

## HUMAN RIGHT VIOLATIONS IN INDIA: AN OVERVIEW

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### *Abstract*

*Human rights are the basic rights and freedoms those belong to every person in the society throughout his/her life. They are applicable irrespective of someone's origin, religion, sex, cast and color. However, it is restricted for someone who indulges in unlawful activities and poses a challenge to the national security. Most of the time, the human right violation takes place during the police investigation, communal violence and in the work places. In India, several initiatives have been undertaken, especially to protect the rights of women and children. The National Human Right Commission of India constituted under the Protection of Human Rights Ordinance and it is an autonomous public body. The National Human Right commission acts as a watch-dog and intervenes whenever the law is misused against any individual or section of people. This article summarizes the Human Right violations in India, the factors which causes the Human Right violation and the composition and activities of Human Right commission.*

**Keywords:** *Human Right violation, Human Right commission, Religious violence, Legal reform, Women rights*

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## INTRODUCTION

Every person is eligible to have fundamental rights due to the fact of being human. These are called “human rights”. The Human rights include the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education, and many more. Everyone is eligible to have all these rights, without any discrimination. Human rights are rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status. The term ‘Human Rights’ is a dynamic concept, it may be called as basic rights, fundamental rights, natural rights or inherent rights. The Indian Constitution provides for fundamental rights, including religious freedom. It provides freedom of speech, separation of executive and judiciary, freedom to move within the country and abroad. Our country has an independent judiciary and many autonomous bodies to deal with the issues related human right violations.

## INCIDENTS WHICH CAUSE HUMAN RIGHT VIOLATION

### *Police investigation*

Four people per day died while in police custody, with "hundreds" of those deaths being due to police use of torture as estimated by Asian Centre for Human Rights during the period of 2002 to 2008<sup>1</sup>. According to a report written by the Institute of Correctional Administration in Punjab, up to 50% of police officers in the country have used physical or mental abuse on prisoners<sup>2</sup>. Similarly, the instances of torture, such as lack of sanitation, space, or water have been documented in West Bengal as well<sup>3</sup>.

Although, nobody may be made a witness against himself as per Indian constitution, the invasive methods like narcoanalysis, brain mapping, and lie detector tests were once commonly permitted by Indian courts for crime investigation. Concerns regarding human rights violations in conducting deception detection tests were raised long back and the National Human Rights Commission of India had published Guidelines in 2000 for the Administration of Polygraph tests. Unfortunately, only few of the investigating agencies were

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<sup>1</sup> *Hundreds die of torture in India every year – Report*, Reuters. 25 June 2008

<sup>2</sup> Malik, S; *Torture main reason of death in police custody*, The Tribune, Archived from the original on 3 March 2009

<sup>3</sup> *Custodial deaths in West Bengal and India’s refusal to ratify the Convention against Torture* Asian Human Rights Commission, 26 February 2004

following these guidelines<sup>4</sup>. In May 5, 2010 the Supreme Court in India (*Smt. Selvi v. State of Karnataka*) declared brain mapping, lie detector tests and narcoanalysis to be unconstitutional, violating Article 20 (3) of Fundamental Rights. Consent is required from individuals, to conduct these tests and it cannot be done forcefully. When they are conducted with consent, the material so obtained is regarded as evidence during trial of cases according to Section 27 of the Evidence Act.

Several wrongful convictions of innocent people lead to causing them to languish in jail for many years. This is due to inadequate investigation and hasty rulings by courts. For instance, the Bombay high court in September 2009 asked the Maharashtra government to pay Rs. 100,000 as compensation to a 40-year-old man who languished in prison for over 10 years for a crime he didn't commit.

### ***Religious Violence***

Communal conflicts between religious groups have been prevalent in India since around the time of its independence from British rule. A well-known example for an oldest communal violence in India was the Moplah rebellion, when Militant Islamists massacred Hindus in Kerala. Communal riots took place during the partition of India between Hindus/Sikhs and Muslims where large numbers of people were killed in large scale violence.

In 1984 Anti-Sikh riots, more than two thousands of Sikhs were massacred by members of the secular-centrist Congress Party of India<sup>5</sup>. The killing was supposedly done at the behest of Congress leaders such as Jagdish Tytler. Congress Party officials provided assailants with voter lists, school registration forms, and ration lists. Several Congress leaders were behind this lynching as revealed by Nanavati Commission which investigated this case. Prime Minister Manmohan Singh apologized in the Lok Sabha for the involvement of Congress stalwarts in the Lok Sabha.

Religious violence takes place every now and then in cities and villages. Five people were killed in Mau, Uttar Pradesh during the communal violence which was triggered by the proposed celebration of a Hindu festival<sup>6</sup>. Other such communal violence include the 2002

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<sup>4</sup> Math, SB; *Supreme Court judgment on polygraph, narcoanalysis & brain-mapping: a boon or a bane*, Indian J. Med. Res. 134: 4–7, 2011

<sup>5</sup> Nichols, B; *The Politics of Assassination: Case Studies and Analysis*, Australasian Political Studies Association Conference, 2003

<sup>6</sup> Human Rights watch p. 265, 2006

Marad massacre, which was carried out by the militant Islamist group Nationanl Development Front, as well as communal riots in Tamil Nadu executed by the Islamist Tamil Nadu Muslim Munnetra Kazagham against Hindus.

### ***Power Struggle***

During the period of 1984 to 1994, the state of Punjab in northern India was engaged in a power struggle between the militant secessionist Khalistan movement and Indian security forces. The government of India responded strongly against the University of Punjab by launching Operation Blue Star in 1984. The security force stormed in to the Golden Temple complex in Amritsar, the center of Sikh religious and spiritual life, where some militant groups had retreated. This controversial operation resulted in death of hundreds of civilians, militants and soldiers. This leads to assassination of Prime Minister Indira Gandhi by Sikh bodyguards which led to further violence<sup>7</sup>.

The aftermath of these events were felt for more than a decade<sup>8</sup>. According to a Human Rights Watch report, state security forces adopted “increasingly brutal methods to stem the insurgency, including arbitrary arrests, torture, prolonged detention without trial, disappearances and summary killings of civilians and suspected militants”<sup>9</sup>. Militant organizations responded with increased violence aimed at civilians, state security forces, and Sikh political leaders deemed to be negotiating with the government.

### **RECENT HUMAN RIGHT VIOLATION IN INDIA**

Over the ages, people have been governed by rulers who followed different system and forms of government and used their power and authority to suppress the common people. It was only in 1947 when India got its independence from the British rule and adopted democratic form of government which encouraged India to get its new face. However, even after 70 years of Independence, India still continues to suffer from significant human rights violations, despite framing many laws and policies and promising and making commitments to tackle the problems.

### ***Women Rights***

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<sup>7</sup> Kaur, J; *Twenty Years of Impunity: The November 1984 Pogroms of Sikhs in India*, 2004.

<sup>8</sup> *India-Who Killed the Sikhs*, Archived from *the original* on 12 September 2007

<sup>9</sup> *Punjab in Crisis: Human Rights in India*, Human Rights Watch. 1990

Due to the rise of crimes, violence, scams and scandals leads to the frequent human rights violations and the conditions are deteriorated in recent years in India. Violence against women is increasing at an alarming rate and they are at a high risk of sexual harassment, trafficking, and forced labour including violations of equal participation in political, economic and social life. In fact the recent molestation case in Bengaluru was shocking and condemned by all sections of our society. Such horrifying incident took place on the night of 31 December 2016 where many people gathered on the streets and started molesting the women. Despite the various strong laws and acts framed by the government, women across India still continue to suffer from domestic violence, acid attacks, rape and murder etc.

### ***People's Security***

The incident which violated the right to security of people was Indore-Patna deadliest train accident which took place on 20 November 2016. This accident took the life of more than 150 people and over 200 people got injured. This accident was one of the deadly derailments of the year. It was one of the worst rail accidents in 6 years. The main reason of this deadliest accident was poor infrastructure maintenance and carelessness by authorities.

### ***Self-Respect & Dignity***

The security forces have been accused for serious human rights violations like sexual harassment and killing of innocent tribal villagers during the operation against Maoist insurgents. According to a report given by National Commission of Scheduled Tribe, security forces in Odisha killed five tribal villagers including children and claimed that they were killed during anti-Maoist operations. A tribal woman of Chhattisgarh's Sukma district was forcefully abducted by security personnel and was gang raped and ultimately killed and it was alleged that she was killed in gunfight with armed Maoists.

## **MEASURES TAKEN TO COUNTER THE HUMAN RIGHTS VIOLATIONS**

In India, *Human Rights Act*, enacted in 1993, according to this, '*Human rights*' means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the constitution or embodied in the International Covenants and enforceable by courts in India."

The National Human Rights Commission, the State Human Rights Commission in different States and Human Right Courts has been established. Indian government has undertaken several measures for the greater protection of the women, children and certain other groups of

the society. They include, (i) Prohibition of Sati Practice, (ii) The minimum age for marriage has been fixed by law, a boy below the age of 21 and a girl below the age of 18 cannot marry, (iii) Dowry System has been prohibited by law, (iv) Child Labor (below the age of 14) is prohibited in factories and mines, (v) The Protection of Human Rights Act, was enacted in 1993, (vi) The Protection of Women from Domestic Violence Act was passed in 2005 to protect women from domestic atrocities, (vii) Right to Information act was passed in 2005 and (viii) Right to education has been accepted as a fundamental right in India. The Right of Children to Free and Compulsory Education Act was passed in 2009.

In the recent years the government of India under the leadership of Prime Minister Narendra Modi has taken important strides especially with the legal reform with respect to the treatment of women, dalits and various vulnerable groups. Some of the initiatives launched by Prime Minister are “*Beti Bachao Beti Padhao*”, *UJJAWALA*– a comprehensive scheme for the prevention of trafficking and Rescue, “*Stand-up India*” scheme for Women, Scheduled Caste, Scheduled Tribe and many others. But still in many areas the government continued to fall short, both with respect to legal reform and its implementation. There is a need to sensitize the women, children, youth and various other communities of the people to spread about human rights.

## **NATIONAL HUMAN RIGHTS COMMISSION OF INDIA**

The National Human Right Commission of India is an autonomous public body. It has been constituted under the Protection of Human Rights Ordinance, 28 September 1993<sup>10</sup>. It was given a statutory basis by the Protection of Human Rights Act, 1993<sup>11</sup>. The NHRC is the National Human Rights Commission of India responsible for the protection and promotion of human rights, defined by the Act as “rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants”<sup>12</sup>.

### ***Composition***

The National Human Right Commission comprise (i) A chairperson should be retired CJI (ii) One member who is Judge of the Supreme Court of India (iii) One member who is Chief

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<sup>10</sup> Annual Report 1993-94 of the National Human Rights Commission

<sup>11</sup> The Protection of Human Rights Act, 1993, as amended by the Protection of Human Rights (Amendment) Act, 2006.

<sup>12</sup> Nath, D; *NHRC issues notice to T.N.*; The Hindu 23 February 2017

Justice of a High Court, (iv) Two members to be appointed from among persons who has knowledge or experience in matters relating to human rights and (v) In addition, the Chairpersons of four National Commissions (SCs, STs, Women and Minorities) serve as ex-officio members. The sitting Judge of the Supreme Court or sitting Chief Justice of any High Court can be appointed only after the consultation with the Chief Justice of Supreme Court.

## **FUNCTIONS**

The functions of National Human Right Commission are include (i) inquire on a petition given by a victim regarding the violation of human rights or negligence in the prevention of such violation by a public servant; (ii) intervene in any proceeding involving allegation of violation of human rights pending before a court; (iii) visit any jail or other institution where persons are detained or lodged for purposes of treatment, reformation or protection. This is to study the living conditions and make recommendations thereon to the Government; (iv) review the safeguards provided in the constitution for the protection of human rights and recommend measures for their effective implementation; (v) review the factors, including acts of terrorism that that pose a challenge to the enjoyment of human rights and recommend appropriate remedial measures; (vi) study treaties and other international instruments on human rights and make recommendations for their effective implementation; (vii) undertake and promote research in the field of human rights; (viii) take the human rights literacy to the various sections of society and create awareness and the safeguards available for the protection of these rights through publications and the media; (ix) encourage the efforts of non-governmental organizations and institutions working in the field of human rights; and (x) such other functions as it may consider necessary for the protection of human rights.

The National Human Rights Commission has always considered media as its equal partner in the promotion and protection of human rights. The media has immensely helped in building awareness about human rights and the role of the NHRC. Media reports have been the basis of several suo motu cognizances that the Commission took about the violations of human rights in the far flung areas of the country, which, otherwise, may not have come to the notice of the Commission.

During the period of October 2015 to September 2016, the NHRC has registered 1, 05,664 cases on the basis of complaints, intimation from Police and Prison authorities etc and on suo motu basis. The number of cases registered during the period on suo motu basis is 133. The

onus is on governments in States and Centre to ensure that the faith of the people in the NHRC is not shaken even by exception, when some of them choose to ignore its recommendations, not on the merits but merely on the ground that they are not bound under the Protection of Human Rights Act to accept them.

## **CONCLUSION**

Human rights describe equal rights and freedom for everyone, irrespective of race, color, sex, language, religion or political affiliation. Every human being is born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. In history, the Human Rights were always been violated. Some leaders do not grant rights to the all the section of people in the society. Even religious leader in some cases were responsible for the violation of human rights. The National Human Right Commission taking many steps to curb the Human Right violation. Every citizen in our country has the responsibility of reporting the Human Right violations to appropriate authority.