

# Human Rights Bodies in India

## Handout for foundation batch

Faculty: Jatin Gupta

### Human rights Bodies having Constitutional backing

- National Commission for SC 338
- National Commission for ST 338A
- National Commission for Backward Classes 338B

### Human Rights Bodies having legal backing

- National Human Rights Commission
- National Commission for Protection of Child Rights
- National Commission for Women
- National Commission for Minority Education

### Functions of these bodies

- To **observe** and **monitor the safeguards** provided in the constitution for the **protection of marginalized sections** of society
- To **enquire into complaints** relating to the deprivation of rights and the Safeguards for the marginalized sections of society.
- To **advise the Centre or State govt** on planning schemes for the socio economic development of the marginalized sections.
- Regularly **reporting to the President** on the working of the Safeguards provided by the Constitution and the law.
- Promoting **research and encouraging NGOs** in the field of human rights. While making inquiries into the complaints, the commissions enjoy the powers of a civil court. They also study treaties and other international instruments on human rights and make recommendations for their effective implementation.
- Any other functions, given to them with respect to the **welfare, protection, and advancement of the marginalized sections.**
- Involved in **spreading human rights literacy** among various sections of society and **promoting awareness of the safeguards** available for the protection of these rights through publications, the media, seminars and other available means.

### Challenges or limitations of Human rights bodies or commission

1. They do not have any **investigation machinery** of their own and have to depend on the state or central agencies for their investigations. In such a scenario their ability to act independently is compromised.
2. They are only **recommendatory bodies** and their recommendations are not binding on the government. Coupled with the poor discussion of their reports in the legislature their powers are reduced.
3. They **cannot entertain or enquire into complaints** that are older than a certain period of time.

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4. The appointments are made on the basis of **political consideration** which compromises the independent functioning of these bodies.
5. They have limited power to suggest actions against the **Armed forces**. Relating to violations of human rights by the armed forces, the commission must simply seek a report from the Government, and then issue recommendations.
6. People lack **awareness** with respect to the functioning of these bodies and as a result often fail to bring issues to the notice of these bodies.
7. Most of these bodies suffer on the account of the **shortage of staff and vacancies** due to delayed appointments which have hampered the effective functioning of these bodies.
8. A number of these bodies have **overlapping functions** with each other, thus leading to chaos and confusion in turn diminishing their accountability
9. Many of these bodies lack **accessibility** to the common man e.g. NCST has only 6 regional offices in the entire country.

### Suggestions/Reforms required in the functioning of these bodies

- There should be **separate cadre and investigative machinery** for these bodies
- **Encourage better discussions in parliament** on their reports.
- There is a need to have a broad-based **committee for appointments** for human rights bodies as is present for NHRC.
- Open more branches and adopt measures like those adopted by NHRC like **complaints can be made in letters or emails** to improve accessibility
- Undertake **awareness campaigns** to make people aware of these bodies. • Govt should act on a war footing to fill vacancies.

### National Human Rights Commission

National Human Rights Commission of India (NHRC), is a **statutory body** established in **1993**, under the provisions of **The Protection of Human Rights Act, 1993**

It is responsible for the protection and promotion of “rights relating to **life, liberty, equality and dignity** of the individual guaranteed by the Constitution or embodied in the International Covenants”.

#### Composition:

The chairperson is a **retired chief justice of India or a judge of the Supreme Court**.

They are appointed by the President on the recommendations of a **six-member** committee consisting of:

- Prime Minister (Chairperson)
- Speaker of the Lok Sabha
- Deputy Chairman of the Rajya Sabha

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- Leaders of the Opposition in both the Houses of Parliament
- Union Home Minister.

### Term and removal:

- They hold office for a term of **three years or** until they attain the **age of 70** years, whichever is earlier.
- The President can remove them from the office under specific circumstances.

### Examples of Important Cases taken up by NHRC

#### **1. Abuse of legal system in trafficking of girls:**

The Commission has taken suo-motu cognizance of a complaint filed by the NGO, International Law Affiliates on the plight of poor girls in Nepal and India being trafficked and forced into prostitution in various red light areas. The complainant, while requesting the Commission to consider taking action, had forwarded a copy of his petition addressed to the Chief Justice of India dated 27 December 2004 as well as a news article captioned **"The Girl Breakers of Delhi"** published in a national daily on 19 December 2004.

The news article is a gory narration of trafficking and exploitation of girls belonging to lower strata of the community. It makes a reference to the collusion between the pimps, brothel owners and police officials to force poor gullible girls into the prostitution racket. The Commission observed that the contents of the article, if true, portray a dismal picture of exploitation and trafficking of girls by the abuse of legal system in connivance with the authorities who are supposed to provide protection against such exploitation. The article points towards an organized racket in trafficking of girls and raises a serious human rights issue, which needs to be addressed with all seriousness. It has directed that a copy of the petition along with a copy of the news article referred to above be forwarded to the Commissioner of Police, Delhi with a request to inquire into the matter and submit his report within four weeks.

#### **2. Rape of a visually impaired girl at Nadia:**

Taking suo-motu cognizance of a news item captioned **"Disabled Girl raped at home"** which appeared in a national daily dated 17 December 2004, the Commission has asked the Director General of Police, Kolkata, West Bengal to look into the allegation contained in the news story and submit his comments within two weeks. The newspaper had published a news story on 17 December 2004 wherein it was reported that a 19-year-old visually impaired girl had been allegedly raped at her home by two miscreants in Dhorandaha village, Karimpur, Nadia, West Bengal in the absence of her parents. The report further stated that both the miscreants allegedly have political clout and a reputation in the locality as musclemen. It also stated that the miscreants have threatened the victim not to report the incident to the police. The mother of the victim was initially scared to file a complaint but at the instance of village elders she lodged an FIR, it said. Earlier the duo had allegedly raped women but no complaint was lodged against them.