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## THE ROLE OF NHRC IN INDIA:

### GUARDIAN OF HUMAN RIGHTS OR A TOOTHLESS TIGER?

~*Surbhi Tripathi*

#### INTRODUCTION

In a country as diverse as India, ensuring the inalienability of human rights is not merely a constitutional guarantee but it's an everyday challenge. Protection of human rights has been a core concern of the United Nations since its establishment. The fear of further violation of human rights made United Nations General Assembly to adopt the Paris Principles on Human Rights<sup>1</sup>. Adoption of the Paris Principles led to the establishment of national human rights institutions in almost every country.

In India, the National Human Rights Commission, which is called as the “watchdog of human rights”, takes the responsibility of protecting the rights relating to life, liberty, equality and dignity of the individual. It is a statutory body constituted under the Protection of Human Rights (PHR) Act 1993<sup>2</sup>. It was envisioned as an independent statutory body to safeguard and promote human rights across the country.

Over the years, the NHRC has played a visible role in addressing human rights concerns. However, the NHRC holds a paradoxical position as some regard it as a vigilant guardian of human rights while others criticise it as a “toothless tiger” with restricted powers.

#### FUNCTIONS AND POWERS

The wide-ranging functions of the NHRC are primarily outlined in Section 12 of the Protection of Human Rights Act, 1993, though its powers remain merely recommendatory.

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<sup>1</sup> United Nations General Assembly, *Principles Relating to the Status of National Institutions (The Paris Principles)*, G.A. Res. 48/134 (Dec. 20, 1993).

<sup>2</sup> The Protection of Human Rights Act, No. 10 of 1994, India Code (1993).

- **Investigation:** It has the exclusive power to inquire and take suo motu action upon complaints regarding the violation of human rights or negligence in the enforcement of human rights by a public servant.
- **Civil Court Powers:** The commission is vested with all the powers of a civil court under the Civil Procedure Code, 1908<sup>3</sup>. It incorporates the power to summon witnesses, receive evidence on affidavits, and requisition any public record.
- **Prison Visits:** NHRC commence random jail visits, detention centres, and other institutions under the control of the State Government to study the living conditions of the inmates and make recommendations for their improvement.
- **Policy Review:** It reviews the safeguards provided by the Constitution or any law for the protection of human rights and recommends measures for their effective implementation.
- **Awareness and Research:** It undertakes and promotes research in human rights and spreads human rights literacy among various sections of society.

While the NHRC can recommend compensation or payment of damages to the victim, or even initiation of legal proceedings against the guilty public servant, its recommendations are not binding on the concerned Government or authority. This lack of enforceable power often leads to criticism that it is a "toothless tiger."

## NHRC AS A GUARDIAN OF HUMAN RIGHTS

It would be sceptical to dismiss the NHRC's achievements entirely. Over the years, the Commission has acted as a critical interventionist in several landmark instances:

### 1. THE GUJARAT RIOTS (2002)<sup>4</sup>

The NHRC played a decisive role in intervention during the 2002 post-Godhra riots, which remains one of its finest actions. Under the chairmanship of Justice J.S. Verma, the NHRC took *suo motu* cognisance, moved the Supreme Court and sought a transfer of case hearings out of Gujarat in order to ensure a free trial.

### 2. COMBATING CUSTODIAL VIOLENCE

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<sup>3</sup> Code of Civil Procedure, No. 5 of 1908, India Code.

<sup>4</sup> *Zahira Habibullah Sheikh v. State of Gujarat*, (2004) 4 SCC 158 (India).

The NHRC has been instrumental in mandating that every custodial death be reported to the commission within 24 hours, ensuring institutional transparency. It has recommended a significant amount of compensation to the victims of police brutality and works actively for police reform.

### **3. CIVIL LIBERTIES AND MENTAL HEALTH**

The NHRC oversees mental health institutions, and its focus on the rights of manual scavengers has brought invisible rights into the mainstream of legal discourse.

#### **4. Focus on vulnerable groups**

The NHRC has consistently championed the rights of marginalised sections. It has undertaken major interventions concerning the abolition of bonded labour and child labour,<sup>5</sup> the rights of disabled persons, women, children, the rights of elderly persons, and the plight of manual scavengers.

### **JUDICIAL OBSERVATION**

In *DK Basu v. State of West Bengal* (1997)<sup>6</sup>, the Supreme Court affirmed NHRC's critical role in combating custodial violence and safeguarding procedural rights.

### **LIMITATIONS: THE "TOOTHLESS TIGER"**

NHRC has made notable contributions, yet some formidable limitations raise questions about its effectiveness. The constructive critique is that its powers are merely recommendatory. Its decisions are non-binding on the government authorities, hence a lack of efficient enforcement. This makes it very hard for it to deliver justice. In essence, critics argue that NHRC is underfunded to address systemic human rights violations.

### **CONCLUSION**

The National Human Rights Commission occupies a very important position in the protection of human rights, and it plays a decisive role in the promotion of human rights.

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<sup>5</sup> Bonded Labour System (Abolition) Act, No. 19 of 1976, India Code; Child Labour (Prohibition and Regulation) Act, No. 61 of 1986, India Code.

<sup>6</sup> *D.K. Basu v. State of W.B.*, (1997) 1 SCC 416 (India).

The question of whether NHRC is a protector of human rights or a toothless tiger does not have a simple answer. It is the truth in the grey, A “Guardian with its hands tied.” The institution is the watchdog of human rights but constrained by structural and legal limitations.

India is a constitutional democracy with a tradition of protection of fundamental rights, and NHRC is an important institution functioning as the protector of human rights. Proper enforcement powers, real independence and a wider jurisdiction are needed if the commission is to become more accountable.