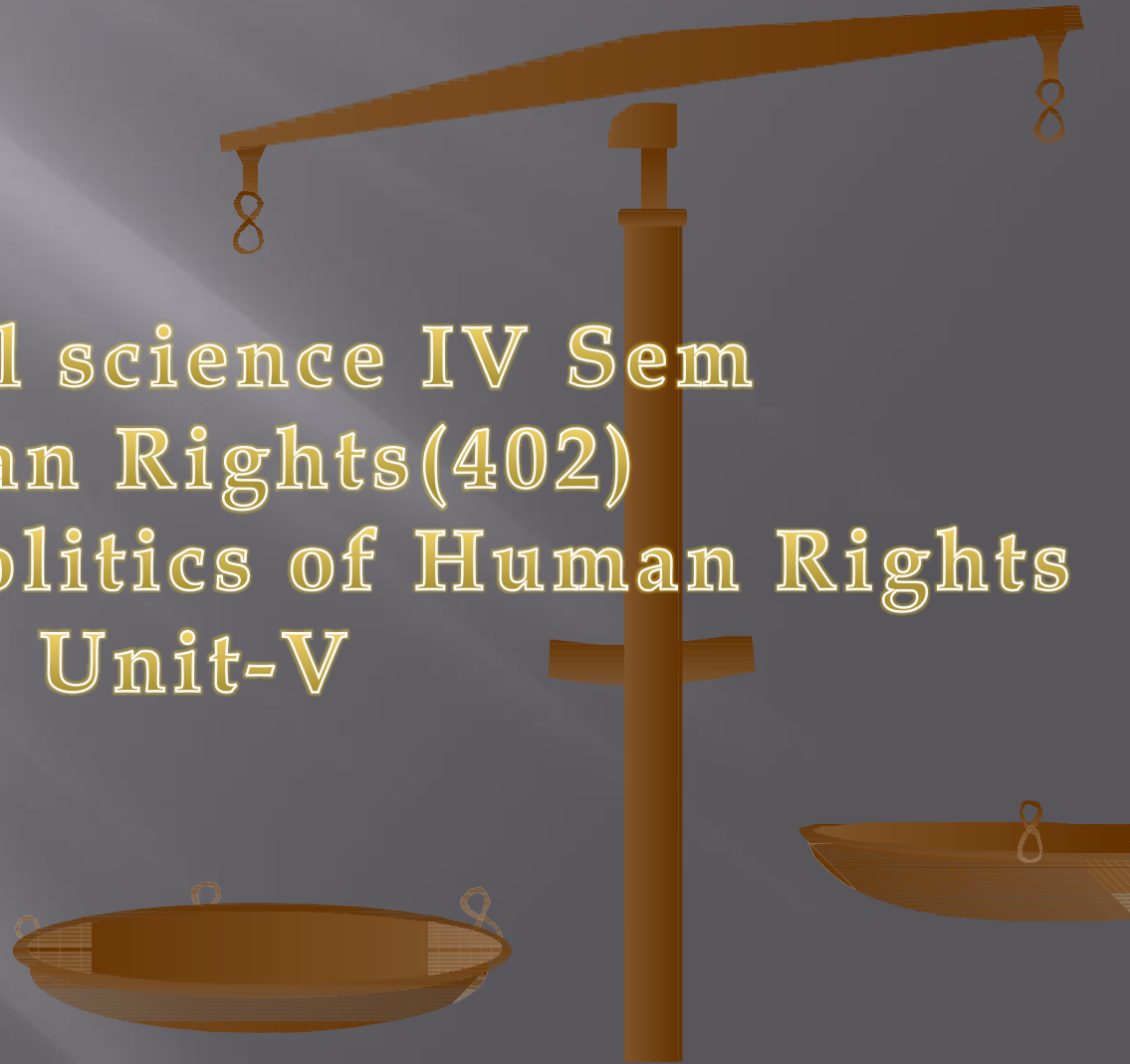


Sos Political science & Public Administration

Political science IV Sem
Human Rights(402)

Topic Name-Politics of Human Rights
Unit-V



Human Rights in India

- The situation of **human rights in India** is a complex one, as a result of the country's large size and tremendous diversity, its status as a developing country, and its history as a former colonial territory. It is often held, particularly by Indian human rights groups and activists, that members of the Dalit or Untouchable caste have suffered and continue to suffer substantial discrimination. Although human rights problems do exist in India, the country is generally not regarded as a human rights concern, unlike other countries in ~~South Asia~~.

Monitoring Human Rights Violations

I. Ranking in Human Rights Violators Index:

II. Political freedom

III. Human rights violations by the security forces

a. Custodial violence b. Extra-judicial killings c. Arbitrary arrest, illegal detention and torture

IV. Judiciary and administration of justice

a. Legal reforms b. Judges' Accountability c. Judicial delay

V. Effectiveness of National Human Rights Institutions

VI. Repression on human rights defenders

VII. Freedom of the press

a. Attacks by the state agencies and political activists b. Attacks by the Armed Opposition Groups

VIII. Violations of the rights of indigenous peoples

a. Atrocities against tribals b. Land alienation and displacement c. Repression under the forest Laws d. Encroachment by non-tribals

IX. Violations of the rights of the Dalits

a. Denial of access to public Places b. Physical attacks against the Dalits c. Violence against Dalit Women d. Denial of land rights

X. Violence against women

a. Violence by the security forces b. Violence by the Armed Opposition Groups c. Cruel cultural practices

XI. Violations of the rights of the child

a. Child labour b. Child trafficking c. Children in armed conflict d. Orphaned children e. Girl child: Target of sexual abuse f. Juvenile Justice g. Torture of children

XII. Status of internally displaced persons

XIII. Violations of the prisoners' rights

XIV. Violations of the rights of minorities

a. Attacks on the Christian minorities b. Attacks on the minorities by the Armed Opposition Groups in J&K

XV. Status of the refugees

a. Refugees under the government of India b. Refugees under the UNHCR

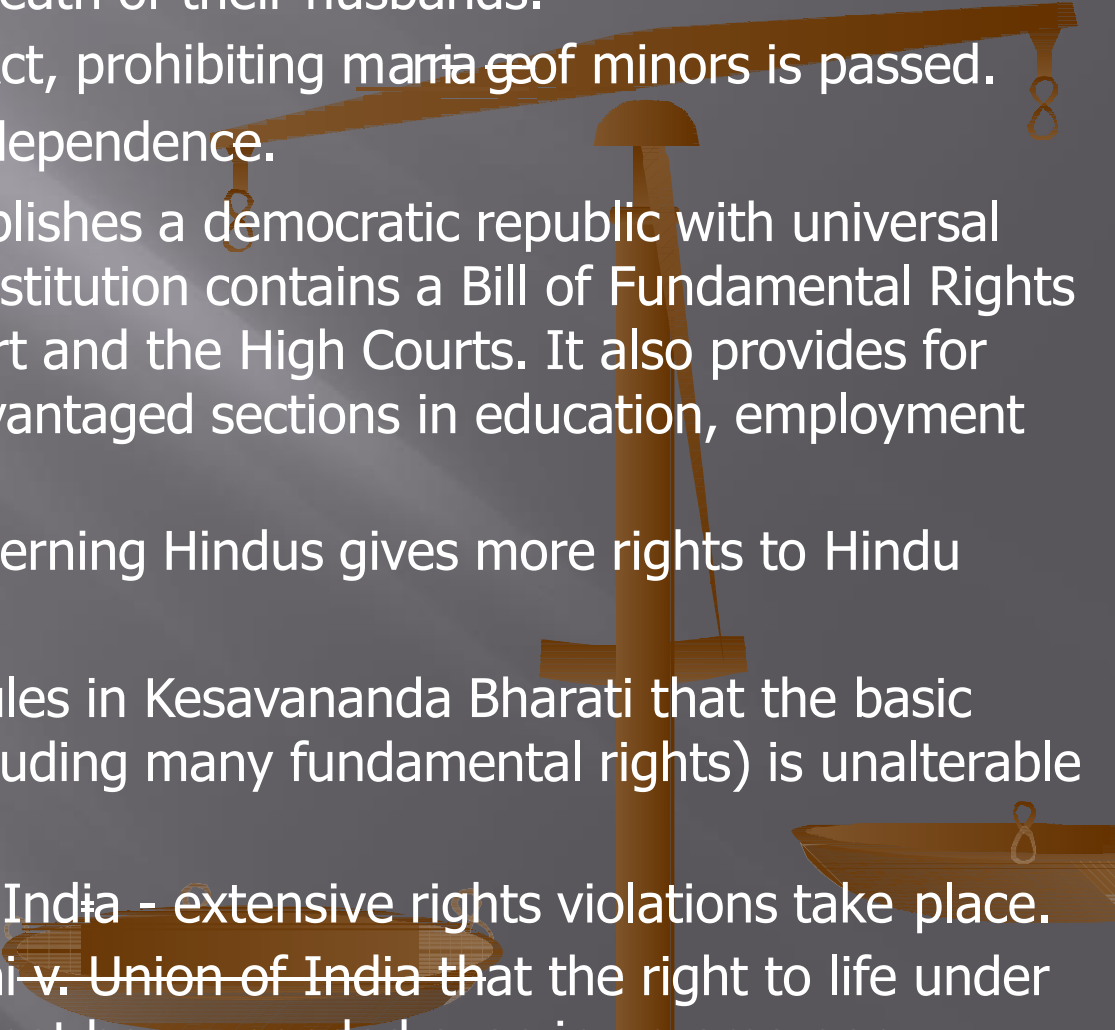
XVI. Violations of International Humanitarian Laws by the Armed Opposition Groups

a. Torture b. Killings c. Abductions d. Extortion

XVII. Application of the National Security Laws

a. Cases under the Prevention of Terrorism Act of 2002 b. Cases under the Terrorist and Disruptive Activities (Prevention) Act c. Cases

Chronology of human rights in India



1829 - The practice of sati was formally abolished in British India after years of campaigning by Ram Mohan Roy against this Hindu funeral custom of self-immolation of widows after the death of their husbands.

1929 - Child Marriage Restraint Act, prohibiting marriage of minors is passed.

1947 - India achieves political independence.

1950 - Constitution of India establishes a democratic republic with universal adult franchise. Part 3 of the Constitution contains a Bill of Fundamental Rights enforceable by the Supreme Court and the High Courts. It also provides for reservations for previously disadvantaged sections in education, employment and political representation.

1955 - Reform of family law concerning Hindus gives more rights to Hindu women.

1973 - Supreme Court of India rules in Kesavananda Bharati that the basic structure of the Constitution (including many fundamental rights) is unalterable by a constitutional amendment.

1975-77 - State of Emergency in India - extensive rights violations take place.

1978 - SC rules in Menaka Gandhi v. Union of India that the right to life under Article 21 of the Constitution cannot be suspended even in an emergency.

Chronology of human rights in India

- 1985-6 - The Shah Bano case, where the Supreme Court recognized the Muslim woman's right to maintenance upon divorce, sparks protests from Muslim clergy.
- 1989 - Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 is passed.
- 1989-present - Kashmiri insurgency sees increasing violence between militants and security forces, resulting in heavy loss of lives.
- 1992 - A constitutional amendment establishes Local Self-Government (Panchayati Raj) as a third tier of governance at the village level, with one-third of the seats reserved for women. Reservations were provided for scheduled castes and tribes as well.
- 1992 – Demolition of Babri Masjid, resulting in riots across the country.
- 1993 - National Human Rights Commission is established under the *Protection of Human Rights Act*.
- 2001 - Supreme Court passes extensive orders to implement the right to food.[2]
- 2002 - Violence in Gujarat, chiefly targeting its Muslim minority, claims many lives.
- 2005 - A powerful Right to Information Act is passed to give citizen's access to information held by public authorities.
- 2005 - National Rural Employment Guarantee Act (NREGA) guarantees universal right to employment.
- 2006 - Supreme Court orders police reforms in response to the poor human rights record of Indian police

How are human rights defined in the Protection of Human Rights Act, 1993 ?

- In terms of Section 2 of the Protection of Human Rights Act, 1993, "human rights" means the rights relating to life, liberty, equality and dignity of the individual guaranteed under the Constitution or embodied in the International Covenants and enforceable by courts in India. "International Covenants" means the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights adopted by the General Assembly of the United Nations on the 16th December, 1966 .



The Human Rights Commission-India



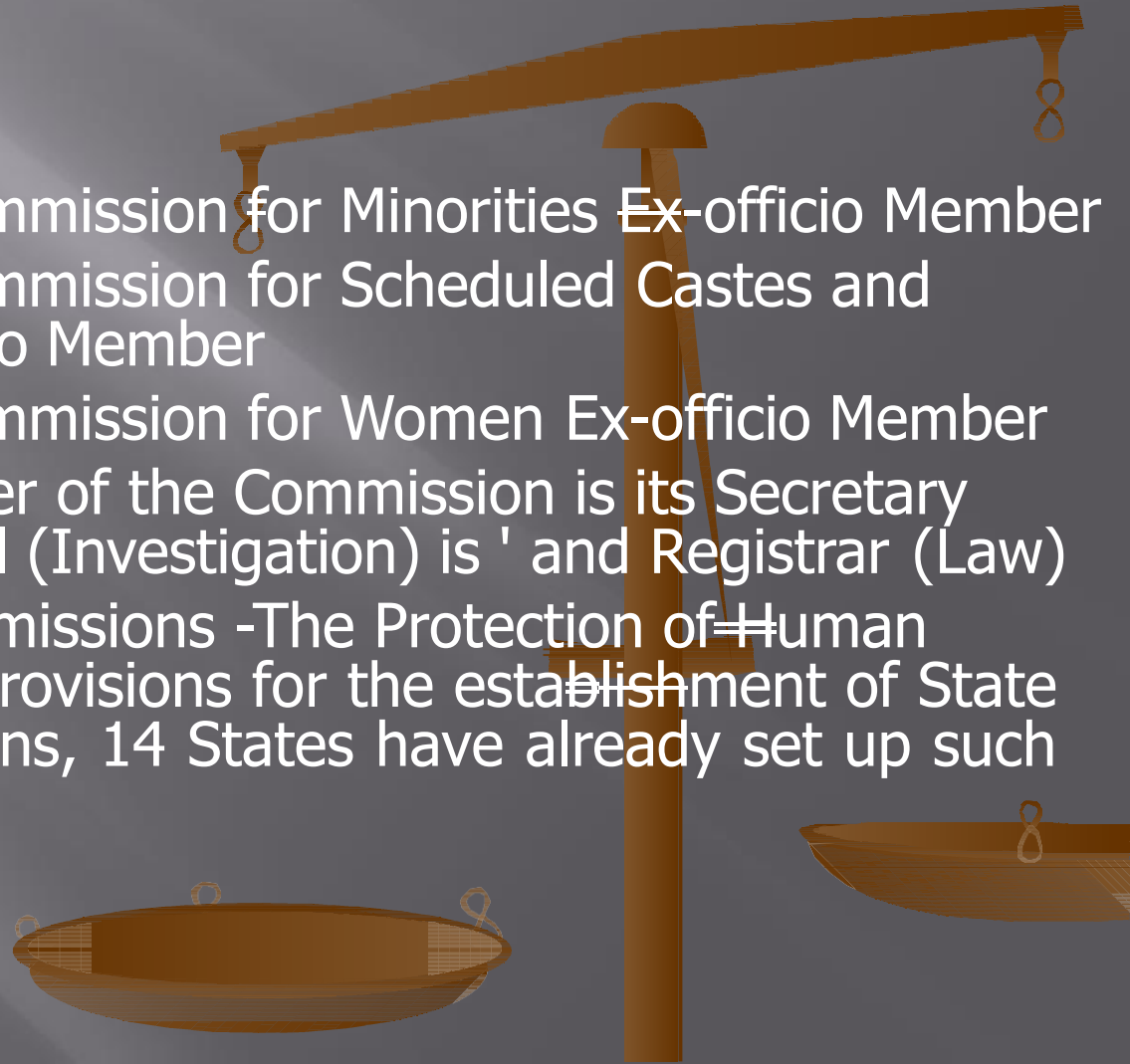
Established under The Protection of Human Rights Act on the
12th of October, 1993

Distinct features of NHRC

- Autonomous
- Independent
- Powers of a Civil Court
- Authority to interim relief
- Wide mandate
- Monitor the implementation of recommendations

What is the composition of the Commission?

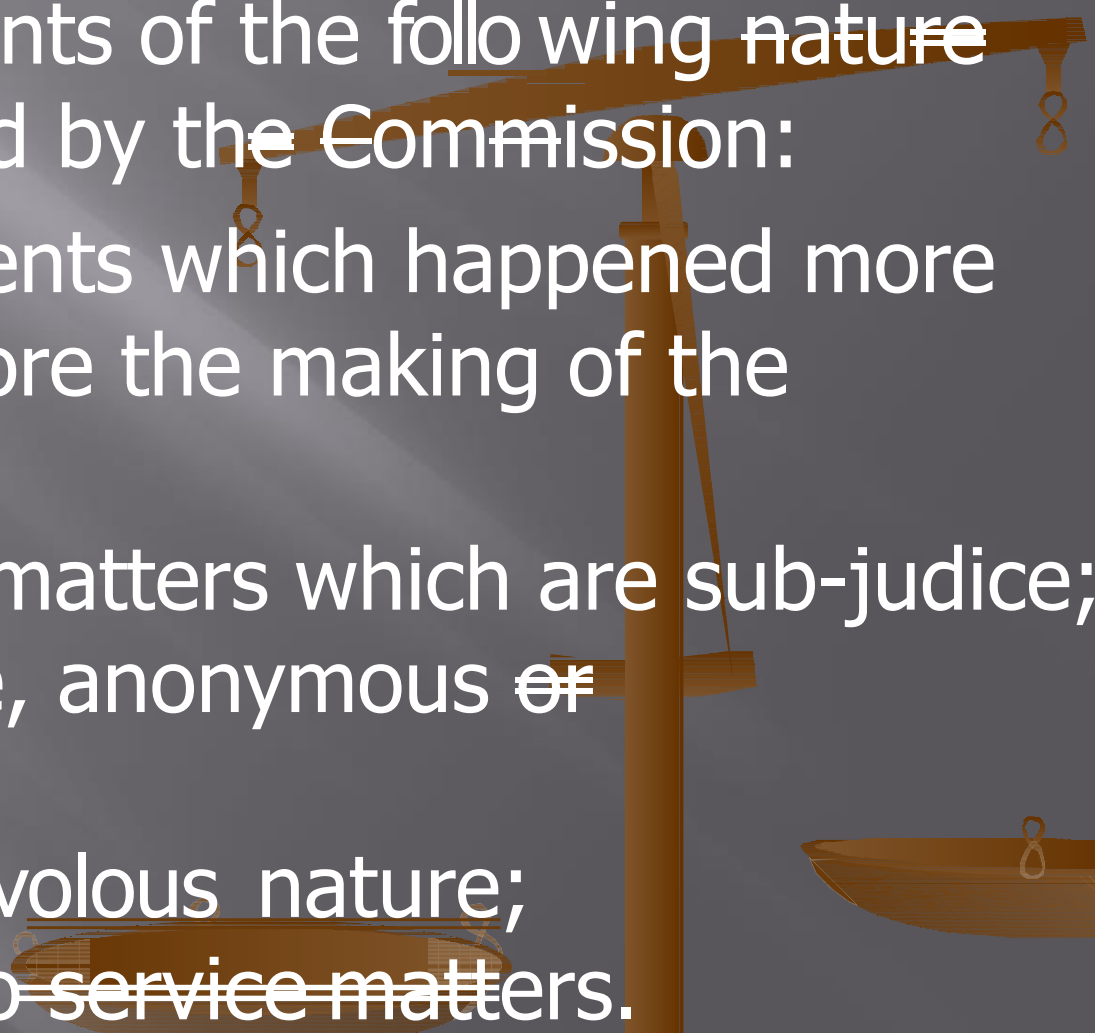
- Chairperson
- Member
- Member
- Member
- Member
- Chairperson, National Commission for Minorities Ex-officio Member
- Chairperson, National Commission for Scheduled Castes and Scheduled Tribes Ex-officio Member
- Chairperson, National Commission for Women Ex-officio Member
- The Chief Executive Officer of the Commission is its Secretary General , Director General (Investigation) is ' and Registrar (Law)
- State Human Rights Commissions -The Protection of Human Rights Act, 1993 makes provisions for the establishment of State Human Rights Commissions, 14 States have already set up such bodies



Is the Commission Autonomous?

- Yes, the autonomy of the Commission derives, inter-alia, from the method of appointing its Chairperson and Members, their fixity of tenure, and statutory guarantee ~~thereto~~ , the status they have been accorded and the manner in which the staff responsible to the Commission - including its investigative agency - will be appointed and conduct themselves. The financial autonomy of the Commission is spelt out in Section 32 of the Act.
- The Chairperson and Members of the Commission are appointed by the President on the basis of recommendations of a Committee comprising the Prime Minister as the Chairperson, the Speaker of Lok Sabha, the Home Minister, the leaders of the opposition in the Lok Sabha and Rajya Sabha and the Deputy Chairman of the Rajya Sabha as Members.

What kind of complaints are not entertained by the Commission ?

- Ordinarily, complaints of the following nature are not entertained by the Commission:
 - a) In regard to events which happened more than one year before the making of the complaints;
 - b) With regard to matters which are sub-judice;
 - c) Which are vague, anonymous or pseudonymous;
 - d) Which are of frivolous nature;
 - e) Which pertain to ~~service matters~~.
- 

What are the kinds of issues on which complaints have been received ?

Since its inception, the Commission has handled a variety of types of complaints. In the latest period, the major types of complaints have been:

In respect of police administration

Failure in taking action

Unlawful detention

False implication

Custodial violence

Illegal arrest

Other police excesses

Custodial deaths

Encounter deaths

Harassment of prisoners; jail conditions

Atrocities on SCs and STs

Bonded labor, child labor

Child marriage

Communal violence

Dowry death or its attempt; dowry demand

Abduction, rape and murder

Sexual harassment and indignity to women, exploitation of women

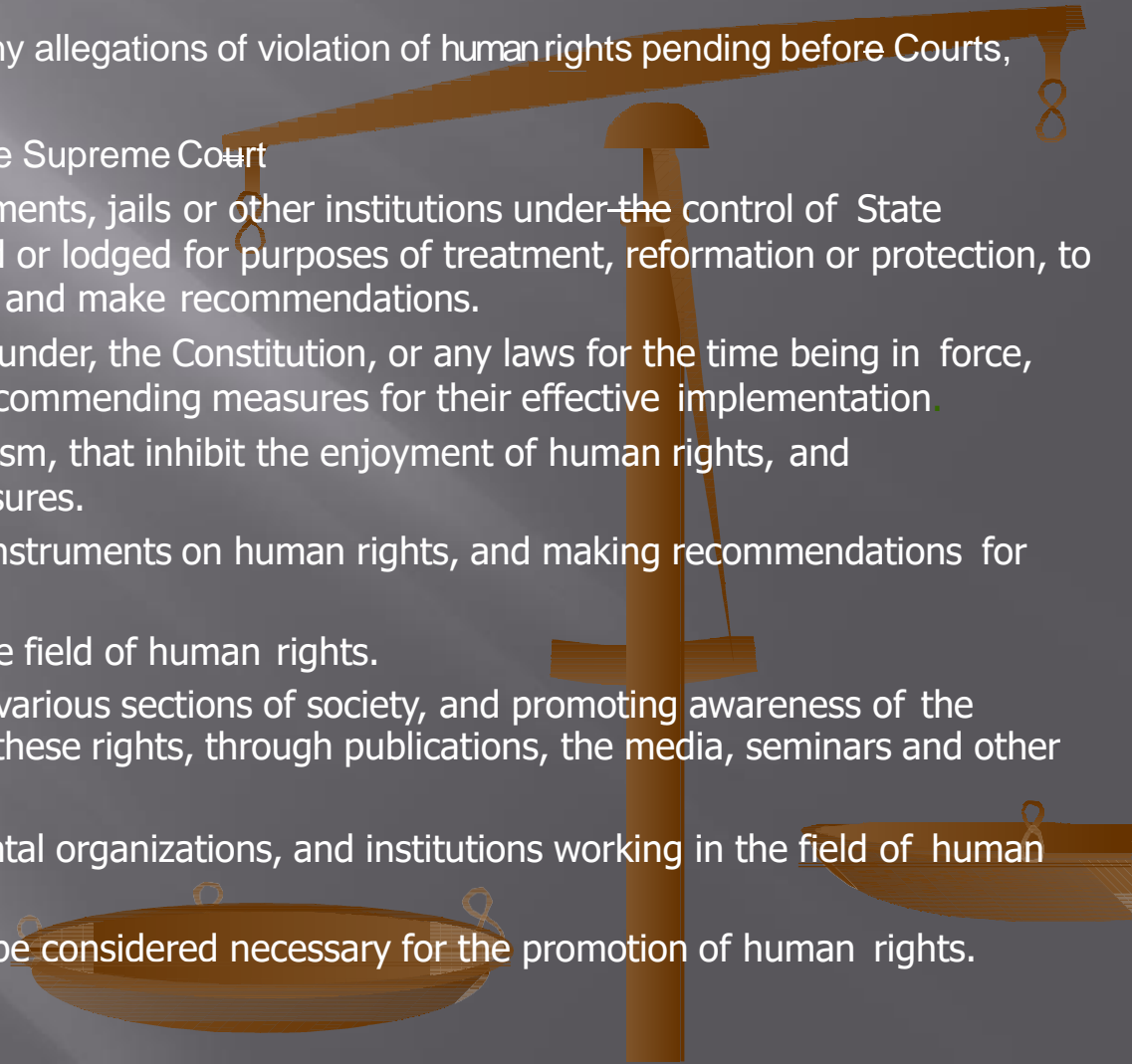
Numerous other complaints which cannot be categorized, have also been taken up .



Functions of Human Rights Commission

Inquiring, *suo motu*, or on a petition, presented by victims, or persons on their behalf, into complaints of :-

- violation of human rights or abetment thereof, or negligence or dereliction of duties in the prevention of such violation, by public Servants
- Intervening in any proceedings involving any allegations of violation of human rights pending before Courts, with the approval of such Courts.
- To File proceedings in the High Court or the Supreme Court
- Visiting, under intimation to State Governments, jails or other institutions under the control of State Governments, where persons are detained or lodged for purposes of treatment, reformation or protection, to study the living conditions of the inmates, and make recommendations.
- Reviewing the safeguards provided by, or under, the Constitution, or any laws for the time being in force, for the protection of human rights, and recommending measures for their effective implementation
- Reviewing factors, including acts of terrorism, that inhibit the enjoyment of human rights, and recommending appropriate remedial measures.
- Studying treaties and other international instruments on human rights, and making recommendations for their effective implementation.
- Undertaking and promoting research in the field of human rights.
- Spreading human rights literacy amongst various sections of society, and promoting awareness of the safeguards available for the protection of these rights, through publications, the media, seminars and other available means.
- Encouraging the efforts of non-governmental organizations, and institutions working in the field of human rights.
- Undertaking such other functions as may be considered necessary for the promotion of human rights.



Some Major Accomplishments

Independent stand on the issue of caste discrimination at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance held at Durban in 2001

- Comprehensive recommendations in respect of situation following communal riots in india

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

- Right to Health care:

- Enunciation of a national accident policy
- Establishment of central monitoring mechanism for emergency services
- Prevented repeal of Infant Milk Substitute Act 2003
-

CIVIL AND POLITICAL RIGHTS

- Systemic reforms in police
- Establishment of Human Rights cells in police headquarters
- Improvement in infrastructure – Forensic Labs
- Visits to prisons, mental hospitals and Govt. run homes
- mechanism for consent and testing, non
- discrimination in health care and
- employment, admission in educational
- institutions protection for
-

Monitor non-discrimination in relief, rehab and reconstruction to victims of violence and displacement



Some Major Accomplishments

THE COMMISSION REVIEWED A NUMBER OF LEGISLATIVE BILLS/ACTS INCLUDING:

The Terrorists and Disruptive Activities (Prevention) Act, 1985 (TADA)

The Prevention of Terrorism Bill, 2000

The Prevention of Terrorism Ordinance, 2001 (POTO)

Freedom of Information Act

Domestic Violence Bill

The Child Marriage Restraint Act

National Rural Employment Guarantee Bill, 2004

Food safety & standard bill, 2005

MONITOR

Prison Conditions

Custodial Deaths

Hospitals for mentally ill patients

Status of Bonded and Child labor situation

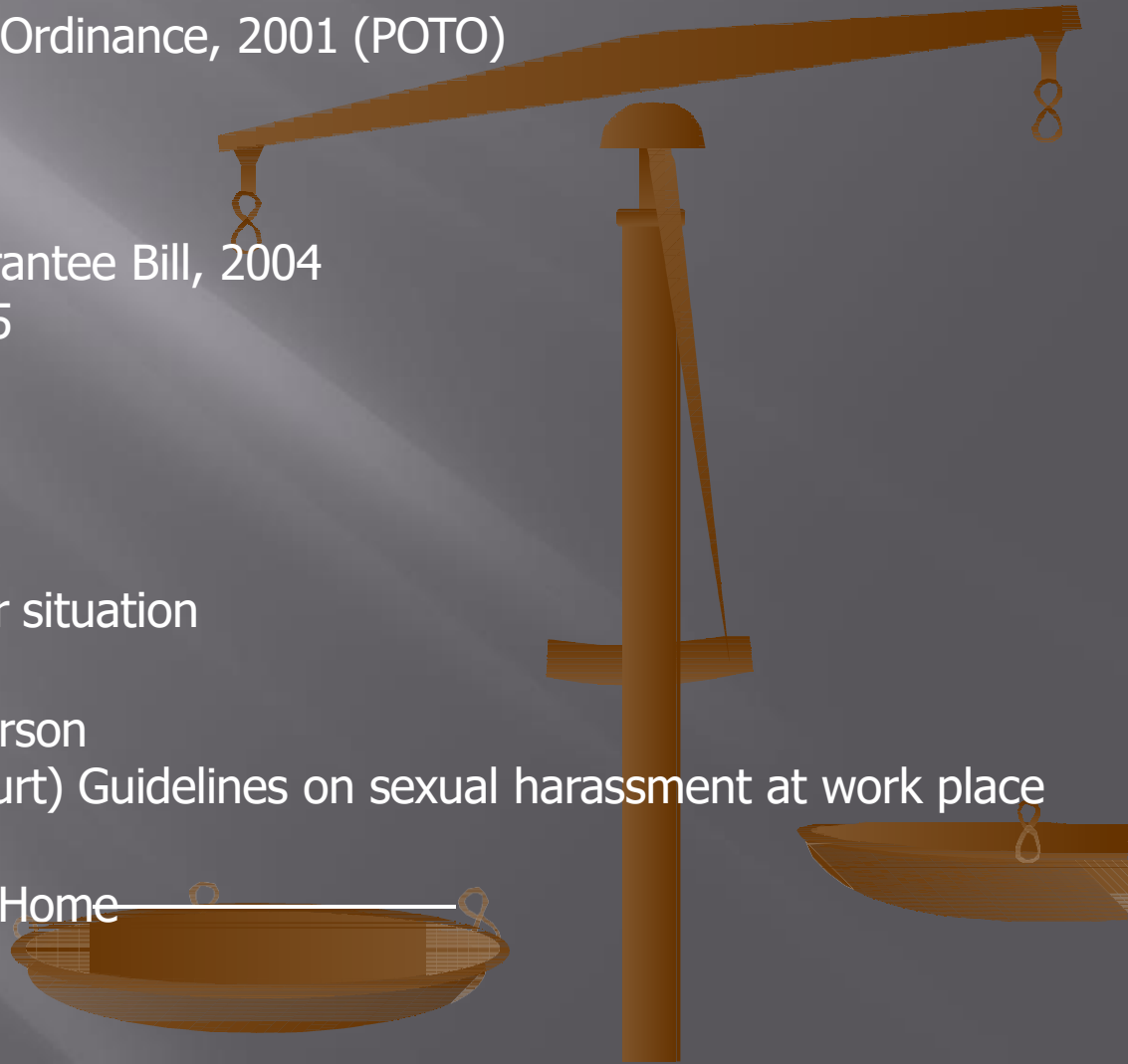
Homes run by the Government

Rights of Internally Displaced Person


Monitors Vishakha (Supreme Court) Guidelines on sexual harassment at work place

Encounter Deaths

Deaths of Children in Protection Home



A Mapping of Human Rights Issues

- 
1. Custodial Violence
 2. Project displacement
 3. The internally displaced due to conflicts
 4. Refugees
 5. Land Alienation
 6. Right Over Resources
 7. Urban Shelter and Demolition
 8. Livelihood
 9. Sexual Harassment at the Workplace
 10. Rape
 11. Death Penalty
 12. Fake Encounters (Extra-judicial killings)
 13. Involuntary disappearances
 14. Extraordinary Laws
 15. Preventive Detention
 16. Detention
 17. Missing Women
 18. Homicide in the Matrimonial Home
 19. Domestic Violence
 20. Sati
 21. Child Marriage
 22. Child Labor
 23. The 'neglected' child
 24. Child Abuse
 25. The 'unwanted' girl child
 26. Prostitution
 27. Prisons
 28. Wages to Prisoners
 29. Sexuality
 30. Freedom of Expression
 31. Dalits
 32. Medical Research
 33. Population Policies
 34. Organ Transplant
 35. Trafficking
 36. Bonded Labor
 - ~~37. Anti-liquor Movements~~
 38. HIV and AIDS
 39. De notified Tribes
 40. Tourism
 41. Right to Information
 42. Bhopal
 43. Environment and Pollution
 44. Political violence by non-state actors
 45. Clamping down on protest
 46. Disability
 47. Corruption and Criminalization of Politics
 48. 'Natural' Disasters