The Hindu	Jan 6, 2011	http://www.thehindu.com/news/states/kerala/article1038539.ece
41.	Balakrishnan's brother resigns	The Hindu	Jan 7, 2011	http://www.thehindu.com/news/states/kerala/article1050531.ece
42.	KGB brother quits post - Govt pleader under graft cloud cites poor health	Telegraph	Jan 7, 2011	http://www.telegraphindia.com/1110108/jsp/nation/story_13408793.jsp
43.	Balakrishnan's Brother Quits as Special Govt Pleader	Outlook	JAN 07, 2011	http://news.outlookindia.com/item.aspx?707566
44.	Ex-CJI's brother K G Bhaskaran resigns as Kerala Govt. pleader after allegations	Net India	Jan 07, 2011	http://netindian.in/news/2011/01/07/0009907/ex-cjis-brother-k-g-bhaskaran-resigns-kerala-govt-pleader-after-allegations
45.	CPM speaks in two voices on KGB	The Telegraph	Jan 7, 2011	http://www.telegraphindia.com/1110107/jsp/nation/story_13403886.jsp
46.	Now, ex-CJI's brother quits	The Hindustan Times	Jan 07, 2011	http://www.hindustantimes.com/rssfeed/kerala/Now-ex-CJI-s-brother-quits/Article1-647353.aspx
47.	Ex-Chief Justice's brother quits as Govt pleader	The Peninsula	Jan 07, 2011	http://www.thepeninsulaqatar.com/india/138325-ex-chief-justices-brother-quits-as-govt-pleader.html

S.No	Title	Publication	Date	Link
48.	Ex-chief justice's brother quits job	Gulf News	Jan 08, 2011	http://gulfnnews.com/news/world/india/ex-chief-justice-s-brother-quits-job-1.742597
49.	Bhaskaran, brother of KGB quits as government pleader	Times of India	Jan 8, 2011	http://timesofindia.indiatimes.com/city/chennai/Bhaskaran-brother-of-KGB-quits-as-government-pleader/articleshow/7238581.cms
50.	KG Balakrishnan's brother resigns	New Indian Express (Express Buzz)	Jan 8, 2011	http://expressbuzz.com/states/kerala/kg-balakrishnans-brother-resigns/237888.html
51.	Ex CJI's brother resigns amid corruption charges	NDTV	Jan 08, 2011	http://www.ndtv.com/article/india/ex-cji-s-brother-resigns-amid-corruption-charges-77756
52.	Former CJI Balakrishnan's brother quits as special govt pleader	Samay Live	Jan 08, 2011	http://english.samaylive.com/nation-news/676480382/former-cji-balakrishnan-s-brother-quits-as-special-govt-pleader.html
53.	Ex-CJI brother quits govt job	Times of India	Jan 8, 2011	http://timesofindia.indiatimes.com/india/Ex-CJI-brother-quits-govt-job/articleshow/7239398.cms
54.	President urged to order probe against ex-CJI	New Indian Express (Express Buzz)	Jan 09, 2011	http://expressbuzz.com/states/kerala/president-urged-to-order-probe-against-ex-cji/238225.html
55.	Is this Justice?	Deccan Chronicle	Jan 09, 2011	http://www.deccanchronicle.com/360-degree/justice-293
56.	As a child, he walked 5 km to school everyday	Deccan Chronicle	Jan 09, 2011	http://www.deccanchronicle.com/360-degree/child-he-walked-5-km-school-everyday-292
57.	Probe all allegations against Balakrishnan's kin: AITUC	The Hindu	Jan10, 2011	http://www.thehindu.com/news/states/kerala/article1078465.ece
58.	Kerala bar panel seeks KGB probe	Telegraph	Jan 10, 2011	http://www.telegraphindia.com/1110111/jsp/nation/story_13421134.jsp
59.	Bar Council urges President to probe allegations against K.G. Balakrishnan	The Hindu	Jan 10, 2011	http://www.thehindu.com/news/states/kerala/article1076080.ece
60.	Ex-CJI's brother resigns from Kerala HC post	Pioneer	Jan 11, 2011	http://www.dailypioneer.com/308939/Ex-CJIs-brother-resigns-from-Kerala-HC-post.html
61.	Times have changed for KG Balakrishnan	New Indian Express (Express Buzz)	Jan 11, 2011	http://expressbuzz.com/states/kerala/times-have-changed-for-kg-balakrishnan/238773.html
62.	I-T begins probe into charges against former CJI's family	Hindustan Times	Jan12, 2011	http://www.hindustantimes.com/News-Feed/kerala/I-T-begins-probe-into-charges-against-former-CJI-s-family/Article1-649558.aspx

S.No	Title	Publication	Date	Link
63.	I-T sleuths begin probe against KGB's kin in Kerala	Times of India	Jan 13, 2011	I-T sleuths begin probe against KGB's kin in Kerala - The Times of India http://timesofindia.indiatimes.com/city/chennai/I-T-sleuths-begin-probe-against-KGBs-kin-in-Kerala/articleshow/7272551.cms#ixzz1AzV3aoOn
64.	Order against Balakrishnan kin stands	Hindustan Times	Jan 13, 2011	http://www.hindustantimes.com/News-Feed/thiruvananthapuram/Order-against-Balakrishnan-kin-stands/Article1-650040.aspx
65.	Vigilance likely to go ahead with probe against ex-CJI's kin	Hindustan Times	Jan 13, 2011	http://www.hindustantimes.com/News-Feed/thiruvananthapuram/Vigilance-likely-to-go-ahead-with-probe-against-ex-CJI-s-kin/Article1-649735.aspx
66.	Kerala govt orders vigilance probe against ex-CJI's son-in-law	Indian Express	Jan 13, 2011	http://www.indianexpress.com/news/kerala-govt-orders-vigilance-probe-against-excjs-kin/736983/
67.	I-T begins probe into assets of ex-CJI's kin	Indian Express	Jan 13, 2011	http://www.indianexpress.com/news/it-begins-probe-into-assets-of-excjs-kin/736695/0
68.	KGB's son-in-law faces vigilance probe	The Economic Times	Jan 13, 2011	http://economictimes.indiatimes.com/news/politics/nation/kgbs-son-in-law-faces-vigilance-probe/articleshow/7277873.cms
69.	Kerala orders probe against KGB kin	Deccan Chronicle	Jan 13, 2011	http://www.deccanchronicle.com/national/kerala-orders-probe-against-kgb-kin-250
70.	Lawyers' plea to Balakrishnan	The Hindu	Jan 13, 2011	http://www.hindu.com/2011/01/13/stories/2011011355260500.htm
71.	Bar association seeks probe	The Hindu	Jan 14, 2011	http://www.hindu.com/2011/01/14/stories/2011011464800900.htm
72.	Vigilance probe against former CJI's son-in-law	Indian Express	Jan 14, 2011	http://www.indianexpress.com/news/Vigilance-probe-against-former-CJI-s-son-in-law/737144
73.	At Stake, Your Honour	Outlook.	Jan 17, 2011	http://www.outlookindia.com/article.aspx?269938

ENDORSEMENTS

S.No.	Name of the Organization / Individual (if endorsing as individual)	S.No.	Name of the Organization / Individual (if endorsing as individual)	S.No.	Name of the Organization / Individual (if endorsing as individual)
1.	Act Now for Harmony and Democracy (ANHAD)	32.	Barak Human Rights Protection Committee (BHRPC), Assam	60.	CSJD, Odisha
2.	Adhikar, Odisha	33.	Bhartita Gramin Vikas Avam Kalyan samiti, Bihar	61.	CSNR, Odisha
3.	Adishakti Lokbikash Sangthan, Odisha	34.	Bharathi Girama Mahalir Nala Mandram, Tamil Nadu	62.	CSNR, Odisha
4.	Adivasi Bikash Parisad, Odisha	35.	Mr. Biplab Mukherjee, West Bengal	63.	Sr. S. M. Cyril, Principal, Loreto Day School, Kolkata, West Bengal, Padmabhusan
5.	Adivasi Dalit Adhikar Abhijan Manch, Odisha	36.	Mr. Bira Kumar Das, Odisha	64.	DAGVMMVI (Dr. Ambethkar Girama Vuzhaikum Makkal Manitha Vurimai lyakkam)
6.	Aragamee, Odisha	37.	Bira Surendra Sai Jungle Committee, Odisha	65.	DAHAR, Odisha
7.	AHRF, Tamil Nadu	38.	Borok People's Human Rights Organisation	66.	Dalit Association for Social and Human Rights Awareness (DASHRA), Bihar
8.	Ain o Salish Kendra (ASK), Bangladesh	39.	CACL, Odisha	67.	Dalit Catholic Sabha, Bihar
9.	Ms. B.S. Ajeetha, Lawyer, High Court of Madras, Chennai - Tamilnadu	40.	Cambodian Working Group for National and ASEAN Human Rights Mechanism (CWG)	68.	Dalit Gramin Vikas Samiti, Bihar
10.	Ms. Alka Kumari, Editor- Vision East, Human Right Defender	41.	CAPARDS, Odisha	69.	Dalit Human Rights and Development, Bihar
11.	All India Secular Forum	42.	Centre for Advocacy & Research, Odisha	70.	Dalit Mahila Jankalya Sansthan, Bihar
12.	Ambedkar-Lohia Vichar Manch, Odisha	43.	Centre for Dalit Rights, Rajasthan	71.	Dalit Mahila Vikas Samiti, Bihar
13.	Ambedkarvadi Samaj vikas Parishad, Bihar	44.	Centre for Human Rights and Development (CHRD), Mongolia	72.	Dalit Sanghrsh Morcha, Bihar
14.	Mr. Anand Patwardhan, Gujarat	45.	Centre for Peace and Development	73.	Dalit Sangam Samiti, Bihar
15.	Anbu Trust, Tamil Nadu	46.	Centre for Study of Society and Secularism (CSSS), Maharashtra	74.	Dalit Service Society (DSS), Ernakulam
16.	Dr. Andal Damodaran, General Secretary, ICCW, Chennai	47.	Prof. Chakrapani Ghanta, Coordinator, Human Rights Education Programme, Andhra Pradesh	75.	Dalit Suraksha Samiti, Odisha
17.	Antodaya, Odisha	48.	Mr. Ch Narendra	76.	Dalit Watch, Bihar
18.	Anuvashi-Dalit Women's Documentation Center, Kerala	49.	Citizens for Human Rights Movement (CHRM), Tamil Nadu	77.	Darshan
19.	ARPAN, Punjab	50.	Citizens for Justice and Peace	78.	Mr. Debasis Mishra, Journalist, Odisha
20.	Arunachal Citizen's Rights	51.	CITU, Odisha	79.	Deepam Womens Trust, Tamil Nadu
21.	Asha Jyoti Gramin Vikas Samiti, Bihar	52.	Civil Rights Protection Organisation, Tamil Nadu	80.	Deep Jyoti Kalyan Sansthan, Bihar
22.	Mr. Ashok Chakravarthi, Former Senior Director, NHRC	53.	CLAMPU Trust, Tamil Nadu	81.	Delhi Forum
23.	Asian Bridge India, Uttar Pradesh	54.	Commission for the Disappeared and Victims of Violence (Kontras), Indonesia	82.	Development Education & Awareness Raising, Tamil Nadu
24.	Asian Forum for Human Rights and Development (FORUM-ASIA), Thailand	55.	Committee for Legal Aid to Poor (CLAP)	83.	Development & Education for Workers, Tamil Nadu
25.	Mr. Asok Mallik, Lawyer, Odisha	56.	Commonwealth Human Rights Initiative (CHRI), Delhi	84.	Dharini Penu Adivasi Mohasangha, Odisha
26.	Association for Voluntary Initiative, Youth Action & Networking (AVIYAN) - Odisha	57.	Community College Trust, Tamil Nadu	85.	Mr. Dharmendra Ojha, Odisha
27.	ASSTART, Odisha	58.	Community Social Action Education Development Trust, Tamil Nadu	86.	Dhirendra Panda
28.	Mr. Babu Mathew	59.	Coorg Organisation for Rural Development, Karnataka	87.	Rev. Dr. Dhyanchand Carr (Retd.) Principal: Tamilnadu Theological Seminary Ordained Pastor Church Of South India
29.	Bahujan Samaj Party - Tamilnadu			88.	Documentation Research and Training Centre, Maharashtra
30.	Balmianni Kutomi, Odisha			89.	Ms. Dolphy D'Souza, Gujarat
31.	Banabasi Surakshya Parisad, Odisha				

S.No.	Name of the Organization / Individual (if endorsing as individual)	S.No.	Name of the Organization / Individual (if endorsing as individual)	S.No.	Name of the Organization / Individual (if endorsing as individual)
90.	DRIK India, West Bengal	122.	Human Rights Initiative, Assam	154.	Just Peace Foundation, Manipur
91.	Mr. A. Dutta, Odisha	123.	Human Rights Initiative, Dibrugarh, Assam	155.	KABANI, Vayanadu, Kerala
92.	EKTA PARISHAD	124.	Human Rights Initiative, Manipur	156.	Karl Marx Library, Tamilnadu
93.	EMPOWER INDIA, Tuticorin, Tamil Nadu	125.	HUMAS- Kottarakkara, Kerala	157.	Karnataka Dalita Mahila Vedike, Karnataka
94.	FOCUS Odisha	126.	iCON, Kerala	158.	Mr. Karthik Navayan, Dalit Writer, Human Rights Activist, and Lawyer practising in Hyderabad, Andhra Pradesh
95.	Forum for Elimination of Bonded Labour System in Tamilnadu	127.	IMPARSIAL, the Indonesian Human Rights Monitor	159.	KARUNALAYA SOCIAL SERVICE SOCIETY
96.	Forum for Indigenous Perspectives and Action	128.	Indian Confederation of Indigenous and Tribal Peoples North East Zone (ICITP-NEZ), Assam	160.	Koushalya Jyoti Niketan, Bihar
97.	Fr. Francis Parmar, Bihar	129.	Indian Social Institute, Karnataka	161.	Kerala Swathanthra Mathsya Thozhilai Federation (KSMTF), Trivandrum
98.	Mr. Gadahar Pradhan, Land Rights Activist, Odisha	130.	Informal Sector Service (INSEC), Kathmandu, Nepal	162.	Mr. Khokan Behera, Human Rights Defender, Odisha
99.	Gandhamardan Surakshya Samiti, Odisha	131.	Institute for Social Service, Tamil Nadu	163.	KIRDTI, Orissa
100.	Gandhiji Women Seva Society, Tamil Nadu	132.	Institute of Human Rights Education, Tamilnadu	164.	Mr. Kishore Prahari, Human Right Defender, Odisha
101.	Gandhi Youvajana Sangadana, Kollamkode, Palakadu	133.	Integrated Rural Development Service Organisation	165.	Kisore Kishoria Proud Shiksha Sansthan Rajasthan
102.	GANDHI VIKAS SAMITI	134.	International Dalit Solidarity Network	166.	Korean House for International Solidarity (KHIS)
103.	Mr. G. Ganesan, Human Rights Activist, Madurai, Tamil Nadu	135.	International Campaign for Human Rights in Iran	167.	Dr. V. Krishna Ananth, Lawyer and Journalist, Chennai
104.	Ganglamma Vikash Manch, Odisha	136.	IRCDS, Tamil Nadu	168.	Kuvi Bdayu, Odisha
105.	GASCA, Odisha	137.	Mr. Irshad Ahmed, PVCHR / JMN, Uttar Pradesh	169.	Law & Society Trust (LST)
106.	Ms. Geeta Ramseshan, Lawyer, Tamil Nadu	138.	JAAGO RE NAGRIK MANCH, Gujarat	170.	Lenin Library, Tamilnadu
107.	Ms. Gitanjali Senapati, Odisha	139.	Jago Dalit, Bihar	171.	Loke Vikas Sansthan Rajasthan
108.	Global Concerns India, Karnataka	140.	Janamunnetam, Kerala	172.	LUS, Odisha
109.	Global Alternate Information Application [GAIA]	141.	Jananeethi, Kerala	173.	MaaGhar Foundation Turst, Odisha
110.	Global Rights of Public Association, Madhya Pradesh	142.	Jana Sangarsh Adhikar, Odisha	174.	Mr. Mahendra Paride, Activist, Odisha
111.	Gramya Resource Centre for Women	143.	Janavikash, Odisha	175.	Mahila Jan Adhikar Samithi
112.	Dr. Haragopal	144.	Jan Prabandhan Kalyan simiti, Bihar	176.	Majdoor Kisan Vikas Sansthan, Bihar
113.	HOPE, Odisha	145.	Fr. Jayabalan	177.	Makkal Samathuvam, Tamil Nadu
114.	Hotline Delhi	146.	Jeeva Jothi Trust, Tamil Nadu	178.	Manav Adhikar Pratisthan Sansthan, Bihar
115.	Housing and Land Rights Network (HLRN)	147.	JEEVIKA	179.	Mr. S. Martin, Lawyer, Trichy, Tamil Nadu
116.	Mr. Hrusikesh Sarangi, RTI Activist, Odisha	148.	Mr. Jerome D'Souza	180.	Martin Luther King Center for Human Rights and Democracy, Odisha
117.	Human Development Foundation, Odisha	149.	Mr. John Dayal, Founder, All India Christian Council and the United Christian Forum for Human Rights	181.	Manabadhikar Suraksha Mancha (MASUM), West Bengal
118.	Humanity Welfare Organisation "HELPLINE" NGO, Jammu & Kashmir	150.	Joint Action Committee against violation of Fisher people's Rights, Tamil Nadu	182.	MEERA WELFARE SOCIETY
119.	Human Rights Alert	151.	Mr. Judhisthir Meher, Lawyer, Orissa	183.	Mr. Mohammed Azam Khan, Hyderabad, Andhra Pradesh
120.	HUMAN RIGHTS COUNCIL	152.	Judicial System Monitoring Programme (JSMP), Timor Leste	184.	Mukti Sanghthan, Odisha
121.	Human Rights Working Group (HRWG)	153.	Justice for Peace Foundation (JPF), Bangkok, Thailand	185.	Murasu Kalai Kuzhumam, Tamil Nadu

S.No.	Name of the Organization / Individual (if endorsing as individual)	S.No.	Name of the Organization / Individual (if endorsing as individual)	S.No.	Name of the Organization / Individual (if endorsing as individual)
186.	Dr. Y.S.R. Murthy	220.	Prof. D.P. Pattanaik, Senior Consultant, Indira Gandhi National Centre for the Arts, Delhi	248.	Rural People's Economic Development Trust, Tamil Nadu
187.	Nari Surakshaya Samiti, Odisha			249.	Rural Uplift Centre, Tamil Nadu
188.	National Alliance of Women, Delhi			250.	Rural Women Development Trust, Tamil Nadu
189.	National Alliance on Testimonial Therapy, Uttar Pradesh	221.	Dr. Paul Newman	251.	Rusimal Anchalik Unnayan Parishad, Odisha
190.	National Centre for Advocacy Studies (NCAS), Maharashtra	222.	PECUC, Odisha	252.	Safai Karmachari Andolan
191.	National Centre For Advocacy Studies	223.	People's Action For Rural Awakening, Andhra Pradesh	253.	SAKHA, Odisha
192.	NCAS, Odisha	224.	Peoples Union for Civil Liberties – Andhra Pradesh	254.	SAMAJIKA VIKASA KENDRAM (SVK), Andhra Pradesh
193.	National Dalit Movement for Justice (NCDHR – NDMJ), Delhi	225.	Peoples Union for Civil Liberties – National	255.	Samaya, Odisha
194.	National Federation of Dalit Women, headquartered in Bangalore	226.	People's Union For Civil Liberties, Rajasthan	256.	Sambuk Jankalyan Samiti, Bihar
195.	NCDHR, Odisha	227.	Peoples' Vigilance Committee on Human Rights (PVCHR), Uttar Pradesh	257.	SANCHAR, West Bengal
196.	National Union of Fishermen, Tamilnadu	228.	People's Watch, National Organization headquartered in Tamil Nadu	258.	Ms. Sangita Panda, Odisha
197.	Nav Chetna Vikas Kendra, Bihar	229.	Philippine Alliance of Human Rights Advocates (PAHRA)	259.	Sarvagin Vikas Avam Kalyan Samiti, Bihar
198.	Navsarjan Trust, Gujarat	230.	Mr. R. V. Pillai, IAS, (Retd), Former Secretary General, NHRC	260.	SASVIKA, Rajasthan
199.	NAWO, Odisha	231.	Posco Pratirodha Sangram Samiti, Odisha	261.	Satrak, Odisha
200.	Ms. Nayani Bay, Human Rights Defender, Odisha	232.	Power to Lead, Maharashtra	262.	Saura Adivasi Adhikar Abhijan, Odisha
201.	Neethi Vedhi, Kerala	233.	Mr. Prasad Chacko, Gujarat	263.	Savitri Bai Women's Forum
202.	NEG FIRE, New Delhi	234.	PRASHANT - A Centre for Human Rights, Justice and Peace, Gujarat	264.	Schedule Caste & Schedule Tribes and women Development Society, Tamil Nadu
203.	NISHAN, Odisha	235.	PRAXIS – Karnataka	265.	Seeds Trust, Tamil Nadu
204.	Niyamgiri Suraksha Andholan	236.	Programme Against Custodial Torture & Impunity, West Bengal	266.	SEEP, Bihar
205.	NMYS, Odisha	237.	Purva Bharati Trust, Assam	267.	Seva Bharati, Odisha
206.	North Eastern Social Research Centre	238.	Dr. S. S. Rajagopalan Educationist	268.	SFDC, Odisha
207.	OACRC, Odisha	239.	Mr. N. L. Rajah, Lawyer, Madras High Court	269.	Ms. Sheila Jayaprakash, Chennai
208.	Odisha Bhinakshyma Mahasanga	240.	Ms. Rashani Jena, Lawyer Odisha	270.	Shikhhit Berojar Sansthan, Bihar
209.	Odisha Gotimukti Andolan	241.	Mr. G. Ravi	271.	Socio Innovative Development Organisation, Tamil Nadu
210.	ONAS, Odisha	242.	Dr. B. Regina Papa	272.	South India Cell for Human Rights Education and Monitoring (SICHREM)
211.	Orissa Khadya Adhikar Abhijan, Odisha	243.	Rettamalai Seenivasanaar Peravai, Tamilnadu	273.	Ms. Smruti Ranjita Paramguru – Member HRD Alert, Odisha
212.	Odisha Nagarka Samaj, Odisha	244.	RIGHTS, Kerala	274.	Social Action For New Development (SAND), Tamilnadu
213.	Odisha Soochana Adhikar Abhijan, Odisha	245.	Rights Education and Development centre (READ), Tamilnadu	275.	Society for Community Organisation Trust, Tamil Nadu
214.	Office for Justice Peace and Development, Catholic Bishops' Conference of India	246.	Rourkela Social Service Society, Odisha	276.	SODA, Odisha
215.	Orissa Development Action Forum (ODAF), Odisha	247.	Rural Development Awareness Society, Tamil Nadu	277.	Mr. Somnath Patnaik, Lawyer, Odisha
216.	Orissa Janasamilani			278.	SPACE - Thiruvalla, Pathanamthitta, Kerala
217.	Orissa Post, Odisha			279.	Sparks Development Group, Tamil Nadu
218.	Ms. Paminder Parbha, Formerly with Amnesty International, London			280.	Mr. R.B. Sreekumar, Former Director General of Police – Gujarat
219.	Parishkaran, Karnataka				

S.No.	Name of the Organization / Individual (if endorsing as individual)	S.No.	Name of the Organization / Individual (if endorsing as individual)	S.No.	Name of the Organization / Individual (if endorsing as individual)
281.	Mr. Stan Thekaekara, Director Just Change Trust, Chairman and Expert Director, Just Change India Producer Company, Director, Shop for Change, Former Founder Director, ACCORD , Former Visiting Fellow, Said Business School, Oxford University, former Trustee, Oxfam Great Britain	299.	Tamilnadu and Pondy Fisher People Federation, Tamilnadu	317.	Mr. Ullas Chandra Barik, Human Rights Defender, Odisha
282.	STEKUS, Odisha	300.	Tamilnadu Coastal Women's movement	318.	United RTI Women's Group
283.	STEPS Women Development Organisation	301.	Tamilnadu Human Rights Defender's Forum, Tamilnadu	319.	UNNATI, Rajasthan
284.	Student Christian Movement of India, Karnataka	302.	Tamilnadu Muslim Munnetra Kazhagam, Tamilnadu	320.	Unorganised Labour Union, Tamil Nadu
285.	Suara Rakyat Malaysia (SUARAM)	303.	Tamil Writers Federation, Tamil Nadu	321.	Urban Research Centre, Karnataka
286.	Mr. K. Sudhakar Patnaik, Journalist, Odisha	304.	Ms. Tara Murali, Trustee, CAG (Citizen, consumer and civic Action Group), Tamilnadu	322.	USSO, Tamil Nadu
287.	Sudhanthra, Tamil Nadu	305.	THAMATE, (Centre For Rural Empowerment), Karnataka	323.	Ms. R.VAIGAI, Lawyer, Madras High Court
288.	Ms. Sudha Ramalingam, Lawyer, Madras High court	306.	Thampu, Attapadi, Palakadu	324.	V.Vasanthi Devi, Former Vice-Chancellor, Manonmaniam Sundaranar University, Tirunelveli, Tamil Nadu and Former Chairperson, Tamil Nadu State Commission for Women
289.	Suman Vihar, Bihar	307.	Thanthai Periyar Thiravidar Kalagam, Tamilnadu	325.	Vasundhara, Odisha
290.	Ms. Sunila Singh, National Advocacy Officer – Delhi, People's Watch	308.	THE AYAUSKAM, Orissa	326.	Vigil India Movement, Karnataka
291.	Justice Mr. H. Suresh, Former Judge	309.	Theera Desha Samrakshna Samithi , Kerala	327.	Vizhuthugal –Dalits Human Rights Organisation
292.	Mr. Suresh Bhosale	310.	Theeradesha Vanitha Forum, Kollam, Kerala	328.	Ms. Vrinda Grover, Lawyer, New Delhi
293.	Mr. Suryadeepan, Writer, Tamil Nadu	311.	The Institute for Research and Advocacy (ELSAM), Indonesia	329.	Women Education & Development Trust, Tamil Nadu
294.	Susangani, Bihar	312.	The Lawyers League for Liberty (LIBERTAS), Quezon City, Philippines	330.	WOMEN'S RESEARCH & ACTION GROUP, Maharashtra
295.	Swami Agnivesh	313.	The Other Media	331.	Women Voice, Tamil Nadu
296.	Swanchetan - Society for Mental Health, New Delhi	314.	Tiruppur People's Forum, Tamil Nadu	332.	Working Group on Human Rights in India and the UN (WGHR)
297.	Prof. Dr. Tahir Mahmood, Chairman, Institute of Advanced Legal Studies, Amity University, Delhi	315.	Uday Welfare Society, Bihar	333.	Zailaitmu, Odisha
298.	Taiwan Association for Human Rights (TAHR)	316.	Ulagath Tamilar Peramaippu, Tamilnadu		

ANNEXURE

Sl.No	Title
1.	UN Press Release: Statement of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, as she concludes her visit to India
2.	Information obtained from NHRC in response to an RTI petition - RTI Response 3306
3.	Budget information produced by the NHRC for the years 2007, 2008, and 2009
4.	Copy of the NHRC Order to investigate and authenticate Tehelka Tapes of Operation Kalank
5.	Information obtained from NHRC in response to an RTI petition - RTI 3305
6.	Information obtained from NHRC in response to an RTI petition – Follow up on RTI 3304.
7.	Statement by the Asian Legal Resource Centre (ALRC-STM-004-2010) dated July 30, 2010
8.	Response to an RTI Petition Reference No. R.C. No. 16(I)/PIO/2005 (RTI)/2586
9.	Information obtained from NHRC in response to an RTI petition - Reference note R.C.No. 16(1)/2005 (RTI)/2645
10.	Chart of members of the appointment committee
11.	Information received in response to an RTI Petition to the Commission (RC No.16(1)/PIO/2005(RTI)/2639 dated 25.09.2009
12.	Information obtained from NHRC in response to an RTI petition with regard to category of staff with special reference to the disabled
13.	Report of the NHRC of India to the 15 th APF covering the period 2009 – 2010
14.	Information obtained from NHRC in response to an RTI petition on Organizational Infrastructure
15.	Information obtained from NHRC in response to an RTI petition on criteria for selection of candidates to staff positions
16.	Letter to Mr. A.B. Tripathy from Secretary General Gopalaswami dated 19 July, 1999 received in response to an RTI petition
17.	Letter to Mr. Verma from Mrs. Aruna Sharma dated August 23, 2006 received in response to an RTI petition
18.	Information obtained from NHRC in response to an RTI petition RTI 3215
19.	Response of the Commission in case of the police search on People's Watch premises
20.	16(1)/PIO/2005(RTI)/2641 Request received on 8.9.2009 regarding development of jurisprudence in NHRC from 12.10.1993 – 31.8.2009.
21.	Information obtained from NHRC in response to an RTI petition RTI 2643.
22.	Minutes of the Meeting of the Core Group of NGOs, 18.07.2008, 11.30 a.m. at the National Human Rights Commission, New Delhi (received in response to an RTI petition).
23.	Information provided by the NHRC to follow-up letter on a Right to Information Petition, RTI 3194.
24.	List of deputationists in the NHRC

APPENDIX

Sl.No	Title
25.	Protection of Human Rights Act
26.	NHRC Procedure Regulations
27.	Practice directions of the NHRC
28.	Annual Reports of NHRC (1993-1994 to 2006-2007 Reports)
29.	ANNI Reports (2006-2007, 2008, 2009 and 2010)
30.	Other information received in response to RTI petitions to the NHRC

List of Abbreviations

- AiNNI: All India Network of NGOs and Individuals working with National Human Rights Institutions
- ANNI: Asian NGOs Network on National Human Rights Institutions
- BSF: Border Security Force
- CB CID: Crime Branch's Criminal Investigation Department
- CBI: Central Bureau of Investigation
- CISF: Central Industrial Security Force
- CJI: Chief Justice of India
- DM: District Magistrate
- DGP: Director General of Police
- DSP: Deputy Superintendent of Police
- IAS: Indian Administrative Service
- IFS: Indian Foreign Service
- IGP: Inspector General of Police
- IPS: Indian Police Service
- NHRC: National Human Rights Commission
- NLSA: National Legal Services Authority
- PHRA: Protection of Human Rights Act
- PIO: Public Information Officer
- RTI: Right to Information Act
- SHRC: State Human Rights Commission
- SCI: Supreme Court of India
- SLSA: State Legal Services Authority
- SP: Superintendent of Police
- SSP: Senior Superintendent of Police

Sub-Committee on Accreditation (SCA) of the International Co-ordination Committee of NHRIs (ICC)

The role of the Sub-Committee on Accreditation (SCA) is to consider whether prospective and existing member NHRIs are established and function as independent bodies according to the standards set out in the Paris Principles.

Under the ICC Statute, these reviews occur:

- when a NHRI applies for initial accreditation
- when a NHRI applies for re-accreditation every five years
- where the circumstances of a NHRI change in any way that may affect its compliance with the Paris Principles.

On completion of its assessment, the SCA makes a recommendation to the ICC Bureau, which then makes a final decision on the NHRI's accreditation status.

Accreditation Status

NHRIs which are considered to fully comply with the Paris Principles are accredited 'A status', while those that partially comply are accredited 'B' status. 'A status' organisations are eligible for full membership of the ICC, including the right to vote and hold governance positions, while NHRIs accredited with 'B status' may participate in ICC meetings but are unable to vote or hold governance positions. Only 'A status' NHRIs have independent participation rights at the UN – HRC and its subsidiary bodies.

SCA Meetings

The SCA meets in Geneva, to consider accreditation applications. In addition to the material provided by the applicant, the SCA will consider other sources of information including reports from civil society organisations. In May 2011, the SCA of the ICC will be considering the re accreditation application of the NHRC – India. Once the SCA has considered an application it makes a recommendation to the ICC Bureau which has responsibility for making the final decision on the accreditation of NHRIs.

General Observations

Over the past few years, the SCA has developed a series of General Observations that are intended to:

- provide guidance to NHRIs in developing their own processes and mechanisms
- assist governments in addressing issues relating to a NHRI's compliance with the Paris Principles
- guide the SCA in its determination of new accreditation applications, re-accreditation applications or special reviews

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