

CHAPTER III

STATE HUMAN RIGHTS COMMISSIONS IN INDIA

EXCLUDING NORTH EASTERN STATES SINCE 1993

State Human Rights Commissions:

To supplement the efforts of the judiciary and executive to protect human rights and providing an easy access to the victims of violation of such rights the Government of many States vide its Resolution of the Home Department decided to set up a State Human Rights Commissions (SHRCs). As per the resolutions each State in India may constitute a body to be called a 'State Human Rights Commission' to exercise its powers on Human Rights. ¹²⁵It is fact that NGO's attribute the Human Rights Commissions have been created in Asia mostly to appease international audiences.¹²⁶ The Asian Legal Resource Centre reported the UN Human Rights Commission in mid 1999 that governments in the region have used National Human Rights Commission largely to improve their national images and primarily to reject international pressure, criticism and scrutiny over violations of human rights by the governmental forces and agencies.¹²⁷

Until the early 1990s, the Indian Government displayed negligible regard for local human rights and civil liberties organizations. Their reports, appeals and petitions on human rights abuses, particularly in view of anti insurgency operations in Kashmir, Punjab and North Eastern states, met with riotous silence. The sarcastic reports of Amnesty International and Asia Watch had sharpened the international visibility of these

¹²⁵ Rajeev Dhavan, "More is not always More: Unto us a Human Rights Commission is Given – But Why?," *Legal Perspectives*, Documentation File No. 26, June 1992, p. 17

¹²⁶ V. R. Krishna Iyer, "Statement on Proposed: Human Rights Commission," *Legal Perspectives*, Vol. 13. No. 1, Spring 1989, p. 13

¹²⁷ Upendra Baxi, "State and Rights Movement in India," *Legal Perspectives*, Documentation File No. 26, June 1992, p. 22

human rights abuses.¹²⁸ The Indian government, however, could not continue to ignore the criticism of the international human rights community, which reported to the world the increasing rate of human rights violations in the country and accused the government of ignoring the abuses by providing impunity to security forces and almost ignoring human rights excesses.¹²⁹ The State of Madhya Pradesh has the dubious distinction of having created a State Human Rights Commission in 1992.

On 14th May 1993, the final day of the Budget Session of the Lok Sabha, the government of India introduced “The Human Rights Commission Bill, 1993”(Bill No.65 of 1993). Remarkably, the Union Home Minister S. B. Chavan, did not abide by the established routine that the bill first be referred to the Parliamentary Standing Committee for analysis. Instead, after introducing it in the Parliament, the Minister Chavan referred the bill to the Parliamentary Standing Committee of the Home ministry, where it soon faded. The President, therefore under Article 123 of the Constitution proclaimed the Protection of Human Rights Ordinance on 28th September 1993. Two months later, a fresh bill was submitted to Parliament. The Government of India was clearly in a hurry to establish the Commissions through an ordinance without going through the normal Parliamentary procedures. On 8th January 1994, after a relatively indifferent Parliamentary discussion, the “Protection of Human Rights Act, 1993” received assent

from the President. The Act came into force with retrospective effect from 28th September 1993.¹³⁰

¹²⁸ Upendra Baxi, op.cit.

¹²⁹ V. R. Krishna Iyer, op.cit., p. 14

¹³⁰ Preeti Mehra, “Commissions and their omissions: Human rights commissions do not perceive themselves as independent and believe they are answerable to governments, not citizens,” *The Hindu*, 16th April 2013

The Protection of Human Rights Act, 1993 (PHRA) became a reality, broadly applying the Paris Principles laid down by the UN Commission on Human Rights and the UN General Assembly. With the PHRA in place came the Human Rights Commissions, followed by, among others, Commission of Minorities, Scheduled Castes, Scheduled Tribes, Women, Children and People with Disabilities at the national and state level. It was understood that these bodies would serve to provide India the pro-human rights image that it sought on the global front. Though these quasi-judicial outfits were government-sponsored and government-funded, there was a feeling that their citizen-centric functions would guide them towards their stated goal-of providing quick redress to marginalized citizens in the face of extensive red tape and tedious court proceedings in the countries. As a result, each time blatant violations take place, be it custodial torture or rape, caste or class atrocities, or farmer suicides, citizens look towards these institutions for justice.¹³¹

The provision for creation of Human Rights Commissions at state level is enshrined in Sec 21 of the Protection of Human Rights Act of 1993. The scope of the Act is to have a human rights grievance redressal forum in each state. Section (c) of section 29 excludes ‘treaties and other international instruments on human rights’ from the purview of SHRC as the study of such treaties etc and the eligibility to make recommendations for their effective implementation has been made as the exclusive domain of National Human Rights Commission. The impact of subsection (d) of section 29 is that, the SHRCs could call for reports in relation to any human rights violations

¹³¹ Ibid.

only from the state in which it has been constituted. The SHRCs has no power to call for reports from the Central or from Governments of other states.¹³²

Any complaint cognizable or non-cognizable can be lodged with the SHRCs. Even though there is no legally binding force in the Act for making the recommendations emanating from the commissions accepted and implemented by the Governments concerned, the fact that such recommendations spring from elite judges and eminent persons constituting the commissions would help to avoid any hesitation, on the part of the Governments, on the acceptance of their recommendations. Further, it is expected that the fear of the watchful eyes of the Human Rights Commissions could prevent the instrumentalities of the state - the public servants – stop from violations of human rights. To seek possible redressal from the Human Rights Commissions, any person affected or acting on his behalf can make a complaint. SHRCs are empowered to take up inquiry or investigation ‘suo motu’. This provision is an enabling provision for the commissions to set the wheels of justice in motion without waiting for a formal complaint from any other quarters. The commissions have initiated many actions suo motu based on newspaper reports, radio and TV broadcasts and reports made available to them even from sources.¹³³

State Human Rights Commissions became a necessity after the National Human Rights Commission witnessed an increase in the number of the requests made to it seeking its interference and participation in various issues pertaining human rights violation. There are number of other reasons which also demanded the establishment of

¹³² Raja Mutthirulandi, *Human Rights, the Constitution and Statutory Institution of India*, Soorya Pathippkam publication, Tiruchirappali, 1998, pp. 211-212

¹³³ Ibid.

Human Rights Commissions at the State level. Firstly, in the vast pluralistic country like India, the redress of grievances should be swift and decentralized. Secondly, the State level commissions should address the grievances in a short duration which will save money, time and energy for the aggrieved parties. Thirdly, the message of human rights will reach the grass root level in the languages of the people of the State. Fourthly, in a federal country like ours, it is necessary that individual States should take responsibility to promote and propagate human rights and redress grievances.¹³⁴

The primary obligation to protect human rights of citizens lies on the State. The National Human Rights Commission and State Human Rights Commissions supplement their efforts by their protection of human rights. The Commission has been reiterating its view that the “better” protection of human rights can be ensured only if all the States set up human rights commission. The Commission has been urging all those States, which have not constituted Human Rights Commission, to do so expeditiously. The States must appreciate that the concern, in not only fulfilling their constitutional obligations and responsibilities of protecting and promoting human rights of the citizens, but also in facilitating the ushering in of good governance. The Commission, on its part, has endeavoured to assist and guide the State Commissions in whatever manner possible, whenever requests for such assistance or guidance have been sought. The strengthening of the State Commissions is an important agenda in the Commissions activities. With this in view, the Commission has taken the initiative to have annual interactions with all the State Human Rights Commission where mutual discussions could take place. The Commission places great importance on these interactions especially keeping in view the

¹³⁴ O.P. Chauhan and Lalit Dawal, *Human Rights Promotion and Protection*, Anmol Publications, New Delhi, 2004, p. 144

social, cultural and linguistic diversity that comprises our society. Institutionalizing the mechanism of these annual interactions is one way the Commission hoped to keep up the process of dialogue.¹³⁵

One of the important amendments to the Protection of Human Rights Act, 1993 vide Protection of Human Rights (Amendment) Act, 2006 pertains to the composition of the State Human Rights Commission. As per the principal Act, the State Commission shall consist of it Chairperson and four members. With the amendment of the section, the State Commission would now consists of a Chairperson who has been a Chief Justice of the High Court and one Member who is, or has been, a judge of a High Court or District Judge in the State with a minimum of seven years experience as District Judge; two members to be appointed from among persons having knowledge or, or practical experience in, matters relating to human rights. Further, a new sub-section (6) has been inserted under Section 12 of Protection of Human Rights Act, which states that the State governments may, appoint two or more in addition to the existing (1+4) members with the consent of a Chairperson or Member of a State Commission.¹³⁶

Today, among the 29 States and 7 Union Territories in India, the State Human Rights Commissions are established in 23 States but none of the Union Territories have the commission. Though the PHRA mandated every state to have State Human Rights Commissions, there has only been lukewarm response from the states. So far the states mentioned below alone have established State Human Rights Commissions. 1) West Bengal (1995), 2) Himachal Pradesh (1995), 3) Madhya Pradesh (1995), 4) Assam (1996), 5) Jammu and Kashmir (1997), 6) Punjab (1997), 7) Tamil Nadu (1997), 8)

¹³⁵ J.K. Chopra, *Violation of human rights in India*, DPS publishing house, New Delhi, 2010, pp. 305-306

¹³⁶ Ibid.

Manipur (1998), 9) Kerala (1998), 10) Rajasthan (1999), 11) Bihar (2000), 12) Maharashtra (2000), 13) Chhattisgarh (2001), 14) Uttar Pradesh (2001), 15) Andhra Pradesh (2002), 16) Karnataka (2005), 17) Gujarat (2005), 18) Odisha (2006), 19) Sikkim (2008), 20) Jharkhand (2010), 21) Goa (2010), 22) Haryana (2012), 23) Uttarakhand (2013). The State Human Rights Commissions have not been constituted in the five states of North East India, such as: 1) Arunachal Pradesh 2) Meghalaya 3) Mizoram 4) Nagaland 5) Tripura. West Bengal has earned the distinction of becoming the first state to constitute the SHRC in India and Uttarakhand was the last State to form the SHRC till date.

1) West Bengal State Human Rights Commission:-

West Bengal State Human Rights Commission (WBSHRC) was constituted on 31st January 1995. The first Chairperson of the commission was Chittatosh Mookerjee and four Members were Uma Ahmed, R.P. Samajdar, Samsuddin Ahmed, R. N. Sengupta, and Secretary and Chief Executive Officer was Kamalakar Mishra and Inspector General & the head of the investigative division was S. K. Sarkar. The office of the commission is situated at Salt Lake City, Kolkata.

Consequent to the assumption of office by the Chairperson and members, the commission has commenced its function from April 1995. Being the first commission, problems were there and regular sittings of the commission started from the end of May 1995.¹³⁷ According to the WBSHRC's Annual Report of 1995-1996 the commission received 524 petitions of which 367 were disposed of.¹³⁸ The number of petitions multiplied many folds in 1998-1999 when the commission received 5045 petition and

¹³⁷ West Bengal State Human Rights Commission, *Annual Report 1998-1999*, pp. 1-2

¹³⁸ West Bengal State Human Rights Commission, *Annual Report 1995-1996*, p. 54

disposed of 1115 cases.¹³⁹ A large number of petitions were received in the year 2000-2001 when the commission received 7006 petitions and disposed of 4907 petitions.¹⁴⁰ During 2002-2003, 5113 cases were received, out of these; the Commission disposed of 310 petitions.¹⁴¹ The Commission received 5296 petitions during the period from 2002-2003, out of these, the Commission disposed of 1226 petitions¹⁴² and in 2006-2007, 6929 cases were received, out of these, the Commission disposed of 2602 petitions.¹⁴³

The commission has brought out a translation of the Protection of Human Rights Act 1993 in Bengali language and has also issued a publication in Bengali highlighting the essential features of the 1993 Act.¹⁴⁴ The commission felt that, despite odds, it is now able to operate in a fully fledged manner. The recommendations and observations made by the commission have aroused expectations and have set up new bench-marks in the state.¹⁴⁵ The Commission had conducted a course of Joint Awareness Programme on Human Rights. The participants indicated that the training was very useful and encouraging. The training contributed to the participants to understand their role in the preservation of Human Rights during the conduct of their official functions.¹⁴⁶ The Commission has noticed and reported the abuse of powers by the police officials while investigating into different crimes and medical negligence on the part of the doctors at Government Hospitals.¹⁴⁷

¹³⁹ West Bengal State Human Rights Commission, *Annual Report 1998-1999*, p. 91

¹⁴⁰ West Bengal State Human Rights Commission, *Annual Report 2000-2001*, p. 71

¹⁴¹ West Bengal State Human Rights Commission, *Annual Report 2001-2002*, p. 26

¹⁴² West Bengal State Human Rights Commission, *Annual Report 2002-2003*, p. 3

¹⁴³ West Bengal State Human Rights Commission, *Annual Report 2006-2007*, p. 3

¹⁴⁴ Raja Mutthirulandi, op.cit., p. 213

¹⁴⁵ Ibid., p. 215

¹⁴⁶ West Bengal State Human Rights Commission, *Annual Report 2000-2001*, p. 3

¹⁴⁷ Ibid., pp. 8-9

The Commission took effective steps to ensure that all complaints were dealt with as fast as possible. Number of cases mostly received by the Commission were rape/molestation of women, cases of unnatural and dowry deaths and custodial death. The commission frequently visited the jail and one occasion when the Commission visited the Sub-Divisional Correctional Home they were impressed that the Home authorities were very cordial with the inmate.¹⁴⁸ The Commission emphasize on education, as the key to all developments including advancement of human rights. It believes that the door to advancement and empowerment can be unlocked only through education and awareness.¹⁴⁹ Inadequate manpower in the commissions is a hindrance in tackling in the growing number of complaints received by the Commission. Some of the sanctioned posts in the Commission are filled up by deputation from the State Government. The Commission desires that the vacant posts of the Commission should be filled up by the government immediately.¹⁵⁰

West Bengal continued to witness serious human rights violations especially by the State agencies. The security forces were responsible for extrajudicial killings, including in custody, alleged encounters and in indiscriminate firing at protestors. The armed opposition groups, particularly the Naxalites, were also responsible for violations of international humanitarian laws. The Naxalites targeted the activists of the ruling Communist Party of India - Marxist (CPI-M).¹⁵¹ At least three persons were killed in the conflict over the acquisition of 997 acres of land for a proposed Tata Motors small car

¹⁴⁸ West Bengal State Human Rights Commission, *Annual Report 2006-2007*, pp. 1-2

¹⁴⁹ West Bengal State Human Rights Commission, *Annual Report 1998-1999*, p. 32

¹⁵⁰ West Bengal State Human Rights Commission, *Annual Report 2001-2002*, p. 2

¹⁵¹ "BSF jawan kills villager", *The Telegraph*, 21st July 2006

plant at Singur in Hoogly district to bring “industrial development of the State” without the consent of the affected persons.¹⁵²

2) Himachal Pradesh State Human Rights Commission :-

In the traditional peace-loving state of Himachal Pradesh, it was calm atmosphere which has been the corner stone of life style of the hilly people of the State. However, with the passage of time, violence and crime of the present day societies are also making inroads, creating ripples to disturb the calm and tranquility of the hill State. Hence, there was requirement of having an institution which could keep a constant vigil on actions. Violation of human rights in respects of several areas enumerated in List II and List III of the seventh schedule to the Constitution have taken place. In view of these facts the Government of Himachal Pradesh decided to constitute State Human Rights Commission.¹⁵³

The Himachal Pradesh is the second State in the country to set-up its own State Human Rights Commission after West Bengal. Himachal Pradesh State Human Rights Commission (HPSHRC) was constituted on 18th March 1995 and came into existence on 5th November 1995. The first Chairperson was P.C Balakrishnan Menon and the three members of the commission were R.L Sharma, I.T. Massey and Kavita Khanna.¹⁵⁴ The Commission is headquartered at Srinagar with sub-offices at Doda, Rajouri and Jammu Districts. The main objective of the Himachal Pradesh State Human Rights Commission was to provide, speedy relief in respect of grievances of people. During the period from 6th April, 1995 to 31st March, 2001 the Commission has been able to dispose of 1301

¹⁵² “At gun-point, crores for hungry villages”, *The Telegraph*, Kolkata, 24th June 2006

¹⁵³ O.P. Chauhan and Lalit Dawal, op.cit., p. 146

¹⁵⁴ Ibid.

complaints/cases out of the total 1409 complaints received. The first five annual reports show that the highest numbers of complaint have been registered against the police department. Most of these complaints involve excesses/torture on the part of the police officials and some cases also involved inaction/negligence on their part.

In order to promote human rights awareness, the Commission started its own Quarterly News Letter in English. It turned out to be a steady source of information on the Commission's work and concerns and has also provided the idea of important decisions by the Commission in respect of individual complaints addressed to it. The Commission's proposal to approach non-governmental organizations in the state to exchange views on the implementation of the Act by mutual understanding is praise worthy. Though there is great shortage of active NGOs in the State, the Commission has always received, prompt and positive response from the Government Departments to its needs and requirement. This is a very positive attitude of the State Government. With this constructive attitude the Commission will be able to take a firm root in the State. A serious allegation sometimes leveled against the Commission was that it incurs the unnecessary expenditure involved and incurred by this office, so much so that some people have gone to the extent of dubbing this institution as "White elephant".¹⁵⁵ Keeping in view the work performed by the Commission to protect and promote the human rights of the people of the state, the Commission has satisfied the expectation of common people.

¹⁵⁵ O.P. Chauhan and Lalit Dawal, op.cit., p. 197

But now the Himachal Pradesh State Human Rights Commission is not functioning.¹⁵⁶ The Commission itself stated: “The Commission is not functioning at present due to the reason that the post of Chairperson is vacant”.¹⁵⁷ The post of the Commission Chairman has been vacant since 16th July 2005 after N.K. Jain resigned from the post on 15th July 2005 after his appointment as Chairperson of Rajasthan State Human Rights Commission. On 16th January 2006, Chandra Prabha Negi, Member of SHRC resigned. As a result, the SHRC is left with only two members - B.S. Chauhan, Retd. District and Session Judge and I.D. Bali, Senior Advocate, Himachal Pradesh High Court.¹⁵⁸

Himachal Pradesh has not been free from serious human rights violations. The security forces continued to be responsible for human rights violations including torture. On 20th April 2007, mother-son duo identified as Ratna Devi and Jagdish, residents of Khagyas village, were reportedly abused and beaten up by a jawan of the Indian Reserve Battalion (IRB) in Chamba district following an altercation.¹⁵⁹ On the night 2nd August 2007, 14 persons, residents of Baldoa village under Haripur police station in Kangra district, were allegedly tortured and stripped by police personnel headed by the Station House Officer, Haripur in police custody at the Dhera police station. The victims alleged that they were tortured in order to withdraw a dowry death case. All the victims received

¹⁵⁶ Interview with Mr. V.S. Kanwar, senior Assistant of the Himachal Pradesh State Human Rights Commission, through phone conversation, 21st June 2014, 12:15 pm

¹⁵⁷ Him Vani, “Himachal Human Rights Commission goes defunct,” www.achrweb.org, 9th November 2011, 10:30pm

¹⁵⁸ Ibid.

¹⁵⁹ “IRB jawan beats up woman, son”, *The Tribune*, 22nd April 2007

injuries and one of them had an eardrum punctured. The medical examination, following the court direction, was consistent with the allegations of violation.¹⁶⁰

3) Madhya Pradesh State Human Rights Commission:-

As per the guideline in Vienna Convention, the state of Madhya Pradesh has formed the Commission in 1992.¹⁶¹ But according to the PHRA, 1993, the Madhya Pradesh State Human Rights Commission (MPSHRC) was reconstituted only on September 1995.¹⁶² The first Chairperson of the commission was G.G.Sohani and the first four members were S.N.Avasthi, Mr.J.M.Bhagat, Mr. J.N. Saxena, Harvender Kaur and J.N.Pandey as its Secretary. The office of the commission is situated in Bhopal. Madhya Pradesh was amongst the first few States to constitute this Commission. The Commission is an expression of the concern for the protection and promotion of human rights. The Human Rights Commission in the state of Madhya Pradesh has been the pioneer in India for preparing model curriculum on Human Rights Education for high school students (class VI to X). The Commission has the active involvement of the Asian Institute for Human Rights Education and the Madhya Pradesh State Council for Education, Research and Training in this venture.¹⁶³

Madhya Pradesh stands first in the cases of crimes against tribes among the states in India. Madhya Pradesh continued to witness serious human rights violations by the security forces including the custodial death of a Dalit youth in Vidisha district town.¹⁶⁴ Women, Dalits, tribals and religious minorities continued to face atrocities and

¹⁶⁰“14 villagers allege police atrocities”, *The Tribune*, 1st September 2007

¹⁶¹ Interview with the Secretary of the Madhya Pradesh State Human Rights Commission, through phone conversation, 1st March 2014, 04:00 pm

¹⁶² Raja Mutthirulandi, op.cit., p. 272

¹⁶³ Ibid., p. 215

¹⁶⁴ “Custody death issue rocks Assembly”, *The Central Chronicle*, 8th March 2006

discrimination in the State and those who sought justice faced physical violence including killings. Women continued to face violence especially because of evil social practices.¹⁶⁵

4) Jammu and Kashmir State Human Rights Commission:-

Jammu and Kashmir State Human Rights Commission (JKSHRC) was constituted in 1997. The office of the commission is situated in Srinagar. From its inception till date, the Commission has registered 5153 cases out of which 3995 cases have been disposed of. Ex-gratia relief and Compassionate Appointments have been recommended in 1050 cases. 1158 cases are pending with the Commission. During the year 2009-10, a total of 426 cases have been registered out of which 211 cases have been disposed of and ex-gratia relief/ compassionate appointment has been recommended in 28 cases.¹⁶⁶

In 2002 amendment to the Jammu and Kashmir Protection of Human Rights Act clipped the Commission's power to appoint its technical staff, which resulted in dependence on the state government for the same. The commission suffers from acute financial shortage and is fully dependent on the state government. The Annual Report 2004-2005 of the JKSHRC stated that the commission was financially "left totally dependent and at the mercy of the government" which endangered the independence of the commission.¹⁶⁷ It also revealed that in the absence of an independent investigating agency, the commission had to be dependent on the State Police to conduct investigations even if the cases were against the police personnel. In its Annual Report 2005-2006, the commission pointed out that the government first forwarded the commission's

¹⁶⁵ "Varsha Khan's parents kill her, lover in 'honour killings'", *The Pioneer*, 18th January 2006

¹⁶⁶ "Jammu and Kashmir State Human Rights Commission", www.jklaw.nic.in, 1st October 2014, 7:10pm

¹⁶⁷ "SHRC writes to government for more powers", ACHR's India Human Rights Report 2009, www.achrweb.org, 24th May 2010

recommendations to the concerned District Commissioner for verification which effectively made the commission's findings unnecessary.¹⁶⁸

No doubt, the establishment of this JKSHRC was a step forward in building an institution for the protection and governance of human rights. The commission has been constituted to protect individuals against discrimination. Hence, the precise function and powers of the commission have been defined in the concerned act. Unfortunately, the state government does not take the JKSHRC seriously. It lacks basic infrastructure like Staff, and independent research division and investigating agency as mentioned in sub-clause (b) of sub-section (i) of section 11 of the Act. The masses, particularly those living in rural areas are ignorant about the activities of the Commission.¹⁶⁹

The recommendations of the JKSHRC remain unimplemented. In July 2006 the then Chairman of JKSHRC, A. M. Mir resigned in protest against what he termed "growing human rights violations in the state and non-implementation of Commission's recommendations." In his resignation letter to the then Governor, S K Sinha, Mir stated that JKSHRC was an "eyewash to befool the world community". He wrote - "During my tenure, not a single recommendation made by the Commission was implemented. JKSHRC has not been able to accomplish the object for which it was established. I waited for long in the hope that my efforts might yield some results."¹⁷⁰

¹⁶⁸ "Jammu and Kashmir Chapter", ACHR's India Human Rights Report 2009, www.achrweb.org, 6th January 2011, 3:30pm

¹⁶⁹ Arifat Jan, "Human Rights Commission in Jammu and Kashmir", www.ipcs.org, 27th September, 2013, 10:30pm

¹⁷⁰ "Jammu and Kashmir State Human Rights Commission: In Shambles", *Asia Centre for Human Rights*, Issue- 02, October to December 2010

According to the 2008-2009 Annual Report, the commission had asked for its own independent wing headed by an Inspector-General to carry out investigations into complaints of human rights violations. As per Section 11 of the Jammu and Kashmir Protection of Human Rights Act, the state government is bound to depute a police team to the Commission headed by an officer not below the rank of an IGP for probing the complaints. However, JKSHRC stated that the investigating agency has been without the services of an IGP. The Commission expressed resentment over the delay in providing a separate building to it. The JKSHRC stated that the Commission was having only one member after two members retired in 2009.¹⁷¹

On 26th February 2010, Chief Minister Omar Abdullah during the first budget session of ruling NC-Congress coalition pledged to adequately strengthen the Jammu and Kashmir State Human Rights Commission. Omar Abdullah stated “I would ensure strengthening of Commission to the extent that its Chairman need not leave the way Ali Mohammed Mir had left.”¹⁷² However, nothing has changed. In February 2011, incumbent Chairman of the State Human Rights Commission, Bashir-ud-Din during his meeting with the Government of India-appointed interlocutors stated that the existing Human Rights Protection Act needs “drastic changes and amendments” to make it more forceful. The Chairman further told that “the powers that the Commission should be vested with are not there. The Commissions’ recommendations need to be acted upon both at the centre and state level.” Further, there has been lack of support and cooperation

¹⁷¹ “Annual report belie promise to empower SHRC”, *The Kashmir Times*, 31st March 2010

¹⁷² Ibid.

from the State Government and its agencies including Deputy Commissioners and police.¹⁷³

In a startling revelation, the Jammu and Kashmir State Human Rights Commission has stated that it has found 2,730 bodies dumped in unmarked graves in four different districts of the state. In its 'Inquiry Report of Unmarked Graves in North Kashmir', the SHRC states that the unidentified bodies had been buried in 38 sites in north Kashmir's Baramulla, Bandipora, Handwara and Kupwara districts. At least 574 have been identified as bodies of local Kashmiris. The government had previously said that the graves were of unidentified terrorists, most of them Pakistanis killed over the two decades of violence in Jammu and Kashmir and whose bodies had been handed over to village authorities for burial. However, in response to commission inquiries, in March 2010 district police claimed that a total of 464 unidentified bodies had been buried in north Kashmir.¹⁷⁴ "Where the state is involved in rights violations for 20 years, in such circumstances to even think about justice is a big thing," Moderate Hurriyat leader Mirwaiz Umar Farooq said, adding that State Human Rights Commission was a "powerless organization" that has no power to work for human rights.¹⁷⁵ In September, the state government rejected calls for DNA testing of 2,730 corpses that a police investigative team found in unmarked graves at 38 sites in north Kashmir in July 2011. Some of the gravesites are believed to hold victims of enforced disappearance and extrajudicial execution by government security forces dating back to the 1990s.¹⁷⁶

¹⁷³ "Interlocutors call on SHRC chairman - Solution to HR Issue Lies In Political Resolution", *The Greater Kashmir*, 26th February 2011

¹⁷⁴ Vicky Nanjappa, "Jammu and Kashmir State Human Rights Commission," *www.rediff.com*, 27th September, 2013, 10:30pm

¹⁷⁵ "Human rights violated for 20 yrs in J&K: Mirwaiz", *www.rediff.com*, 16th December 2010, 8:30pm

¹⁷⁶ Bhargab Kumar Kalita, Bhusita Medhi, "Human Rights in India: Its present status, positions, cases of violations and some remedial measures", *www. Academia.edu*, 4th January 2015

5) Punjab State Human Rights Commission:-

Punjab State Human Rights Commission (PSHRC) was established on 17th March 1997 and started functioning from 16th July 1997.¹⁷⁷ The first Chairperson of the commission was V.K. Khanna and the other four members were J.S. Sekhon, M.S. Chahal, T.S. Cheema, M.K. Mattewel. The Commission is having Administration Division, Judicial Division and Investigation Division. The office of the commission is situated at Chandigarh. The Punjab State Human Rights Commission highlights the greatest responsibility upon it is to restore the faith of citizens in the State. The Commission has been established to ensure that the State does not become the oppressor, the task of the Commission will only be realized when government regard themselves as servants of the people. Human rights and good governance are intrinsically linked, for one cannot exist without other. In democratic societies, it is imperative that governments recognize the will of the people and are receptive to scrupulous upholding of their rights. The scope of the Commission's functions therefore encompasses advising and assisting the Government in its ultimate objective of fulfilling the aspirations of its citizens, which can only be realized through respect for human rights.¹⁷⁸

The statutory provisions and the regulations framed by the Commission to organize its functions and procedures ensure the Commission's transparency. The openness with which the Commission functions can be gleaned from the Commission's capacity to receive petitions, provisions relating to making copies of the Commission's reports and decisions available to petitioners, placement of the reports of the Commission regarding its own functioning before the Legislative Assembly and the public. The

¹⁷⁷ Punjab Human Rights Commission, *Annual Report 1997-1998*, p. 1

¹⁷⁸ Punjab Human Rights Commission, *Annual Report 1999-2000*, p. 71

Commission has also been trying to develop close relationship with Non-Governmental Organization, media, public and human rights activists to not only promote human rights culture but also to propagate its message of transparency. The Commission has fixed its priorities keeping in mind what is of the highest concern to the people. It has taken suo-motu action in many instances. It has taken particular note of cases of custodial death, rape, disappearance from custody; cruel inhuman, degrading punishment and torture; atrocities against women, children and the disabled. Simultaneously the Commission's activities have promoted education and training in the broadest sense of human rights culture.¹⁷⁹

The Commission is deeply concerned about the terrible condition of overcrowding, dilapidated building, lack of sanitation, poor medical facilities and inadequate diet, in most of the jails in the State. These serious deficiencies are compounded unreasonable delay and mismanagement in the administration of jails, all of which need to be remedied. The Commission intends to follow up this subject vigorously for improving prison conditions by working closely with all concerned.¹⁸⁰ There was a sharp increase in the number of complaints over the previous year in 2000-2001. 7407 complaints were received during the year 2001-2002 as against 5785 received in 2000-2001. Out of these, 3115 cases are relating to police excesses and 1019 were regarding failure to take lawful action, followed by 672 cases of false implication by police, 269 regarding victimization and 57 regarding custodial deaths.¹⁸¹ The Commission has persisted in its efforts to strengthen the training of the police personnel in respect of human rights. Sustained efforts are being made by the commission to ensure that the state

¹⁷⁹ Punjab Human Rights Commission, *Annual Report 1997-1998*, p. 5

¹⁸⁰ *Ibid.*, p. 6

¹⁸¹ Punjab Human Rights Commission, *Annual Report 2000-2001*, p. 1

government makes provision for the sensitization of its aim. A number of workshops on human rights are being organized and issues relating to human rights are being given increased weightage in their regular training curricula. A number of seminars and workshops are organized by the commission from time to time. These are organized in collaboration with NGO's, NHRC or academic institutions.¹⁸²

The government's decision to rely on military force, along with its enactment of media censorship, reminds Sikhs of the dark days of 1984. During this period about thirty years ago, the government created these precise conditions as part of its setup for a military assault that claimed tens of thousands of lives at Darbar Sahib, the most significant place of gathering for the Sikh community. The wounds from 1984 are still fresh in the Sikh psyche. The community has not yet healed from the trauma of being targeted in anti-Sikh violence, and the realities of oppression continue to shape how Sikhs around the globe understand themselves today.

The lack of media representation is appalling. It makes it difficult to find the facts and trust the sources, but most importantly it keeps the world from seeing and discussing the injustice in Punjab. Credible journalists are not reporting about the situation in Punjab, partially out of fear and partially due to lack of access. Sikhs, again, were trying to support and promote democratic ideals. It was the police who came in with a disproportionately and unnecessarily violent response. As religious intolerance increases in modern India, the conditions are ripe for communal violence against minority communities. The Sikhs in Punjab are at risk of being targeted in such violence.¹⁸³

¹⁸² Ibid., p. 7-8

¹⁸³ Simran Jeet Singh, "Current Situation in Punjab Evokes Memories of 1984 Anti-Sikh Violence",

6) Tamil Nadu State Human Rights Commission:-

Tamil Nadu State Human Rights Commission (TNSHRC) was formed on 17th April 1997. The first Chairperson was S. Nainar Sundaram and the first four Members were K. Swamidurai, Abdul Ghani, R. Rethinasamy, M. SuseelaRaj and K. Dheenadhayalan as the Secretary of the Commission. The office of the commission is situated at Greenways Road, Chennai. In the matter of grievance redressal, the commission reports that about 750 petitions have been disposed of by it during June to September 1997.¹⁸⁴ The Commission received 8411 petitions during the period from 2005-2006, out of these, the Commission disposed of 3640 petitions.¹⁸⁵ The Commission received 7515 petitions during the period from 2006-2007, out of these, the Commission disposed of 2509 petitions.¹⁸⁶

Tiruchirapalli District unit of the Human Rights Protection Centre (HRPC), Tamil Nadu, has condemned the State Human Rights Commission (SHRC) for its reported announcement that the human rights organizations should not use the word human rights in its organization names. Its Tiruchirapalli District unit President Kaveri Nadan told media persons after the centre's inauguration that a resolution to this effect was adopted at the meeting. The resolutions pointed out that the announcement of the Human Rights Commission was totally against the human rights and wanted that the commission withdrew its announcement immediately. The meeting criticized the functioning of the State Human Rights Commission with the retired revenue and police officials as its office bearers and wanted that the State Human Rights Commission be made functional by granting adequate powers to punish the human rights violations anywhere in the state.

www.sikhawareness.com, 20th October, 2015

¹⁸⁴ Raja Mutthirulandi, op.cit., p. 216

¹⁸⁵ Tamil Nadu State Human Rights Commission, *Annual Report 2005-2006*, p. 3

¹⁸⁶ Tamil Nadu State Human Rights Commission, *Annual Report 2006-2007*, p. 2

The meeting also wanted that Tamil be made as official language in the Madras High Court and its bench at Madurai, and advocates concerned be allowed to argue their cases in Tamil. The commission has so far sent reports covering matters related to the improvement of the conditions of the disabled, providing employment to persons displaced in Kodai Hills and caste clashes in the southern districts of Tamil Nadu. The Commission had conducted awareness meeting with Government Officials of various subjects and is functionally and financially independent.¹⁸⁷

Heinous crimes against Dalits, particularly women, are on the rise in Tirunelveli, Madurai, Ramanathapuram districts among others in the state. A survey conducted on Dalit murders in 28 districts in the state has revealed that the investigations of such crimes were far from satisfactory. What is shocking is that in a majority of complaints, the police, instead of booking the suspects, were trying to strike a compromise between the victims' families and the accused. There were undue delays at every stage after the crimes were reported. For instance, the police did not register an FIR on receipt of the complaint. The post-mortem copy was not furnished to the victim families. The charge sheet was not filed on time in almost 99 per cent of the cases.¹⁸⁸ The police arrested the key suspects after a long time and also did not raise objections when the suspects sought anticipatory bail. Yet another finding was that the weapons used by the murderers were not seized.¹⁸⁹

Evidence, a Madurai – based NGO, studied 102 cases reported across Tamil Nadu to come up with these startling revelations. The data showed that 73 victims were casual

¹⁸⁷ Ibid., p. 3

¹⁸⁸ L. Srikrishna, "Probe into Dalit murders far from satisfactory: Study", *The Hindu*, 8th February, 2015

¹⁸⁹ K. T. Sangameswaran, "Police inaction blamed for rising crimes, cases", *The Hindu*, 5th December 2013

workers; 12 employed in private firms and two government employees. 11 cases were reported in Tirunelveli district, followed by 10 each in Cuddalore, Vellore, Thanjavur, Sivaganga and Virudhunagar. In 76 incidents, Dalits were attacked by caste Hindus in a gang or groups. In 26 cases, the victims were attacked by individuals. The motive revolved around untouchability (91 cases). While in 14 case it was due to dispute over immovable properties, love affairs, clashes at temple festivals and so on. In 27 cases, women were murdered – in seven cases they had been raped before the murder.

Human rights activists said the pattern of crimes against Dalit suggested that there was vengeance, especially against those who owned immovable properties in villages or if they had a good track record of educational qualification than the caste Hindus and others. In some cases, it showed that a marriage between caste Hindu boy and Dalit girl had ended in violent deaths. The governments' action should instill confidence and the custodians of law should book the culprits then and there. Above, all speedy disposals of cases by judiciary were essential as conviction rate was far from satisfactory.¹⁹⁰ The image of Chennai being one of the safest cities in the country is slowly fading away with the increase in murders that has been taken place.¹⁹¹

7) Kerala State Human Rights Commission:-

Kerala State Human Rights Commission (KSHRC) was formed on 11th December 1998.¹⁹² The first Chairperson of the commission was M. M. Pareed Pillay and two members were S. Balaraman and T. K. Wilson, Secretary of the State Commission was C. P. Jayachandran, IG of Police/Chief Investigation Officer of the Commission was

¹⁹⁰ L. Srikrishna, op.cit.

¹⁹¹ Vivek Narayanan, "There's blood on the floor and Chennai is slipping", *The Hindu*, 25th June 2016

¹⁹² Kerala Gazette, Extraordinary (Government of Kerala) Notification Law (H) Department GO(P) No. 523/98/Law, Dated 11th December 1998, S.G.P, Central Government Press, Thiruvananthapuram, 1998

Ramesh Chandra Bhanu, Registrar was Dalilah Sojah, Superintendent of Police was T. V. Kamalakshan, Finance Officer was K. Raveendranathan, Deputy Superintendent of Police was T. K. Vasudevan. The office of the commission is situated at Vazhuthacaud, Thiruvananthapuram.

It was indeed a dream come true for those who valued humanistic values. Notwithstanding the fact that Kerala is often described as the most enlightened State, that this State has been tragic victim of a multitude of human rights violations remains an inescapable reality. At a time when the oppressed and the downtrodden commoners had no institutional framework to fall back upon in the matter of the violation of the constitutionally protected rights, the launch of the Kerala State Human Rights Commission has been welcomed by one and all.

The Commission received 2485 petitions during the period from 1998-2000, out of these, the Commission disposed of 1096 petitions.¹⁹³ In the 2001-2003 Commission received 9239 petitions, out of these, the Commission disposed of 4737 petitions.¹⁹⁴ Owing to the lack of awareness among the general public about the spheres of activity, jurisdiction and powers of the Commission, considerable number of these petitions were found outside the purview of the Commission and as such not sustainable. In the case of certain petitions, which were found prima facie sustainable, the Commission promptly took quick and effective action, which helped a lot to resolve the situation through the effective mediations of N.G.O's.

¹⁹³ Kerala State Human Rights Commission, *Annual Report 1998-2000*, p. 6

¹⁹⁴ Kerala State Human Rights Commission, *Annual Report 2002-2003*, Annexure I, p. 143

During 1998-2000, the Commission made seven jail visits under Section 12 (C) of the Protection of Human Rights Act, with a view to studying the conditions in the jails from the human rights' perspective.¹⁹⁵ Besides, there were complaints from inmates on matters relating to non-intimation to them of the outcome of appeals filed by them. Secondly, making those who were detained for nonpayment of maintenance likely for such payment during the period of their imprisonment. Thirdly, inadequacy of food allowance for prisoners when they were taken to court. Commission also brought to light certain shortcomings like over-crowding, inadequacy of toilet facilities, scarcity of drinking water, poor maintenance of buildings problems connected with providing medical aid to the inmates etc.

In 1998-2000 the Commission also visited 9 hospitals in the State.¹⁹⁶ The overall impression the Commission gathered from these visits was quite miserable. Besides the clinical problem like overcrowding of patients, shortage of hospital staff and their indifferent attitude towards patients, the total lack of hygiene found in most of the hospitals really terrible. The Commission made several recommendations to the Government on the basis of the facts crystallized during the course of these visits. The Commission observed at the treatment meted out to the sick and suffering law-abiding citizens in the hospitals run by the State was worse than the one meted out to the lawbreakers detained in prisons.¹⁹⁷

One of the important functions of the Commission is to conduct awareness programmes to create and build up general public awareness of the various safeguards

¹⁹⁵ Kerala State Human Rights Commission, *Annual Report 1998-2000*, pp. 21-22

¹⁹⁶ Ibid.

¹⁹⁷ Ibid., p. 23

available for the protection of human rights as per Section 12 of the Protection of Human Rights Act. This can be done through various Medias such as newspapers, radio and television and by organizing seminars. Keeping this in view, the Commission has prepared pamphlets in Malayalam setting out in clear terms that entire community should know about human rights as also details of the Kerala State Human Rights Commission - its constitution, functions, powers and responsibilities. This pamphlet was sent to all the 910 Panchayats in the State requesting them to do whatever they could to effectively spread the message of human rights among the people.¹⁹⁸

The year under a report too witnessed a flow in the number of cases taken cognizance of by the Commission. Not only does this reflect the confidence reposed on the Commission by the general public but also the positive effect of its efforts in sensitizing the people to human rights. The Commission is extremely conscious of the enormous responsibility cast on it by the society and the constraints imposed upon it by the statute. The Commission struck a balance between the two and discharged its duties with goodness, transparency and swiftness within the limitation of legislation. If there is any shortcoming in the functioning of the Commission it has only to be ascribed to the endeavor of the Commission to handle its work load with extremely inadequate manpower.¹⁹⁹

Kerala human rights situation is better, compared to many other states of the country because of high literacy rates, health care and other facilities.²⁰⁰ Kerala is one of the States without any armed opposition group but the State police remained infamous for

¹⁹⁸ Ibid., p. 27

¹⁹⁹ Kerala State Human Rights Commission, *Annual Report 2002-2003*, pp. 141-142

²⁰⁰ “Complaints of human rights violation from Kerala very less: NHRC Chief”, *www.merineews.com*, 8th April 2015

violations of the right to life. Women continued to face discrimination and violence in Kerala. Despite having laws banning dowry and gender-specific abortion, these illegal activities thrive on at an alarming rate. Police were responsible for torture of women and children.²⁰¹

8) Rajasthan State Human Rights Commission:-

Rajasthan State Human Rights Commission (RSHRC) is one of the leading State Human Rights Commissions in the country. In a short period of time it has achieved many milestones in its mission for the protection and promotion of Human Rights. The State Government of Rajasthan issued a Notification on 18th January 1999 for the constitution of the State Commission having one full time Chairperson and four Members in accordance with the provisions of the Protection of Human Rights Act, 1993. The Commission was fully constituted by appointing Kanta Kumari Bhatnagar as the first Chairperson, along with the other four members; they were R. K. Akodia, B. L. Joshi, Alamshah Khan and became functional from March 2000. The office of the commission is situated at Jaipur. The main mandate of the State Commission is to function as a watch dog for human rights in the State.²⁰²

The Commission has recommended to the State Government to impose ban on the use of “Pan Masala & Gutkha” in the State by issuing a Notification and issue directions to district administration accordingly. The Commission had a National Seminar on “Human Rights in Governance” organized on 13th and 14th May 2002. The Commission passed a resolution on 28th May 2002 recommending to the State Government to do away with mention of caste in Government application forms wherever such declaration is not

²⁰¹ “Freeze on SHRC hits filing of rights cases”, *The Hindu*, 7th August 2006

²⁰² “A note on Rajasthan State Human Rights Commission,” *rshrc.nic.in*, 26th May 2014, 6:00 am

required or necessary. The Commission orders re-survey of Child labour in the entire State. The Commission has directed the Principal Secretary, Medical and Health to control smoking in public places and thereafter Govt. of Rajasthan issued a strict directive on 7th June 2002 prohibiting smoking in government offices, buildings and public places. The Commission has made positive intervention for pollution control in the State while taking up several cases of industrial pollution in various parts of the State. Commission appreciated the success of the public health campaign of Food Department –“Shudh ke liye Yudh” which has thereafter been extended to cover the whole State. Commission also had taken up certain cases filed by children and cases reported in newspapers and have ordered the municipal and other authorities to ensure protection of the children's right to play and safety.²⁰³

The high incidence of crime in Rajasthan, which has assumed mammoth proportions in recent times, has become a matter of serious concern. According to National Commission of women, 400 women suffer human rights violation everyday in Rajasthan. Though the government has adopted various development programs, women are deprived of basic necessity of such as food, health and education. In Rajasthan on an average three women are raped daily. One of the most disconcerting facts about rape in India is that the perpetrators are usually known to the victim. Rajasthan is considered to be one of the poorest states in India. Due to acute poverty, children are forced to work in industry and in agriculture sector. Nearly half of the child workers have never enrolled

²⁰³ Ibid.

themselves in schools and hence majority of child population are illiterate. Rajasthan stands second in the case of crimes against tribes among the states in India.²⁰⁴

9) Bihar State Human Rights Commission :-

Bihar State Human Rights Commission (BSHRC) was established on 3rd January 2000. However, after much delay the Commission became functional from 25th June 2008 with appointment of the first chairperson S.N. Jha, along with Rajendra Prasad, R. R. Prasad and Bihar as supporting members of the commission.²⁰⁵

The commission reviews the status of the states situations on human right in 2008 that a number of children in conflict with law were under detention in observation and special homes. The Commission expressed concern on the issue of trafficking in women and children. It called for appointing special officers to sensitize police personnel and also work out a systematic programme for rehabilitation of such victims. The Commission asked for greater alertness at the place of origin to protect women and children from becoming victims of trafficking. The Commission strongly voiced concern to ensure complete eradication of Manual Scavenging. It asked for resurvey by an independent agency in all these states. The Commission also emphasized that an effective rehabilitation and reintegration programme should be pursued vigorously to bring Manual Scavengers into the mainstream. The Commission asked the State Governments to put in extra efforts so that Right to Health is not denied to any person. It emphasized that Right to Education is mandatory and development can be possible only when this right reaches everyone.

²⁰⁴ "Human Rights Violations in Rajasthan", www.achrweb.org, 4th August 2010

²⁰⁵ "Bihar State Human Rights Commission," bhrc.bih.nic.in, 19th June 2014, 9:00 pm

However, a case related to violation of human rights reaching the Bihar Human Rights Commission (BHRC) has been on the rise since its formation in 2008. While just 102 cases were registered in 2008, the number increased to 6,542 in 2015. At 11,133 cases between 2008 and 2015, the highest number of complaints was registered for violation of human rights. In term of disposal of cases also, there has been a steep rise. While in 2008, just 49 cases were disposed of, the total disposal in 2015 stood at 7,658 and more than 10,000 cases were pending with the BHRC till 2015. Deputy Secretary of BHRC Devendra Kumar Sabita attributed the rise in number of cases to increasing awareness among masses about their rights.

Almost one-third of the 6,542 complaints made to the Bihar Human Rights Commission (BHRC) in 2015 were related to police, armed forces or jail. Despite the fact that a number of sensitivity workshops were held for the men in uniform as well as award of compensation of several lakhs to victims. Bilal Nazki chairman of BHRC said that, "Maybe, people are more aware and lodging more complaints. It should be found out why the number of police-related cases is the highest," While 2,041 cases of rights violation allegedly by police or armed forces surfaced in 2015, 208 cases were related to jail.

Nevertheless, the ambit of human rights is very wide, and 869 cases related to service matters, 753 related to underworld/mafias, 292 related to women and 100 and odd related to health and education were also received by the commission last year. "What is still lacking among people is the awareness that they have certain rights and its possible

violations. With our limited infrastructure, we require the media's help to spread rights literacy in distant areas," BHRC chairman Nazki said.²⁰⁶

10) Odisha State Human Rights Commission:-

Odisha State Human Rights Commission (OSHRC) was constituted on 27th August 2000 but started functioning only from 11th July 2003. The first chairperson of the commission was D.P. Mohapatra and S.M. Patnaik as the member of the commission. The office of the commission is situated at Satya Nagar, P.O. Saheed Nagar, Bhubneswar. Since its inception, the Commission has been receiving petitions from all the districts on a various issues. Besides, scrutinizing reports published in leading news papers on a regular basis the Commission has been instituting enquiries on reports which disclose violation of human rights by a public servant. During 2003-2004, 873 complaints were received and out of it 433 cases were disposed of.²⁰⁷ Complaints taken cognizance of by the Commission relate to a variety of grievance including allegations of custodial torture both in Police Stations and in jails, custodial death, failure on the part of the police to take lawful action on information lodged, child labour, cruelty to children, bounded labour, trafficking in women and children, manual scavenging, etc.²⁰⁸

The issue of human rights in Odisha is a serious concern. Child trafficking is a serious problem. Women are unaware of their rights, so, more often than not, violations of women rights remain unrecorded. In most cases either police does not take any action against the accused person or the woman does not want to complain out of fear from the

²⁰⁶ "1/3rd of human rights cases related to police, jail: BHRC", *The News Network*, 22nd February 2016, 11:44pm

²⁰⁷ Odissa State Human Rights Commission, *Annual Report 2003-2004*, p. 8-9

²⁰⁸ Ibid.

accused, family and society. For this reason the rate of violence against women is increasing and it became one of serious concern and where woman were numerously subjected to sexual harassment, physical abuse etc.²⁰⁹

11) Maharashtra State Human Rights Commission:-

Maharashtra State Human Rights Commission (MSHRC) was formed on 6th March 2001.²¹⁰ A. D. Mane was appointment as the first Chairperson along with Vijay Chitnis and M. R. Patil as the supporting members of the commission. The office of the commission is situated near Chhatrapati Shivaji Terminus, Mumbai. The Commission promotes respect for human rights. It uses education, information and publicity to promote, protect and enforce human rights. It also helps people to resolve situations where there might have been infringement by public servants of fundamental rights enshrined in the Constitution of India. If people are unable to resolve complaints themselves and if the complaints are found to be within the Commission's jurisdiction, the Commission can provide investigation and redress into such complaints. The State Human Rights Commission is a statutory autonomous body that administers the Protection of Human Rights Act, 1993. The Act is intended to help ensure that all people in India are treated fairly.

The structure of the commission consist of chairperson and two members but they are retired and presently the commission is functioning with wings, (i) Administrative wing headed by Secretary (IAS) Shri Mahul Hussain, (ii) Investigating wing headed by Special IPS Shri Shridgar Vagal (iii) Research wing - research officer, Doctorate in Law and ten years of practice in Law headed by Dr. Jesu Pedal (iv) Legal Wing headed by registrar

²⁰⁹ "Violence Against women on the rise in Odisha", www.orissadiary.com, 2012

²¹⁰ Maharashtra State Human Rights Commission, *Annual Report 2004-2005*, p. 2

who is a district magistration on deputation as it vacant so acting by Shri Sard.²¹¹ The Commission received 14802 petitions during the period from 2001-2005, out of these, the Commission disposed of 10837 petitions. The Commission received 30967 petitions during the period from 2005-2010, out of these, the Commission disposed of 31,888 petitions. The Commission received 15,231 petitions during the period from 2010-2014, out of these, the Commission disposed of 4,113 petitions.²¹² The Maharashtra State Human Rights Commission held conference on Human Rights education on 12th August 2010, at Mumbai in collaboration with NHRC and is taking steps to further its implementation through State Government and also through various statutory bodies of education in the State. The Commission has been making all out efforts in fulfilling the obligations entrusted to it under section 12(h) of the Protection of Human Rights Act, 1993 to promote Human Rights literacy and awareness.²¹³

Maharashtra continued to record a high rate of custodial deaths and extrajudicial executions.²¹⁴ Crimes against Scheduled Castes or Dalits increased. Children remained extremely vulnerable. It also stated that Maharashtra recorded one case of dowry death a day, one rape case every six hours, one molestation case every three hours, one case of cruelty by husband and relatives in every two hours and one sexual harassment case every 10 hours.²¹⁵

²¹¹ Interview with Jesu Pedal, research officer, Doctorate in Law and ten years of practice in Law from Research wing department, at Maharashtra State Human Rights Commission on 4th August 2012, 11:00am

²¹² "Progress report of MSHRC", <http://www.mhrc.gov.in>, 13th December 2011, 3:30 pm

²¹³ Maharashtra State Human Rights Commission, *Recommendations on Human Rights Education in Maharashtra*, Mumbai, 2010, p. vi, vii

²¹⁴ "Custody death: Relatives blame police", *The Free Press Journal*, 18th January 2007

²¹⁵ "Pardhi woman dies in custody, relatives allege torture", *The Indian Express*, 17th May 2007

12) Chhattisgarh State Human Rights Commission :-

Chhattisgarh State Human Rights Commission (CSHRC) was established on 16th April 2001. CSHRC become functional on 16th April 2001 with appointment of first Chairperson, K. M. Agrawal and K. A. Jacob as the founder member by Notification No. 4139/GAD/2001 with effect from the date they assumed charge of the office. The office of the commission is situated at Raipur. The Commission handled complaints related to custodial violence, police inaction, illegal Detention, atrocities against women, dowry, child labour/forced labour, child atrocities, child marriage, Naxlite incidents, Human Trafficking etc.²¹⁶

Chhattisgarh was the epicentre of the Naxalite conflict in India during 2006. According to the estimate of Asian Centre for Human Rights (ACHR), 363 persons including 200 civilians, 57 security personnel and 106 alleged Naxalites were killed in Chhattisgarh which accounted for 48.5% of the total killings (749 persons) in India due to the Naxalite conflict during 2006.²¹⁷ Its disastrous consequences such as the violations of the right to life by the Naxalites and the security forces, forcible displacement of 43,740 persons as of 31 December 2006 and abdication of the law and order to the lawless and unaccountable Salwa Judum cadres brought national and international spotlight on the Naxalite conflict in India.²¹⁸

While the security forces continued to violate human rights, the chilling massacres of the unarmed civilians by the Naxalites in 2006 were unprecedented. The major incidents of killing of civilians by the Naxalites were Darbhaguda massacre of 28th

²¹⁶ “Chhattisgarh Human Rights Commission”, <http://www.hrc.cg.gov.in>, 30th May 2014, 1:45pm

²¹⁷ “The Adivasis of Chhattisgarh: Victims of the Naxalite Movement and Salwa Judum Campaign”, *Asian Centre for Human Rights*, 17th March 2006, p. 34

²¹⁸ *Ibid.*, p. 42

February 2006 in which 27 persons were killed, Monikonta massacre of April 2006 in which 15 unarmed villagers were killed after abduction, Errabore massacre of 17th July 2006 in which 31 persons were massacred. In some of the massacres, many innocent victims were killed by the Naxalites in the most shameful manner through repeated stabbing and slitting of the victims' throats in front of other hostages or villagers. The rights of women and children were also violated on a regular basis.²¹⁹

13) Uttar Pradesh State Human Rights Commission :-

Uttar Pradesh State Human Rights Commission (UPSHRC) was constituted on 7th October 2002, with the appointment of A.P. Mishra as the first Chairperson of the commission. The office of the commission is situated at Lucknow. The purpose is to guarantee life, liberty, equality and dignity of every individual which has been assured under the Constitution of India and embedded under International covenants. The Commission is trying to re-enforce its efforts at the grass root level by conducting workshops at Divisional level, spreading Human Rights literacy among various sections of Society as enshrined under Section 12(h) of the Act, among the masses of the State and is taking actions where violation of human rights of the individual is brought to the notice of the Commission. In order to achieve this goal the Commission also visits hospitals, jails, schools, remand homes and other places where large number of citizens are detained, kept or taken shelter. Increasing number of complaints day by day before the Commission are establishing the fact that the sufferings of the individuals are on

²¹⁹ "India Human Rights Report 2007: Chhattisgarh", www.achrweb.org, 22nd October 2012

increase and side by side awareness among the masses with respect to their human rights are also on higher side. It is a healthy sign.²²⁰

This was despite the fact that the NHRC chairman had clearly said in Lucknow a few years ago that of all the complaints received by the NHRC, 50 per cent were from Uttar Pradesh. However, a senior police official who was heading the human rights' cell in the police had told this correspondent that large number of complaints from the state before the NHRC was due to western Uttar Pradesh's proximity to Delhi. The court also asked the government to constitute the panel but the government chose to seek some clarifications which indefinitely delayed its constitution. Even when the government began the process of its constitution, the opposition leaders from both the Houses of the state legislature had boycotted the meeting held to discuss modalities for its formation.²²¹

Uttar Pradesh is leading in complaints of police abuse of authority, custodial rape, extra judicial killing and also its account for the highest number of police firing casualties in India.²²² In expressing its concern over the growing number of cases of atrocities, the Allahabad High Court noted that: "A large number of petitions are coming up before the court alleging the police that they are behaving like bandits, thieves, rapists and petty criminals. The police are supposed to protect the people and not to rape, blackmail or loot them, it is high time that the police start behaving in a civilized manner".

Human rights violations perpetrated by the police and security forces include the violation of rights to life through falsified extrajudicial encounters, custodial torture and

²²⁰ "Uttar Pradesh State Human Rights Commission," *uphrc.up.nic.in*, 17th June 2014, 12:10 am

²²¹ "State Human Rights Commission formed," *timesofindia.indiatimes.com*, 27th September, 2013, 10:30pm

²²² "Uttar Pradesh – Police Brutality Unchecked", *www.hrhc.net*, 29th November 2012

the discriminate used of firearms. The issues of police atrocities and human rights violations have received international attention too. Organizations working within the state point to a number of causes that contributes to the ongoing, systemic problem of police abuse within the state. The police force in Uttar Pradesh has an inordinate amount of power and discretion delegated to them by the legal system, the political climate and society in general.²²³

14) Karnataka State Human Rights Commission:-

Karnataka State Human Rights Commission (KSHRS) was constituted on 28th June 2005;²²⁴ the appointment of Chairperson and Members was not done immediately and was in cold storage for two years. The first Chairperson of the commission was S.R. Nayak and the two members were R.H. Raddi and B. Parthasarthy, Secretary of the State Commission was P.B. Ramamurthy, I.G.P (Investigation) was M.V. Murthy. The office of the commission is situated at Bangalore. During the year 2007-2008, 1,872 complaints were received and 967 complaints have been disposed. During the year 2008-2009, 5,579 complaints were received and 2,577 complaints were disposed. During the year 2009-2010, 8,872 complaints were received and 4,979 complaints were disposed. The Karnataka State Human Rights Commission has developed a system where by suo-motu cases are being registered on the basis of reports that are published in the electronic and print media. The Commission also takes up any matter of public interest as suo-motu case. The Commission makes its own investigation and makes valid recommendations to the State authorities.²²⁵

²²³ Ibid.

²²⁴ Karnataka State Human Rights Commission, *Annual Report 2007-2008*, p. 3

²²⁵ Karnataka State Human Rights Commission, *Annual Report 2009-2010*, p. 12

The Commission in association with Bangalore Doordarshan has started “Manava Hakkugala Varthe” to be telecast for 10 minutes on 2nd Friday and 4th Friday of every month. This programme is an initiative taken up by the Karnataka State Human Rights Commission as well as Bangalore Doordarshan to create awareness among the people of Karnataka on Human Rights. This programme has drawn the attention of the National Human Rights Commission and other State Human Rights Commissions and they have requested the Senior Director of Doordarshan for the details of the programme. So as to implement the programme elsewhere. This initiative taken up by Karnataka State Human Rights Commission is being followed up by the other State Human Rights Commissions as well as the National Human Rights Commission.²²⁶ An analysis of the various enquiry reports in which the Commission has passed its orders reveal that the Commission has considered all aspects of Human Rights such as Life, Shelter, Environment, Health, Education and the right to religion and number of these problems have been examined in proper perspective by the Commission. One of the novel methods that the Commission has adopted is to take up the suo-motu cases that are reported both in the print media as well as the electronic media. The Commission has reached the nook and corner of the State and has created the awareness among the people. But unfortunately there is no machinery to solve the problems at the district level.²²⁷

The cases of torture, illegal detention, keeping juvenile offenders just like other offenders in the police station are on increase. It is therefore necessary that the investigation division of the Commission has to be strengthened. Since the Head Office of the Commission is located in Bangalore, the Commission is attending to the

²²⁶ Ibid., pp. 68-69

²²⁷ Ibid., p. 70

complaints that are received mostly in Bangalore city and nearby places. There is no machinery to investigate cases in other parts of the State. The Commission therefore proposed the investigating units of the Commission to be organized in the range head quarters of the police departments. The Karnataka State Human Rights Commission is facing many problems like that of inadequacy of infrastructure and personnel. The Commission is in need of sufficient accommodation and also sufficient staff. All these proposals are before the State Government for quite long time. The Commission is of the view that State Government has not been able to examine the physical problems of the Commission in proper prospective.²²⁸

Karnataka witnessed serious human rights violations against members of tribal groups. Human rights defenders faced harassment. The violation of human rights of women and children has been a growing concern in the state.²²⁹

15) Andhra Pradesh State Human Rights Commission:-

Andhra Pradesh State Human Rights Commission (APSHRC) was constituted in August 2004. The office of the commission is situated at Hyderabad. The commission is widely regarded as an inexpert institution by activists and academics, who have observed the way the APSHRC functions. Commission members are often chosen for their political associations, and many members have little or no experience in human rights work. The commission relies on the state government for its funding and approval, leaving it completely dependent on the state. In addition, the complaint-handling mechanism of the commission is highly inefficient.

²²⁸ Karnataka State Human Rights Commission, *Annual Report 2008-2009*, pp. 46-47

²²⁹ "Human Rights Violation in Karnataka", www.hrinstitution.heln.com, 6th June 2011

As a consequence, activists and citizens often tend to be unconvinced and indifferent to the commission as a source for the protection of human rights. Political establishments and bureaucracy tend to ignore the commission and its recommendations and order. The police often files false and fraudulent reports to the APSHRC with utter impunity. Victims are routinely ignored and at times further needled socially, financially and physically, for filing a complaint. The state of Andhra Pradesh registers low in several key development indicators and in violent crime and human rights violations. The state ranked fourth in the country for violent crimes. The complaints of human rights violations in the state have been on the rise.²³⁰

Andhra Pradesh is a site of major, ongoing, systemic human rights violations. It is known for routine encounter killing; wide spread human trafficking and atrocities acts of violence against dalits and tribals. No day passes in the state without a fake-encounter in which people are brutally murdered by the state machinery. In the recent days, the violence perpetrated by the Andhra Pradesh Government through its police forces assisted by the paramilitary forces has increased to the unprecedented level.

The present human rights situation in Andhra Pradesh shocks a common citizen of this country. In more than 95% of the cases, the police have been killing the people after they arrest or detain in their custody or killing them asleep and unarmed. These 'encounters' are not chance happenings. They are carried out as a part of government policy. Encounter killings are the political policy of the Telugu Desam Government under the Chief Minister Chandrababu Naidu. During a certain period, if the Government does not want these killings, there will be no 'encounters'. However, it must be said that

²³⁰ “Cases in Andhra Pradesh Human Rights Commission,” www.appcb.ap.nic.in, 10th June 2014, 6:00 pm

the state of human rights here has not received the kind of attention that it deserves from outside agencies, national and international.²³¹

16) Gujarat State Human Rights Commission:-

Gujarat State Human Rights Commission (GSHRC) was constituted on 12th July 2006 and started functioning from 12th September 2006. The first chairperson of the commission was Daya Saran Sinha. The office of the commission is situated at Gandhinagar. This was under severe attack for alleged human rights violation in the wake of the post Godhra riots, the State Commission, in its report it had sought an autonomous status to perform in a more effective manner. Objective and fair approach adopted by the Commission while dealing with the human rights issues has led to the increase in number of petitions indicative of generation of human rights awareness, and reposition of more and more faith of the citizenry of the state in the State Commission.²³² The comprehensive vision, mission and passion of the State in nearly all spheres touching human rights, especially education, health, culture and heritage etc., with special focus on the citizens with under privileged and hapless background, is immensely profuse.²³³

During 2006-2010, the Commission received 7282 cases and out of it 5671 cases were disposed of.²³⁴ Most of the cases received by the State Commission are related to misuse of power by Police, domestic violence, discrimination against S.C. /S.T., service dispute, women and their rights, children, Mafias, underworld criminals, women and private property rights, etc.²³⁵ The State Commission also noticed several issues of

²³¹ “‘Encounters’ in Andhra Pradesh”, www.pucl.org/reports, 3rd March 2013

²³² Ibid., p. ii

²³³ Ibid.

²³⁴ Ibid., p. iv

²³⁵ Ibid., p. ii

violations of Human Rights by the police in the state.²³⁶ The Commission took a serious note of overcrowding jails and inadequate facilities in the jail. The Commission has visited some of the prisons in the State also inquired into some of the complaints alleging violation of human rights received from the prisoners in several jails. It is noted that there are various committees and forums which have mandatory provisions to visit the jails however the conditions of the jail is far from satisfactory. The Commission feels that there is an urgent need for revamping the prison administration of the State and bring out systematic reforms.²³⁷ The Commission has recently issued notices to the Labour Department to enquire about a case of bonded labour in Gondal taluka of Rajkot. The commission has also found biased and prejudiced policemen publicly caned Muslim youths.²³⁸

Authorities in India's Gujarat state are subverting justice, protecting perpetrators, and intimidating those promoting accountability 10 years after the anti-Muslim riots that killed nearly 2,000 people according to the Human Rights Watch. The state government has resisted Supreme Court orders to prosecute those responsible for the carnage and has failed to provide most survivors with compensation. The violence in Gujarat started on 27th February 2002, when a train carrying Hindu pilgrims was attacked by a Muslim mob and caught fire, killing 59 people. In a retaliatory spree by Hindu mobs, hundreds of Muslims were slaughtered, tens of thousands were displaced, and countless Muslim homes were destroyed.²³⁹

²³⁶ Ibid., p. 24

²³⁷ Ibid., p. 51

²³⁸ "Bounded Labour: GSHRC write to labour dept. for inquiry", *The Indian Express*, 24th April 2010

²³⁹ "India: A Decade on, Gujarat Justice Incomplete", *Human Rights Watch*, 24th February 2012

17) Jharkhand State Human Rights Commission:–

Jharkhand State Human Rights Commission (JSHRC) was constituted on 29th June 2010 and started functioning from 19th January 2011.²⁴⁰ The first Chairperson of the commission was Narayan Roy and Lakshman Uraon as the member of the commission. The office of the commission is situated at Ranchi. The commission was set up to ensure that villagers in the state are not harassed and tortured in the name of anti-Maoist operations, an official said. "The formation of a human rights commission was necessitated as there are scores of violation of human rights during anti-Maoist operations. Villagers are unnecessarily harassed and tortured in the Pretext of Human Rights Commission Act of 1993. At present Jharkhand police has a human rights cell, which, however, does not have the manpower to take up many cases."²⁴¹

Jharkhand State Human Rights Commission has directed the state to conduct CID probe into the killing of Lucas Minj of Latehar district, who was found dead in the forests. Hearing a petition filed by one Gopinath Ghosh of Johar, a humanist organisation, chairperson of the commission justice Narayan Roy in his two page order stated that since the commission was not armed with any investigation agency of its own it was handicapped to conduct the probe on its own. Thus such inadequacy on part of the Commission hampers investigations and deliverance of justice.²⁴²

The Adivasis, indigenous peoples, of Jharkhand continued to be victims of development projects and land alienation. Many tribals also suffered from

²⁴⁰ "Jharkhand State Human Rights Commission," www.jshrc.in, 26th May 2011, 2:00 pm

²⁴¹ "Jharkhand to set up State Human Rights Commission", zeenews.india.com, 8th August 2011, 3:30 pm

²⁴² Ibid.

starvation.²⁴³ The conditions of women and children were deplorable. While women were killed and tortured for practicing witchcraft, the conditions of child labourers in the tribal belt of Jharkhand continued to be grim. Violence against the Dalits continued to show its ugly head with the killing of four members of a Dalit family who were shot dead at Saidpur village under Kako police station area in Jehanabad Assembly constituency on the night of 6th February 2005 allegedly for exercising their franchise in the first phase of the State assembly elections on 3rd February 2005.²⁴⁴

18) Goa State Human Rights Commission:-

Goa State Human Rights Commission (GSHRC) constituted on 11th December 2010. The first chairperson of the commission was Praful Kumar Mishra and A D Salkar as the member of the commission. The office of the commission is situated at Panaji. The people of Goa have been demanding setting up of the Goa State Human Rights commission for a long time to address the issues of the alleged human rights violation in the state. Justice Prafull Kumar Misra has said that Goa Human Rights Commission is not even a paper tiger. He was the first person to chair the Goa State Human Rights Commission. A full-fledged office has been provided only after two years and the Commission now functions from the old office of the education department. But the Commission is still waiting for its main investigative wing of police, headed by the IGP. The office also does not have a trained stenographer. He feels the Commission should be given more power to deal with public functionaries. The office was started two years after he took over and still waiting for the government to appoint a police team to investigate. The Commission is basically meant to deal with government servants who

²⁴³ “Man `starves' to death in Ranchi - Father had not eaten for three days, says son”, *The Hindu*, 21st September 2005

²⁴⁴ “Four dalits gunned down in Jehanabad”, *The Kashmir Times*, 8th February 2005

harass the general public as well as their own colleagues in the administration. But the Commission has no much power, says chairman Justice Prafull Kumar Misra. In fact he feels following Lokayukta, the Human Rights Commission act needs to be amended, giving more powers. "Right now it is merely a recommendatory body", states Justice Misra. However, he complained that he had to approach the high court with a petition, if the government does not recommend its recommendation to take action against civil servant who violates human rights.²⁴⁵

The Commission would basically take up cases against public servants who violate human rights. The Commission also takes up sue motto cognizance of media reports and investigates it. In fact, besides few cases based on newspaper reports, Justice Misra served notice to Anjuna police station for violating supreme court guidelines and allowing loud music to be played throughout the night.²⁴⁶ In Goa, one of the important human rights violations is a delayed justice which is considered as a serious issue. Another grave violation is about the children's rights.²⁴⁷

19) Haryana State Human Rights Commission:-

Haryana State Human Rights Commission (HSHRC) was formed on September 2012 and started functioning from January 2013. The first chairperson of the commission was Vijender Jain and the two members were H S Bhalla and J S Ahlawat. The office of the commission is situated at Chandigarh. The Commission has been flooded with a variety of complaints including those against revenue authorities and others related to missing

²⁴⁵ "Goa State Human Rights Commission," www.navhindtimes.in, 16th June 2014, 1:00 pm

²⁴⁶ "Human Rights Commission is not even a paper tiger", www.goanews.com, 27th September, 2013, 10:30pm

²⁴⁷ Bindiya Chari, "Delayed justice is also a violation of human rights", *Times of India*, 10th December 2013

persons, pension issues of the aged and domestic violence. The Commission has received 483 cases and out of it 156 have been disposed of.²⁴⁸ Justice (retd) Vijender Jain, chairperson of the Commission Jain said though there were complaints against the police department, but they were getting complaints of a variety of cases related to eviction of old parents from their homes by their children, casteism, matrimonial discords and others. With Haryana infamous for its twisted sex ratio, Justice Jain said priority of the Commission would be to create awareness among the public about the social ills. He informed that in many European nations, when the foetus is three-month old, it becomes the property of the state and its parents can't unilaterally decide its fate.²⁴⁹

Haryana, which has time and again dominated the headlines for atrocities on Dalits and rising crime against women, stands second in the country in the list of complaints relating to human rights violations. And, the matter of concern here is that the cases of rights violations is on rise in the State. The human rights violations are segregated into various categories including those related to children, health, jail, judiciary, the mafia, labour, minorities, police, pollution and environment, women, paramilitary, defence forces, terrorism, foreigners and riots.²⁵⁰

20) Uttarakhand State Human Rights Commission:-

Uttarakhand State Human Rights Commission (USHRC) was formed on 13th May 2013.²⁵¹ With a vision for bringing about greater accountability and transparency in governance and devising efficient and effective methods of dealing with the violation

²⁴⁸ Haryana Human Rights Commission”, <http://hhrc.gov.in>, 27th September, 2013, 10:30pm

²⁴⁹ “Haryana Human Rights Commission receives 483 complaints”, <http://www.business-standard.com>, 26th June, 2013, 11:35pm

²⁵⁰ Nishu Mahajan, “Haryana Second in Human Rights Related Complaints”, www.dailypioneer.com, 4th April 2015

²⁵¹ Interview with the private secretary of Uttarakhand State Human Rights Commission, through phone conversation, 20th June 2014, 10:45 am

of human rights in the state.²⁵² The Commission appointed Vijendra Jain as the first chairperson, and Rajesh Tandon and Hemlata Dhaundiyal as its other members. The office of the commission is situated at Dehradun. Since its inception, the commission has received 1400 cases from all the thirteen districts of the state, out of which 400 are still pending. After functioning from a rented two-room office for a while, the Uttarakhand Human Rights Commission (UKHRC) has now shifted to a large two-storied building. The new office was inaugurated by chief minister Harish Rawat, who emphasized on the need of speedy probe into matters of human rights violations. Reports found out that the commission received maximum number of complaints from lowland region. The number of cases from hilly regions is lower as compared to the ones reported from lowland districts. Considering the complexity of the terrain in the state, the chairperson has now decided to hold hearings in remote areas of the State.²⁵³

Uttarakhand has a rich tradition of grassroots of social action, including the world-renown 1973 Chipko or “tree hugging” movement and the more recent decade-long struggle to become its own state. However, since the inception of the state in 2000, Uttarakhand has been facing immense concerns on human rights. Though it was these human rights concern and violation, which actually led to the formation of the state, the promised made have remained unfulfilled. The demands especially for the tribals of Uttarakhand are yet to be provisioned. Human rights violation is still evident here.²⁵⁴

An assessment on State Human Rights Commissions in India

²⁵² “Uttarakhand human rights commission” www.ukhrc.net, 20th August 2014, 10:48pm

²⁵³ Shahla Siddiqui, “Uttarakhand human rights commission gets new office”, timesofindia.indiatimes.com, 20th August 2014, 10:48pm

²⁵⁴ “Status of Human Rights in Uttaranchal”, Public Advocacy Initiatives for Rights and Values in India, www.pairvi.org, 9th January 2012

It is nearly 22 years since the National Human Rights Commission (NHRC) was established in India through the adoption of the Protection of Human Rights Acts, 1993 by Parliament. Over the years, 23 State Human Rights Commissions (SHRCs) have come up. The effort to improve the promotion and protection of human rights in India pre-dates the establishment of the NHRC. The nature of human rights is such that it immediately creates unparalleled social expectations and invites powerful civil society scrutiny from national and international actors. It is important that Human Rights Commissions (HRCs) succeed in their efforts to promote and protect human rights. The legitimacy and credibility of these commissions rest on their ability to address the problems relating to human rights in a society.²⁵⁵

HRCs are relatively new and innovative institutions born out of the initiatives of the United Nations to ensure domestic protection of human rights. It is a fact that international human rights laws have moved towards constitutionalisation of human rights. It paved way for the HRCs to perform a variety of function. While there is a high degree of agreement on what ought to be the functions of HRCs, their actual performance and indeed their institutional effectiveness vary significantly from state to state. Some Commissions have acquired national legitimacy and international reputation for their work in protecting and promoting human rights. Some others, in the manner of their creation and in the exercise of regular functions, reveal the state apparatus's arm in legitimizing numerous actions that are not in harmony with human rights. In this regards, the subject of human rights Commissions has invited much academic attention in recent years, besides assessment by U.N. bodies. It has also attracted the civil society scrutiny

²⁵⁵ C. Raj Kumar, "Human Rights Commissions in India, Human Rights Commissions are not effective when their tasks are adequately supported by other mechanisms that ensure a government's accountability," *The Hindu*, 3rd October 2007

following independent assessments of the work of several Commissions by numerous international NGOs.²⁵⁶

It is to be observed that HRCs are not the panacea for all the problems related to the subject human rights in a given society. They tend to be effective only under a given set of circumstances, but most importantly, a lot depends on the level of funding, functional independence, and institutional autonomy etc. The effectiveness or otherwise of human rights commissions does not directly depend upon the existing human rights structure in any society. What is important is how a particular commission locates itself in a society, and is able to confront the issues before it. There are various ways through which states ensure human rights accountability. Traditional approaches to human rights protection and promotion have tended to focus on constitutional judicial review, human rights provisions in the constitution or other legislation in a society, and the interpretation of these laws by the courts. Such mechanism directly ensures the enforceability of human rights through the directions of courts.²⁵⁷

However, this method is not without its weakness. Since the courts in most jurisdictions are flooded by civil, criminal, constitutional, commercial, corporate, and other types of cases, direct focus on human rights issues and cases tends to be weak. This creates a situation where in human rights cases have to be themselves understood in the terminology of administrative or some public law for them to receive the right kind of attention from the courts. Moreover, the elaborate legal processes and the procedures involved in court cases tend to complicate human rights issues in a court environment. Human Rights issues need to be directly and seriously confronted by a body exclusively

²⁵⁶ Ibid.

²⁵⁷ Ibid.

mandated to perform such a task. It was this realization that resulted in international opinion moving towards the formation of HRCs.

A culture of human rights ought to be promoted through education. Human rights education in India is extremely important, given the fact that society is witness to numerous violations and abuse of powers. Awareness related to rights is very important for empowering the people of India to seek policies of good governance from the government. The strategy for inculcating human rights culture among the people needs to be based on a number of factors: social, legal, political, judicial and institutional. Human Rights education was the focal point of UN activities in creating the United Nations Decade for Human Rights Education (1995-2004) in December 1994.²⁵⁸

In this process, the United Nations General Assembly (UNGA) defined human rights education as “a life-long process by which people at all levels of development and in all strata of society learn respect for the dignity of others and the means and methods of ensuring that respect in all societies”. The international significance of this is demonstrated by the fact that the UNGA sought the support of the international community and civil society during 1995-2004 in its efforts to promote a culture of human rights worldwide through education and training. The NHRC has taken several significant steps in promoting rights education in India. Recently, it opposed to include lessons on human rights in the curriculum for schools and colleges. The aim is to make common citizens understand the subject from the school level itself.

Human Rights in India need to go beyond the frontiers of academic learning or, for that matter, professional pursuit. It should aim to create social transformation and

²⁵⁸ Ibid.

promote a worldview based on the respect for the rights and freedoms of humanity. Thus, the need for empowering the people of India cannot be better achieved than by developing varied components of human rights education. A sustained development of human rights education in India can result in a promotion of a culture of human rights. The starting point such a development can be to develop knowledge and capacity-building in imparting greater awareness of the constitution of India and the working of HRCs. In the process of promoting a culture of human rights, human rights education can also ignite activism on the subject. In recent years, in the context of formulating a legal and institutional framework for implementing the right to information, India has witnessed a unique type of civil society activism that seeks to promote transparency and accountability of the government. Human right activism is another part of accountability-seeking endeavours.²⁵⁹

The impact of globalization on the Indian economy and politics is profound. Multinational corporations and business enterprises need to assume obligations they did not recognize before. They need to recognize that corporate social responsibility demands that their working and functions are in accordance with domestic and international human rights. They have a duty to share responsibilities to promote human rights education. They should support the activities of educational institutions NGOs and civil society organizations with a view to promoting human rights education. The culture of human rights that we seek to achieve in India necessitates rights education that examines the policies affecting human rights and to shape the responses of HRCs and civil society with

²⁵⁹ Ibid.

a view to enforcing accountability in governance.²⁶⁰

A recently released report by Poorest Areas Civil Society (PACS) and Participatory Research in India (PRIA) documents the work of five commissions and reveals serious shortcomings. A social audit on state human rights commissions by Human Rights Law Network (HRLN) throws light on their institutional and infrastructural problems. Through data, material available in the public sphere, and filling of RTIs, the studies have collected a wealth of information which point to systemic bottlenecks that have rendered these vital institutions largely ineffective, save for some exceptions. For instance, the PACS and PRIA report notes that the offices of these commissions are mostly located amidst government offices in state capitals or bigger cities far removed from the districts where their presence is more required. The second Administrative Reforms Commission, 2009, in its 12th report had earlier observed that the commissions have not been able to accomplish the mandates to a meaningful extent, and called for making the institutions more vibrant, responsive and accountable.²⁶¹

HRLN's social audit, 'Rugged Road to Justice,' says that the commissions in India are heavily under government patronage, whether at the Centre or in the States. As a result, instead of being answerable to an independent authority as laid out in the Paris Principles, they report to the Ministry of Home Affairs. At the national level, the Ministry is also in-charge of the police, immigration, laws of terrorism and insurgency, security and communal harmony. The complaints made to the commission by stakeholders most often deal with these very authorities. "There has been no recorded evidence of the National Human Rights Commission (NHRC) or the State Human Rights Commissions

²⁶⁰ Ibid.

²⁶¹ Preeti Mehra, *op.cit.*

(SHRCs) taking suitable action against the government of the day or of moving a court to action,” the audit report reveals. And this brings to the fore the basic question of the independence of the institutions.²⁶²

As far as these statutory bodies are concerned, their independent functioning is further corroded by the way appointments of chairpersons and members of the commissions are made, which is often according to the whims and fancies of the government of the day. It is also a parking ground for the retired judges or civil servants who are appointed instead of persons with professional experience and track records in particular fields. Rights commissions depend on government budgetary allocations. It was found that this varies drastically from state to state and it has been suggested that commissions prepare a five-year plan with clear deliverables and budgets. Further, a detailed analysis of budgetary provisions in all commissions revealed that most of the funds were spent in running offices, paying salaries and meeting administrative expenses. The actual activities and mandate of the commission utilized is a very limited proportion of the funds.²⁶³

Another serious gap faced by the commissions was that of institutional capacity. It was found that in most cases, the staff of the commissions comprised largely of peon, drivers and assistants. Specialists who can deliver on the order of the particular commission were noticeable by their absence. This serious lack of competencies in jurisprudence, investigation, data collection, documentation, communication and capacity development were visible when accomplishments of these commissions were carefully studied. Often stakeholders get confused on who to approach as these commissions have

²⁶² Ibid.

²⁶³ Ibid.

overlapping scope. As a result those seeking relief were shunted from one to another. Sister Sudha Varghese, vice chairperson, State Commission for Minorities says that “A scheduled Caste or Muslim women who needs justice is put to confusion between commissions and their scope of work. The minority commission should not send her to a women’s commission and a women’s commission should not sent her to a Scheduled Caste commission for claiming her entitlement. There needs to be clarity on which commission would serve as her ultimate recourse.”²⁶⁴

Many of the commissions were also found to be faulting on their public disclosures. A large number of them did not bother to update their websites or uplink annual reports. At the very root of the problem is that the commissions do not perceive themselves as independent, nor do they seek the autonomy that the Paris Principles wanted to bestow on them. They believe they are answerable to governments and not to citizens. Unless this mindset changes, there is very little hope for the better. One of the reasons for the lack of will on the part of the State Governments in setting up of the State Human Rights Commission has been the resource crisis faced by the State. Further, a small number of complaints of Human Rights Violations being received have been another reason due to which the State Governments have not been setting up the Human Rights Commissions. With the amendments now carried out, the Commission hopes the State Governments would be in a better position to set up State Human Rights in their respective States or two or more State Governments may set up joint State Commissions its provided under sub-section(6) of section 12.²⁶⁵

²⁶⁴ Ibid.

²⁶⁵ J.K. Chopra, *op.cit.*, p. 307