

by UNHRC)

following issues

- India is a home to half of world's hungry population and largest no. of malnourished children.
- 92% of labour force is in unorganized sector.
- Torture is a routine part of law enforcement agencies.
- State of Juvenile justice is bad.
Children are tried in adult courts.
- Judiciary is overburdened.
- Draconian act like AFSPA is a challenge to HR.
- A weak NHRC.

National Human Rights Commission (NHRC)

Origin of NHRC:

- It is a part of India's commitment to U.N.
U.N. Didirected all countries to establish the national bodies
- NHRC was created by protection of Human Rights Act 1993
- Act also defines Human Rights.
Human Rights means right to life, liberty, equality and dignity of the individual guaranteed under the constitution of India, right embodied in Intⁿ covenants & enforced by courts in India.

Functions of NHRC

All commissions
'watchdog' bodies.

- Enquiry in case of violation of HR either on its own or on request.
- It can intervene in the courts also with the permission of the court.

- Upon intimation to the state govt, they can visit any jail or any other place where persons are detained.
- To study intⁿ treaties and make recommendations to the Govt. of India.
- Review the factors giving rise to terrorism & suggest remedial measures.
- Take research in Human Rights.
- Promote awareness
- Encourage NGOs
- And take any other function for protection & promotion of HRs.

Powers of NHRC

- It has power of civil court.
- It has its own investigating staff headed by Director General of Police.
- It can take help of other govt. agencies also.
- It can also take help of NGOs.

Nature of NHRC

- Attempt is to make it an autonomous body.
- Chairperson & other members are appointed by President on the basis of recommendation of a Committee (PM - Chairperson, Speaker of LS, Home Minister, LoP in LS & LoP in RS, and Dy. Chairman of RS)

Chairperson is retired Chief Justice of India.

Total members are 5, out of which 3 members are with judicial background.

Other members - ex-officio

- It can recommend the concerned govt or authority to take necessary action
- It can approach to SC or High Court to get orders & directions from the court if necessary.

Limitations of NHRC

- It does not have power of investigation w.r.t violation of human rights by members of armed forces. Regarding armed forces, they can only request Central govt & can ask a report from Central govt. Once they receive the information, they can recommend measures to be taken.
- Recommendations are not binding. However Central govt. has to inform the Commission within 3 months as to what actions it has taken on the recommendations of Commission.
- Lack of financial autonomy. They are dependent on grants provided by Central govt. & it is a notable expenditure. Most of time resources are inadequate.
- There is a biasness towards judiciary. There is no need to give over representation to judiciary. It is not necessary that members of judiciary are always committed for Human Rights. It is suggested that members from civil society with visible commitment should be heading these bodies.
- It is described as mentally & physically challenged child of Central Govt. It is a weak & dependent institution.

10/12/14

It must be made independent, strong & vibrant.

- There has been no qualitative change in human rights situation in the country even after the creation of this body.

AFSPA as a Human Rights issue

- AFSPA is considered as one of the biggest challenge for human rights movement in India.
- AFSPA was introduced in 1958 for all states of North-East & extended to J & K in 1990

Reason:

Both internal & external security threats.

Provisions of AFSPA

- Declaration of an area as a disturbed area. Governor of the state can declare area as disturbed area. Even central Govt. can also declare area as disturbed area suo motu.

Meaning of disturbed area.

Law and order situation has deteriorated to the extent that it cannot be handled by civilian administration.

- Once area is declared as disturbed area, it has to be notified in official gazette. & Governor can ask for Central Armed forces in aid of civilian administration or Central Govt on its own can deploy forces.

Objectionable provisions

- Power of armed forces to shoot & kill

Section 4 of AFSPA

- In case any person acts in violation of any law in force
- Assembly of more than 5 persons
- Carrying weapons or anything that can be used as arms and ammunition.

Though precautions are mentioned

- Use force only after giving warning.
- Use force only when it is absolutely necessary

→ Comparison betⁿ AFSPA & CrPC

- Police can use force only when public order is disturbed manifestly.
- Under CrPC there is no freedom to use force causing death. Only min force is permissible.
- Under CrPC force can be used only with the order of executive magistrate or police officer not below the rank of sub-Inspector.
- However under AFSPA, it can be used on the order of both commissioned as well as non commissioned officer.

Section 4(A)
Right to use force.

Section 4B(b).

Armed forces can destroy any property which they think is armed dump or shelter home or training home for insurgents.

Section 4(c) : Arrest without warrant.

Section 4(d): Search & arrest without warrant to recover arms

Section 5:

Arrested person to be presented before the Executive Magistrate. Earlier there was no time limit but after SC's directions it is to be within 24 hrs.

Section 6:

No prosecution of members of armed forces without permission of Central Govt.

View of army.

- Normal situations do not prevail & it is a situation of war against Indian state. Hence they won't be able to take up the responsibility without such protections. internal
not on
border
- Army has robust system of discipline & safeguards in place. Officers have to follow do's & don'ts.
- From army's point of view, most of the allegations are fake.

View of SC

- Naga people's right vs Union of India case
 - 1. Upheld the constitutional validity of the law. Though according to critics it neither needs the criteria of due procedure of law nor due process of law.
 - 2. However SC held that there cannot be any

arbitrary powers to declare an area as disturbed. | JK

• AFSPA cannot be imposed for unlimited time.

• Periodic review of its working has to be taken.

~~Jus~~

- Justice Jeewan Reddy Committee &

5th Report of 2nd ARC support repealing of AFSPA.

Reddy committee suggested to set up grievance redressal committees in each district.

- Interlocutor's Report on J & K also suggest repealing of the law.

Situation of undertrials in the country

There are 1394 jails in the country.

They are accomodating 3,85,000 prisoners whereas the capacity is to accomodate 3,43,000 prisoners. Out of 3,85,000 prisoners,

2.5 lakh are undertrials & most have served more than what ^{when} they would have been convicted.

- It is clear violation of FR to Life & liberty.

- In Hussain Ara Khatoun case, SC held that Right to speedy trial is a fundamental right.

Most of the persons in jail are belonging to the weaker sections of society who cannot afford costly legal procedure.

- Recently SC has ordered that those who have already served more than half term of the punishment for which they have been put in prison

should be set free.

Criticism: - According to critics, judgement is not guided by respect to FRs but to lighten the burden of both judiciary & prisons. It points towards failure of Criminal justice system & judicial system.

except.
harmless
crime

- As per Indian law, a person is innocent, till he is not proven guilty. There is no reason why innocent person has to serve at least half term.
- There is no need to keep persons in prison, at least those accused of petty crimes.

As per Section 43A of CrPC, jail is an exception & bail is a rule. Person should be given bail or should be released on a personal bond.

- Prisons in India are not the place for reformation of the person. Studies show that even innocent persons become hardened criminals when they come out of prison.
- What is needed is Speedy trial so that real culprits can be punished & innocents can be saved.

Encounter Deaths

Recently SC has passed an order according to which

- there shall be mandatory registration of FIR in case of encounter death & such incidents to be investigated by C.I.D. or any independent agency.
- No out of turn promotions & gallantry awards for policemen against whom inquiry in encounter is pending.

- In case encounter was found not to be genuine, the policeman has to be punished and the members of the family of the bereaved ~~have~~ have to be compensated.

Women movement in India.

- Evolution of women movement in India
- Nature of women movement
- Main challenges before women movement
- Achievements of women movement.

In India, the term women movement is used over feminist movement. Though we can also see the beginning of feminist movement.

The slut-walk organised in metros where women asserting their right to dress the way they want may signal the beginning of new era in this movement.

Origin of women movement in India.

In India, women movement was started by the liberal western educated men. Prominent persons associated are Raja Ram Mohan Roy, Jyotiba Phule, Ishwarchand Vidyasagar. Though the efforts of these leaders met opposition from the patriarchal society, yet they were successful to some extent in forcing British state to bring laws in the interest of women. e.g. widow remarrying act, Sharda Act, Age of consent.

(age of marriage)

Contribution of Gandhi towards women movement

Traditionally Gandhi is considered by feminist scholars to be a conservative & patriarchal. The ideals of Gandhi were Sita & Draupadi. But scholars like Veena Mazumdar, Devaki Jain and Malvika Karlekar believe that Gandhi invented new tradition of femininity. Gandhi did not look at women as helpless creatures, rather he believed that women in India can make a place in the domain dominated by men. Gandhi brought large no. of women in national movement. Though Gandhi didn't address women question like Lenin or Mao, but Gandhi's efforts raised consciousness among women & gave them new self confidence.

- Though Gandhi was regarded as a traditional and patriarchal, yet large no. of women organisation in India have adopted Gandhian ideology & techniques.

During National movement, we also see upper class & middle class women taking women specific initiatives.

- Swarnkumari, the daughter of Devendranath Tagore started Ladies society in Kolkata. This organisation started educating women & vocational training to poor women.
- Sarojini Naidu, Rajkumari Amritkaur, Kamaladevi Chattopadhyay, played prominent role

in establishment of All India women Conference in 1924.

- Sharda Act of 1929, that has raised marriageable age of girls to 14 yrs was the prominent achievement.

Women movement after independence.

- Aparna Mahato calls 1947 to 1970's as gray years of women movement.
- Once national govt. based on universal adult franchise came into existence, women activists thought that state will take care of the interest of women & there is no need of social movement against our own govt.
- Women activists were optimistic about the initiatives by Indian state under the leadership of leaders like Nehru & Ambedkar.

Ambedkar & Nehru had to meet the opposition from both Hindu & Muslim, orthodox section.

- Nehru wanted to introduce uniform civil code but he had to postpone.

• Ambedkar presented Hindu code bill which was supported by Nehru but it had to be dropped because of opposition from the rightists within the govt. including Dr. Rajendra Prasad. Later on Hindu Code Bill could not be passed but some legislations like Hindu Marriage Act 1955, Hindu Succession Act 1956, Hindu Maintenance & Adoption Act 1956 could come into existence.

- Not only above act, many other laws like

Dowry (Prohibition) Act, Immoral Traffic (Prevention) Act, Prenatal diagnostic Act (PNDT), etc. Sexual harassment ^{at work place.} have come into existence.

- Views of Madhu Kishwar

There ~~is~~ is no parallel in achievement of women movement in India & their counterparts in the West. In the West, women movements have been successful to large extent in achieving the goal of equality & liberation. The only achievement of women movement in India is some bizarre pieces of legislations with no impact on the ground.

- Dietmar Rothermund

The situation in India have become worse than what was at the time of independence.

He points towards the negative sex ratio.

He also points that the problems for women have increased under the forces of globalisation.

According to him, there is a limitation to while ^(gender) benign state attempts can make a difference in a deeply patriarchal society.

Women movement from 70's onwards.

- New consciousness among women organisations came because of U.N. efforts. 70's was declared as the decade for women.

U.N. asked all members to prepare the status report on women in their countries.

Govt. of India also appointed a committee to study the status of women in India &

to give recommendations. Report of the committee was published under the title 'Towards Equality'. This report was an eye opener for govt as well as women activists.

It pointed that situation has become worse.

There has been increased violence against women, neglect of women issues by govt & regional disparities. Northern states were less egalitarian than Southern states.

- Recommendations of the report

- They rejected radical feminist approach & did not accept the view that men cannot advance the cause of women.

- They did not support reservation of women in assemblies & Parliament.

Reason:

- > It's not that men cannot advance the interest of women.

- > Women issues are not isolated issues. They are linked to social, economic, cultural issues.

- > Reservation once introduced cannot be rolled back.

- > Focus of govt should be on development of women.

- Committee also suggest an apex autonomous watchdog institution.

Issue of reservation of women in assemblies/Parliament

Why the demand for reservation for women in assemblies /Parliament?

- to make democracy inclusive in gender terms.

- Women representation has stagnated. Uptil 15th LS stagnated to 8%. In 15th LS there was a slight increase to 12%.

- Experience of introducing reservation for women in Panchayat has been positive. It has developed self confidence among women.
- It is believed that women can take up women issues more seriously.

Present status

A bill has been passed for amendment of Constitution in RJ but pending in LC.

18/08th
C.A. Bill.

Why it is pending?

- Opposition from certain political parties which want reservation within reservation. Women not to be treated as a single group & there should be special reservation for women from backward section.

Problem:

- Constitution treats women as a group & does not make internal differentiation.

Debate on the reservation issue

Debate goes back to pre independence time.

Views of Sarojini Naidu.

- She did not support reservation for women in assemblies as it will impact the self confidence. She was hopeful that women in India can compete with men on equal terms.

Views of Nehru

- He did not favour reservation in principle because it leads to inefficiency.

Views of Ila Bhat

- She supports economic empowerment. Without economic empowerment, political representation is not useful.

Views of Shireen Rai

- There is no relation between enhanced visibility and empowerment. She gives the example of Pakistan. The presence of women in Pakistan National Assembly does not ensure that they have a say in lawmaking process in Pakistan.

Arguments in favour of women reservation

- Views of Laura Keenan

- Merit principle does not work in Indian situations.
- Women are not in a position to get elected not because they are not talented but because they are placed in specific cultural context of Indian society which is highly patriarchal.
- Considering Indian society we need external catalysts.
- Reservation will result into structural integration of women in formal politics, though reservation alone will not help.

National Commission for Women

- Created in 1992
- Statutory body

Functions

- Investigative function
- Recommendation to the govt.
- Grievance redressal.
- Promotion of awareness

Read from
Lakshmi Kant

80s' developments

Two incidents

- Rape of dalit women in Police station in Mathura.
- Sati incident in Deorala (Rajasthan). (Roop Kanwar)

90s' developments

- Establishment of NCW
- Gender components in Five Year Plans.
- Gender base budgeting
- Introduction of reservation for women in Panchayats & Municipalities.

By this time many organisations have come up to the country. Judiciary has also contributed in the evolution of legislations for women.

However at the same time we also see increase in violence against women.

Present status of women movement in India.

- It is at the crossroads. It is in the need of leadership & strategy
- There are certain disfunctional aspects also
 - > It has got divided on sectarian & ideological lines
 - > It has not been effective to force govt. so that women issues become a priority concern.
 - > There is no all India women movement.
 - > They suffer from organisational challenge.
- There is no integrated charter of demands.

According to Neeta Desai, bureaucracy & law enforcement agencies are hardly sensitive. The most frustrating part is the sexual abuse.

of women by those in authority and each time Indian state appears to be helpless.