



INTERNATIONAL LAW
JOURNAL

**WHITE BLACK
LEGAL LAW
JOURNAL
ISSN: 2581-
8503**

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

WWW.WHITEBLACKLEGAL.CO.IN

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Editor-in-chief of White Black Legal – The Law Journal. The Editorial Team of White Black Legal holds the copyright to all articles contributed to this publication. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of White Black Legal. Though all efforts are made to ensure the accuracy and correctness of the information published, White Black Legal shall not be responsible for any errors caused due to oversight or otherwise.

WHITE BLACK
LEGAL

EDITORIAL TEAM

Raju Narayana Swamy (IAS) Indian Administrative Service officer



Dr. Raju Narayana Swamy popularly known as Kerala's Anti-Corruption Crusader is the All India Topper of the 1991 batch of the IAS and is currently posted as Principal Secretary to the Government of Kerala. He has earned many accolades as he hit against the political-bureaucrat corruption nexus in India. Dr Swamy holds a B.Tech in Computer Science and Engineering from the IIT Madras and a Ph. D. in Cyber Law from Gujarat National Law University. He also has an LLM (Pro) (with specialization in IPR) as well as three PG Diplomas from the National Law University, Delhi- one in Urban Environmental Management and Law, another in Environmental Law and Policy and a third one in Tourism and Environmental Law. He also holds a post-graduate diploma in IPR from the National Law School, Bengaluru and

a professional diploma in Public Procurement from the World Bank.

Dr. R. K. Upadhyay

Dr. R. K. Upadhyay is Registrar, University of Kota (Raj.), Dr Upadhyay obtained LLB, LLM degrees from Banaras Hindu University & PHD from university of Kota. He has successfully completed UGC sponsored M.R.P for the work in the Ares of the various prisoners reforms in the state of the Rajasthan.



Senior Editor

Dr. Neha Mishra



Dr. Neha Mishra is Associate Professor & Associate Dean (Scholarships) in Jindal Global Law School, OP Jindal Global University. She was awarded both her PhD degree and Associate Professor & Associate Dean M.A.; LL.B. (University of Delhi); LL.M.; PH.D. (NLSIU, Bangalore) LLM from National Law School of India University, Bengaluru; she did her LL.B. from Faculty of Law, Delhi University as well as M.A. and B.A. from Hindu College and DCAC from DU respectively. Neha has been a Visiting Fellow, School of Social Work, Michigan State University, 2016 and invited speaker Panelist at Global Conference, Whitney R. Harris World Law Institute, Washington University in St. Louis, 2015.

Ms. Sumiti Ahuja

Ms. Sumiti Ahuja, Assistant Professor, Faculty of Law, University of Delhi,

Ms. Sumiti Ahuja completed her LL.M. from the Indian Law Institute with specialization in Criminal Law and Corporate Law, and has over nine years of teaching experience. She has done her LL.B. from the Faculty of Law, University of Delhi. She is currently pursuing PH.D. in the area of Forensics and Law. Prior to joining the teaching profession, she has worked as Research Assistant for projects funded by different agencies of Govt. of India. She has developed various audio-video teaching modules under UGC e-PG Pathshala programme in the area of Criminology, under the aegis of an MHRD Project. Her areas of interest are Criminal Law, Law of Evidence, Interpretation of Statutes, and Clinical Legal Education.



Dr. Navtika Singh Nautiyal

Dr. Navtika Singh Nautiyal presently working as an Assistant Professor in School of law, Forensic Justice and Policy studies at National Forensic Sciences University, Gandhinagar, Gujarat. She has 9 years of Teaching and Research Experience. She has completed her Philosophy of Doctorate in 'Inter-country adoption laws from Uttarakhand University, Dehradun' and LLM from Indian Law Institute, New Delhi.

Dr. Rinu Saraswat



Associate Professor at School of Law, Apex University, Jaipur, M.A, LL.M, PH.D,

Dr. Rinu have 5 yrs of teaching experience in renowned institutions like Jagannath University and Apex University. Participated in more than 20 national and international seminars and conferences and 5 workshops and training programmes.

Dr. Nitesh Saraswat

E.MBA, LL.M, PH.D, PGDSAPM

Currently working as Assistant Professor at Law Centre II, Faculty of Law, University of Delhi. Dr. Nitesh have 14 years of Teaching, Administrative and research experience in Renowned Institutions like Amity University, Tata Institute of Social Sciences, Jai Narain Vyas University Jodhpur, Jagannath University and Nirma University. More than 25 Publications in renowned National and International Journals and has authored a Text book on CR.P.C and Juvenile Delinquency law.



Subhrajit Chanda



BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); PH.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provide dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

HUMAN RIGHTS INSTITUTIONS IN INDIA

AUTHORED BY - BHUVANESWARI B

1. INTRODUCTION

Human rights are the cornerstone of a just and democratic society. India is a country with a rich constitutional framework and a commitment to democratic values, several human rights institutions have been established to protect, promote, and uphold the dignity and freedoms of every individual. These institutions play a pivotal role in monitoring violations, advocating for reforms, and ensuring that justice reaches even the most marginalized sections of society. The NHRC of India is considered the apex institution that takes action against the breach of Human Rights and earned the sobriquet “WATCHDOG OF HUMANRIGHTS” in India.

In our country National, State and Non-governmental organizations play a crucial role in promoting and protecting human rights. These institutions have been created with the aim of protecting human rights and investigating human rights violations. The object of this paper is to discuss the Human rights institutions in India and their powers, functions in detail.

2. INDIAN CONSTITUTION VS HUMAN RIGHTS

The **Indian Constitution** and **Human Rights** are closely interrelated concepts that aim to protect the dignity, freedom, and equality of individuals. While the Indian Constitution is the **supreme legal document** that governs the country, human rights are **universal moral principles** recognized internationally. Both strive to ensure justice, but they originate from different sources and have different scopes. The **Fundamental Rights** in the Indian Constitution (Articles 12–35) reflect the principles of human rights.

Fundamental Rights (India)

Right to Equality (Article 14–18)

Right to Freedom (Article 19–22)

Human Rights (UDHR)

Article 1 & 7 – Equality before the law

Articles 19 & 20 – Freedom of opinion, expression, movement

Right against Exploitation (Article 23–24) Articles 4 – Prohibition of slavery and forced labour

Right to Freedom of Religion (Article 25–28) Article 18 – Freedom of religion

Cultural and Educational Rights (Article 29–30) Articles 26 & 27 – Right to culture and education

Right to Constitutional Remedies (Article 32)¹ Article 8 – Right to remedy through competent tribunals

Directive Principles though not justiciable guide the state in policy-making, ensuring social and economic rights such as the right to work, education, and public assistance.² India is a signatory to various international human rights instruments, including the **Universal Declaration of Human Rights (1948)**, **International Covenant on Civil and Political Rights (ICCPR)**, and **Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)**. These commitments have influenced the creation and operation of national institutions.³

3. HUMAN RIGHTS INSTITUTIONS IN INDIA

The Protection of Human Rights Act, 1993 came into force on 28th September 1993. This act provides for the constitution of a National Human Rights Commission, State Human Rights Commission and Human Rights Courts for better protection of human rights.

(i) National Human Rights Commission (NHRC)

The NHRC was established under the Protection of Human Rights Act, 1993. It is a statutory, autonomous, and quasi-judicial body with the responsibility of protecting and promoting human rights defined under Section 2(d) of the Act.⁴

This commission shall consist of a chair- person and three other members. The objective is to

¹ The Constitution of India, Part III, Articles 14 to 32

² Ibid, Part IV, Articles 36 to 51

³ Ministry of External Affairs, India and Human Rights, Government of India, 2022

⁴ Protection of Human Rights Act, 1993, Section 2(d).

protect and promote human rights defined as the rights relating to life, liberty, equality, and dignity.

Functions:

Inquire into complaints of human rights violations or negligence by public servants.

Visit jails and detention centers to study the living conditions of inmates.

Promote human rights awareness through education and campaigns

Encourage efforts by NGOs and individuals working in the field of human rights.

The NHRC can recommend action but does not have the power to enforce its decisions, which is often seen as a limitation. It **cannot inquire** into matters older than one year. It cannot inquire into violations by **private individuals**, unless aided or abetted by a public servant.⁵

II. State Human Rights Commissions (SHRCs)

Each state can establish its own Human Rights Commission under the Protection of Human Rights Act, 1993. It was constituted under section 21 of the Protection of human rights Act.

Functions:

Deal with human rights violations within the state.

Conduct inquiries and make recommendations.

Review state laws and make suggestions for reforms.

However, SHRCs often face resource and authority limitations compared to the NHRC. It helps to reduce the burden on NHRC and address local grievances.⁶

III. National Commission for Women (NCW)

This commission was established in 1992 under the National Commission for Women Act. It investigates complaints, recommends legislative changes, and promotes gender justice⁷

Objective: To safeguard the rights and welfare of women and ensure gender equality.

Functions:

Investigate complaints related to women's rights violations.

Advise the government on policy matters affecting women.

Review existing laws and recommend amendments.

⁵ Ibid, Section 36(2)

⁶ Protection of Human Rights (Amendment) Act, 2006.

⁷ National Commission for Women Act, 1990

IV. National Commission for Minorities (NCM)

This commission was established in 1992 under the National Commission for Minorities Act

Objective: To safeguard the rights of religious and linguistic minorities in India.

Functions:

Monitor minority rights and report on their socio-economic and educational status.

Examine complaints of discrimination.

Promote communal harmony and interfaith understanding.⁸

V. National Commission for Scheduled Castes (NCSC)

This was established under Article 338 of the Constitution of India

Objective: To monitor safeguards provided for the Scheduled Castes (SCs).

Functions:

Investigate and monitor SC-related grievances.

Evaluate the working of constitutional safeguards.

Participate in the planning process of socio-economic development of SCs.⁹

VI. National Commission for Scheduled Tribes (NCST)

Established: Under Article 338A of the Constitution. NCST focuses on protecting tribal rights and culture. It oversees the implementation of constitutional safeguards, such as the **Fifth and Sixth Schedule** provisions¹⁰

Objective: To protect the interests of Scheduled Tribes (STs).

Functions:

Monitor and investigate issues concerning STs.

Advise on planning and implementation of tribal welfare programs.

Protect tribal rights, especially in relation to land and forest resources.

VII. Human rights courts

For the purpose of providing speedy trial of offenses arising out of violation of Human rights, the State Government may, with the concurrence of the Chief Justice of High court, by notification, specify for each district a court of session to be Human rights court to try offences. Human Rights Court, when gets established will surely be having the status of a Court to

⁸ National Commission for Minorities Act, 1992.

⁹ Constitution of India, Article 338

¹⁰ Constitution of India, Article 338A

adjudicate the justice for the Human Rights issues, and thus would be different body from the Human Rights Commission whether National or the State level, as the work which Court plays is differentiated from the Human Rights Commission.¹¹

VIII. Other institutions

National Commission for Protection of Child Rights (NCPCR) Advocates for child rights and safeguards children's well-being. It was set up under the Commission for Protection of Child Rights Act, 2005, the NCPCR monitors and safeguards child rights, ensures implementation of laws like the Right to Education Act and Juvenile Justice Act.¹²

IX. NON- GOVERNMENTAL INSTITUTIONS

According to Section 12(I) of the Protection of Human Rights provides that the commission shall “encourage the efforts of non-governmental organizations and institutions working in the fields of human-rights”

There are three areas in which NGO can be of assistance to the commission. First because of grass-root contact, they can most effectively identify human rights violations, articulate them and seek redress. The commission sees a most positive role for NGO in bringing complaints to its notice. Secondly, given the rapport that they have established with the public at large, the assistance and co-operation of the NGO can be of great value in the investigation of serious cases that come to be looked at by the commission through its investigative staff. Thirdly, the high level expertise of individual NGO in specific areas of human rights work can be of great benefit to the commission as it studies and makes recommendations on specific issues and problems.¹³

The NHRC acknowledged the role of NGOs and has prepared a National Register of NGO working in the field of movement for protection and promotion of Human rights. A new NGO, Rural Litigation and Entitlement Kendra has been established at Dehradun. An advisory committee established for the amendment of the protection of human rights act, 1993 has suggested that the National and State human rights Commission be empowered to select staff of their choice from the Government and non- Government sectors for more effective working

¹¹ [Human rights courts in India: A critical evaluation - Law Times Journal](#)

¹² Commission for Protection of Child Rights Act, 2005.

¹³ Dr.S.R.Myneni, Humanrights law, 3rd edition, page 529

of NGO as well as governmental sectors.

NGOs have contributed to a large extent to isolate and identify the problems such as bonded labour and child labour. Delhi conference, 1998 acknowledged the important link between protection of human rights and preservation of the environment for clean and healthy air and water. NGOs play a prominent role in highlighting the preventive measures to control pollution.

National level NGOs are Sulabh movement for welfare of dalits, Child Relief and You for upliftment of children, CACL campaign against child labour, PUCL, PUDR and Bhandua mukthi morcha for bonded labour liberation. Role of NGOs in protecting Human Rights through Judiciary and NHRC. They have filed cases, writ petitions, and public interest litigation on behalf of victims and public at large for the protection of human rights. The following are the examples in which NGO take and action in court for protecting human rights

Vishaka and ors vs State of Rajasthan

Bandhua Mukti Morcha vs Union of India and Ors

Saheli vs Commissioner of Police

Peoples union for Democratic Rights vs Police commissioner Delhi

4. Role of the Judiciary

The Indian judiciary, particularly the Supreme Court and High Courts, has played an active role in the **expansion of human rights** through **Public Interest Litigations (PILs)**. In landmark cases *Maneka Gandhi v. Union of India*¹⁴ The court broadened the interpretation of Article 21 to include the right to life with dignity, education, health, and environment.

PIL is an excellent example to refer to at this moment. During our lifetime we've seen plethora of injustices being dealt with using the mechanism of PIL. I can vividly recollect a few for which the Supreme Court has been approached in the last few decades:

lack of access to food¹⁵, Deaths due to starvation¹⁶, out-of-turn allotment of government accommodation¹⁷, Prohibition of smoking in public places¹⁸, investigation of alleged bribe

¹⁴ *Maneka Gandhi v. Union of India*, AIR 1978 SC 597.

¹⁵ *PUCL v Union of India* (2001) (7) SCALE 484; *PUCL v Union of India* (2004) (5) SCALE 128

¹⁶ *Kishen Pattanayak v State of Orissa* (1989) Supl.(1) S.C.C. 258

¹⁷ *Shiv Sagar Tiwari v Union of India* (1996) 6 S.C.C. 558

¹⁸ *Murli Deora v Union of India & Ors.* (2001) 8 S.C.C. 765

taking¹⁹, Employment of children in hazardous industries²⁰, right to health²¹, right to education²², sexual harassment in the workplace²³

5. Challenges Faced by Human Rights Institutions

Limited Enforcement Powers: Many commissions can only recommend actions, not enforce them.

Political Interference: Lack of autonomy can compromise impartial functioning.

Resource Constraints: Financial and human resource limitations affect efficiency.

Public Awareness: Many citizens are unaware of their rights or how to access these institutions

Understaffing and inadequate funding, especially in SHRCs²⁴

6. Conclusion

Human rights institutions in India, particularly the National Human Rights Commission, play a vital but evolving role in safeguarding the fundamental rights of individuals, despite facing structural and operational challenges. India's human rights institutions, with the NHRC at the forefront, serve as the constitutional watchdogs tasked with protecting life, liberty, equality, and dignity as enshrined in the Constitution and international covenants. Established under the Protection of Human Rights Act, 1993, the NHRC is empowered to investigate violations, recommend remedial actions, promote awareness, and encourage research. It operates alongside State Human Rights Commissions to extend human rights oversight throughout the country.

In summary, human rights institutions in India represent an essential pillar in the country's democratic and legal system, reflecting India's constitutional commitment to human dignity and justice. Achieving more effective protection and promotion of human rights requires ongoing reforms, proactive government cooperation, and active civil society participation to ensure these institutions deliver justice and uphold the rights of all citizens.

¹⁹ Vineet Narain v Union of India (1996) 2 S.C.C. 199

²⁰ M.C. Mehta v State of Tamil Nadu AIR 1997 SC 699

²¹ Parmanand Kataria v Union of India AIR 1989 SC 2039; Paschim Banga Khet Mzdooor Samity v State of West Bengal (1996) 4 S.C.C. 37; Kirloskar Bros Ltd v ESIC (1996) 2 S.C.C. 682; Air India Stat. Corp v United Labour Union (1997) 9 S.C.C. 377

²² Mohini Jain v State of Karnataka (1992) 3 S.C.C. 666; Unni Krishnan v State of Andhra Pradesh (1993) 1 S.C.C. 645.

²³ Vishaka v State of Rajasthan AIR 1997 SC 3011; Apparel Export Promotion Council v A.K. Chopra AIR 1999 SC 625

²⁴ Commonwealth Human Rights Initiative, "Challenges of State Human Rights Commissions", 2020.