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Role of National Human Rights Commission to Protecting Human Rights in India - A Study

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ABSTRACT

In the Ancient period, human civilization have the long lasting historical past comparatively they are not in mature. The history shows the human civilization and attain the human rights is not a easy task this process have the so many several up and downs and so on. A few centuries later men are tried to live in peace and harmoniously. It was not a naturally happened one, they can face many problems in this process first they made a "Social Agreement" in this context man‟s human rights was started in India after 90‟s in India National Human Rights Commission (NHRC) was build up to protect and promote Human Rights in India through the National level. In this paper is going to discuss Meaning, Importance of Human Rights and Origin, Development, duties and functions of National Human Rights Commission through the analytical and descriptive way.

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INTRODUCTION

Human rights (HR) is guaranteed everyone by birth at everyone in the world by the government. Although various explanations have been given to the term human rights, it is changing according to circumstances that change in every period of time.The idea of human rights is the result of the long evolution of philosophical, political, legal and social reflection, indistinguishably associated with the social-majority rule customs.The National Human Rights Commission is an institution acts as a catalyst to improve the quality of governance, which depends on the state of human rights in a country.

Meaning of Human Rights

Human rights are not the right to buy anyone. These things are connected with each person born as a human. These human rights are recognized by the government at the time of man's birth. Many of the man's demands are the right to claim. "It is the right of a public to be recognized by the state by the acceptance of other people in the community by the demands of an individual". These are not only owned by a few. Everyone is entitled to enjoy this privilege. The term “Human Rights” is comparatively derived recent origin. But the thought as quit old concept from the human civilization. It guaranteed by our constitution of India and afeguarded by courts of India. The term „human rights‟ to mean „rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution, or embodied in the International Covenants and enforceable by the Courts in India.

Issues of Human Rights

In India is facing so many human rights issue are there:

- Domestic Violence
- Less Educational opportunities
- Poverty
- Health and safety
- Professional Inequality
- Morality and Inequality
- Social Barriers
- Problems of finance, marketing, and middle persons and etc.

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The National Human Rights Commission

NHRC are a unique independent institution is playing a unique role to the existing institution. NHRC is basically investigating and reporting body. It also creating awareness among people. It is completely detected in the protection of Human rights.

The commission serves as a mechanism to enhance the enjoyment of human rights. Its establishment aims at creating an enabling environment for extra-judicial recognition, promotion, and enforcement of human rights, treaty obligations and providing a forum for public enlightenment and dialogue on human rights issues thereby limiting controversy and confrontation. National Human Rights Commission of India was set up in India under the Protection of Human Rights Act,1993. For examining and investigating the complaints relating to violations of human rights, as also the negligence on the part of any public servant in preventing such violation.

Structure:

- The chairperson who has been a Chief Justice of the Supreme Court;
- One Member who is, or has been, a Judge of the Supreme Court;
- One Member who is, or has been, the Chief Justice of a High Court;
- Two Members to be appointed from amongst persons having knowledge of, or practical experience in, matters relating to human rights.

Functions:

- Promote and protect human rights; review the safeguard provided by or under any enactment for the protection of human rights;
- Prepare reports on the national situation with regard to human rights in general, and on more specific matters;
- Inform the Minister of situations of violation of human rights and advise on ways in which such situations can be ended;
- Promote and ensure the harmonization of national legislation and practices with the international human rights instruments to which Mauritius is a party and their effective implementation;
- Encourage ratification or accession to the instruments referred to in paragraph (g), and ensure their implementation;

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- Contribute to the reports which Mauritius is required to submit to United Nations bodies and committees, and to regional institutions, pursuant to its treaty obligations and, where necessary, to express an opinion on the subject, with due respect for its independence;
- Assist in the formulation of Programmes for the teaching of, and research into, human rights and take part in their execution in schools, universities and professional circles;
- Publicize human rights and efforts to combat all forms of discrimination by increasing public awareness, especially through information and education and by making use of all press organs;
- Exercise such other functions as it may consider being conducive to the promotion and protection of human rights.
- Carry out an inquiry as to whether a case where a person who believes that he has been unjustly convicted. should not be reviewed by the Supreme Court.

Role of Human Rights Commission to Protecting Human Rights

The NHRC at New Delhi and several of the State Human Rights Commissions started on their sensitive task with great enthusiasm for protecting Human Rights. Regarding the work and effectiveness of the NHRC, it should be undoubtedly acknowledged that the work has been both qualitatively and quantitatively. The fact that the number of complaints reaching the Commission doubled and trebled year after year shows that the people started looking at NHRC as an effective institution for the promotion and protection of human rights.

During the last few years, the NHRC has laid emphasis on the Economic, Social and Cultural Rights, along with Civil and Political Rights on the premise that all rights are inter-related and inter-dependent. Apart from the working for the eradication of bonded labor and child labor, rights of the women, dalits, minorities and other marginalized groups, the Commission has also undertaken projects in other fields, such as public health, right to food etc, The Commission has been engaged in prison and penal reforms and training of personnel to sensitize them to human rights. It is also to be noted that the Commission has vigorously the issue of protection of civil liberties and has proposed systematic reforms in the police, prisons and criminal justice system. The Commission has intervened in a case on police reforms pending before the Supreme Court. The Indian experience has already established the importance and pre-eminence of the NHRC in its complementary role to the Judiciary in areas concerning human rights. The NHRC has also been coordinating the commendable work being done by many NGO‟s in the field of human rights, particularly to that of improving prison administration and penal reforms. Thus, the NHRC can and

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does play an important role in coordinating and monitoring efforts of both civic and public bodies and agencies. The role of the NHRC and the impact of its intervention is too well known to require elaboration. The Commission‟s intervention did help to build confidence among different sections of the plural society, which is essential in an inclusive democracy. The true role and efficacy of the Commission have to be appreciated which is to facilitate human governance. The nation‟s commitment to human rights is judged in the international community from the support the Government gives to the institution set up for promotion and protection of human rights.

CONCLUSION

The National Human Rights Commission has tried in the protection of human rights but more still needs to be done in line with its mandate. The commission is urged to assist victims of human rights violation and seek appropriate redress and remedies on their behalf as mandated by the Act establishing it. The Commission should also liaise with local and international organizations for the purpose of advancing the promotion and protection of human rights.

Today, we are witnessing some kind of incremental growth in the human rights movement all over the world. Since the NHRC came into being, during the last few years, it has focussed to a fairer extent on violation of human rights. The Commission observed: “It is the primary and inescapable responsibility of the State to protect the right to life, liberty, equality, and dignity of all of those who, constitute it. It is also the responsibility of the State to ensure that such rights are not violated either through overt acts or through abetment or negligence. It is a clear and emerging principle of human rights jurisprudence that the State is responsible not only for the acts of its own agents but also for the acts of non-state players acting within its jurisdiction. The State is, in addition, responsible for any inaction that may cause or facilitate the violation of human rights”. The NHRC found the Government responsible for the violation of human rights within its jurisdiction. Believing firmly in the value of Indian secularism and deeply moved by any incident of religious intolerance and resulting violence anywhere, the Commission acted swiftly and steadfastly.

Though the protection of human rights is the primary responsibility of the judiciary, the NHRC of India and the judiciary in India have worked in ways complementing each other in securing and enforcing accountability. Intervention by the NHRC is a strategic use of inviting judicial power to the aid of the Commissions Agenda of protecting and promoting human rights.
Fundamental rights guaranteed by the Constitution represent the basic human rights possessed by every human being. The jurisdiction of the Supreme Court under Article 32 „cannot be curtailed by

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any Statutory limitation‟ including those contained in the various provisions of the National Human Rights Commission Act. The court has emphasized that all authorities in the country are bound by the directions of the Supreme Court and have to act in aid of the court (Article 144).

In addition to above, the Commission has also been involved in guiding policy formulation on issues of national importance. It has recommended a major policy approach to the issue of HIV/AIDS.

In India, the NHRC study has some external and internal factors are there. External factors are those, which are controlled by or influenced by the state and its agencies. Some of the external and internal factors are enumerated below:

- The NHRC emphasized the need to set up SHRCs and to establish a clear functional relationship between the two government has categorically dismissed the commission‟s proposals.
- In the area of child empowerment, educational facilities and other aspects of child welfare the commission had to make recommendations the central government also to respond to them.
- The commission in its various reports has not started the practice of measuring its performance in terms of satisfaction of victims. A victim‟s perspective of judging its effectiveness is singularly missing.
- The commission has not opened regional offices for adequate regional representation of complaints.
- The pendency of a large number of cases and failure of the commission to evolve time-bound transparent disposal mechanisms of complaints.
- In the context of counter-insurgency operations in the North Eastern states the issue of state accountability becomes indispensable. The NHRCs reports neglect to highlight this important issue of accountability.

From the study of the secondary sources and ten personal interviews conducted by the author, it is apparent that despite limitations the NHRC India has made significant progress in holding the government accountable especially its activism

The support of the civil society has been the most important source of strength of the judiciary and the NHRC, and this due to the faith of the Indian citizenry in these institutions. The Commission believing in importance and significance of human rights education, believing that education in human rights is the key to promote a culture of human rights, has encouraged various

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educational agencies such as NCERT, NCTE, UGC, Universities and Colleges to bring in human rights education in the curriculum agenda and the life of educational institutions.

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