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BEYOND CIVIL LIBERTIES: NHRC AND THE STRUGGLE FOR SOCIO-ECONOMIC JUSTICE IN INDIA

~ Gurnika Dhillon

I. INTRODUCTION

A man who dies in police custody has a file at the National Human Rights Commission within days. A man who dies of silicosis after fifteen years in a quartz crushing unit may have no file at all. Both are failures of the State. Only one fits the way we usually speak about human rights in India.

The statute does not create this imbalance. Section 2(1)(d) of the Protection of Human Rights Act, 1993 defines human rights as rights relating to life, liberty, equality and dignity guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India.[1] Section 2(1)(f) counts the International Covenant on Economic, Social and Cultural Rights among those Covenants.[2] On paper, food, health and housing belong to the Commission as much as custody and torture. Yet the NHRC is known for its custodial death figures. It is not known for hunger.

II. A MANDATE WIDER THAN THE PRACTICE

The usual objection is justiciability. Socio-economic guarantees sit among the Directive Principles, which Article 37 makes unenforceable by any court.[3] On this reading, "enforceable by courts in India" closes the door that Section 2(1)(f) opens.

Case law has long answered that objection. *Olga Tellis v. Bombay Municipal Corporation* read the right to livelihood into the right to life.[4] *Paschim Banga Khet Mazdoor Samity v. State of*

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[1] The Protection of Human Rights Act, 1993, § 2(1)(d), No. 10, Acts of Parliament, 1994 (India) [hereinafter PHRA].

[2] *Id.* § 2(1)(f).

[3] INDIA CONST. art. 37.

[4] *Olga Tellis v. Bombay Mun. Corp.*, (1985) 3 SCC 545 (India).

West Bengal held that a government hospital turning away a patient in an emergency violates Article 21.[5] These guarantees are enforceable in exactly the sense the definition requires.

Section 12 agrees. The Commission may inquire into violations, intervene in court proceedings and review factors that inhibit the enjoyment of human rights.[6] None of this is limited to police and prisoners.

The Commission has also proved its capability. The Supreme Court entrusted it with monitoring the Bonded Labour System (Abolition) Act, 1976, a role revisited in *People's Union for Civil Liberties v. State of Tamil Nadu*.[7] In 2011 it directed Gujarat to pay three lakh rupees to each family of 238 silicosis victims. The Supreme Court enforced that relief in 2016.[8]

III. WHY THE WIDER HALF STAYS QUIET

The explanation lies in design. First, the Commission mostly waits to be approached. Section 12(a) permits *suo motu* action, but most of its work begins with a complaint. A custodial death produces a complainant, a date and an identifiable public servant. Malnutrition produces none of these. Deprivation is rarely an event.

Second, the remedy has a particular shape. Section 18 allows the Commission to recommend prosecution, approach the constitutional courts and recommend compensation.[9] Compensation does most of the work. It answers a discrete injury to a known person, not a district whose health centre has no doctor. In *Kiran Singh v. National Human Rights Commission*, the Delhi High Court held such recommendations binding, insisting that commissions be "fierce defenders" and not "toothless tigers".[10] That strengthens the remedy without widening its reach.

Third, capacity is thin. In 2023-24 the Commission registered 76,891 complaints with 282 staff against 356 sanctioned posts.[11] At that ratio, triage favours cases that close quickly. The annual report counts custodial deaths case by case. Food and health get only thematic chapters. What an institution counts shows what it considers its work.

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[5] *Paschim Banga Khet Mazdoor Samity v. State of W.B.*, (1996) 4 SCC 37 (India).
[6] PHRA § 12.
[7] *People's Union for C.L. v. State of T.N.*, (2013) 1 SCC 585 (India).
[8] Press Release, Nat'l Hum. Rts. Comm'n, NHRC to Gujarat Government: Pay Relief to Silicosis Victims' Families or Face Supreme Court (July 5, 2011); *People's Rts. & Soc. Res. Ctr. v. Union of India*, W.P. (C) No. 110 of 2006 (May 4, 2016) (India).
[9] PHRA §§ 12(a), 18.
[10] *Kiran Singh v. Nat'l Hum. Rts. Comm'n*, 2025 LiveLaw (Del) 106 (India).
[11] NAT'L HUM. RTS. COMM'N, ANNUAL REPORT 2023-24, at 4, 13 (2025).

IV. WHAT SOUTH AFRICA BUILT INSTEAD

South Africa answered the same question in its Constitution. Section 184(3) requires its Human Rights Commission to obtain yearly reports from organs of state on measures taken to realise the rights to housing, health care, food, water, social security, education and the environment.[12] This duty does not wait for a victim.

The record is sobering. Departments replied late, inconsistently or not at all. By 2021 the relevant research sub-unit had only two researchers. The last report tied expressly to Section 184(3) covered 2012-13.[13] South Africa has the standing duty India lacks. It also shows that such a duty, without staff and enforcement, produces documents rather than change.

V. CONCLUSION

The accreditation review due in November 2026 is an opportunity more than a reprimand. In 2025 the global accreditation body for such institutions recommended downgrading the NHRC's "A" status.[14] In December 2025 the matter was referred back for the November 2026 session.[15] Few institutions get such a warning with time to respond.

The foundations are already in place. The statute names the Covenant on Economic, Social and Cultural Rights, the courts have spent forty years making those guarantees justiciable through Article 21, and the Commission has twice shown what it can do with them, in the bonded labour mandate the Supreme Court entrusted to it and in the silicosis inquiry that reached 238 families. Nothing needs to be invented and no amendment is required.

What remains is a question of emphasis. A commission that placed a standing socio-economic review beside its complaint docket would not be departing from its mandate. It would be completing it.

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[12] S. AFR. CONST., 1996 § 184(3).
[13] Sandra Liebenberg & Bradley Slade, *Applying a Human Rights Lens to Poverty and Economic Inequality: The Experience of the South African Human Rights Commission*, 51 FED. L. REV. 296 (2023).
[14] GLOB. ALL. OF NAT'L HUM. RTS. INSTS., REPORT AND RECOMMENDATIONS OF THE SESSION OF THE SUB-COMMITTEE ON ACCREDITATION (Mar. 2025), https://ganhri.org/wp-content/uploads/2025/06/SCA-Report-march-2025-session_13052025_EN.pdf.
[15] *India: NHRC Must Enact Meaningful Reforms as Its Accreditation Review Is Postponed to November 2026*, FORUM-ASIA (Mar. 13, 2026), https://forum-asia.org/nhrci-accreditation-postponed/ .