iJRASET
International Journal For Research in Applied Science and Engineering Technology



INTERNATIONAL JOURNAL FOR RESEARCH

IN APPLIED SCIENCE & ENGINEERING TECHNOLOGY

Volume: 6 **Issue:** I **Month of publication:** January 2018

DOI: http://doi.org/10.22214/ijraset.2018.1169

www.ijraset.com

Call: 08813907089 | E-mail ID: ijraset@gmail.com

International Journal for Research in Applied Science & Engineering Technology (IJRASET)
ISSN: 2321-9653; IC Value: 45.98; SJ Impact Factor :6.887
Volume 6 Issue I, January 2018- Available at www.ijraset.com

Protection of Rights in the Indian Governance: Role of NHRC

Dr.K.Senthilkumar[1], Mr.S.Loganathan[2],
[1]*Asst Professor, Dept of Political science & Public admn, Annamalai University, Tamilnadu, India.*
[2]*PhD Scholar in Political science, Dept of Political science & Public administration, Annamalai University, Tamilnadu, India*

Abstract: Rights are the primary and prominent phenomenon in the path of social justice. "Happiness is the ultimate motion of humans", stated Aristotle in his politics. Men to lead a happy and comfortable life, rights are essential and ingredient in the day-to-day life. French revolution in 1789, heralded the famous adage of "Liberty, equality and fraternity". These mantras enthralled all the nations of the world and shaken the hearts and minds of big colonial empires subsequently which impacted the so called uncivilized people of developing and under developed Nations of Asia, Africa and Latin America.
Key Words: NHRC SHRC RIGHTS LIBERTY

I. INTRODUCTION

In the aftermath of the I and II world, the world statesmen of big empires realized the significance of human lives and on the basis of humanitarian ground established UNO in 1945 for sustained peace- building process. The establishment of UNO at the international arena, has prevented the world nations from the scourges of war, but not from the human sufferings due to other social and governing factors. John Locke in his, "Two treatises of government" explicitly explained about the right to life, liberty and property. To this philosopher, men surrendered all rights to the state except life, liberty and property rights. If these rights are not protected and provided by the state mechanism, people have every right to revolt against the state, stated Locke. Marx also exemplified about rights on the basis of discrimination. All history is nothing but history of class struggles. It is rulers and capitalistic class who utilize the state mechanism to exploit and exhaust the resources including human for the betterment of their own cause. Marx also stated that rights are the factors which are close to the poor community and not with the rich community. During the philosophical interactions among Greeks before 2000 years, Thrasymacchus replied for a question of justice that, "Justice is the interest of the stronger community people. In the contemporary world society, we can observe the factor of justice which is only favoring the "haves" and not "have-nots" Indian democracy in the path of glorious development along with the fruits of globalization is stewarding with flying colors, when other countries and neighbors struggle with their ill-governance. Comparing with the neighbors, the democratic experimentation and experience of India succeeding and successive along with development at all levels in all spheres. However, discrimination on the basis of religion, caste, and color, economic condition is a disturbing factor for which several additional governing mechanisms serves the noble cause of protecting the interests of the poor and other category of Indian community.

Obviously, the founding fathers of our Indian constitution realized the noble cause and commitment for providing happiness to all Indian communities invariably. That said, we may not repute reality, in the name of ideal process. Nobody can refuse the discrimatory practices on the basis of aforementioned factors. Caste atrocities, religious carnages, are the day-to-day process of Indian democracy. It is in thus junction, we may scrutinize the role of National Human Rights Commission (NHRC) constituted by the act of human rights, 1993 Act as amended in 2006.

A. National Human Rights Commission (NHRC)

The United Nations international workshop on National Institutions for promotion and protection of human rights resulted in drafting of guidelines that were later adopted by the UN Commission on human rights as the "Paris Principles" in 1992 and adopted by the UN General assembly in 1993. In continuum with this, our Indian government passed the protection of Human Rights Act, 1995 under which NHRC and SHRC were constituted. The NHRC constitutes of a chairperson and other the members all of whom are appointed by the president of India. The chairman and 4 members are chosen by a committee which consists of Prime Minister, Speakers, Minister, in-charge of home, opposition leader in Lok Sabha, opposition leader in Raja Sabha and Deputy Chairman of Council of States.

©IJRASET (UGC Approved Journal): All Rights are Reserved

The maximum qualified age for becoming chairman of NHRC is 75 years and 70 for other members of NHRC. The chairman and other members of NHRC may send resignation to the president and as well as they may be removed for proved misbehavior or incapacity.

The term of chairman is 5 years or upto 75 years and for members it is 5 years or upto 70 years age of member. The members might be reappointed for second term but nobody can go for employment after officiating in NHRC.

B. Complaints

1) Basic function is to deal with complaints.
2) Any person or a group of persons can submit and it will be registered and numbered.
3) The commissions ask for a report from the state government.
4) If required action is taken already, the case will be closed.
5) If violations are proved, the commission initiates proceedings, demand for immediate relief to the victim / approach SC or HC for implementation of its orders.
6) Regarding armed forces, the commissions ask for report from central government and if necessary the government can be demanded with action taken report within 3 months.

C. Nature of Complaints:

1) Complaints may be filed in Hindi, English or any language in 8th schedule.
2) No fee is charged.
3) The commission may ask for further informations when necessary.
4) Also it accepts telegraphic complains and through Fax or E-mail.

D. Different Types Of Complaints

1) Deaths in police
2) Fake encounters by police, army or paramilitary forces.
3) Illegal detention, extortion and intimidation by police.
4) Non-registration of cases.
5) Failure of police to protect the life and property of citizens.
6) Failure in conducting effective investigations.
7) Beating, torture or rape in police custody or in judicial custody.
8) Denial of basic facilities of legal aid, decent food, hygiene in police stations and prisons.
9) Denial of clean drinking water.
10) Atrocities against Dalits and denial of access to village tanks, wells and water resources.
11) Forced or bonded labour
12) Environmental pollution.

E. Alternative Actions

1) Pay compensation
2) Take disciplinary action against quality persons.
3) Initiate proceedings for prosecution against the concerned person.
4) Take preventive measures so as to stop further human rights violation.

II. IMPORTANT CASES

A. Punjab Cremation Case

The NHRC awarded compensation of Rs. 1.75 Lakhs each to the next of kin of 1051 victims of Punjab mass cremation case. The commission found that the bodies of victims were cremated by the state authorities in violation of rules on cremation of unidentified bodies. The Punjab Government was directed to deposit Rs. 18,39,25,000/- within next three months.

There is a large human rights violations inflicted by Punjab Police by cremating number of human bodies. The commission found the state of Punjab accountable and responsible for the infringement of the right to life of the deceased.

©IJRASET (UGC Approved Journal): All Rights are Reserved

B. Starvation Deaths in Orissa

NHRC took cognizance of the reports of deaths of people due to starvations in Korapul, Bolangie and Kalahand districts. It sent a team to explore the prevailing conditions. It also appointed a special reporter to look after the relief. If further reviews the measure taken by the government.

C. Encounter in A.P.

(APCLC) The liberties committee complained to NHRC regarding encounter deaths on the basis of suspicion of people's group. Also the group gave 285 killings of encounter. NHRC inquired in to 6 cases involving the deaths of 7 people and formulated guidelines in 1997 first time in India.

D. Death Due to Silicosis

People of Madhya Pradesh mostly tribal's come into conduct with Silica dust while they work in Godhra, Gujarat and affected with Silicosis or Siliocotubercalers. 100's of tribal were dead, while they return back from their work place. And further they were not getting any compensation or retribution as they have not documentary proof. NHRC directed the governments of Madhya Pradesh and Gujarat about this tragedy and asked for factual report within 4 weeks. The commission also dispatched a team from the investigation division for a spot enquiry.

E. SHRC'S And Other Commissions

State human rights commission (SHRC) consists of chairman and other two members for overseeing human rights violation in a particular state. These members and chairman were appointed by the Governor of the state by the recommendations of the committee which consist of Chief Minister, Home Minster, Speaker, Opposition leader. The same functions as such for NHRC are there with SHRC and they have all rights review, intervene, investigate, visit, and inquire into the details of various serious cases. It also covers custodial deaths; police excesses fake encounters, women and child rights.

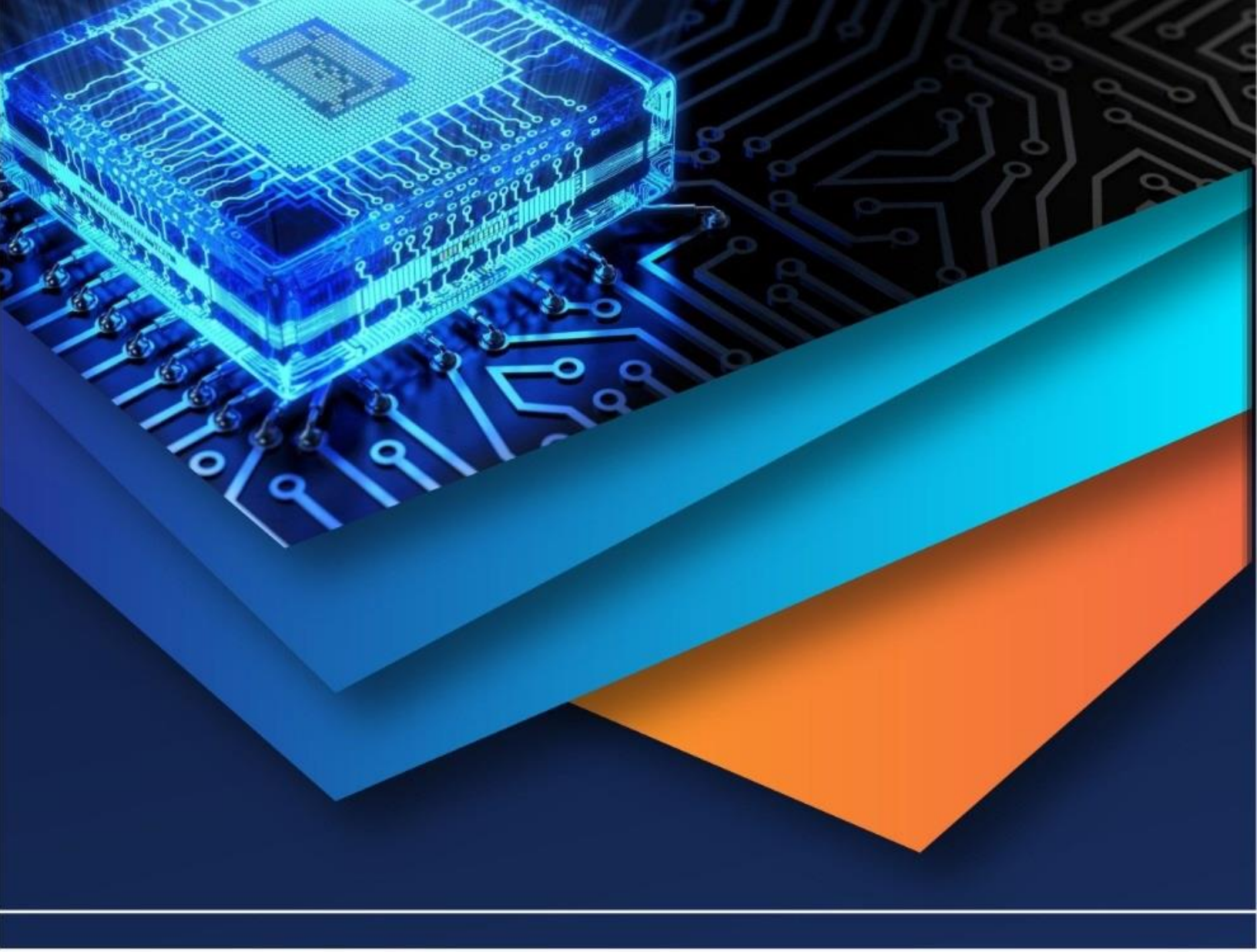
F. Other Commissions

National Commission for Women (NCW). Address the issues of women rights violation and advise the government on policy matters related women. National Commission for Minorities (NCM) plays role in protecting the rights of minorities. National Commission for SC/ST take care of the rights and welfare of SC and ST's. National Commission for protection of child rights exists for protecting the best interests of children. Disability Commissioner is in-charge of protecting the rights of diabetes persons and their rights.

REFERENCES

[1] Banerjee, D.: Readings in Law, L.B.S. National Academy of Administration, Mussoorie,1998.
[2] Basu, D.D.: Introduction to the Constitution of India, Prentice Hall of India, New Delhi,1992.
[3] Bedi, Kiran: It's always Possible, Sterling Publishers Private Limited, New Delhi, 2005,(sixth reprint of 2002 edition).
[4] Kashyap, Subhash: Our Parliament, National Book Trust, India, New Delhi, 2004.
[5] Koshy, K.: Punjab Police Rules 1934(Volume 1,2 &3), Bright Law House, Rohtak, 1999,(Reprint of 1st edition 1992-93).
[6] Lal, Neeta: Huge case backlog clogs India's courts, June 28, 2008,[www.atimes.com/atimes/South_Asia/JF28Df02.html].
[7] Lalli, Upneet: Problem of Overcrowding in Indian Prisons – A study of undertrials asone of the factors, Institute of Correctional Administration, Chandigarh, 2000.
[8] Shamasastry, R.: Kautilya's Arthashastra: Book II, Government Press Bangalore, 1915.www.mssu.edu/projectsouthasia/history/primarydocs/Arthashastra/BookII.htm].
[9] Sastry, G.U.G.: Criminology, S.V.P. National Police Academy, Hyderabad, 1999.
[10] Siddiqui, A.A. (Dr.): Police Sub-Culture, Guru Nanak Dev University, Amritsar, 2004.Term-Papers.us, 2005 [Website: www.term-papers.us/ts/hc/svn278.shtml]
[11] Trivedi, B.V.: Prison Administration in India, Uppal Publishing House, New Delhi,1987.
[12] Vacca, J.S.: Educated Prisoners Are Less Likely to Return to Prison (Journal of Correctional Education, v55 n4 p297-305 Dec 2004), Dec 2004.

©IJRASET (UGC Approved Journal): All Rights are Reserved



10.22214/IJRASET

45.98

IMPACT FACTOR: 7.129

IMPACT FACTOR: 7.429

INTERNATIONAL JOURNAL FOR RESEARCH

IN APPLIED SCIENCE & ENGINEERING TECHNOLOGY

Call : 08813907089 (24*7 Support on Whatsapp)