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THE ROLE OF THE NATIONAL HUMAN RIGHTS COMMISSION

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Human rights are the fundamental rights and freedoms that every person is entitled to, regardless of nationality, sex, ethnicity, religion, or any other status. In many countries, the protection and promotion of these rights are overseen by a dedicated body known as the National Human Rights Commission (NHRC). The role of these commissions is crucial in ensuring that human rights are respected, protected, and fulfilled.

ESTABLISHMENT AND MANDATE

The National Human Rights Commission is typically established by national legislation and is often embedded within the country's constitution. The primary mandate of the NHRC is to investigate and address complaints of human rights violations, promote human rights awareness, and advise the government on human rights issues. For instance, the NHRC of India was established under the Protection of Human Rights Act, 1993, and it functions as an independent and autonomous body.¹

INVESTIGATIVE POWERS AND PROCEDURES

One of the core functions of the NHRC is to investigate complaints of human rights violations. This includes cases of police brutality, unlawful detention, custodial deaths, and discrimination based on race, gender, or religion. The NHRC has the authority to summon individuals, request documents, and conduct on-site inspections. For example, in the United States, the U.S. Commission on Civil Rights conducts hearings and collects evidence on civil rights issues, which often lead to comprehensive reports and policy recommendations.²

The process usually begins with the receipt of a complaint from an individual or group alleging a human rights violation. The NHRC then conducts a preliminary assessment to determine the

¹ Protection of Human Rights Act, 1993, No. 10, Acts of Parliament, 1993 (India).

² U.S. Comm'n on Civ. Rts., <https://www.usccr.gov/> (last visited June 8, 2024).

validity of the complaint. If the complaint is found to be valid, a detailed investigation is initiated, which may include fact-finding missions, witness interviews, and forensic analysis. Upon completion of the investigation, the NHRC can recommend remedial action, including compensation for victims, disciplinary action against perpetrators, and policy reforms.

ADVISORY ROLE

Beyond investigation, the NHRC plays a critical advisory role. It provides expert advice to the government on human rights issues, which can include drafting legislation, developing policies, and ensuring compliance with international human rights standards. For example, the National Human Rights Commission of South Korea has been instrumental in advising the government on issues related to freedom of expression and privacy rights, leading to significant legislative reforms.³

PROMOTION OF HUMAN RIGHTS EDUCATION

Education and awareness are key components of the NHRC's mandate. By promoting human rights education, the NHRC helps to foster a culture of respect for human rights within society. This can involve public awareness campaigns, educational programs in schools and universities, and training for law enforcement officials. The NHRC often collaborates with non-governmental organizations (NGOs), civil society groups, and international bodies to amplify its educational efforts. For example, the Australian Human Rights Commission runs extensive educational programs that address issues such as racism, gender equality, and disability rights.⁴

MONITORING AND REPORTING

Monitoring the state of human rights in the country is another vital function of the NHRC. This involves systematically collecting data on human rights practices, identifying trends, and assessing the effectiveness of government policies. The NHRC regularly publishes reports that highlight human rights issues and provide recommendations for improvement. These reports are valuable tools for holding the government accountable and ensuring transparency. For instance, the NHRC in Kenya publishes annual reports on the state of human rights in the country, which are used by both the government and civil society to guide their actions.⁵

CHALLENGES FACED BY NATIONAL HUMAN RIGHTS COMMISSIONS

³ Nat'l Hum. Rts. Comm'n of S. Kor., <https://www.humanrights.go.kr/eng/> (last visited June 8, 2024).

⁴ Austl. Hum. Rts. Comm'n, <https://www.humanrights.gov.au/> (last visited June 8, 2024).

⁵ Kenya Nat'l Comm'n on Hum. Rts., <https://www.knchr.org/> (last visited June 8, 2024).

Despite their important role, NHRCs face several challenges that can hinder their effectiveness. One significant challenge is the issue of independence. To be effective, NHRCs must operate without undue influence from the government. However, in many countries, NHRCs struggle with political interference, which can compromise their ability to carry out impartial investigations and issue unbiased reports.⁶

Another challenge is limited resources. Many NHRCs operate with insufficient funding and staffing, which can limit their capacity to investigate complaints and conduct thorough research. This problem is particularly acute in developing countries, where resource constraints are more pronounced.⁷

Moreover, NHRCs often face challenges related to the implementation of their recommendations. While NHRCs can recommend actions to the government, they typically do not have the power to enforce these recommendations. As a result, many NHRCs see their recommendations ignored or only partially implemented, which can undermine their credibility and effectiveness.⁸

INTERNATIONAL COLLABORATION

NHRCs often engage in international collaboration to strengthen their capacity and share best practices. They may work with regional human rights bodies, such as the African Commission on Human and Peoples' Rights, and international organizations like the United Nations. Such collaborations can provide technical assistance, capacity-building programs, and platforms for NHRCs to raise concerns at the international level. For example, the European Network of National Human Rights Institutions (ENNHRI) facilitates cooperation among European NHRCs to promote and protect human rights across the continent.⁹

CASE STUDIES

To illustrate the impact of NHRCs, consider the following case studies:

1. India: The NHRC of India intervened in the case of bonded labor in the state of Tamil Nadu, leading to the release and rehabilitation of hundreds of laborers. The commission's efforts

⁶ Cees Flinterman, *The Independence of National Human Rights Institutions*, 11 *Int'l J. Hum. Rts.* 331 (2007).

⁷ Samuel Walker, *The Efforts of National Human Rights Commissions in Developing Countries*, 29 *Hum. Rts. Q.* 839 (2007).

⁸ Anne Smith, *The Unique Position of National Human Rights Commissions: A Mixed Blessing?*, 28 *Hum. Rts. Q.* 904 (2006).

⁹ European Network of Nat'l Hum. Rts. Insts., <https://ennhri.org/> (last visited June 8, 2024).

included on-site inspections, collaboration with local authorities, and ensuring the implementation of legal provisions against bonded labor.¹⁰

2. Australia: The Australian Human Rights Commission played a pivotal role in addressing the issue of children in immigration detention. Through its investigations and reports, the commission highlighted the adverse effects of detention on children and advocated for policy changes, resulting in the release of many children and their families from detention centers.¹¹

3. South Africa: The South African Human Rights Commission has been active in addressing systemic issues of racism and inequality. It has conducted extensive research and public inquiries into racial discrimination in various sectors, including education and employment, and has made recommendations for policy reforms that promote equality and non-discrimination.¹²

CONCLUSION

The role of the National Human Rights Commission is indispensable in safeguarding human rights. Through their investigative powers, advisory roles, educational initiatives, and monitoring activities, NHRCs play a crucial part in ensuring that governments uphold human rights standards. However, for NHRCs to be truly effective, they must operate with independence, sufficient resources, and the ability to enforce their recommendations. By addressing these challenges and fostering international cooperation, NHRCs can continue to advance the cause of human rights and contribute to the development of just and equitable societies.

¹⁰ Nat'l Hum. Rts. Comm'n of India, <https://nhrc.nic.in/> (last visited June 8, 2024).

¹¹ Austl. Hum. Rts. Comm'n, <https://www.humanrights.gov.au/> (last visited June 8, 2024).

¹² S. Afr. Hum. Rts. Comm'n, <https://www.sahrc.org.za/> (last visited June 8, 2024)