

NHRC, India Comments on AINNI Report.

The All India Network of NGOs and Individuals working with National and State Human Rights Institutions (AiNNI) report is factually incorrect and deliberately misleading to draw a generalized conclusion without any basis. It seems the originators of the report are deliberately silent about the work done by the NHRC and their report is just an attempt to oppose anything and everything and to malign the image of the Commission in the eyes of a reputed world body.

2. The report is an insubstantial condemnation of a body which has made significant contributions to mainstreaming a human rights culture within the country and providing relief to thousands of individuals and their families, who have suffered from violations of their fundamental freedoms and basic human rights at the hands of state agencies and public officials.

3. It is pertinent to point out that a number of issues raised by the report pertain to the period 2003-2004, since then the NHRC, India has already been re-accredited by the ICC in 2006. Further, the same set of issues has been raised repetitively throughout the report, thus, making it fairly evident that the NGO report, far from being a serious attempt to analyze the NHRC's role and offer constructive suggestions, is only an attempt to malign the NHRC, India without cause.

4. The AiNNI report itself is contradictory. On the one hand the report criticizes the policy and special rapporteurs of the Commission being the retired Government servants and on the other it appreciates the former Special Rapporteurs Shri Chaman Lal and K.R.Venugopal, who were also Government servants before their appointment as Special Rapporteurs, for their eminence, competence and honesty. It shows that the only motive of AiNNI is to criticize the NHRC, India in one way or other without any basis.

5. The report at best can be called a badly written fiction, the writer having utter lack of knowledge of functioning of NHRC as well as governing system in the country. The report is replete with unsubstantial personal allegations, unfactual repetitions and wild suggestions.

6. The group itself is a motley collection of NGOs with little experience of working at the grassroots level, thus, bringing into question the group's credibility and competence to make unfounded allegations against the NHRC which has gone all out to work as closely as possible with civil society, in the remotest parts of the country, since the time of its inception in 1993.

7. Despite the considerable challenges that the NHRC, India has faced and continues to grapple with in its endeavour to protect and promote the rights of the citizens of the country, especially the most marginalized, it has continued to discharge its primary responsibilities, namely, providing relief to those who approach it for help; monitoring the implementation of all laws that impact human rights; and where it feels amendments are needed, in consultation with civil society, making recommendations to the Government. Contrary to what has been alleged by the NGO report, the NHRC, India has enough powers under the PHRA to discharge these primary obligations.

8. While the NHRC, India welcomes and values its engagement with and feedback from civil society organizations and individuals working in the field of human rights, it believes that there is little to be gained from leveling baseless and unsubstantiated allegations against it.

9. It is pointed out that most of the case examples given in the AiNNI report pertain to a particular state in India which reflects that the report is prepared by one NGO based in that state and for the namesake the other NGOs has simply signed it and as such the report does not fully represent by the NGOs working at the grass root level in the country. It is seen that these few who have access at the international level have some hidden agenda and no concern about the human rights issues and the plight of the people of this country, particularly vulnerable sections of the society.

10. The NHRC, India para-wise comments on the issues raised in the AINNI report are given against below:

<u>AiNNI REPORT</u>	<u>NHRC, INDIA COMMENTS</u>
<p><u>CHAPTER -1</u></p> <p><u>EXECUTIVE SUMMARY: ESTABLISHMENT</u></p> <p>The National Human Rights Commission of India was established on October 12, 1993 under the Protection of Human Rights Act, 1993 (PHRA) as a result of the international movement towards establishing national human rights institutions to act as independent monitors and protectors of human rights in a national context that started in the early 1990s and became formalized through the</p>	<p>The report of AiNNI accepts that initially NHRC, India was sincere and fairly successful in fulfilling its mandate. In this regard it is submitted that the</p> <p>PHRA was amended in 2006 which made the Commission more empowered and</p>

<p>declaration of Paris Principles, 1991. The Commission was envisioned to be a partnership of human rights protectors throughout India and explicitly deemed the Chairpersons of the existing national human rights commissions as members of the Commission. Despite the main impetus for establishment of an overarching national human rights commission in India being mounting domestic and international pressure to adhere to internationally set standards, the Commission was initially sincere and fairly successful in meeting its mandate and taking initiatives towards protecting and promoting human rights. However, the many fatal flaws in the Commission's founding law, affecting all areas of its work and basic functioning, quickly became clear. There were several early attempts to amend the PHRA, but they were largely ignored by the Government of India, and eventually forgotten by the Commission.</p>	<p>hence, effective. Thus, the allegation that NHRC became less effective after amendment of the PHRA, is at best, contradictory.</p>
<p>I. Establishment</p> <p>The Paris Principles state that a National Human Rights Institution must be clearly set forth in a constitutional or legislative text. In addition to this, the ICC observed that if an NHRI is created by an "instrument of the Executive it would not be adequate to ensure permanency and independence."</p>	<p>NHRC was constituted by an Act of Parliament and its statute is contained in the Protection of Human Rights Act, 1993 and is in conformity with the Paris Principles and not created by an instrument of the Executive.</p>
<p>The National Human Rights Commission was established in India on 12 October 1993 under the Protection of Human Rights Act, 1993 as a response to both the increasing acknowledgement of the need for national human rights institutions that would assist in the promotion and protection of human rights, as well as strong international pressure created by the adoption of the "Paris Principles" by the United Nations Human Rights Commission in 1992 and followed by the General Assembly in 1993. With globalization pushing domestic human rights issues into the spotlight, pressure was on India to take steps to address human rights violations or risk losing international trade partners who refuse to support practices like child labour.² They would need to adhere to international standards or risk being left behind. While there were many who supported this move, many also voiced their concerns behind the motives of establishing the NHRC. Mr. K.G. Kannabiran, an eminent human rights lawyer, activist and former National President of People's Union for Civil Liberties,</p>	<p>The Statement of Objects and Reasons of the Protection of Human Rights Bill will make clear the objects of the Act. While noting that India is a party to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, both of which were adopted by the United Nations General Assembly on 16 December, 1966, and that the rights embodied in those Covenants stood substantially protected by the Constitution of India, the Statement observed that there had been "growing concern in the country and abroad about issues relating to human rights". Having regard to this, and to changing social realities and emerging trends in the nature</p>

was one such dissenter.³ He argued that the creation of a human rights commission in response to criticism of the government's human rights record was at best only a formal act and it would not reduce human rights violations but simply be used to cover such violations. Mr. Kannabiran also pointed out that India's Constitution contains a declaration of human rights that should be held up by the courts. With this in mind, it becomes apparent that the problems relating to human rights in India do not come from a lack of legal provisions or a lack of agencies in place to deal with these matters. Rather, Kannabiran suggested that the problem with human rights "is the existence of a political system that guards and supervises an exploitative order... Setting up a human rights commission will not humanize state agencies." Many agreed with Kannabiran's feelings in this matter, such as S.P. Sathe who suspected that the government's motive for establishing the NHRC was based more in concern over avoiding international criticism than out of a concern for human rights.⁴ Sathe felt there would need to be a number of governmental reforms in the judiciary and administration, which includes Human Rights Education for government employees, judges and magistrates, all in place in order to ensure the formation of the NHRC was not just for show.

Despite the controversy, the government of India passed a legislative act that came into force on 28 September 1993 that specifically provided for the constitution of a National Human Rights Commission to protect and promote human rights throughout India. The National Human Rights Commission (NHRC) was subsequently constituted under Chapter II, Section 3(1) of the Protection of Human Rights Act, 1993 (PHRA).⁵ The Protection of Human Rights Act extends to the whole of India as stated under Chapter I, Section 1(2) of the Act.⁶

Chapter II, Section 3(2) of the Protection of Human Rights Act, 1993 establishes the composition of the commission as consisting of a chairperson who has been a Chief Justice of the Supreme Court, one member who is or has been a Supreme Court Judge, one member who is or has been a chief justice of a High Court, and two members to be appointed from amongst persons with experience related to the field of human rights. This section also calls for the inclusion of the Chairperson from the National Commission for Minorities (NCM), the chairperson from the National

of crime and violence, it had been considered essential to review the existing laws and procedures and the system of administration with a view to bringing about greater efficiency and transparency. Therefore, the Government of India enacted the PHR Act in 1993 to set up the NHRC to achieve stated objective. Strangely, the narration of AINNI in this paragraph gives the impression that there was no need of creating such a body in the country.

Factually incorrect. The Chairperson and Members of NHRC, together with the Chairpersons of the four National Commissions viz. the National Commission for Minorities, Scheduled Castes, Scheduled Tribes and Women constitute the NHRC. The Full Commission meets regularly to take stock of the situation in the country and take initiatives as appropriate to strengthen the

Commission for Women (NCW), and the chairperson of the National Commission for Schedule Tribes and Scheduled Castes (NCSTSC), all as ex-officio members.

Prior to the establishment of the NHRC, these thematic commissions were already functioning. Their inclusion is central to the establishment of the Commission, not only for the experience they provide but also to ensure that the concerns of these special interest groups are addressed. The Protection of Human Rights Act, 1993 proposes that the NHRC should collaborate with these commissions as much as possible. Chapter III Section 3 (12) establishes the functions and powers of the NHRC. The NHRC Annual report notes that these representatives are "deemed to be members of the Commission for the discharge of all functions assigned to it except for the function relating to inquiry into complaints of violations of human rights."⁷ This provision is in place to ensure collaboration with the thematic commissions. Sadly, from its inception the NHRC has performed poorly in this regard. As early as the first annual report (1993-1994) the NHRC makes only a single reference to collaborating with a thematic commission, stating that it "intends to remain in close touch with its sister organization", the National Commission for Women in regard to reviewing legislation relating to women's rights. This solitary reference to collaboration sets a poor precedent for the Commission and appears to set the trend for years to come. Even when it would seem obvious to include either the NCM or the NCSTSC, the NHRC fails to mention any plan for collaboration. Even in the 1996-1997 annual report in which a section specifically mentions preserving the rights of the vulnerable, including the rights of those in scheduled tribes, mentions only that it will "keep in touch" with the National Commission for Safai Karamcharis⁸, almost as an afterthought as the last line in the section.⁹ No mention of collaborating with the Commission for Minorities is made in any of the annual reports until the 1999-2000, other than to list their chairperson as an ex-officio member in the NHRC roster. If the commission hopes to be successful in fulfilling all its functions it needs to make use of the resources and expertise available to it through its partnerships with the NCW, NCM, and NCSTSC.

The World Conference on Human Rights in Vienna took place around the time of the NHRC's establishment. This conference, in which India took part, mandated countries to set up National Human Rights Plans of Action. To this day,

human rights environment. The Deemed Members, who are Chairpersons of the National Commissions bring with them their rich experience of working in their respective Commissions and contribute immensely to the working of the NHRC.

NHRC is working very closely in cooperation and coordination with not only those from National Commissions but others as well like NCPCR and National Commission for Safai Karamcharis. They participate in all major functions of the NHRC like seminars, workshops, national consultations, annual functions, legislation review councils etc. to name a few. Thus, the statement made by AINNI is not only factually incorrect, but misleading too.

Again this is a misleading presentation of the facts. The primary duty of preparing the HRAP was of the Government, but the NHRC has consistently been trying to put an action plan in national agenda. NHRC has sought suggestions from NGOs including some who are part of this report several times but none of them has come forward to make suggestions. They seem to be in the mode of criticizing only. The record of discussions of the Core Group on NGOs will bear testimony to this.

India has yet to release its National Human Rights Action Plan (NHR P). In 1999, the UN held a workshop in Bangkok to assist countries in putting together their NHRAPs. It was at this time that the NHRC and the Ministry of Home Affairs agreed that the NHRC would assist the Government of India in preparing the Action Plan. More than 4 years later, no progress had been made. In the 27 May 2004 meeting of the Commission, it decided to take charge of the preparation of India's NHRAP. No further action on this matter was taken for almost a full year until the Commission decided in its 18 February 2005 meeting to review a draft put forth by Shri Shankar Sen. For the next 2 years, consultation was made with numerous external organizations about the contents of the NHRAP until a draft was officially submitted in early 2007. According to the NHRC's website, the finalized NHRAP was to be put forth on 31 December 2007, however no record of a finalized copy can be found and no reference is made to the NHRAP after this date.

CHAPTER –II

EXECUTIVE SUMMARY: INDEPENDENCE

Independence from all other interests, in particular that of the government and strong private interests, is essential for any national human rights institution. From the establishment of the National Human Rights Commission under its founding law, the Protection of Human Rights Act, 1993, the Commission has had problems maintaining its independence from the government. Although the Commission made some courageous and strong decisions in its early years, the lack of independence suffered by recent Commissions has become so debilitating that it has essentially paralyzed the Commission from fulfilling even its basic mandate, let alone undertaking any powerful initiatives in the field of human rights.

The AiNNI report does not specify the factors which make it believe that the recent Commissions suffer from lack of independence.

NHRC, India has been offering clear and strong opinions to the Government on pressing human rights concerns even now as in the past. There is no lagging behind in issuing directions to the Government on any matter on which the Commission sees violation of human rights of the people. The annual reports of the Commission bear testimony to this evaluation. The NHRC is both willing and able to speak up independently and does so on a wide range of issues. The AiNNI claim that the NHRC has not issued any directions in the recent past is misleading. The details of the instructions/guidelines issued by the Commission to the Government on various issues including custodial deaths, death in police action, prison

	<p>administration and other thematic issues are available in the annual reports as well as its website.</p> <p>The Appointment Committee has always chosen as members those who bring diverse experience to the work of NHRC. Together with the independence that is guaranteed both by the selection process and by the PHRA, the NHRC is fully independent NHRI which at the same time reflects a clarity of issues</p>
<p>The Commission is tightly controlled financially by the Government of India and currently reports to the Ministry of Home Affairs, the same governmental department responsible for immigration, communal harmony, the Armed Special Forces Act, assistance to victims of terrorist violence, border management, and most notably, internal security – including police and other law and order officials. Placing India’s overarching human rights institution, responsible for holding accountable violators of human rights, in the same department overseeing police and law enforcement officers, against whom a large number of complaints are made, unsurprisingly weakens the Commission’s independence and its ability to be effective</p>	<p>Factually incorrect. It seems AiNNI is not familiar with the procedure and working of the system in Indian context. NHRC’s finances are not controlled by the Ministry of Home Affairs, which is only the nodal Ministry in the Government of India for human rights. The Home Ministry is only the conduit through which the budget of the NHRC is transmitted by the Government of India. NHRC is not at all controlled by the MHA in utilizing its budget. The Commission is fully independent and tries to allocate the budget for its activities and utilize it within the allocation voted by the Parliament.</p>
<p>The lack of independence of the Commission is also witnessed in the composition of its members and staff. The PHRA has rigid criteria for membership to the Commission that prioritizes perceptions of prestige over competence, passion, or experience in the field of human rights. Staff members are largely deputed temporarily to the NHRC from government posts. While maintaining independence of an institution funded by the government that is designed to monitor the government is natural, it is worrisome that 17 years after its establishment, nothing has been done to ensure independence or even reduce potential problems arising from conflicts of interest.</p>	<p>The AiNNI report is contradictory to its own stand that NHRC, India was initially effective by saying that nothing has been done for ensuring independence for the last 17 years. The composition of NHRC, India is to ensure that it is effective in the discharge of its quasi-judicial functions. Governments are less likely to question directives passed after a quasi-judicial process when they know that the NHRC has on it three Members who have held the highest judicial offices. The other two Members are chosen to complement the judicial perspective. The majority of the staff of the Commission is its own, recruited by the Commission. Only 22 % is on deputation and this too with the</p>

	concurrence and approval of the Commission.
<p>II. Independence</p> <p>Independence, in all forms, is a fundamental pillar of the Paris Principles and is necessary in order to effectively promote and protect human rights. National human rights institutions must act independently of all other interests, namely government and powerful private interests. The Paris Principles require that independence be ensured through composition, representation, infrastructure, and the stable mandate of the NHRI.¹¹ The ICC has noted that as public bodies, national human rights institutions are accountable to the public and must have their funding and reporting arrangements strictly regulated.</p> <p>Notably, the ICC has observed that NHRIs in which the administration and expenditure of public funds is regulated by the government, such as the NHRC, a clearly defined relationship between the Government and the NHRI must be established. This is to ensure that regulation by the government does not compromise the NHRIs ability to perform its role independently and effectively. The ICC has additionally recommended that provisions be included in national law to protect legal liability for actions undertaken in the official capacity of the NHRI.</p>	<p>The PHRA provides for composition of the NHRC, India with judges as the majority of the members, who had held highest judicial offices because, unlike most NHRIs, the NHRC has been given the powers of a civil court and its members spend the greater part of each day considering individual complaints and are empowered to recommend redress for the victims and action against those responsible. This composition is to ensure that it is effective in the discharge of its quasi-judicial functions. Governments are less likely to question directives passed after a quasi-judicial process when they know that the NHRC has on it three Members who have held the highest judicial offices. The other two Members are chosen to complement the judicial perspective, one with the experience in administration of practical difficulties of protecting and promoting human rights and the other Member having expose to trends and best practices of human rights advocacy abroad. Besides, there are four deemed members with varied experience and background making NHRC truly a pluralistic institution.</p>
<p>Nature of the NHRC's accountability</p> <p>Here the accountability of the NHRC is being looked at from the point of view of its governing statute, the Protection of Human Rights Act (PHRA).</p> <p>The NHRC, an administrative body established under the purview of the government, must be autonomous to be effective. In ensuring the NHRC's autonomy, it is especially important and significant to have clearly defined lines of accountability. India's NHRC is directly accountable to the Government of India under the PHRA for reporting on its activities and use of funds. Section 20(1) of the PHRA requires</p>	<p>Factually incorrect. It seems the AiNNI's motive is to raise superfluous issues without studying the mandate and system in depth. The NHRC, India is not accountable to the Government It submits the annual report every year through the Government to the Parliament.</p> <p>The Ministry of Home Affairs, Government of India which under the allocation of business rules has nodal responsibility for human rights in the Government of India,</p>

the NHRC to submit an annual report to the Central Government and to the concerned State government on its activities. Additionally, the Commission “may at any time submit special reports on any matter which, in its opinion, is of such urgency or importance that it should not be deferred until submission of the annual report.” These reports, along with a memorandum noting the action proposed or taken on the recommendations of the Commission and the reasons for non-acceptance of the recommendations, in any, must be laid before each House of Parliament or the State Legislature by the Central Government or State Government.¹²

circulates the recommendations made by the NHRC in its annual report to other Ministries and calls for action taken reports. The consolidated memorandum of action taken is tabled together with the annual report before the Parliament.

As per the PHRA, the mandate Government has a legal obligation u/s 20 to submit to Parliament an action taken report as a formal response on the recommendations made in the annual report which itself shows the independence and effectiveness of NHRC, India. Moreover, NHRC can make as many reports as it feels necessary. And therefore, it keeps making recommendations throughout the year on various important issues to the Central and State governments.

To demonstrate its financial accountability to the Central Government, the Commission is required to maintain accounts and undergo auditing under Chapter VII, Section 34 of the PHRA. Section 34 sets out detailed rules for maintenance of accounts, audits, and other relevant records. Specifically, the Commission shall “maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor- General of India.” Further, the NHRC must prepare an annual statement of accounts in “such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

Section 34 of the PHRA provides for the procedure to be followed by the Commission in maintenance of the accounts, auditing and submission of the certified accounts together with the audit report to the Government for being placed before the Parliament. As per this provision the mandate of the Commission is to submit to parliament the annual accounts along with the audit report through the Ministry of Home Affairs, which is the nodal Ministry in the Government for human rights and it does not in any way affects the independence of the Commission as alleged in the ANNI report.

Section 34(2) requires that the Accounts of the Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General. Sub-section 34(3) also allows the Comptroller and Auditor-General the same rights and privileges and authority in connection with auditing the NHRC as they would have while auditing Government accounts.¹³ The certified accounts¹⁴ of the Commission, together with the audit report are forwarded to the Central Government by the Commission. The Central Government shall lay the audit report before each House of

CAG is a constitutional independent agency mandated to undertake audit of the expenditure charged on the Consolidated Fund of India. NHRC expenditure is also charged on Consolidated Fund of India and as such audited by the CAG like the Supreme Court of India and Election Commission of India.

<p>Parliament immediately after its receipt. Since the financial year 1994-1995, audits have been conducted of the NHRC by the Comptroller and Auditor General (CAG), as required by the PHRA.15</p>	
<p><i>Whether or not the NHRC receives instructions from the government</i></p> <p>It is difficult to assess whether the government provides instructions or the institutions receives instructions from the government. While the NHRC is empowered to regulate its own procedure for carrying out its mandate,16 the Central Government may, by notification, make rules to carry out provisions of this Act.17 Although the power is not to prejudice the generality of the Commission's powers, the government is preserved the ability to make rules regarding 1) salaries and allowances and other terms and conditions of service of the Members, 2) conditions subject to which other administrative, technical, and scientific staff may be appointed by the Commission, 3) any other power of a civil court, 4) the form in which the annual statement of accounts is to be prepared by the Commission, and any other matter which has to, or may, be prescribed. After any rule is made under the PHRA, it shall be laid immediately for review before each House of Parliament while it is in session for a total period of thirty days. However, unless both Houses agree that the rule should be modified or not be made, the rule made by the government will remain standing.18</p>	<p>The rules are required to be framed to operationalize a legislation and rules can only be framed by the Government as per the powers vested by the Constitution of the country. The rules framed by the Government have not in any way impacted on the independence of the Commission. The functions of the Commission are regulated by the regulations which are framed by the NHRC itself. The Act does not give any power to the Government of India to issue directions to the Commission, making it fully independent in its functioning.</p>
<p>Additionally, while the NHRC is allowed to manage and utilize the funds granted to it by the Government of India, the NHRC is guaranteed almost no influence on their financial budget. Under Section 32, the NHRC receives funds by the Central government only after Parliament appropriates funds by law in behalf of the Commission. Monetary grants are given to the Commission by the Central Government in the amount which the Central Government may think fit for being utilized for the purposes of meeting its mandate.19 There is no provision in the Protection of Human Rights Act requiring or even allowing the NHRC to propose a budget to the government.</p>	<p>There is no control of the government in the budget formulations of NHRC. The budget proposals are formulated by NHRC only and after approval by a Committee headed by Chairperson, it is forwarded to the Ministry of Home Affairs, for incorporation in the national budget which is voted by the Parliament. The Steering Committee is of the Commission and Secretary Expenditure, Government of India is a member of the Committee to provide expert assistance to the Commission in budget matters. The budget framed by the Steering Committee is discussed and approved by the Commission before sending to the Government.</p>

<p>However, the NHRC reports that the Commission's budget is controlled by the Central government through a specially constituted "Steering Committee of NHRC."20 This Committee, responsible for approving the Commission's budget, is headed by a Chairperson of NHRC and consists of two members of the Commission in rotation, Secretary (Exp), and Ministry of Finance serving as Secretary of the Committee21. After the budget is approved by the Steering Committee, it is sent to the Ministry of Home Affairs for inclusion in the "Demand for Grant" of the budget document. This is placed before the Parliament, along with the Union Budget. Upon approval from Parliament, the funds are granted by the Ministry of Home Affairs.22</p>	<p>It is not only misleading but absurd to suggest that "the NHRC reports that the Commission's budget is controlled by the Central Government" as reported by AiNNI in this para</p>
<p>The Ministry of Home Affairs looks after a whole gamut of subjects most of which are related to bodies against which the NHRC is dealing - like the Army, Para-Military and Law Enforcement Officials. If this body is supposed to be an independent body, the institution to which it reports should as far as possible be far removed from the Ministry against which most of the complaints are drawn from like the Department of Border Management, Department of Internal Security, Department of J & K Affairs, Department of Home, Department of Official Language, Border Management Division, Internal Security Division, Jammu & Kashmir Division, Judicial Division, Naxal Management Division, North East Division, Police Division, Police Modernisation Division, Policy Planning Division23 etc. Therefore for independence to prevail, the Ministry of Home Affairs should not be the body it reports to or receives instructions or funds from. It should be the Prime Minister's Office or some such body. In response to an RTI Petition sent to the Commission by a colleague from People's Watch in Tamil Nadu, it has said that the budget after approval by the Steering Committee is sent to the Ministry of Home Affairs for inclusion in the Demand for Grant of the budget document and placed in the Parliament along with Union Budget for final approval and the grant is received through the Ministry of Home Affairs24.</p> <p>While the NHRC has reported that it is permitted to take part in the development of their budget through a Committee mixed with government and NHRC members, there are still no legal provisions guaranteeing this right in either the PHRA or the NHRC (Procedural) Regulations, 1994 (amended in 1997).</p>	<p>This is a misleading reporting by AiNNI The MHA is assigned upon the duties of internal security as well as human rights. As per the rules of business allocation these subjects have been allocated to MHA. NHRC on the other hand has been created by an act of Parliament.</p> <p>NHRC's finances are not controlled by the Ministry of Home Affairs. The Home Ministry is the conduit through which the budget of the NHRC is transmitted by the Government of India. NHRC has full powers to utilize the budget as per the PHRA mandate. The audited accounts of the Commission are placed before the Parliament through the Ministry of Home Affairs, which is the nodal ministry in the Government for human rights and it does not in any way affect the independence of the Commission as alleged in the report.</p> <p>The suggestion of AiNNI that the NHRC be budget under PMO reflects the utter lack of knowledge of functioning of governing system in the country. The expenses of the PMO itself are budgeted in the Ministry of Home Affairs. The allocation of CAG is budgeted under the Ministry of Finance. So is the case of</p>

<p>The only formal record of the existence of this Committee is from a response by the NHRC stating that a Steering Committee had been formed by the government to approve of the Commission's budget. Human rights organizations see this as a government controlled committee despite presence of the NHRC members on it, given the fact that it is formed by the government and government officials are on it too.</p>	<p>Supreme Court of India and Election Commission of India which are budgeted in the Ministry of Legal Affairs and Justice. Suggesting that this has affected the independence of the institution can only reflect the utter lack of knowledge of their functioning and so is the case of NHRC.</p>
<p>Moreover, even if this was a legally-mandated committee, the "Steering Committee" signals the extent to which the NHRC lacks independence from the Government of India on the allocation of funds to the NHRC i.e. the power to override the budget approved by the Ministry of Home Affairs. The PHRA should be amended to require the NHRC to first, independently develop a budget proposal, without interference from a government-constituted committee or government members, and only then, place it before the Parliament for approval, being presented as part of the budget of either the Prime Minister's Office or the Ministry of Law and Justice but not the Ministry of Home Affairs</p>	<p>The Steering Committee consist of Chairperson and two members and Secretary General of NHRC. Only one member i.e. Secretary Expenditure is the Government nominee to provide expert assistance to the Committee. The budget prepared by the committee is finally approved by the Commission. This in no way affects the independence of the NHRC.</p>
<p>There is no need for a committee to approve a proposed budget of the NHRC, before the very same government officially approves or rejects the budget proposal. Here, any possible benefit of a partnership between the sponsoring government and the implementing NHRC is outweighed by the danger of encroachment on the NHRC's independence.</p>	<p>Budget of NHRC is approved by the Parliament, the Commission has complete independence to incur the expenditure as per the mandate of the PHRA.</p>
<p>It is the government's control over the NHRC's funding, combined with the government's power to make rules on highly significant matters, such as salary of Members and requirements for hiring staff, that deepens the society's belief that they are merely another government institution and as held by a number of people who were consulted in the focus group meetings that were held across the country.</p>	<p>The status, pay and allowances of the Chairperson and Members have been defined under the rules framed under PHRA and have been equated to the status of Chief Justice of India and the Judges of the Supreme Court of India respectively. Further, the rules provides protection against modifying the rules to their disadvantage. This makes them independent and fully autonomous in their functioning.</p>
<p>Independence is closely related to appointment, finance, appointment of staff etc. There needs to be insulation in the founding statute that the institution can function without interference from any branch of the Govt. which is the source of funding. The determining of the appointment and dismissal</p>	<p>Vague statement without any logic. Fixed tenure of an office bearer in any institution provides for more independence and autonomy contrary to what has been stated here.</p>

procedures of all categories of staff also should be an independent function of the Commission. Independence is also linked to the method of appointment of chairpersons and members. For example if every Chief Justice of Supreme Court of India by calculation knows that he is going to be assured of a 5 year tenure here, obviously the question of independence is affected there too in the last few months of his tenure as the Chief Justice of India. It is insulated by a variety of other measures put together.

By what means conflict of interest are avoided

In the past, the NHRC was known to offer clear and strong opinions to the government on pressing human rights concerns. The NHRC was also known to possess the courage to address parliamentarians where the commission had an opinion and they wanted the democratic institutions to know of it. They never addressed the government alone; they also addressed political party leaders. They had the moral courage to tell the government to do something and to tell where they were wrong. Clear demonstrations of its independence were evident in the early days of the Commission. In its 1993-1994 report, for example, then Secretary General of the NHRC Mr. R.V. Pillai addressed a letter to the chief secretaries of all the States and Union Territories regarding the rising number of custodial deaths and rapes and the attempts to distort the picture of these incidents. In this letter, the Commission firmly requests that a direction be issued to the District Magistrates and Superintendents of Police of every district asking them to report incidents of custodial death and rapes to the Secretary General within 24 hours of occurrence or from the time the officers became aware of the occurrence of these incidents.

During that same year, the NHRC also took notice of a firing incident by the Border Security Forces (BSF) on a group of people at Bijbehara, Anantnag District, Jammu & Kashmir and requested a report from the Government of India on the incident. After reviewing a report submitted by the Minister of Home Affairs, the Commission took an additional step and decided to review evidence given by six witnesses. Upon reviewing this material, the Commission made several concrete observations and recommendations, which were then forwarded to the Central Government.

The NHRC followed up the critical issue of custodial deaths in the 1995-1996 annual report, recalling its initial call to action in

1993. The Commission noted that ever since this call to action, reports of incidents have been coming in regularly through the official district agencies. The Commission explained that upon reviewing these reports, they have found that often, the post-mortem in many cases has not been satisfactorily completed and the cause of death is not properly determined. The Commission firmly stated that this unsatisfactory completion of reports was in their view, an attempt to obscure the truth and only provided the police version of the facts. Hence, the Commission then requested that all postmortem examination of custodial deaths be video-taped and cassettes be sent to the Commission along with the post-mortem report. The Commission also requested that steps were to be taken immediately and that video-taping of postmortem examinations be implemented within 2 months from the time of the publication of its report (as of 1st October 1995). The Commission even went as far as to requesting a response to its recommendations within 3 weeks²⁶.

On 18 July 1995, the Commission issued a letter specifically to the State Government of West Bengal regarding its status as having the highest reported number of custodial deaths in the time period of April 1994-May 1995. The Commission requested the West Bengal government to inquire into this matter and take the necessary remedial steps. In addition, the NHRC noted that in 4 cases of custodial deaths in West Bengal, the Commission has not received responses from the state government and requested these responses in a timely manner²⁷.

In February of 1995, the Commission wrote a letter to Parliament opposing the Terrorist and Disruptive Activities Act (TADA). It argued that it was an unjustly harsh law that was irreconcilable with India's cultural traditions, legal history, and treaty obligations. It explained that the Act had been misused over the years and had resulted in the detention of thousands of innocent people. It also further explained that the public viewed this law as a tool for the police to silence any form of dissent or opposition. In this letter, the Commission explained that it was actively engaged with the Kartar Singh case and the months following the judgment in the case, a case through which the Supreme Court attempted to reduce some of the harsh provisions of the act. The TADA Act was then due to expire in May of 1995 and in this letter the Commission appealed to the lawmakers to refrain from extending the Act. The Commission took a firm stand against the view that the

Act was necessary for the preservation of the integrity of the country. The letter ended with a strong and persuasive call to action, asking the Indian government to consider seriously the matter and reminding it that the Commission had been entrusted with the responsibility of maintaining human rights and that it will not be able to do so with the existence of the TADA Act²⁸.

During the period 1996-1997, the Commission addressed a report to all of the Chief Ministers on the issue of 'fake encounters' by the police. The Commission explained therein that it has received complaints from the public and from NGOs regarding the increase in fake encounters by the police and that police kill persons instead of allowing them to undergo the due process of law. These incidents were not at all adequately investigated. The Commission challenged the procedure undertaken by the state of Andhra Pradesh in several cases brought forth by the Andhra Pradesh Civil Liberties Committee (APCLC). The police had claimed that the deceased persons had first opened fire at them, thereby justifying their act of firing back as an act of self-defense. The police version of the facts was the one that had been recorded in the police station and thus, the case was deemed close as a result of the deaths of the accused. No further efforts were able to verify the facts of the case or to determine whether the police were justified by law in killing the deceased.

In its letter, the Commission reminded the Chief Ministers that under the law, the police authorities do not have any right to take the life of another person and that if they do so, they have committed an offence punishable as homicide, unless it is proven that the killing was not an offence under the law. Under India's criminal law code, acts of private defense or causing the death of another person in the use of force to arrest the person accused of an offence punishable with death or imprisonment for life are justifiable. Thus, the Commission pointed out, encounter deaths that are not justifiable under these provisions would make the officer guilty of culpable homicide.

The Commission was proactive in the case of the encounter deaths in Andhra Pradesh and listened to the accounts of all parties and reviewed the relevant statutory provisions. It found that the procedure followed in Andhra Pradesh was wrong and thus the Commission provided recommendations of the procedure that should be followed. The recommended

procedure was accepted by the government of Andhra Pradesh²⁹.

Following the Gujarat Riots in 2002, the NHRC came out with a path breaking report, suo moto, for which Justice Mr. P.C. Patel who was a sitting Judge then, issued a notice to the Commission. Two years later in 2004 Justice P. C. Patel was appointed to the NHRC in clear disregard to the integrity of the institution.

In 1997, the Secretary-General of the NHRC addressed a letter to the Chief Secretaries of the States and Union Territories on the topic of visits to police lock-ups. The Commission stated that the State Governments may be asked to allow officers of the NHRC to visit the police lock-ups during their visits to the various States and asked that the States make the necessary arrangements to allow them to do so.

The NHRC also sent a copy of the check-list for NHRC officers visiting lock-ups at police stations to all of the Chief Secretaries and Administrators of the States and Union Territories. The check-list includes a variety of tasks and provisions that the NHRC officers are expected to follow to ensure that the rights and well-being of those in police custody are being protected, including ensuring that those who remain in police custody are examined by a trained doctor after every 48 hours, that clean and sanitary blankets and mattresses are provided, and that access to toilets are provided³¹.

As related above, in the past, the NHRC had been a very proactive institution, advocating and lobbying both the central and state governments of India to respect and protect human rights. Unfortunately, the same cannot be said about the NHRC in the most recent years.

Instances where conflicts of interest arose

Where conflicts of interests are known and inevitable, it is especially significant that the national human rights institutions and the government clearly and openly define their relationship and work to eliminate or minimize the impact of these conflicts. The government must necessarily look after the interests of the public at large; whereas, the NHRC has been explicitly created to protect and promote the fundamental human rights of those victimized in our society. Accordingly,

<p>the NHRC must be able to strongly, boldly, and fearlessly take steps to ensure justice for victims and protection for marginalized, vulnerable members of society - especially when the government is the perpetrator.</p>	
<p>What is worrisome right now is that there is an observed gradual increase on the number of issues that the NHRC has remained silent on. These issues pertain to the most pressing human rights violations in the country. Indeed, the NHRC does maintain that it is an autonomous organization that gives directions on human rights issues independently based on its own decisions.³² On the other hand, it also acknowledges that it has failed to create any type of written guidelines, policies, or conventions, or has no information whatsoever on steps that may be taken to avoid conflicts of interest.³³</p> <p>Numerous statements from civil society and the general experience of the public indicate that lack of independence of the NHRC from the government is a major obstacle preventing victims and civil society from utilizing the NHRC as a source of protection. A human rights institution has the responsibility not only to protect and promote human rights but also the duty to condemn. The responsibilities of both protection of human rights and promotion of human rights call for condemnation of certain blatant violations when they take place in the country. When the civil society does not hear the voice of protest, this leads civil society to infer that the institution that is silent is not independent. Protests are important in the process of both protecting and promoting human rights. Mr. K R Mallesha, an activist at Environment Support Group said during a focus group meeting held in Bengaluru, Karnataka on 4th of November 2009 that he is still waiting on a final decision by the NHRC in a case filed in 2002 against police officials for violating his and his groups' fundamental right to have a public hearing. He feels that "since the case was against the state, the Commission has difficulty making political decisions." This sentiment was echoed by Mr. V. B. Ajay Kumar, of RIGHTS, Kerala, who stated that, "The NHRC uses any excuse not to make a decision that could affect them politically."³⁴</p>	<p>Vague and misleading statement and without specifying the issues on which NHRC, India is silent.</p> <p>Generic statement. NHRC, India always welcome positive criticism. It seems the ANNI is not serious about the human rights issues and its only motive is to criticize the Commission for each and every act. As from the report, it simply makes an allegation as an statement of fact.</p> <p>NHRC, India has been offering clear and strong opinions to the Government on pressing human rights concerns even now as in the past. There is no lagging behind in issuing directions to the Government on any matter on which the Commission sees violation of human rights of the people. The annual reports of the Commission bear testimony to this evaluation. The NHRC is both willing and able to speak up independently and does so on a wide range of issues.</p> <p>The ANNI claim that the NHRC has not issued any directions in the recent past is misleading. The details of the instructions/guidelines issued by the Commission to the Government on various issues including custodial deaths, deaths in police action and other issues are available on the NHRC website as well as in its annual reports.</p> <p>The NHRC is both willing and able to speak up independently and does so on a wide range of issues. The ANNI is misleading when it claims that NHRC has not issued any direction in the recent past. The details of the instructions/guidelines</p>

	<p>issued by the Commission to the Government on various issues including custodial deaths, encounter deaths etc. is available on NHRC website. The revised guidelines have been issued on death in police action on 12/5/2010, medical examination of prisoners on 17/5/2010, silicosis on 13/12/2010, besides issuing number of directions on day to day basis.</p> <p>It seems that ANNI has not gone through the recent instructions/guidelines issued by NHRC, India on custodial deaths, deaths in police action and a variety of other human rights issues.</p> <p>As per the amended PHRA, the officers can visit any jail or other institutions under the control of the state government where the prisoners are detained or lodged for purpose of treatment, reformation or protection for the study of living conditions of the inmates thereof and make recommendations thereon to the State Government. In 2010 NHRC Members/Officers have made visits to Agra Jail , Adarsh Jail, Lucknow and Saidabad , UP and the Officers of the Investigation Division visited 15 prisons to study the living conditions</p>
<p>Whether or not members incur legal liability for actions taken in their official capacity</p> <p>Chapter VIII, Section 38 of the PHRA protects members of the NHRC from incurring legal liability, in the form of a suit or any other legal proceeding, for actions taken in their official capacity.³⁵ While the PHRA purports to reserve protection for actions of members taken in good faith, it actually extends much further beyond this to also prevent liability of members for <i>any</i> acts intended to be done in pursuance of this Act, rules, orders, or publications by report paper or proceedings under the authority of the Central Government, State Government, Commission or the State Government. Rather, members enjoy an alarmingly low level of accountability for not only acts done while in office, but also responsibilities</p>	<p>The objective of providing this protection is to make sure that the members functions in a free and fearless manner and not at all relates to their accountability. Poor understanding of the provision by the ANNI is a matter of regret.</p>

neglected or entirely omitted while in office.	
<p>The mandate under the act is stated in such an ambiguous manner that there is a need also to indicate clearly what the indicators are that the Commission will be judged vis-à-vis functions that it has to perform. That is not there. Annual Reports are placed before the Parliament but not a single training for Members of Parliament or the Political Parties on the functions of the NHRC is given at any point of time by the NHRC to convey the role, responsibilities, functions, powers and mandate of the NHRC under the PHRA as well as under the Paris Principles. Had they been trained they would have raised questions in parliament. They also view this institution as part of the government. Therefore the watchdog role of the parliament is not performed. No watchdog body therefore questions this institution. In fact, Chapter II, Sections 5(2) and (3) of the PHRA provides that the Chairperson or Member of the NHRC may only be removed from office in a very limited number of circumstances.</p>	<p>The NHRC reports are tabled annually in the Parliament and same are discussed by the Members of the Parliament and debated. The action taken report by the Government are also tabled and discussed and debated in the Parliament. It is not factually correct the Members of the Parliament are not aware of the issues of human rights. The report cast an aspersion on the wisdom and understanding of the Parliamentarians which is uncalled for. The Parliamentarians are rather more watchful than some self professed NGOs.</p> <p>The Commission receives a number of parliament questions during every session of the Parliament which is an indicator that human rights issues are discussed by the Members of Parliament in the Parliament. During the last two years Commission has received 126 questions on human rights issues from Members of Parliament which bears testimony of their knowledge and interest Human Rights protection.</p> <p>Moreover Parliament enacts laws, the Executive acts on them and the judiciary enforces compliance. The NHRC,s principal work is to ensure that the Executive carries out the will of Parliament, as reflected in its laws and it enlists the judiciary for help whenever needed</p>
<p>Notably, the lack of independence between the actions of the national and state human rights commissions and the Central and State Governments is evidenced in Chapter VIII, Section 38 by the Government's inclusion of themselves in a clause that clearly establishes protection of liability for acts of the Commission. As the Commission is the only entity that can be directly liable for its acts, the Government's securing of liability protection for the acts of the Commission suggest its belief</p>	<p>The NHRC, India is an independent and autonomous institution and its decisions cannot be affected by any force, including political.</p>

<p>that the Government and the Commission are either one entity or one in which the Government could be liable for the acts of the Commission.</p>	
<p>Speaking on Independence by appointment, staffing patterns will also determine the extent of independence that the Commission will enjoy. The more the institution depends on civil servants and those transferred from other departments, it will be extremely difficult to expect them to maintain their independence. A civil servant who has worked in dept of the government for a long period of his service, being drawn into NHRC for a shorter tenure, knowing that he or she would be transferred to his parent department, is obviously not going to function independent of the government especially when they are dealing with complaints handling or policy matters where existing policies are looked at critically or while advocating new rights.</p>	<p>Factually incorrect and misleading statement. Out of the total 343 staff only 76 (22%) are on deputation and that is also with the approval of the Commission. The staff once appointed are under the administrative control of the Commission and they are accountable only to the Commission. Their performance assessment is made by the Commission which is the basic for their career advancement.</p>
<p>CHAPTER III</p> <p>EXECUTIVE SUMMARY: COMPOSITION, APPOINTMENT PROCESS, AND TENURE</p> <p>The composition of the National Human Rights Commission masks a real depiction of India and Indian life in its homogeneity and reveals a misunderstanding of the institution's stated purpose: to be a national leader in protecting and promoting human rights. Rather, the Commission has become a museum of prestige for highly accomplished retired members of the judiciary and government officials. While respectability and stature of the Commission members could potentially be a powerful tool in the fight for human rights, the appointment process lacks transparency that allows for the most qualified and best candidates to be openly selected and is not sensitive to ensuring that Commission members have the additional qualities that are essential for effective leadership in the field of human rights.</p> <p>The failure to appreciate what is necessary to equip the Commission with leaders capable of fulfilling its heavy mandate is indicated in both the founding law, through legal provisions creating overly and unnecessarily rigid criterion for three seats of the Commission, to implementation of the law, such as the failure to recognize the need for diversity and the consistent refusal to select even eligible and experienced activists and leaders in the field of human rights from civil society. The result is a Commission that has no women to</p>	<p>The AiNNI is making highly objectionable statement that NHRC, India is a museum of prestige for highly accomplished retired members of the judiciary and government officials.</p> <p>The selection and appointment procedure of the Members of NHRC, India is a well-defined procedure established as per the PHRA. NHRC, India meets all the requirements of effective cooperation with all the groups or their representatives as provided for in the Paris Principles. The PHRA has laid down that the majority of the Members would be judges who have held the highest judicial offices because, unlike most NHRIs, the NHRC, India has been accorded the powers of a civil court by section 13 of the PHRA and its Members spend a greater part of each day considering individual complaints on which, if they are satisfied that a breach of human rights has taken place. They are empowered to recommend redress for the victims and action against those</p>

<p>review the thousands of complaints involving issues sensitive to women, no members of India's strong and vibrant civil society, and a newly selected Chairperson who has been accused of corruption and has publicly made statements that in his opinion, legally prohibited use of force against civilians is acceptable.</p>	<p>responsible.</p> <p>Chairpersons of the National Commissions for Minorities, Women, Scheduled Castes and Scheduled Tribes are deemed Members of NHRC, India who have been assigned high positions. ANNI fails to appreciate the role played by these National Human Rights Institutions in protecting the interest of disadvantaged and vulnerable groups.</p> <p>NHRC, India's activities are not entirely limited to complaint handling as alleged in the ANNI report. The Commission has been engaged in various activities, including research study, spreading human rights education, encouraging NGOs etc. for promotion of human rights in the country as per Section 12 of the PHRA which are reflected in our annual reports and the accreditation documentation furnished by NHRC. Rarely any other NHRI may be carrying out activities in such a magnitude.</p>
<p>III. Composition, Appointment Process, and Tenure</p> <p>1. Composition</p> <p>The composition of the national institution and the appointment of its members, whether by means of an election or otherwise, shall be established in accordance with a procedure which affords all necessary guarantees to ensure the pluralist representation of the social forces (of civil society) involved in the promotion and protection of human rights.³⁸ In particular, the Paris Principles require effective cooperation be established with the following groups or their representatives: 1) non-governmental organizations responsible for human rights and efforts to combat racial discrimination, including trade unions and concerned social and professional organizations, such as associations of lawyers, doctors, journalists and eminent scientists; 2) Trends in philosophical or religious thought; 3) Universities or qualified experts; 4) Parliament; 5) Government departments (if these are included, their representatives should participate in the deliberations</p>	<p>The selection and appointment procedure of the Members of NHRC, India is through a well defined procedure established as per the PHRA. NHRC, India meets all the requirements of effective cooperation with all the groups or their representatives as provided for in the Paris Principles.</p>

<p>only in an advisory capacity).³⁹</p> <p>In order to ensure pluralism of the NHRI's composition in accordance with the Paris Principles, the importance of the NHRI maintaining consistent relationships with civil society was emphasized by the ICC.⁴⁰ Outside of this, the ICC offered a variety of ways in which pluralism may be achieved through the composition of the NHRI, such as 1) representing different segments of society in the membership of the governing body; 2) suggesting or recommending candidates from diverse societal groups in the appointment procedures of the NHRI's governing body; 3) establishing procedures that enable effective cooperation with diverse societal groups, for example advisory committees, networks, consultations or public forums; or 4) hiring of diverse staff representing the different societal groups within the society. Notably, the ICC Sub-Committee emphasized that ensuring pluralism required the meaningful participation of women in the NHRI.</p>	
<p>Eligibility</p> <p>The Protection of the Human Rights Act, 1993 sets rigid criteria for membership into the National Human Rights Commission. The National Human Rights Commission must be composed of one Chairperson and up to four members. Chapter II, Section 3(2) of the PHRA requires that the Chairperson has been a Chief Justice of the Supreme Court. Of the four sitting members, one must be or have been a Judge of the Supreme Court and one must be or have been a Chief Justice of a High Court. Of the five members comprising the NHRC, only two members, or less than half, must be appointed from amongst persons having any type of "knowledge of, or practical experience in, matters relating to human rights."</p>	<p>The PHRA has laid down that the majority of the Members would be judges who had held the highest judicial offices because, unlike most NHRIs, the NHRC, India has been given the powers of civil court by section 13 of the PHRA and its Members spend the greater part of each day considering individual complaints on which if they are satisfied that a breach of human rights has taken place. They are empowered to recommend redress for the victims and action against those responsible.</p> <p>The Chairperson and Members of NHRC, India are appointed for a full term of five years. PHRA permits Members to be appointed for a second five year term, subject to the age limit of 70. The status, pay and allowances of the Chairperson and Members have been defined under the rules framed under PHRA and have been equated to the status of Chief Justice of India and the Judges of the Supreme Court of India respectively. Further, the rules provides protection against modifying the rules to their</p>

	<p>disadvantage. This makes them independent and fully autonomous in their functioning.</p> <p>The PHRA settled on this composition to ensure that it was effective in the discharge of its quasi-judicial functions. Governments are less likely to question directives passed after a quasi-judicial process when they know that NHRC has on it three Members who have held the highest judicial offices.</p> <p>The other two Members are chosen to complement the judicial perspective. One of them has had experience in administration of the practical difficulties of protecting and promoting human rights. The other Member has had exposure to trends and best practices in human rights advocacy abroad.</p>
<p>Further, Chairpersons of the National Commission for Minorities, the National Commission for the Scheduled Castes and Scheduled Tribes and the National Commission for Women shall be deemed to be Members of the Commission for the discharge of functions specified in clauses (b) to (j) of section 12.41 There shall also be a Secretary-General who shall be the Chief Executive Officer of the Commission and shall exercise such powers and discharge such functions of the Commission as it may delegate to him.</p>	<p>Chairpersons of the National Commissions for Minorities, Women, Scheduled Castes and Scheduled Tribes are deemed Members of NHRC, India who have been assigned high positions. AiNNI fails to appreciate the role played by these National Human Rights Institutions in protecting the interest of disadvantaged and vulnerable groups.</p>
<p>India is a country that has a wealth of social activists who have been recognized both nationally and internationally for their work in various human rights fields. Right from the days of independence, and particularly after the Emergency in India in 1975, the Human Rights, Civil Liberties voice in this country has been a strong and independent voice that even fought the Emergency, which led to the formation of a group called the People's Union for Civil Liberties (PUCL) and Democratic Rights. The leader of this group was the late Jaya Prakash Narayan, who in 1965 received the Magsaysay Award for Public Service and was posthumously awarded the Bharat Ratna, India's highest civilian award in 1988. The Indian human rights movement has also given birth to numerous</p>	<p>The Appointment Committee has always chosen as members those who bring diverse experience to the NHRC, India. Together with independence that is guaranteed more both by the process of selection and by the PHRA.</p> <p>The cast of the Appointment Committee are the Prime Minister, Speaker of the Lok Sabha, Home Minister, Leader of Opposition in both the Houses of Parliament and Deputy Chairman of the Rajya Sabha. The Committee Members</p>

<p>winners of Nobel Prize for Peace, Ramon Magsaysay Awards and the Alternative Nobel Prize. Many Indian human rights defenders have also appointed to hold mandates in the UN special procedure mechanisms, become members of UN Treaty Bodies, posts in international and intergovernmental organizations, not mentioning the many jurists and the activists who continue their fight for human rights in the most interior of the country, drawn from different professions. It is this civil society mass which has consistently engaged itself internationally and nationally as well as the grassroots for the protection and promotion of human rights. It is therefore a matter of serious concern for civil society that no person coming from this movement has ever been appointed as member of the NHRC. Clearly, any person from the movement would have more than sufficiently fulfilled the requirement of having "knowledge and practical experience" in human rights.</p>	<p>are also the Members of the Parliament and represent all sections of the society including the civil society, vulnerable sections, women and are the best judges to select the Members of the Commission on the basis of their experience.</p>
<p>Many human rights groups in the country believe that "knowledge and practical experience in human rights" is not the primary consideration by the government when it appoints members of the NHRC. More often than not, appointments to the NHRC are made as rewards for political favors owed by those in power. For instance, the appointment in 2004 of Mr. P. C. Sharma, a current member of the NHRC, reappointed by the President of India for another term as Member of NHRC from 25th March, 2009, to the commission was challenged by Justice A S Anand, who was then the head of the NHRC. It was alleged that Mr. Sharma was appointed as member of the NHRC as a reward for withdrawing charges against a political leader while acting as Director of the Central Bureau of Investigation (CBI)⁴² The spokesman of the Congress at that time, Mr. Kapil Sibal said, "This is a reward for the decision of the CBI to retract conspiracy charges against Advani." He also publicly pronounced Mr. Sharma's appointment as "very unfortunate." Mr. Kapil stated that the former CBI chief should not have accepted the post as it undermined the independence of the premier investigating agency. "It just shows how these offices are used by the government to its political advantage," he added.⁴³ Despite Justice J.S. Anand writing to Prime Minister Vajpayee, requesting him to "reconsider the appointment to prevent criticism at national and international levels," Sharma was appointed to the NHRC in 2004.⁴⁴ Though this occurred under the Bharatiya Janata Party (BJP) government, the Congress government also reappointed Mr. Sharma in 2009.</p>	<p>As already explained Members of the Commission are selected by the Appointment Committee as per the PHRA. As regards appointment of political favourites as Member of NHRC, it is to inform that Member Shri P.C.Sharma was appointed by the Committee when 'A' party was in power' and Party 'B' was in opposition. He was again reappointed by the Committee 'when party 'B' was in power and party 'A' was in the opposition. This shows that there is no political interference in the appointment of the Members of the Commission.</p> <p>Chairperson of National Commission for Women is a deemed member of NHRC, India. Further, AiNNI fails to mention that India who have been assigned high positions. AiNNI fails to appreciate the role played by these National Human Rights Institutions in protecting the interests of disadvantaged and vulnerable groups.</p>

<p>Another problem with the requirement under the PHRA that only a Chief Justice of the Supreme Court can be appointed as Chairperson of the NHRC is that this also effectively means that no woman can be eligible to sit as Chairperson of the NHRC for the next few years. In the past, the NHRC had women members, namely, Justice Fathima Beevi (1993) and Justice Sujata Manohar (1999). At present, however, no woman sits as member of the NHRC</p>	
<p><u>Plurality or the lack thereof in the NHRC</u></p> <p>The Paris Principles requires plurality in the composition of an NHRI's membership so that all views from all sectors of society are heard and considered in the work of promoting and protecting human rights. Limiting the membership to those coming from the judiciary or have served in government, as what the enabling law of the NHRC does, effectively alienates and silences a large part of civil society that has worked in the human rights movement in India. Moreover, since the NHRC's enabling law ensures that majority of its members should come from the judiciary, it inevitably would find it difficult to reach out to grassroots and local human rights defenders. Members of the judiciary, because of the nature of their work, would have difficulty appreciating the value of open consultation and cooperation with human rights defenders.</p>	<p>Deliberately misleading statement. It seems the AiNNI is not aware of the judicial system in India which is one of the best in the world. Judiciary in India is proactive towards human rights issues and judges have exposure on each and every issues and complexity of the rules and lacuna in the system which are the hindrance in implementation of the laws and violation of human rights. The judges through out their tenure serve different parts of the country and come across with the civil society, vulnerable sections of the society, women and protectors of their rights. Hence they have the sound knowledge of the rules, system, culture of different parts of the country, problems of the human rights defenders, civil society, vulnerable sections etc.</p>
<p>Human rights work in India is also to a large extent viewed as anti-state work and if a person has worked only for the state, the person may not be able to adequately grasp the struggles and complexities of working for human rights at the grassroots level. There is the tendency for this person to maintain a pro-state\ point of view. There is a tendency to become a defender or an apologist for the state's actions. This would not be helpful or would even be dangerous for human rights defenders working on the ground.</p>	<p>Vague statement. India is the largest democracy in the world and constitution provides fundamental rights to each and every citizen of the country. As regards staff of the Commission is concerned they are governed by the rules, regulation and directions of the Commission and there is no interference from the Government.</p>
<p>Human rights is not about judgment, law and judges alone. The NHRC, which has been tasked to promote and protect</p>	<p>This is factually incorrect. NHRC, India's activities are not entirely limited to</p>

<p>human rights, has largely been viewed in the past few years as a mere complaints handling mechanism. However, the NHRC should be more than this. The mandate of the NHRC also includes the promotion of human rights and this entails the creativity of a vigorous advocate, a characteristic that members of judiciary are not often identified with. It is indeed true that the experience former judges can bring into the NHRC is invaluable. It must be pointed out though that a Commission with a membership composed mostly of former judges cannot be said to be a diverse Commission. One of the arguments put forth by NHRC on the question of diversity is that they have diversity of experience. This however refers mainly to their rich judicial and governmental experience but does not take into account the lack of academic and we are talking of academic and civil society experience in the office bearers of the commission.</p>	<p>complaint handling as alleged in the ANNI report. The Commission has been engaged in various activities, including research study, spreading human rights education, encouraging NGOs etc. for promotion of human rights in the country as per Section 12 of the PHRA.</p>
<p>Narrowing down the candidates for Chairperson of the NHRC to only those who have been former Chief Justices of the Supreme Court may also negate the eligibility requirement of "knowledge and practical experience in matters relating to human rights." For instance, Justice Balakrishnan, the current Chairperson, had clearly been appointed solely because of his being a former Chief Justice of the Supreme Court. This can be said because in his most recent statements to the media, it can be inferred that he does not have a good grasp of human rights standards and principles, which the NHRC itself, in the past, had spearheaded the implementation in Asia. In July 2010, a month after his appointment, Justice Balakrishnan publicly said that "encounters are unavoidable sometimes...the law and order problem is increasing. Criminals are taking the law into their hands, attacking even the police. Police have to take control of the situation."⁴⁵ He did add a concession that there must be checks and balances to ensure that fake encounters do not take place, but he further justified his position and argument that extrajudicial executions could solve law and order issues, by citing examples of the extrajudicial executions of persons suspected to be involved with the Mumbai underworld gangs and those alleged as Naxalites in Andhra Pradesh state. At best, these comments are irresponsible and unbecoming of a judicial officer and public servant, mandated to chair the NHRC, an institution that hundreds of victims approach to seek redress in cases of extrajudicial executions⁴⁶. In another public statement, he endorsed the death penalty. He said, "In India, different types of crimes are on increase.</p>	<p>Chairperson NHRC, India is a retired Chief Justice of India having wide knowledge of and practical experience, including in matters relating to human rights.</p>

The death penalty will have a deterrent effect on the people...if you analyze (the cases), many of those who were given death penalty really deserved it in the cases imposed (on them),"47

The above statements of Justice Balakrishnan manifest a lack of knowledge of the very standards that the NHRC in the past worked hard to instill in the region. In 2000, the Advisory Council of Jurists (ACJ) issued a reference on the death penalty. There, the ACJ commended India "for its ratification of the International Covenant on Civil and Political Rights (ICCPR) and Convention on Rights of the Child." India was encouraged to move towards ratification of the Second Optional Protocol to the ICCPR and Convention against Torture. India was commended for its constitutional provision regarding the fostering of respect for international law and treaty obligations. However, the ACJ expressed concern about the stated intention of the Government to increase the list of offences which are punishable by death and drew particular attention to its comments regarding the criteria for what constitutes "most serious crimes." The ACJ endorsed the comments of the Human Rights Committee in relation to India's obligation to ensure that its Penal Code does not permit the execution of a person who commits a crime while under the age of eighteen. The ACJ noted that religious and cultural traditions cannot justify the breach of international human rights law. In this regard, the Council drew attention to the Declaration on the Elimination of all Forms of Intolerance and Discrimination Based on Religion or Belief. India was encouraged to take progressive steps towards *de facto* abolition of the death penalty and ultimately its *de jure* abolition".48

In 2009, due to the narrow requirement that the Chairperson of the NHRC must be a retired Chief Justice of the Supreme Court of India, the list of possible candidates eligible to replace former Chairperson Rajendran Babu for appointment as the Chair of the NHRC were literally limited to two individuals in a country of over 1 billion people. The Centre admitted to the High Court in Parliament that the appointment of a new NHRC Chairperson was delayed on account of difficulty faced in appointing former CJIs.49 Realizing the practical difficulty in limiting eligible candidates to such an exclusive list, the Delhi High Court heard a petition filed by the Centre for Public Interest Litigation seeking an amendment to the 1993 PHRA Act that would enable even a retired Supreme Court judge to

head the NHRC. Additional Solicitor General (ASG) A.S. Chandhiok informed the Delhi High Court on October 7, 2009 that the Supreme Court was contemplating changes in the PHRA to include retired Chief Justices of any High Court or a retired Supreme Court judge in the list of those eligible to be appointed as Chairperson of the NHRC.” Unfortunately, no changes have been made to this day on what may be said to be an absurdly restrictive appointment criterion.

In order to ensure the diversity and pluralism of the NHRC, one of the members of the National Core Group on NGOs who wished to remain anonymous emphasized the need to create a national pool of possible candidates from which potential members may be chosen.

The NHRC, in response to questions regarding the pluralism and diversity in the Commission, point to the inclusion of the Chairpersons from the National Commission on Women and the National Commission on Minorities as “deemed members” of the Commission. In reality, however, from the day the NHRC was established until 2008, these “deemed members” hardly ever attend Full Commission meetings. Full attendance of the deemed members, is rarely seen as illustrated by the table:50 Sl.No. Details of all the meetings of the Full Commission of the NHRC comprising the 'Deemed Members' Attendance in each of the meetings of the Full Commission of the NHRC of its 'Deemed M embers'

The meetings of the Statutory Full Commission are held regularly. In the years 2009 -2011 it has met on 17/9/2009, 20/11/2009, 16/3/2010, 26/7/2010 and 15/1/2011. Besides, the Deemed members also are invited in each and every event of the Commission like seminars, workshops, national consultations, legislation review etc In case they are unable to participate, they are represented by members/officers of their Commissions.

Current Membership of the NHRC

In June 2010, more than a year of remaining vacant, the position of Chairperson of the NHRC was filled by Justice K.G. Balakrishnan, replacing Acting Chairperson Justice Mr. Govind Prasad Mathur. The members of the NHRC are now Justice Mr. Babulal Chandulal Patel, Mr. Satyabrata Pal, and Mr. P.C. Sharma. The Chairperson of the National Commission for Minorities Mr. Mohammad Shafi Qureshi and Chairperson of the National Commission for Women Dr. Girija Vyas also sit on the board of the National Human Rights Commission as ex-officio members.

As mentioned earlier, no women are official members of the NHRC. Further, there are currently no women even eligible for the position of Chairperson of the NHRC. There are also no persons with disabilities as members. While Chairperson Balakrishnan is the first Dalit Chairperson of the NHRC, his reputation has been widely and publicly questioned.⁵¹ Two

members, Mr. P.C. Sharma and Mr. Satyabrata Pal, were said to have been selected for their “knowledge and practical experience in matters relating to human rights.” However, neither of the two is observed to have exhibited any great commitment to promoting human rights in India. In fact, Mr. P.C. Sharma has been widely accused of being rewarded the position in the NHRC due to his withdrawal of charges against political party BJP leader LK Advani when he was still Director of the Central Bureau of Investigation.⁵² Mr. Satyabrata Pal, on the other hand, as a member of the Indian Foreign Service has spent over 30 years abroad as a bureaucrat. While his academic and theoretical knowledge, experience with international politics, and adeptness at bureaucracy may be strong, he has not exhibited any signs of being able to advocate for marginalized victims, nor does he possess any experience on the ground, grassroots human rights issues facing Indians today. The current substandard composition of the NHRC’s membership leaves the Commission with absolutely no representation by civil society and leaves it extremely ill-equipped to offer protection to victims and address human rights violations in India.

1. Selection and Appointment

Formation of a Selection and Appointment Committee

ICC Subcommittee emphasizes the following factors in the selection and appointment process: 1) transparency; 2) broad consultation throughout the selection and appointment process; 3) advertising vacancies broadly; 4) maximizing the number of potential candidates from a wide variety of societal groups; and 5) selecting members to serve in their own individual capacity rather than on behalf of the organizations they represent. None of these elements can be said to have been even remotely followed in the selection and appointment of the NHRC.

The PHRA provides a specific procedure for appointing the Chairperson and other Members to the National Human Rights Commission under Chapter II, Section 4. The founding law states that the Chairperson and other Members shall be appointed by the President by warrant under his hand and seal after obtaining the recommendations of a Committee consisting of the following members: 1) The Prime Minister serving as Chairperson; 2) Speaker of the House of the People (Member); 3) Minister in-charge of the Ministry of Home Affairs in the Government of India - Member; 4) Leader

The selection process and appointment of the members has been done as per the procedure laid down by the PHRA and is followed strictly in practice. The consultations are carried out by the Members of the Committee by virtue of the positions they hold, they have access to the widest possible pool from which to choose.

<p>of the Opposition in the House of the People - Member; 5) Leader of the Opposition in the Council of States - Member; 6) Deputy Chairman of the Council of States - Member. Notably, no sitting Judge of the Supreme Court or sitting Chief Justice of a High Court shall be appointed except after consultation with the Chief Justice of India.⁵³</p> <p>The NHRC has stated their belief that the “high level and politically balanced Committee, together with the statutory requirements relating to the qualifications of the Chairperson and Members of the Commission, invest the Commission with a very high degree of credibility.”⁵⁴ In the response to the India Chapter of the ANNI Report for the year 2010 the Commission has said, “The Appointment Committee has always chosen as Members those who bring diverse experience to the work of the NHRC.”</p>	
<p>Selection and Appointment Process in Reality</p> <p>The selection and appointment process has been widely criticized by the public. While the PHRA provides for an open, transparent process, many members of society from throughout India reveal that the appointment criteria and process for membership to the NHRC is not fair, transparent, or open. Further, there is a strong sentiment that the lack of diversity and representation of minorities with relevant backgrounds to issues addressed by the Commission were large impediments to the effective functioning of the NHRC. Mrs. Prathibha, of Civil Initiatives for Development and Peace India (CIVIDEP), pointed out many members joined the Commission as political appointees, not from a fair and transparent process.</p> <p>Mr. Pushkar Raj of the General Secretary of –People’s Union for Civil Liberties (PUCL) in Rajasthan stated that the current composition had been due to the poor appointment process, leading to an ineffective, homogenous Commission, and is a struggle for the entire nation. He further commented that almost all the one hundred and fifty Commissions, which includes the NHRC, the various specialized national human rights commissions, and the State Human Rights Commissions, were places of rehabilitation for retired judges and government officials.</p>	<p>The selection committee comprises elected representatives both from the ruling and opposition parties who represent the civil society at the highest level. The cross party agreement necessary in the committee ensures that the person it chooses are acceptable across the political spectrum in India and represent the national consensus.</p>
<p>The criticisms of civil society are founded in a very harsh reality that the NHRC has been abused as a highly political mechanism in which the government’s appointment committee</p>	<p>The cast of the Appointment Committee which has on it the leaders of Opposition in both houses of Parliament makes it</p>

has made many publicly and widely criticized appointments. Less than a month after demitting his position as Chief Justice of the Supreme Court of India, the 6th and current Chairperson of the National Human Rights Commission K.G. Balakrishnan was appointed as the NHRC chief on June 3, 2010. As expected, less than a month after demitting his position as Chief Justice of the Supreme Court of India, the sixth and current Chairperson of the NHRC was appointed on 3 June 2010.⁵⁵ Despite his candidature being widely criticized for a number of his controversial stands – such as blocking the prosecution of former Justice Nirmal Yadav for corruption,⁵⁶ attempting to exempt the Office of the Chief Justice of India from the purview of the Right to Information Act,⁵⁷ and delaying action against Justice P.D. Dinakaran after Parliament initiated an impeachment motion in connection with a 672590 land dispute and corruption case – the government waited more than a year to appoint Justice K.G. Balakrishnan to lead the NHRC. The Commission, now more than ever, is in need of strong, ethical, and courageous leadership.

This is not the first time the NHRC has appointed a controversial member, with an allegedly less than honest reputation. When the appointment of former Director of the Central Bureau of Investigation and current Member of the NHRC P.C. Sharma was proposed, Congress widely questioned his appointment, alleging that he was being rewarded for “withdrawal of charges” against political party BJP leader LK Advani in the *Ayodhya* case. Congress spokesman Kapil Sibal reported, “This is a reward for the decision of the CBI to retract conspiracy charges against Advani,” and termed the appointment as “very unfortunate.” Kapil stated that the former CBI chief should not have accepted the post as it undermined the independence of the premier investigating agency. “It just shows how these offices are used by the government to its political advantage,” Sibal added.⁵⁸ Despite Justice Anand even writing a letter to Prime Minister Vajpayee, requesting him to “reconsider the appointment to prevent criticism at national and international level,” P.C. Sharma was appointed to the NHRC in 2004.

While it looks very prestigious for the country to be headed by a former Chief Justice of India which really is the case, it is not the case that every former Chief Justice of India is a person who has the potential capabilities as well as creativity to head a body such as the National Human Rights Commission of India. What the Commission needs are persons who are able

impossible for a Government to place a political favourite in the NHRC, India.

<p>to give leadership to this body without converting it into another judicial forum. Some of them have succeeded and some have not and therefore we are of the opinion that only having the criteria of having a former Chief Justice of India will not be sufficient for heading this commission. After the affidavit filed by Mr. Shanti Bhushan after the contempt proceedings of the Court of Law on Prashant Bhushan, the country's collective conscience is shaken that 8 out of 16 Chief Justices of India, starting with Justice Ranganath Mishra and ending with Justice Y. K. Sabharwal, were known to be corrupt is more than sufficient information that someone who is Chief Justice of India or serving judges of India of Chief Justice of a high court by itself cannot be valid criteria for this position⁵⁹.</p>	
<p>2. Tenure</p> <p>Terms of office of members</p> <p>The ICC observed that members of the NHRI should include full-time remunerated members in order to ensure that the NHRI is independent and free from actual or perceived conflicts of interest, has a stable mandate for the members, and has ongoing and effective fulfillment of the mandate of the NHRI. As such, any possible grounds for dismissal of members of governing bodies must be in conformity with the Paris Principles and included in the founding law of the NHRI. The ICC recommends that dismissal or forced resignation of any member should result in a special review of the accreditation status of the NHRI and be in strict conformity with all substantive and procedural requirements as prescribed by law. Dismissal should not be allowed based solely on the discretion of appointing authorities.</p> <p>The Paris Principles provide that appointment of national human rights institution members shall be effected by an official act which shall establish the specific duration of the mandate. The mandate may be renewable, provided that the pluralism of the institution's membership is ensured. Accordingly, Chapter II, Section 6 of the PHRA provides that a person appointed as Chairperson or Member shall hold office for a term of five years from the date on which he enters upon his office. The PHRA further allows that members shall be eligible for re-appointment for an additional term of five years. At no time may an individual hold office as a Chairperson or a member of the NHRC after he has attained the age of seventy years.</p>	<p>The PHRA provides for specific directions as envisaged in Paris Principles.</p> <p>The Chairperson and Members of NHRC, India are appointed for a full term of five years. PHRA permits Members to be appointed for a second five year term, subject to the age limit of 70.</p>

<p>To further promote independence and prevent conflicts of interest, a Chairperson or a Member who has ceased to hold his position in office shall be ineligible for further employment under the Government of India or under the Government of any State.</p>	
<p>Whether members receive adequate remuneration</p> <p>Chapter II, Section 8 provides the terms and conditions of service for Members of the NHRC. It provides that salaries, allowances, and other terms and conditions of service of the Members are given “as may be prescribed,” but ensures that these may not be varied to his disadvantage after his appointment. However, Chapter VIII, Section 40(2)(a) reveals that the power to “prescribe” the salaries of the Commission members lay with the Central Government. This direct tie between salaries and the government has led many members of Commissions to inwardly and often outwardly perceive the government as their employer. Financial control by the government affecting the independence of the Commission directly violates the Paris Principles. Almost all of them are retired government servants and their salaries with all the perks are usually adequate</p>	<p>Under rules framed to implement the PHRA, the Chairperson has the status, pay and allowances of the Chief Justice of India and the Members the status, pay and allowances of the Judge of the Supreme Court of India. Hence Chairperson and Members receive adequate remuneration. Their independence has further been guaranteed by the provision in the act that the pay, allowances and terms and conditions of appointment can not be varied to their disadvantage.</p>
<p>Grounds and Procedures for Dismissal and/or Resignation</p> <p>In protecting the independence of the judiciary, it is important to ensure that judges enjoy a certain amount of freedom from political pressure and protection from retribution. Accordingly, a Chairperson or Member of the NHRC may voluntarily resign under Chapter II, Section 5(1) by notice in writing under his hand addressed to the President of India, but may only be dismissed or removed from office under very limited circumstances. Chapter II, Section 5(2) of the PHRA states that a Chairperson or Member “shall only be removed from his office by order of the President of India on the ground of proved misbehaviour or incapacity after the Supreme Court, on reference being made to it by the President, has, on inquiry held in accordance with the procedure prescribed in that behalf by the Supreme Court, reported that the Chairperson or the Member, as the case may be, ought on any such ground to be removed.” Section 5(3) states that, notwithstanding anything in sub-section (2), the President may, by order, remove from office the Chairperson or any Member if the</p>	

<p>Chairperson or such Member is adjudged an insolvent, engages during his term of office in any paid employment outside the duties of his office, is unfit to continue in office by reason of infirmity of mind or body, is of unsound mind and stands so declared by a competent court, or is convicted and sentenced to imprisonment for an offence which in the opinion of the President involves moral turpitude.</p> <p>In the event that a Chairperson is unable to discharge his functions, due to death, resignation, or otherwise, the President may, by notification, authorise one of the Members to act as the Chairperson until the appointment of a new Chairperson to fill such vacancy.⁶⁰ If the Chairperson is unable to discharge his functions owing to absence on leave or otherwise, such one of the Members as the President may, by notification, authorise in this behalf, shall discharge the functions till the date on which the Chairperson resumes his duties.</p>	
<p>CHAPTER IV</p> <p>EXECUTIVE SUMMARY: ORGANIZATIONAL INFRASTRUCTURE</p> <p>Although the National Human Rights Commission has had 17 years to build up its infrastructure, it has completely failed to develop its resources and effective functioning in society. It lacks not only financial resources, but historical knowledge and intellectual capital. Puzzlingly, the NHRC refuses to acknowledge how dramatically under-resourced it is financially and has not requested for an increase in staff or Members to the Commission. Rather, the Commission has recently stated that its five Members are able to provide orders in the approximately 400 cases a day without any problems.⁶²</p>	<p>This is the false view of the AiNNI. On the contrary, NHRC, India has been able to develop its resources, financial and intellectual manpower, and effective functioning in the society over the 18 years of its existence since its inception in 1993. It is utterly false to say that NHRC, India is inaccessible to the public at large. The ever increasing complaints being received in the Commission from all over the country is a clear testimony to the popularity and trust in it by the People. AiNNI omits to mention that there are 343 regular and about 100 on contract manpower with the commission to help members to discharge their duties.</p>
<p>The NHRC remains inaccessible to almost the entire population it is purported to serve. The Commission conducts the overwhelming majority of its functioning in one building in Delhi, while the rest of India resides far away and unable to access the NHRC. Even in rare cases where victims are able</p>	<p>The Commission is open to all persons. Anybody can enter into the premises of NHRC, India and there is no requirement to go through the security channel to approach the Central Registry of the</p>

<p>to journey to Delhi, the environment is hostile and unwelcoming to the very victims it was created to serve. Even the NHRC website, only available in English, removes few barriers to victims and the public.</p>	<p>Commission and the Facilitation Counter or the Reception of the Commission. The allegations made in the ANNI report are totally false. It seems the only motive of the ANNI report is to malign the image of the Commission with an ulterior motive and hidden agenda.</p> <p>NHRC, India can be and is reached by telephone, telegram, fax, email and post as well as through its website. It has a dedicated telephone number which can be reached after office hours by any one with an urgent complaint. Hence it is factually incorrect that NHRC, India is not within the reach of every citizen.</p> <p>The members, Special Rapporteurs, officers of the Commission undertake extensive visits every nook and corner of the country. Commission keep organizing local, regional and national workshops, seminars, consultations, which provide ample opportunity to general people to interact with public. Moreover to reach to the public, Commission is also undertaking camp sittings in various states.</p>
<p>Commission staff members are hand-selected from government posts, often deputed temporarily from similarly titled, but very different, government positions. These staff members are given no training for completing their jobs and as they frequently have no background in human rights, complete their job with no additional sensitivity or understanding of human rights. Again, prestige is blindly equated with competence – resulting in both qualified and unqualified candidates almost randomly being chosen for important posts, such as Special Rapporteur of the NHRC.</p>	<p>The NHRC, India hires staff mostly through direct recruitment and some on deputation and it has its own set of rules and regulations and procedures for selection and recruitment of staff. Its recruitment rules have been duly notified in the national Gazette. Its vacancies are notified and advertised in electronic and print media and national dailies. The procedure of selection is transparent and based on merit. Once the officers are selected they are governed by the rules and regulations of the Commission. The small number of officers who are on deputation are also selected and appointed by the Commission after widely</p>

	<p>publishing the vacancies and they are only accountable to the Commission. All fresh inductees are provided training in human rights by the Commission.</p>
<p>Organizational Infrastructure</p> <p>The organizational infrastructure of a national human rights institution is the entire collection of resources with which it may fulfill its mandate and includes not only tangible goods, such as its premises, library, and budget, but also intangible elements, such as attitudes of the staff, reputation of the NHRI in society, years of experience, and intellectual capital. Its organizational infrastructure, then, is the essence of the NHRI – who it is and how it functions in society.</p> <p>The Paris Principles require that the NHRI be equipped with infrastructure which is suited to the smooth conduct of its activities, in particular, adequate funding. Accordingly, the NHRI must have sufficient funds to enable it to hire adequate and competent staff, have one or more premises such that it is accessible to the public, and expertise and dedicated leadership to efficiently perform the many functions it has been entrusted with by the public. In order to do this effectively, the national human rights institution must be independent of the Government and not subject to its financial and political control. As such, a thorough understanding of the national human rights institution also requires an appreciation for how it has structured itself, as well as the relationships it has built with other national and state human rights institutions and other important stakeholders.</p>	
<p>1. Infrastructure</p> <p>The National Human Rights Commission has been given a very wide mandate with many functions and accordingly, has been given many powers to fulfill these in the PHRA.⁶³ Accordingly, the NHRC has set up an organizational structure that will enable it to fulfill its work efficiently and effectively.</p> <p>The Chief Executive Officer (CEO) of the National Human Rights Commission is the Secretary General, selected from an officer of the rank of Secretary to the Government of India. The Secretary General has a Secretariat working under his/her general supervision. There are six divisions of the Commission that, while entrusted with specific tasks, work in</p>	<p>The Secretary General and Director General (Investigation) are seconded by the Government. The Commission selects the SG or DG(I) from the panel of officers it is purely the prerogative of the Commission to select or request the Government for another panel of officers. Once they are selected they have to work as per the directions of the Commission and not of the Government.</p>

<p>close consultation and coordination with each other, and include the following: 1) Administrative Division, 2) Law Division, 3) Training Division, 4) Policy Research, Projects and Programmes Division, 5) Investigation Division, and 6) Information and Public Relations Division⁶⁴.</p>	
<p>The Administrative Division is headed by a Joint Secretary and assisted by a Director, Under Secretaries, Section Officers, and other secretarial staff. It functions under the overall guidance of the Secretary-General and looks after the administrative, personnel, establishment, and cadre matters of the staff and officers of the Commission. The Administrative Division includes an Accounts Branch, General Section, and the Hindi Section. The Accounts Branch functions under the overall guidance of the Joint Secretary and consists of a Senior Accounts Officer, Assistant Accounts Officers, a Drawing and Disbursing Officer, and other staff. The General Section takes care of housekeeping, repairs, and maintenance. The Hindi Section is responsible for translation of complaints, annual reports, and publications.</p>	<p>The NHRC, India hires staff through direct recruitment, deputation and it has its own set of rules and regulations and procedures. Its recruitment rules have been duly notified in the national Gazette. Its vacancies are notified and advertised in electronic and print media. The procedure of selection is transparent and based on merit.</p>
<p>The Law Division is headed by the Registrar (Law) and is responsible for the disposal of complaints relating to human rights violations. The Registrar (Law) is assisted by a Joint Registrar, Deputy Registrars, Assistant Registrars, and others. There are also four Presenting Officers coming from the subordinate judiciary⁶⁵, who assist the Commission in fulfilling its very important complaints handling function. These presenting officers and investigation wing personnel should ideally have proper and extensive training on handling human rights cases.</p> <p>The Training Division has been created to disseminate information and focus attention on sensitizing various agencies and NGOs, civil society to heighten respect for Human Rights by organizing Human Rights Training Programmes. The Division is headed by a Chief Coordinator (rank of a Joint Secretary) and is assisted by a Senior Research Officer and other secretarial staff.</p> <p>The Library, containing a collection of books and a variety of documents of the United Nations, All India Reporter (AIR) Manuals, Supreme Court Reports, Government Reports, NGO bulletins, etc., not only serves the Commission, but is also a resource centre for interns, researchers, and NGOs. The</p>	<p>The NHRC, India has 343 regular staff and over 100 staff members on contract basis. These include legal consultants, research officers, research assistants and translators. The NHRC, India follows the excellent policy of the Government to reserve a percentage of posts for applicants from the most vulnerable section of the society and the posts are reserved for the candidates belonging to Scheduled Castes, Scheduled Tribes, Other Backward Communities, disabled persons etc. The Secretariat currently has 52 employees from Scheduled Castes, 14 from Scheduled Tribes, 38 from Other Backward Class, 2 disabled, 6 Muslims, 11 Christians, 8 Sikhs. It has 48 women staffers.</p>

<p>Computer Cell, in coordination with the National Informatics Centre (NIC) has developed a user-friendly package for monitoring the status of complaints, from receipt to final disposal.</p> <p>The Policy Research, Projects and Programmes Division develops projects and programmes on topics that have been determined to be of generic importance on the basis of hearings, deliberations or otherwise, and undertakes and promotes research in human rights and organizes seminars, workshops and conferences on pertinent issues. The PRP & P Division is headed by the Joint Secretary and consists of two Directors, a Senior Research Officer and secretarial staff.</p>	
<p>The Investigation Division, headed by the Director General of Police (DGP), conducts independent inquiries when required. This division also assists the Commission in examining complaints, scrutinizing reports received from police and other investigation agencies, and analyzes the intimations and reports from the State authorities. These reports regard violations such as deaths in police and judicial custody, encounter deaths and advising the Commission. The Investigative Division also assists the Training Division in spreading human rights literacy as envisaged in Section 12(h) of the PHRA. The DGP is assisted by a Deputy Inspector General of Police, Senior Superintendents of Police, Deputy Superintendents of Police, Inspectors of Police and Constables.</p> <p>Finally, the Information and Public Relations Division disseminates information relating to the activities of the Commission, through print and electronic media, and is headed by an Information and Public Relations Officer, who also functions as the Editor of the monthly Human Rights Newsletter. This division is responsible for the website and publications of the Commission, and has an Assistant Information Officer and has been appointed a Public Information Officer for the purpose of facilitating information under the Right to Information Act. The Appellate Authority is the Joint Secretary.</p>	<p>The Investigation Division has staff with experience in the investigation of complaints involving human rights issues. The investigation staff carries the investigation of human rights violations with a human rights approach and does not treat it as crime investigation as alleged in the AiNNI report.</p>
<p>The Special Rapporteurs of the NHRC</p> <p>The NHRC also employs the services of “special functionaries,” to serve as Special Rapporteurs and members of thematic Core Groups. Special Rapporteurs are to be</p>	<p>The AiNNI report itself is contradictory. On the one hand the report criticizes the policy of appointing retired Government</p>

selected by the NHRC from among very senior retired officers who had previously served as Secretaries to the Government of India or Directors General of Police or have done exemplary service in a human rights related field. These Special Rapporteurs are given either a theme, or a group of subjects to themes, such as Bonded Labour, Child Labour, Custodial Justice, Dalit Issues or Disability. These Special Rapporteurs may also be assigned particular territorial jurisdictions to cover. 66 This system of maintaining a pool of Special Rapporteurs is a concept very unique to and patterned after the United Nations. It is therefore expected that these Special Rapporteurs, like their counterparts at the UN, are people who are recognized in their field and known for their independence and integrity. At the outset, when this system was initially put in place, the Special Rapporteurs who were appointed were indeed recognized experts in their own fields. Some of the first Special Rapporteurs of the commission like Mr. Chaman Lal, former DGP of Nagaland, Mr. K. R. Venugopal, former Secretary to the Prime Minister of India were people of eminence, competence and knowledge in a particular area and their work in the Commission did contribute to the body of work of the institution. In the recent years, however, the system of maintaining a pool of Special Rapporteurs has come into question as more and more Special Rapporteurs coming from government instrumentalities have been appointed.

Over the years, it has become rarer and rarer for individuals coming from the human rights movement and even the academe to be appointed as a Special Rapporteur. There seems to be an underlying message that only persons with a government background can be appointed as Special Rapporteurs and that representatives from civil society or the academe may be "too independent" to hold these positions. It is therefore unfortunate that such a system that started out so positively has degenerated into another manifestation of the unfounded mistrust that the current NHRC holds against members of the human rights movement or human rights defenders.

servants as special rapporteurs in the Commission, and on the other, appreciates the former Special Rapporteurs Shri Chaman Lal and K.R.Venugopal for their eminence, competence and honesty, who were also Government servants before their appointment as Special Rapporteurs in the Commission. It shows that the only motive of ANNI is to criticize the NHRC, India one way or another without substantiating its submissions.

As per the Scheme the eligibility criteria for engagement of Special Rapporteurs in NHRC is "A person who has held high posts in government of India or State Government or is an academican of repute or an eminent person who has knowledge of, or practical experience in, matters relating to Human Rights, shall be eligible for appointments as Special Rapporteur."

The NHRC appoints for a specific period of time as Special Rapporteurs individuals with special expertise either in a particular sphere of work or in a region of India. Some are thematic experts, who deal with issues like bonded labour, starvation deaths, mental health, custodial justice, and persons with disabilities; others cover a geographic area in India.. They make field visits to monitor developments in sensitive regions, assess how far assurances given by State Governments to the NHRC are being implemented, and make recommendations for next steps. In 2009-2010, several of their reports were of immense help to the Commission in supplementing information received from officials, and in holding them accountable. Special Rapporteurs are appointed zonal basis covers all the geographic regions in India and they are not exclusively limited

	<p>to Northern region alone as alleged in the ANNI report. The entire country has been divided into eight zones. The Special Rapporteurs are doing commendable job in the field assigned to them. Their reports are being used as resource material by many NGOs in imparting Human Rights education.</p>
<p>The Core Groups of the NHRC</p> <p>Core Groups are composed of very eminent persons, or representatives of bodies, in their respective fields in the country, who voluntarily agree to serve, in an honorary capacity, as members of such groups. Core groups have been previously created to address a variety of human rights issues including, Health, Disability, Unsafe Drugs & Medical Devices, NGOs, Legal Issues, Right to Food, Emergency Medical Care, and Refugees.</p> <p>A lengthier discussion on the NGO Core Group will be made in the chapter discussing the NHRC's relationship with civil society.</p>	
<p>Accessibility of the NHRC</p> <p>The National Human Rights Commission is located in India's capital city, Delhi, as provided under Chapter I, Section 5 of the Protection of Human Rights Act, 1993. Unfortunately, to the hundreds of millions of marginalized, impoverished Indians living far away from Delhi in the North Eastern, Western, Southern, and Central regions of India, the National Human Rights Commission is wholly inaccessible. Although, the NHRC has had prior approval from the Central Government to establish offices in other parts of the vast country of India since 1993(<i>PHRA, Chapter I, Section 5</i>) the NHRC has failed to do so. Its Delhi based offices remain both its headquarters and only offices.</p> <p>In the NHRC's 17 year history, it has only reached out to the rest of India and provided two opportunities for decentralized hearings on complaints, both in Northern India. In 2004, two hearings were held in Patna, Bihar and Lucknow, Uttar Pradesh. From 15 to 16 September 2010, the NHRC's DGPs or their representatives, and the Chief Secretaries of the Southern States met in Bangalore to look into pending complaints of human rights violations in the South. 68</p>	<p>It is incorrect to say that NHRC, India has prior approval of the Central Government to establish its offices in other parts of India. The PHRA does provides for establishing regional office of the NHRC as SHRC are being established in every state with the same mandate under the same act.</p> <p>The NHRC presently functions out of a heritage building allotted to it by the Government. In 2011, the NHRC will move to a new 6 storey building adequate to house it staff.</p> <p>NHRC, India can be and is reached by telephone, telegram, fax, email and post as well as through its website. It has a dedicated telephone number which can be reached after office hours by any one with an urgent complaint. Hence it is factually</p>

<p>However, the proceedings were held behind closed doors and the complaints were not invited to either participate or even observe. Many senior activists and NGOs attempted to enter and observe the proceedings, but their efforts were in vain. Hence, the proceedings were heavily criticized by human rights groups as not being transparent. The outcomes of these proceedings were also not even made public. Moreover, even if the proceedings were opened to the public, many of the victims of human rights violations would not have shown up due to the presence of around 100 policemen, purportedly there to provide security to the NHRC Chairperson.</p> <p>It may be true that the NHRC Chairperson may need some amount of security as he travels. Nevertheless, traveling around with a security detail as massive as that of the Home Minister's does not make the Commission appear accessible to human rights defenders and victims of human rights violations who would need to approach them with their concerns.</p>	<p>incorrect that NHRC, India is not within the reach of every citizen.</p> <p>The Commission is open to all persons. Anybody can enter into the premises of NHRC, India and there is no requirement to go through the security channel to approach the Central Registry of the Commission and the Facilitation Counter or the Reception of the Commission. The allegations made in the AiNNI report are totally false. It seems the only motive of the AiNNI report is to malign the image of the Commission with an ulterior motive and hidden agenda.</p>
<p>Even when NHRC Chair and members occasionally make visits to other states for seminars, training programs, to deliver an inaugural or valedictory address at events, they unfortunately, remain elite, figureheads, inaccessible to the public. The security scenario around the place where they stay and where their formal meetings take place with the heads of the police or district officials or state officials of the government is heavy. Often no discussions are held with NGOs. There is no allotted time for victims, nor any effort to afford these victims easy access to them without the presence of the officials of the districts against whom most of the complaints are. This is the routine way they behave and conveys the message that this is a Commission of the Government to protect the Government and its officials and not to help the ordinary victims of violations.</p>	<p>The Chairperson and Members of the Commission during their visits to States frequently meet with the civil society and general public. The Chairperson and Members also visit the states on the invitation of the Civil society. Hence the statement that the Chairperson and Members of NHRC are inaccessible is totally incorrect, with the malafide intention of maligning the Commission.</p> <p>The Commission is frequently having the camp sittings in various parts of the country where complaints are also heard. Moreover a separate session is allotted for interaction with civil society which is being attended by a large number of NGOs. List of such NGOs invited in a recent sitting is enclosed. Besides, Commission has also increased its outreach through Special Rapporteurs who undertake round the year visits in various states.</p> <p>The Commission always welcomes positive criticism and its primary focus is</p>

	<p>to provide relief to those who approach it for help particularly vulnerable sections of the society. It will also continue to monitor implementation of all laws that impact on human rights to create a culture of human rights in the country.</p>
<p>If resources are not available to establish satellite offices of the NHRC, then the NHRC must maximize visits outside Delhi to project that it is on the side of victims and not the perpetrators. More often than not, when members of the NHRC travel outside Delhi, they generally choose to locate themselves in circuit houses (state guest houses) which are usually difficult to access and very difficult for anyone, let alone victims, civil society, and common citizens, to enter. No advance program schedule is sent if the Chairperson or the Members visit and there is no time made for people to meet. The Chairperson should be in a publicly accessible place or one that is made accessible to the public. Only then the principle of accessibility will be established.</p> <p>The protection and security of these highly accomplished, distinguished persons and proper adherence to regulation can be ensured without being abused as excessive barriers to protection and justice.⁶⁹ If even an <i>invited guest</i> is barraged by police officers at the gate, what kind of reception can unsolicited victims hope to get? The very people from which they may be seeking protection from may be literal barriers to their security. Hurt, vulnerable victims of tragic human rights violations should not be forced to seek protection from such an inaccessible, intimidating, and frightening environment.</p> <p>Fortunately, not all NHRC members and officials keep such significant barriers between themselves and the public. Indeed, many NHRC members are open and very welcoming to victims. However, whether a victim will feel safe and protected is highly dependent on these individual members, who are few and far between, rather than an adequate and appropriate infrastructure that is set up to guarantee this environment.</p> <p>There is no written policy on accessibility of members coupled with their security concerns. This should not be left to the chance element of a particular member being good and accessible. Only having police officers to investigate is wrong. The team should have doctors, lawyers, psychologists and</p>	<p>Factually not correct. It is not a question of lack of resources but there is no provision to establish regional offices of NHRC, India in the PHRA. Moreover SHRCs are being established in each state with same mandate and power.</p> <p>The Commission since inception has regularly organizing conferences, seminars, workshops etc. on various human rights issues and invite and have interaction with the civil society and general public. The Commission has selected 28 backward districts in the country one in each State to spread human rights awareness in the administration and to assess the effectiveness of the political, social and economic measures adopted by the Government. At the workshop a day long seminar attended by the villagers, members of locally elected bodies, civil society and officials from the human rights entitlement of citizens and the corresponding duties of public servants. The NHRC holds sittings in State capitals to take up cases from the State or region. Senior officials of the State Government appear before it to report on action taken on its recommendations and directives. There is a separate session during the camp commission sittings with the civil society and open to all the local NGOs to raise their problems and issues which need the concern of the Commission.</p>

<p>Human Rights activists and they should collectively carry out a Human Rights investigation. Crime investigations by police and Human Rights investigations are two different procedures.</p>	
<p>To function effectively and reach the over 1 billion Indians who require access to the NHRC, four to five offices must be established throughout India. Particularly, branch offices of the NHRC should be established in the southern, central, north eastern and western regions of India. From these branch offices, investigation staff should be trained to investigate and report on human rights violations. To make the NHRC a truly national institution working for the protection and promotion of human rights, honorary Special Rapporteurs should be appointed to monitor violations of human rights in each of the 620 districts of India. Additionally, volunteers, drawn from social workers, police officers, prison officials, retired judiciary, academics, district level officers, and elected and formerly elected representatives, could be trained to provide support to existing Special Rapporteurs by working as the “eyes and ears” of the NHRC in all 620 districts. A small beginning could be made in this direction with the appointment of Special Rapporteurs in the selected NHRC districts of the country.</p> <p>Working together, this team of volunteers, local investigators, and Special Rapporteurs, can scrutinize the situation on the ground and either make recommendations to the NHRC, notably, requests for in-person visits for cases of highest priority requiring NHRC members’ and officers’ direct presence to investigate the violation and give the matter additional attention. A network of local and national representatives working together will enhance the breadth, quality, and speed of investigation of violations, while maximizing the limited resources of the NHRC. Because access to justice requires <i>timely</i> access to justice, any follow-up investigations and relief orders must be issued speedily.</p> <p>The NHRC must change its relationship with the public by first, both literally and symbolically, opening its doors. The NHRC should have its own building that is physically welcoming and unimposing. The entire approach of the NHRC must be victim-centered, compassionate, and open. The NHRC must be clear that it is an institution established wholly to promote human rights and serve and protect the victims of human rights violations. The NHRC must work hard to overcome the reputation that it has built as a bureaucracy, dedicated to managing files and politics, rather than an institution dedicated</p>	<p>The NHRC appoints for a specific period of time as Special Rapporteurs individuals with special expertise either in a particular sphere of work or in a region of India. Some are thematic experts, who deal with issues like bonded labour, starvation deaths, mental health, custodial justice, and persons with disabilities; others cover a geographic area in India.. They make field visits to monitor developments in sensitive regions, assess how far assurances given by State Governments to the NHRC are being implemented, and make recommendations for next steps. In 2009-2010, several of their reports were of immense help to the Commission in supplementing information received from officials, and in holding them accountable. Special Rapporteurs are appointed zonal basis covers all the geographic regions in India and they are not exclusively limited to Northern region alone as alleged in the ANNI report. The entire country has been divided into eight zones.</p> <p>In order to tap the experience and knowledge of experts, academics and civil society, the NHRC has set up a number of Core Groups, which it consults on key issues. The subjects on which these Groups have been set up also give an indication of the range of the Commission’s work.</p> <p>Presently, the NHRC has Core Groups on mental health, the right to food, on health, and on disability, NGOs, elderly persons together with a Core Group of Lawyers to advise it on emerging legal issues that have an impact on human rights. Members of the Commission with sectoral responsibility for these issues convene the</p>

<p>to serving the public.</p>	<p>Groups, and, as in other years, received useful recommendations from them in 2009-10.</p> <p>In addition, the NHRC has a Core Group of NGOs, which is convened by and meets with the Full Commission, the last three meetings having been held in September 2009, May 2010 and in Jan 2011. The 12 leading NGOs on the Core Group offer constructive criticism of its work, and make suggestions for improvement, or for a sharper focus on some areas, all of which the Commission finds helpful.</p>
<p><i>State Human Rights Commissions (SHRCs): How can they help the NHRC?</i></p> <p>There are currently 18 State Human Rights Commissions (SHRCs) in India, plus the public pronouncements from the state governments of Jharkhand and Sikkim of the impending establishment of their SHRCs. The NHRC, however, has not developed a strong working relationship with these SHRCs.⁷⁰ The argument put forth by the NHRC, and very often heard from chairpersons and members from the SHRCs, is that nowhere under the PHRA is it mentioned that the NHRC has been bestowed with any form of a supervisory role over the SHRCs. There is also no evidence, either on the NHRC's annual reports or its website, of any kind of statement or effort by the NHRC to the Parliament to make the SHRCs come under the NHRC. Many activists believe that integrating the SHRC into the structure of the NHRC would only be practical and a matter of good governance.</p>	<p>20 States have so far set up SHRCs and the intent of the principles is therefore being met. The PHRA does not place the SHRC under the NHRC and there is no question of their having any obligation to report to the NHRC on any issue, including deaths in police encounters. An SHRC's primary task is to monitor those areas of work that fall under the jurisdiction of a State. However, the NHRC coordinates its work whenever needed with the SHRCs and is helping SHRC in their capacity building installing its computerized complaint management system and providing training to their staff. NHRC and SHRCs also carry out program jointly on human rights issues. They are also involved in all major activities of NHRC like seminars, workshops, national consultations, annual functions etc.</p>
<p>It must be noted though that there have been annual meetings of the NHRC where some representatives of the SHRCs were invited to attend. Still, it is not always the chairpersons of the SHRCs who attend these annual meetings of the NHRC. Moreover, there is an apparent effort from the NHRC to call SHRCs for consultation, albeit these consultations never lead</p>	<p>Factually incorrect. The NHRC and SHRC meetings are attended by Chairperson, and Secretaries of the SHRCs. Sometimes, Members of SHRCs attend in place of Chairpersons. The SHRCs complement the work of the NHRC, which</p>

towards a system whereby the SHRCs become the eyes and ears of the NHRC on the ground. For example the frequency of encounter deaths⁷¹ that have taken place in recent times have been alarming. Of the cases of encounter deaths that occurred between the NHRC's origination on 12 October 1993 to 31 April 2010, 2,956 have been registered with the NHRC either by public authorities or the public. There is no evidence that would show that there has been any communication between the NHRC and the SHRCs on this issue. Also, there is no evidence to show that the NHRC had been liaising with the SHRCs regarding its queries to State Governments on encounter deaths. What usually happens is that the NHRC merely forwards complaints it receives to the SHRCs.

It should also be noted that even when the NHRC members visit a particular state, it is not usual that they meet with the SHRC or the other state human rights commissions that are existing⁷².

The principle of cooperation established under the Paris Principles requires NHRIs to cooperate with NGOs, intergovernmental organizations, and other NHRIs. If this principle is put into practice, even though it is not explicitly provided in the NHRC's enabling law, this would indeed go a long way in transferring lessons of NHRC to the newly formed SHRCs. This is not carried out at all. For putting human rights into practice, law, procedural guidelines and rules alone cannot be the recourse. Attempts and new efforts and the development of creative methods of working with new stake holders should be a constant endeavor by any institution in the field of human rights and it applies much more to the NHRC. This is one reason why the law makers thought of the former Chief Justice of India to head the commission because he will have the power of persuasion.

This power of persuasion is not used to the full. In the last 17 years of its existence if this had been done, principles of engagement with the SHRCs and code of conduct would have been evolved. The SHRCs as strategic partners of NHRC in putting the functions under section 12 of the PHRA would have been put into practice rather than they being subordinates. While a hierarchy is suggested between the NHRC and SHRCs through Section 21 of the PHRA, which establishes that the State Commission shall not inquire into any matter which is already being inquired into by the

convenes meetings with them, and invites their representatives to its workshops and seminars, to coordinate the prosecution of their common objectives. In 2009-10, it worked on a pilot project to install its computerised complaint management system in SHRCs, to enable better coordination.

The PHRA does not place the SHRC under the NHRC and there is no question of their having any obligation to report to the NHRC on any issue, including deaths in police encounters. These are constitutional issues involved. An SHRC's primary task is to monitor those areas of work that fall under the jurisdiction of a State. An amendment to PHRA which would be needed to give the NHRC the power to oversee the work of SHRCs, therefore has much wider ramification. However, the NHRC coordinates its work whenever needed with the SHRCs and is presently installing its computerized complaint management system in several SHRCs.

The NHRC, India has been drawing attention of the State Governments for constitution of SHRCs where there are no such State Commissions.

<p>Commission or any other Commission duly constituted under any law for the time being in force, the NHRC has no policy on how to work with these state human rights commissions.</p>	
<p>Staffing</p> <p>The Paris Principles require that the NHRI has its own staff. The ICC also explained in its General Observations that the NHRI should be empowered to appoint its own staff, but recommended that in order to guarantee the independence of the NHRI, senior level posts should not be filled with secondees. Where seconded staff members are hired, they should not exceed 25% and never be more than 50% of the total workforce of the NHRI. Notably, the requirement of hiring and maintaining staff also requires that the NHRI hire <i>adequate and competent</i> staff to effectively and efficiently fulfill its mandate. A full and active staff is essential for any institution to work at its best capacity, build its intellectual capital, and reach its institutional goals.</p> <p>Rather than allowing the NHRC to fulfill its mandate, the NHRC's staffing has created an atmosphere of a governmental bureaucracy, rather than an open, safe sanctuary in the face of dangerous, brutal human rights violations. The NHRC and its staffing permeate a value system that is governmental, rather than non-governmental, in nature. In fact, NHRC staff members are recruited almost exclusively from the government sector. These current or former government employees perceive themselves as quasigovernment employees even after they start working at the NHRC, rather than independent monitors of human rights.</p> <p>The Secretary General holds the rank of a Secretary to the government. Mr.R. V. Pillai has been the longest serving in his chief executive's post. Senior Executive Officers can be drawn from the government, as it is role of the Institution to liaison from the government but they should have a minimum tenure of 3 or 4 years as it takes at least 1 year to understand the Commission. This is a special institution and it takes time to understand it and usually by the time they get to understand, their tenure is over and so they only firefight and are not able to do real work. Persons appointed to the post of Director General of Investigation most often are persons who have never done any work in Human Rights. They are too senior to be sent for Trainings before assuming office.</p>	<p>The NHRC, India hires staff through direct recruitment, deputation and It has its own set of rules and regulations and procedures. Its recruitment rules have been published in Government Gazettee. It s vacancies are notified and advertised in electronic media. The procedure of selection is transparent and based on merit.</p> <p>The Secretary General and Director General (Investigation) are seconded by the Government. The Commission selects the SG or DG(I) from the panel of officers it is purely the prerogative of the Commission to select or request the Government for another panel of officers. Once they are selected they have to work as per the directions of the Commission and not of the Government.</p> <p>The NHRC, India has 343 regular staff and over 100 staff members on contract basis. These include legal consultants, research officers, research assistants and translators. The NHRC, India follows the excellent policy of the Government to reserve a percentage of posts for applicants from the most vulnerable section of the society and the posts are reserved for the candidates belonging to Scheduled Castes, Scheduled Tribes, Other Backward Communities, disabled persons etc. The Secretariat currently has 52 from Scheduled Castes, 14 from Scheduled Tribes, 38 from Other Backward Class, 2 disabled, 6 Muslims, 11 Christians, 8 Sikhs. It has 48 women staffers.</p>

Thus, a principle of learning through doing has to happen but by the time they get a grasp of what has to be done, they realize that their powers are limited as the decision making is by the Commission and bureaucrats who have served in these positions who often want to remain anonymous, several of them, have expressed the fact that they feel the dominance of the judges and their points of view in every decision making process. Ultimately it is a judge - heavy decision making process which used to be, for a very long time, as said by people, balanced by persons like Virendra Dayal. When persons like him retired and the first 10 years were over, a balancing personality was not there to challenge the others. The experience too is not transferred to the next person. He starts from scratch. Presently the Country is shaken by the fact that 8 Chief Justices have been accused of being corrupt by lawyer Prashant Bhushan in a case in the Supreme Court. There is a former Chief Justice who is facing impeachment. Perhaps due to this improperly limited candidate list, the NHRC has consistently been under staffed, as per its workload and also its sanctioned capacity. The table (Table 4.1) below illustrates the repeated under-utilization of its staff, its most valuable resource.

Table 4.1 Number of NHRC Staff

Year	Total No. of complaints received Sanctioned by the NHRC	Staff Stood	Vacancies
1993-1994	247		
1994-1995	247		
1995-1996	250	194	56
1996-1997	282	235	47
1997-1998	282	223	59
1998-1999	297	218	79
1999-2000	297	231	66
2000-2001	331	249	82
2001-2002	341	284	57

<p>2002-2003 341 68,779</p> <p>2003-2004 341 72,990</p> <p>2004-2005 341 74,401</p> <p>2005-2006 341 74,444</p> <p>2006-2007 343 82,233</p> <p>2007-2008 - - - 94,559</p> <p>2008-2009 - - -</p> <p>2009-2010 222</p> <p>The failure of the NHRC to recruit, develop, and retain talented staff to its maximum sanctioned amount is an impediment to its growth and effectiveness. As of April 23, 2010, the NHRC had a total of 317 staff and consultants. The category of employees working as “consultants” comprised individuals who are reemployed, employed as contract staff, and consultants. In fact, only 222 of the 317, or 70% were regular staff members. Thus, the NHRC is currently only working with 65% of its sanctioned regular staff, leaving 35% of the capacity of NHRC staff unfilled.</p>	<p>289</p> <p>306</p> <p>326</p> <p>326</p> <p>322</p> <p>52</p> <p>35</p> <p>15</p> <p>15</p> <p>21</p>
<p>In 2002-2003, the NHRC recognized in its Annual Report that “the constantly increasing workload of the Commission...necessitated the engagement of [20] consultants to cope with the additional work.” Rather than filling the open staff positions quickly, the Commission determined that it “must proceed with care to build and develop its own cadre.”⁷³ The NHRC stated that it would use a “variety of methods...to appoint staff in the Commission.” These methods include the appointment of personnel on deputation, re-employment and direct recruitment. The exact same statement appeared in the following year’s Annual Report.⁷⁴ Recruitment rules are there for officers, presenting officers and judges. Why not for lawyers? Rather, the NHRC could gain a platform for recruitment of dedicated staff cadre if they cooperated with academic institutions, civil society groups NGOs who have specialized in thematic human rights issues. Several well-known, reputed institutions, such as People’s Union for Civil Liberties (PUCL), People’s Union for Democratic Rights (PUDR), Centre for Justice and Peace</p>	<p>NHRC, India has a policy for recruitment of its staff through deputation, hiring on contract basis and they are given proper training and they are well conversed with the human rights issues and have a human rights approach in their day-to-day work. A part from regular work the Commission hires manpower on contract basis as and when required. There are more than 35 lawyers working with Commission as consultants to help it in scrutiny of complaints.</p>

<p>(CJP), People's Watch, Action Aid India, Commonwealth Human Rights Initiative (CHRI), Human Rights Law Network (HRLN), Housing and Land Rights Network (HLRN), National Alliance of Women's Organisation (NAWO), Campaign Against Child Labour (CACL), CEHAT, Ekta Parishad, and Bandhua Mukti Morcha, NCAS, ASMITA, IHRE, FIAN, Disabled Rights Group have played very specific poignant roles in the field of specific thematic human rights across the country. These agencies with their rich and diverse experiences could provide a very good platform for recruitment of dedicated staff cadre, with their knowledge, skill, and passion for human rights, helping the NHRC grow as an independent human rights institution across the country.</p>	
<p>Based on the current staff, the NHRC does not have fair and equal means of representation in terms of gender, religious minority groups and disabled populations. Of the 317 staff and consultants working at the NHRC, only 2 members are persons with disability.⁷⁵ 266 or 84% of the NHRC is male, whereas only 51 staff/consultants at the NHRC are female (16%). Hindus make up an overwhelming majority of over 92% of the NHRC, or 292 of the 317 staff/consultants, even though they are only around 80% of the overall population.⁷⁶ There are only 6 Muslims, 11 Christians, 8 Sikhs, and 0 Buddhists. Of the 317 staff, 52 come from Scheduled Castes (SC) and 14 from Scheduled Tribes (ST); 3 individuals are from Other Backwards Classes (OBC). We have govt. appointed commission saying that diversity has to be maintained and we do not see it reflected in the staff. Sixty Six persons of SC/ST origin work in the Commission and this works to 20.82 %. While it is balanced, our presumption is that most of them are in lower cadre even though the chairperson now is from a Scheduled Caste Community.</p>	<p>The required policy of the Commission ensures pluralism in the NHRC staff and follows the excellent policy of the Government to reserve a percentage of posts from the most vulnerable sections of the society.</p>
<p>Even with a full staff, the NHRC would certainly face challenges in adequately addressing the growing workload and dramatically rising number of complaints filed by victims of human rights violations. While the number of complaints registered with the NHRC has increased from 496 in 1993-94 The Commission says that over the last 4 years it has received on an average 400 complaints a day⁷⁷. Even after weeding out frivolous complaints and transferring 5933 others to the SHRCs, in the financial year 2009 – 10 (April - March)</p>	<p>Like any other organization NHRC would welcome more staff but it has enough to discharge its mandate presently.</p>

<p>the NHRC registered 83021 fresh cases and completed action on 86050 cases. No other national institution for human rights in the world has a remotely comparable case-load. Moreover, complaints handling is only one of ten major functions assigned to the Commission.</p>	
<p>If the NHRC are even able to make a genuine attempt to fulfill its legal mandate, its sanctioned and actual staffing must dramatically increase both in number and diversity. The heavy and demanding functions of the NHRC must be analyzed and an assessment made of how many staff members are required to effectively fulfill its mandate. Currently, the NHRC does not have adequate staff to carry out its mandated functions under the PHRA. More high quality staff are urgently needed that come from a variety of disciplines, such as social work, forensic sciences, medical colleges, law, social work, psychology, development professionals, and international relations. In reply to the ANNI Report however it is surprising that the reply by NHRC is “Incredible as it might appear to the ANNI, this indeed is the level at which the NHRC works. Between July 2009 and May 2010, It registered 75283 new cases, dealt with 84483, including the backlog of earlier years, and closed 78917, The Chairperson and four Members each have a Registry that processes and puts up between 60-80 files a day. On a 5-day week, and assuming a 48-week working year, the NHRC therefore can process 80 x 5 x 5 x 48=96,000 files a year. The NHRC's Registries are run by senior law officers. The Members are also helped in the processing of cases by the officers and consultants of the Investigation Division and, occasionally, by Special Rapporteurs. Their efficiency has made it possible for the Commission to process very large numbers of cases each year”. If this was true and quality also reflected the numbers, then you would have a constituency in the country which would only be praising the NHRC. We want a constituency of that sort but unfortunately such a constituency is not there. Why then does the Commission take years to dispose a case? A sample study of the 500 cases that People’s Watch, an NGO, sent, revealed the following:</p> <p>* The average wait time for an initial response – a communication indicating receipt and acceptance of the complaint – from the Commission is 66 days, but some victims waited up to a maximum of 884 days.</p> <p>*Even after an initial response is received, the average wait</p>	<p>The Commission has a separate division under Registrar (Law) dealing with complaints. Once the complaint is received the Commission gets it scrutinized by the Consultants who are advocates and thereafter registered the complaint. The staff/officers of the Law Division process the cases. Each Member has been assisted by the Presenting Officers who are retired judges and place before the Member. The Investigation Division, headed by a Director General(I) also assist the Commission for spot enquiries and processing custodial death cases. To cope up with the work load the Commission has adopted the following methods of consideration of cases.</p> <p>Full Court: The Commission meets as a court, with lawyers present on behalf of both the complainant and of the State, in particularly serious cases</p> <p>Full Commission: The Full Commission met once a week to consider very serious complaints, usually involving deaths in police action or in their custody, or political and socio-economic problems that had an impact on the human rights of large numbers of people</p> <p>Division Benches: Late in 2009, the Commission decided to set up Division Benches to take over part of the workload of the Full Commission. Two Division Benches were set up, with two Members on each, and these meet twice a week, taking up in particular cases of deaths in police custody or in police action.</p>

<p>time to receive the report of the concerned authority once the commission has accepted the complaint is 316 days.</p> <p>The average total time from initial response to final disposition of the case is 322 days. When summary dismissals are removed from the pool (transfers and § 36 transfers), complainants wait an average of 717 days.</p>	<p>Single Member Benches: Every day, even on those days that the Full Commission or the Division Benches convene, each Member considers, as a one-man Bench, between 60-80 complaints in various stages of processing.</p> <p>In addition to the above the Commission has started Camp Commission sittings in the States where pending cases/issues are discussed with the State Government authorities and dispose of cases on the spot or give directions as the case may be. This helps the Commission to cope up with the work load as most of the victims get relief on priority basis.</p>
<p>Hiring Staff of the NHRC</p> <p>While the NHRC staff was initially modestly sized, with only a relatively few positions in the various grades of Inspector, Assistant, Personal Assistant, Private Secretary, and Staff Car drivers as late as 2003- 2004, today the NHRC list the following staff positions: Secretary General, Registrar Law, Director General (Investigation), Joint Secretary, Deputy Inspector General (DIG), Director, Joint Registrar, Private Secretary, Senior Superintendent of Police (SSP), Assistant Registrar, Under Secretary, Senior Research Officer, Special Assistant/Private Secretary/Principal Private Secretary, Senior System Analyst, Information & Public Relations Officer, Programmer, Private Secretary, Librarian, Senior Accounts Officer, Section Officer, Court Master, Deputy Superintendent of Police (DSP), Inspector, Assistant Accounts Officer, Assistant Director (Hindi), Senior Translator (Hindi), Protocol Assistant, Research Assistant, Personal Assistant, Assistant, Programmer Assistant, Junior Translator (Hindi), Junior Accountant, Presenting Officer, Deputy Registrar, and Accountant.⁷⁸</p> <p>While the NHRC is led by its small and venerable group of the NHRC Chairperson and Members, the core functions could not be performed without a strong, supportive, and dedicated staff. It is for this reason that the adequacy, role, and composition of staff are particularly significant. The NHRC does not follow the principle of pluralism⁷⁹. Rather than</p>	<p>Already explained.</p>

assessing relevant characteristics when hiring staff members of the NHRC, the NHRC selects an overwhelming number of its staff on deputation and/or from individuals holding analogous posts under the government.

The Chief Executive of the NHRC, the Secretary General, may be hired by transfer on deputation or by transfer of officers holding an analogous post to the Secretary General under the Central Government or State Government.

Next, the Registrar - Law may be hired either by transfer or on deputation from Indian Legal Service Officers holding analogous posts under the Central Government or from any officers holding analogous posts under the Central Government, Supreme Court, High Court and possessing experience as Registrar or higher judiciary or any other post involving interpretation or application of statutes. Additionally, Officers in the pay scale of Rs. 1,84,00-2,24,00 with a regular service of 3 years in the grade in the Central Government,

Supreme Court, or High Court and possessing experience as Registrar or higher judiciary or any other post involving interpretation application of statutes are eligible for the post of Registrar Law. A post graduate degree in law from a recognized university or equivalent and research experience in Constitutional Law and its Theory, Human Rights jurisprudence, including interpretation and application of statutes, are required. Registrars serving a short-term contract/re-employment, not exceeding three years, must have held an analogous post under the Central Government, Supreme Court, and High Court, and possess experience as a Registrar of a higher judiciary or of any other post involving interpretation and application of statutes.

The Director General (Investigation) is hired by transfer on deputation or transfer from Indian Police Service Officers holding analogous posts under the Central Government or officers eligible to be empanelled as Director General in the scale of Rs. 2,40,50 - 2,60,00/-. A Director General of Investigation may also be hired by short-term contract or re-employment from amongst Indian Police Service officers who have retired at the level equivalent to Director General of Police in the scale of Rs. 2,40,50 – 2,60,00/- under the Central Government or State Government.

The Joint Secretary of the NHRC is hired by transfer on

deputation or by transfer of empanelled All India or Central Service Officers or officers holding analogous posts under the Central Government, or officers holding posts in the scale of Rs. 1,43,00 -1,83,00/-. Three years of regular service in the grade or in the scale of Rs. 1,20,00 -1,65,00/- with 8 years regular service in the grade is required.

The NHRC hires a Deputy Inspector General of Police (DIG) by transfer on deputation or transfer of (i) Officers of the Indian Police Service or Central Police Organizations holding analogous posts on a regular basis; or (ii) Officers of the Indian Police Service or Central Police Organizations who are approved for appointment as DIG under the Central Government. Officers of Indian Police Service with 14 years service shall be eligible for consideration for promotion as DIG. The DIG may also be hired for a short-term contract or re-employment, not exceeding two years, from amongst officers of Indian Police Service and Central Police Organizations who have held analogous post on regular basis.

A Director of the NHRC may be hired by transfer on deputation or transfer of officers under the Central Government holding analogous posts on a regular basis or 5 years regular service in the scale of Rs. 1,20,00 – 1,65,00/- or its equivalent. Further, they must also possess experience in personnel and general administration matters. Directors hired by re-employment or short term contract, not exceeding two years, may be selected from persons who have held analogous posts on a regular basis under the Central Government and possess experience in personnel and general administrative matters.

While the National Human Rights Commission doesn't actually have an official policy or limitation on whom they can hire under the Protection of Human Rights Act, the guidelines that the NHRC have stated on hiring seems to suggest a belief that they may only select officers who are currently holding "analogous posts under the Central Government or State Government" for open NHRC staff positions.⁸⁰ Indeed, closer examination of the eligibility criteria for the posts of Secretary General, Director General (Investigation), Joint Secretary, Deputy Inspector General of Police (DIG), and Director reveals the almost exclusive preference of the NHRC for hiring former government officials. This criterion of experience in government is not relaxed for even short term positions. Not only does this lead to the NHRC having the feel of another

<p>bureaucratic governmental agency, but it also narrows the possible applicant pool in a way that eliminates the possibility of many eligible, qualified candidates being considered for NHRC staff positions. While these few served as an example, the hiring criteria for the rest of the NHRC staff positions also continue in this light.</p>	
<p>Upon examining the above criteria for NHRC staff members, it is unsurprising that the NHRC staff functions just like any other governmental institution. You will therefore find that in the case of most of the Presenting Officers who are Presenting Officers on deputation, they are middle level officers of the commissions. Those who are at the helm of affairs in a division are usually the people who are part and parcel of the system, the Government, affecting the independence of the commission.</p> <p>These government employees receive no further instruction or training and thus, understandably assume that they are hired to essentially perform the same job that they had under a different division of the government. Diversity must enter the NHRC if it is to effectively function. Moreover, the NHRC must also educate its staff about the specific and unique nature of its work.</p>	<p>The assumptions of AiNNI are wrong. The officers work with utmost sincerity and caring and the mandate assigned to them by the Commission. There is a system of imparting training to the new inductees in the Commission.</p>
<p>Even if staff members are familiar with the work of the NHRC prior to their appointment, a training program is necessary to ensure that the work of the NHRC is carried out in an intentional, appropriate, and systematic manner. Currently, there is no known, compulsory induction program for staff and this leads to the ineffective, bureaucratic mindset of the NHRC. The NHRC is a special institution created precisely to fulfill the need for an additional system that is different than regular, government courts. NHRC staff members who approach their positions in the same manner as they did in their previous government positions offer no additional value and are unable to serve as protectors of victims of human rights violations.</p> <p>It is unfair and impossible to expect a registrar from a regular court, with different jurisprudence to function as a registrar of the NHRC with a victim-centered approach without adequate training. The difference in mindset becomes emphasized when examining even more political or polarizing positions. The</p>	<p>The Commission has a training division headed by the Joint Secretary (Trg.). The induction training has been given to the staff and officers of the Commission on human rights issues and working method of the Commission.</p>

work of police officers in investigating the potential occurrence of a crime is related, but categorically different than examining whether the line between acceptable police enforcement and the violation of a victim's rights has occurred. The latter requires a victim-centered approach that is concerned about the protection of fundamental rights of the minority, rather than a macro protector of society at large view. As such, even an honest, reputable Deputy Superintendent of Police (DSP) requires training to adapt his/her strong investigation skills, developed from years in the police force, to focus on the protection of human rights violations.

As part of the Asia Pacific Forum of National Human Rights Institution's Professional Development Program, the Australian Human Rights & Equal Opportunity Commission (HREOC) developed a training program for the Commission on Human Rights of the Philippines (CHRP).⁸¹ The training program provides and consolidates foundational knowledge and skills necessary to investigate alleged violations of human rights. The program provides an overview of the various models of investigation and most importantly, an opportunity to clarify model(s) of investigation within the CHRP context. It also overviews key international human rights instruments, international perspectives of stages in a human rights complaint process, and considerations relevant to acceptance of matters for investigation and resolution by human rights institutions. The training program educates on key principles and procedures that guide the conduct of human rights investigations, as well as offers a model to plan investigations. The training program spends significant time thoroughly training participants on investigation strategy, skills, and documentation. However, what makes this program special is that it is prefaced and founded in the context of human rights. In addition to increasing the number and diversity of existing staff positions, the NHRC must also add new staff positions in order to effectively fulfill its mandate. For example, while the NHRC examines many cases of custodial violence and consequently, is responsible for sending post mortem reports, it does not have medical experts or a single doctor on its full time staff. The NHRC also does not have any clinical psychologists on staff. Additionally, positions or internships should also be created for paid law clerks or interns to assist judges in analyzing cases, writing judgments, final orders, and developing a strong jurisprudence. Evaluating and developing not only the number, but also the type, of positions the NHRC

The officers and staff of the Commission receive training from to time including the training programme conducted by the Asia Pacific Forum of NHRIs.

<p>will improve the functioning of the NHRC.</p>	
<p>Improper Hiring of Staff</p> <p>An investigation wing of a Human Rights Commission should not be one that comprises only of police. It is so in the NHRC of India. These are also police drawn from CISF, BSF and Railway Police they are important wings of the police but not necessarily people who can deal Human Rights. Human Rights investigation is different from crime investigation.</p> <p>In the case of an arbitrary arrest and false case on 5 trainees of a training program organized by Dalit Foundation for seeking information from a police station in Veeravanallur in the Tirunelveli District of Tamil Nadu as part of a fact finding mission, complaint was sent to the Commission. The Commission ordered an enquiry into it and one of the investigating officers sent was a Railway Police Officers who was 2 month old in the NHRC. He might be a good investigator but not in Human Rights investigation which has to start from the basic Human Rights standards. Human Rights standards are also to ensure that victims' and witnesses' rights are thoroughly protected throughout and people should be able to understand how false cases are registered by the police. While one can be a very good crime investigator it needn't ensure that he / she is a good HR investigator. His / her handling of victims of Human Rights violations should be completely different from the manner in which he / she would deal a crime victim.</p>	<p>The officers of the Investigation Division are experienced and have expertise in investigating the complaints. The complaint of human rights violations received by the Commission against public servants are required to be investigated by the officer having adequate experience in the field. The officers have been doing commendable work and Commission has been able to award compensation and recommend action against guilty officers in a large number of cases based on these reports.</p>
<p>Special Rapporteurs</p> <p>Seeking to multiply its capacity to monitor situations of which the NHRC had taken cognizance, follow-up on directions and recommendations, and help it discharge responsibilities entrusted to it by the Supreme Court, the NHRC began appointing Special Rapporteurs to assist in the work of the Commission in 1997-1998. They have also occasionally hired some "Special Representatives" to perform similar work.⁸²</p> <p>There is no clear system by which the NHRC Special Rapporteurs are given tasks. The NHRC website indicates that the Special Rapporteur is either given an issue or region.⁸³ The website provides some unclear information, stating that currently only three Special Rapporteurs are</p>	<p>As per the Scheme the eligibility criteria for engagement of Special Rapporteurs in NHRC is "A person who has held high posts in government of India or State Government or is an academician of repute or an eminent person who has knowledge of, or practical experience in, matters relating to Human Rights, shall be eligible for appointments as Special Rapporteur."</p> <p>The Commission has engaged Special Rapporteurs to cover a specified</p>

appointed. Of these three, two Special Rapporteurs are responsible for monitoring a zone or area of India, while the remaining Special Rapporteur is mandated to monitor an issue. The way in which the Special Rapporteurs have been delegated geographic regions to monitor leaves the majority of India without any Special Rapporteur monitoring it. Indeed, only the central (Gujarat, Maharashtra, Goa, Dadra & Nagar Haveli, and Daman & Diu) and east zone 1 are (Sikkim, West Bengal, Orissa, Andaman & Nicobar Islands) are covered by a Special Rapporteur. Only one of these two Special Rapporteurs responsible for a zone has a tenure date. The Special Rapporteur

responsible for monitoring a subject also has a tenure date. In the year 2008, nine different Special Rapporteurs were appointed. Sri Damodar Sarangi, IPS (Retd.) who formerly served as the Director General of Investigation of the NHRC and retired in the year 2007 was appointed as a SR on 21st January, 2008 for the East zone. Mr. R.K. Bharagava IAS (Retd.) who retired as the Secretary General of the NHRC earlier in the year 2008 has been appointed as a SR for the Central Zone on 1.4.2008. Mr. P.C. Sen IAS (Retd) who served as NHRC's Secretary General after Mr. Bharagava for a short while has been appointed as a SR for Economic, Social and Cultural Rights on 17.7.2008. Ms. Asha Das, IAS (Retd) was appointed as SR on 1.2.2008, Ms. Kanchan Choudhary Battacharya, IPS (Retd) was appointed as SR for the North Zone on 25.2.2008. Ms. Sunila Basant, IAS (Retd) has been appointed as SR on 1.6.2008 for East Region. Mr. Sheo Kishore Tiwari IAS (Retd) has been appointed as SR on 21.5.2008 for North East zone. Mr. Wilfred Lakra, IAS (Retd) has been appointed as SR on 2.6.2008 for West Zone. Ms. S.K. Agnihotri IAS (Retd) has been appointed as SR for Human Rights issues relating to Civil and Political Rights on 15.7.2008.⁸⁴ All were IAS / IPS officials.

The NHRC appointed its first Special Rapporteur, Mr. K.R. Venugopal, a highly regarded, eminent promoter of human rights. This was followed by the appointment of such reputable individuals such as Mr. Chaman Lal and Ms. Anuradha Mohit. These three individuals had been selected for their shown commitment to serving the country and protecting human rights. The output they produced as Special Rapporteurs further reveals their level of commitment to human rights. Reports prepared by K.R. Venugopal are available online⁸⁵ and thoroughly examines the situation on the ground, issues

geographical area or a specified subject . Mr.Prasanna Kumar Pincha, Special Rapporteur on Disability himself is a visually handicapped person.

<p>insightful observations, strong recommendations, and sound conclusions. These reports are of a high quality and the standard for which NHRC Special Rapporteurs should strive.</p> <p>While these three individuals also happened to be retired officers of the prestigious Indian Administrative Service (IAS) of the Government of India, they were also much more.⁸⁶ However, in examining appointments from recent years, it seems that the NHRC has overlooked checking the actual experiences of candidates and focused exclusively on whether they had been a retired government officer.</p>	
<p>Consequently, of the twenty-five Special Rapporteurs hired by the NHRC to investigate the human rights situation in India, all twenty-five have formerly held prestigious government posts. Specifically, fifteen former Special Rapporteurs have previously served in the highly elite, esteemed Indian Administrative Service (IAS), while the remaining six were selected from the Indian Police Service (IPS). This selection of only Indian civil service officers who have passed highly competitive, but elitist entrance exams is intentional. While the clear preference for Indian Civil Service members has been evident since the NHRC's first hiring of Special Rapporteurs, it is one in which they have developed over time and more boldly and openly proclaimed.</p> <p>In 1999, a letter from Secretary General Gopaldaswami appointing Shri A.B. Tripathy as Special Rapporteur stated that, "The Commission has been availing the services of <i>eminent persons</i> in order to help the Commission in monitoring compliance at the field level (emphasis added)." ⁸⁷ Whereas, in 2006, the same type of appointment letter inviting Sri Verma to serve as a Special Rapporteur from Mrs. Aruna Sharma stated that in order for the NHRC to further their mandate given under the PHRA, the "Commission has been availing of the services of <i>very senior retired officers</i> whose rich experience in particular areas of human rights would be of immense value."⁸⁸ There is also an explicit change in the annual reports from earlier reports to 2004-2005 and 2005-2006. Whereas earlier annual reports did not list any specific criteria for appointing Special Rapporteurs, by 2004-2005, the NHRC stated a "scheme" that, "engages eminent persons as Special Rapporteurs to function as representatives of NHRC for the concerned State in the area of civil and political rights, on human rights violations and to provide guidance to citizens</p>	<p>The Special Rapporteurs have submitted approximately 145 reports and out of which 140 have already been uploaded in the NHRC website.</p> <p>Each and every report is considered by the Commission and sent to State Government and or to the concerned authority for follow up action.</p> <p>The K.B.Saxena report on atrocities have been published. The report has been circulated widely amongst the concerned agencies of Central and State Governments including Prime Minister and Chief Ministers of all States and UTs. The action taken on this report is being received by the Commission.</p>

regarding the provisions of the PHRA for seeking redressal from the Commission.” The NHRC explicitly stated that these Special Rapporteurs are drawn from among “eminent persons who have had meritorious record of service and have retired from senior positions, both in the Indian Administrative Service and in the Indian Police Service with a commitment for human rights concerns.”⁸⁹

This slight but significant change in the letter indicates that retired IAS and IPS officers are synonymous with eminent persons with a meritorious record of service suitable for serving as a NHRC Special Rapporteur. While it is true that several reputable, dedicated Special Rapporteurs have been selected from among former IAS and IPS officers, limiting the pool to only these individuals reflects at best, a misunderstanding of the requirements of the Paris Principles and skills required by Special Rapporteurs to effectively investigate and monitor human rights, or even worse, a growing arrogance that they can disregard internationally mandated Paris Principles requiring pluralism and cooperation with civil society.

Not only has the NHRC’s narrowing of the pool of potential candidates to retired government officials and not requiring a demonstrated commitment to human rights work resulted in many appointed Special Rapporteurs being ill-equipped to adequately perform their job, the NHRC has also failed to channel the enormous skills and talents of eminent people for this job of SR who are not government officials. These leaders and activists, such as Dr. Haragopal, the late Dr. Balagopal, Mr. K.G. Kannabiran, Mr. Miloon Kothari, Dr. Ruth Manorama, Mr. Harsh Mander, and Ms. Teesta Setalvad, have much to offer

India and the world in knowledge, passion, and expertise. Ironically, even prominent Indian leaders, such as Mr. Miloon Kothari, that have been recruited to serve at the international level as a United Nations Special Rapporteur, have never been invited or even considered as a candidate to serve as a NHRC Special Rapporteur. The NHRC’s intention to remain a bureaucratic government institution could explain why, despite awareness of these talented individuals and the tremendous resources that they could offer, the NHRC remains steadfast and has not hired a single civil society member to serve as a NHRC Special Rapporteur. Where did the nomenclature of SRs emanate from? It is from the UN, where they have

thematic and country SRs and for those SRs there is an open roster where people can send their CVs. There is a model of how SRs should be drawn from a pool of resource persons who offer their services to the commission. The Commission looks at specialty they want and select according to that. But keeping it as a post retirement service is what we are critical about. Particularly in the context of the commission not coming forward with a Civil Society member as its SRs in the last 17 years, not wanting to appoint from or draw from the professional skill of NGO activists into the staff of NHRC. It is surprising that even in the post of SRs it is only IAS and IPS who are appointed. Pluralism, diversity and independence is therefore lost.

Despite the lack of pluralism, it is possible that the Special Rapporteurs have produced some helpful and important information from investigating and monitoring the human rights situation in India. However, when asked for a listing of the visits undertaken by the NHRC Special Rapporteurs and reports written, the NHRC mysteriously responded that the reports of the Special Rapporteur are voluminous and under examination in the Commission, concluding that it would not be feasible to send the reports.⁹⁰ As such highly educated and polished Special Rapporteurs are likely to type, rather than handwrite, such “voluminous” reports, it seems that the reports could be sent in electronic form. The NHRC’s response suggests that all the reports of the Special Rapporteurs, who have been engaged by the NHRC since before 2002-2003, are only *now* under consideration, begging the question, what use have they been put to until now?

Post Durban the NHRC had wanted a status report to be prepared on the atrocities on SC/ST people and chalk out the initiatives that could be undertaken by the NHRC. The NHRC further constituted a Dalit cell in the commission and placed it under the charge of a member one Mr. Singh. It is as a result that the report on prevention of atrocities on SC people was prepared by this SR and published in 2004 (completed in 2002). In the foreword to this book the then chair of the NHRC, Dr. A. S. Anand proposed to have this book printed in different languages. This report drew its recommendations from a variety of sources and became one of the very effective of recent studies that have been conducted on the prevention of atrocities against SC people. What is most surprising however is that this report was not felt to be a document worth sending to the UN CERD committee when the Secretary of the UN

<p>CERD Committee addressed the letter to the NHRC in the year 2006, once again pointing out the quality of reports generated by SRs which are never followed up and worst still, the institution hesitates to identify itself by placing such reports on its website or presenting such reports to the relevant UN Bodies. The Dalit Cell has not been followed up. The report was not translated and neither has the NHRC shared it in the recent 20th anniversary events related to SC/ST Prevention of Atrocities Act.</p>	
<p>1. Premises (accessibility)</p> <p>The Paris Principles require that the National Human Rights Commission have its own premises and that within the framework of its operation, the NHRI shall set up local or regional sections to assist it in discharging its functions. However, as mentioned previously, the one and only building of the National Human Rights Commission is in the capital city and political center of India, Delhi. Easily blending in with the many government buildings, tourist spots, and beautiful buildings near and on Copernicus Marg, the NHRC is itself located in a former palace, Faridkot House.⁹¹ Faridkot House was home to Sir Harinder Singh Brar, the Maharaja of Faridkot, as well as Commander-in-Chief of the British Army during World War II, Lord Mountbatten. The NHRC is located on busy Copernicus Marg and accessible by bus. Notably, the NHRC's closest neighbors are the Kerala government quarters, Kapurtala, official guest house for the Maharashtra government, Maharashtra Sadan,⁹² and the temporary housing accommodation for officers of Army, Navy, and Air Force, the Patiala House.⁹³</p>	<p>Already explained.</p>
<p>Today, the entire expansive two-story palace is surrounded by gates and occupied exclusively by the NHRC. The premises are monitored like its neighboring government buildings, not allowing common citizens to enter the building unless they are allowed past the main gate blocked by police officers acting as guards. Once permitted beyond the gates, victims walk through a pristine, well-manicured lawn to enter the building. However, the color and brightness of these gardens ends at the door of the NHRC. The two story building has no elevators to the second floor and thus, the NHRC is only partially accessible to those with physical disabilities. While the members of the NHRC are located on the ground floor, complaints handling, the Secretary General, Joint Secretary,</p>	<p>The Commission has a ramp and the Court Room, the Conference Room, Facilitation Counter, Central Registry and reception are in the ground floor where the complainant can approach the Commission. All the meetings are held in the ground floor attended by Commission, Secretary General, Joint Secretary and other officers with the civil society, individuals, organizations and other agencies. The administrative staff has been accommodated on the first floor. Hence the statement of ANNI is incorrect</p>

<p>Coordinator for Training, Research, and the Director General of Investigation are all located on the first floor and inaccessible to persons with disabilities.</p>	<p>and misleading without any base.</p>
<p>The unused spaciousness of the building leaves the NHRC feeling empty. The undecorated walls of the building intimidate, rather than welcome victims and visitors. Former annual reports of the NHRC are available for review. While these reports may impress and be useful in informing government officials, victims seeking protection are unlikely to feel welcome and secure by these reports or the overall atmosphere of the NHRC.</p>	<p>There is no space in NHRC premises which is unused and we are not aware of how AiNNI reached this conclusion. This type of allegations reveals how ANNI is serious about human rights issues.</p>
<p>The following experience of activist C.J. Rajan, Mr. Balamurugan and Mr. V. P. Gunasekaran and 25 victims of brutal police torture (representatives of the Campaign for Relief and Rehabilitation of victims of the Special Task Force appointed to nab forest brigand Veerappan in Tamil Nadu and Karnataka indicates the type of hardship and institutional failure that occurs when accessibility to the NHRC is so limited that the protection of human rights is left to the mercy of individual NHRC members. It illustrates the need for dramatic and immediate change in the infrastructure and culture of the NHRC. This happens very often to victim of human rights violations. This shows the lack of a victim-centred approach in the commission and also lack of an engaging receptionist and a counselor who speaks to victims that come. The NHRC's reception desk should be different - although security and verification of identity is essential there should be a welcoming attitude.</p>	<p>The access to NHRC premises is not limited. Anybody can make complaints through email, fax, telegram, telephone, post etc.</p>
<p>Starting in 1993, reports of torture, rape, and murders in the form of extra-judicial killings of poor, tribal villagers, many of Scheduled Tribes and Scheduled Castes, by the Special Task Force (STF) steadily arose. The STF was a police force especially created to capture the famous and notorious Veerappan in the forests of Tamil Nadu. Since this time, advocates and activists from civil society began trying to provide protection and secure justice for these vulnerable victims.</p>	<p>This narration at best can be called rubbish, malicious, canard and nothing but a concocted story. Nothing like this have ever happened in the history of NHRC. In fact during the period described, the NHRC was not even located in this buildings though the settings narrated on description of the present building.</p>

They were never contacted or reached out to by the NHRC members or staff. The only protectors of human rights these victims knew were members of civil society – who due to the highly political environment at the time, were only the very strong, but few activists from NGOs. These victims had no real knowledge that the NHRC existed or that there was an institution that should be a haven of protection and security for them. It is with the help and resources of these NGOs, that many investigations, demonstrations, and panels were conducted on behalf of these victims. Despite all the attention created from these public acts, the NHRC failed to inquire into the reports of torture or provide any assistance. Finally, in 2001, the NHRC issued a Commission to take place in Tamil Nadu headed by Karnataka judge Justice Sadashiva. The first impression of the NHRC then, was created far before they ever entered the building premises; these hurt, uneducated victims initially witnessed many of the very same police officers who had raped them, stripped them naked and electrocuted them, and/or killed their husbands, proudly saluting these highly formal officials, appointed by the NHRC, seated far above them in large cushioned chairs. Rather than taking a sensitive, victim centered approach to assessing the situation of human rights in Tamil Nadu, the Justice Sadashiva committee appointed by the NHRC both physically and emotionally distanced themselves from the vulnerable victims seeking protection. NGOs had to draw attention to their behavior and insisted that they act with sensitivity.

The Committee led by Justice Sadashiva was one of a series of panels held under the NHRC that continued until 2004. Two years after the NHRC had finished hearing statements of countless tragic and unthinkable atrocities, they had still issued no order. Despite the lack of assistance they had received, the poor, tribal victims wanted to visit the NHRC in person and demand protection. As the NHRC provides no travel, food, or lodging allowances to victims, regardless of their level of poverty, the victims were only able to come to make the trip to the NHRC with the financial and emotional support of NGOs who comprised the campaign for the relief and rehabilitation of victims of STF violence in Karnataka and Tamil Nadu.

After making the long journey from the forests of Tamil Nadu to the large, heavily populated city of Delhi in October 2006, eight vulnerable victims of intense police brutality were stopped at the main-gate and refused entrance into the very

institution created wholly for their protection. Having never experienced regular Indian villagers, barefoot and simply dressed, approaching the NHRC Headquarters, the police officers guarding the NHRC didn't even let these victims past the main gate. Even at a national institution created to protect their rights, these victims were back in the control of the all-powerful police officers – the same institution of “security” that was responsible for the inhumane violations of rights these victims had suffered – and physically prevented from seeking protection.

Upon finally entering the premises, they met another cold, harsh barrier: the reception. Where a reception to a human rights institution should be warm, welcoming, and ready to handle emergencies, the NHRC reception was cold, catering to the elite, and dismissive of marginalized, poor individuals. The reception, however, as the first gateway to an institution, is just reflective of the NHRC itself. It was NHRC Chairperson Dr. A. S. Anand who, while finding time to meet with police officers and government officials, refused to see the group of victims. There was no seating area for individuals, so the victims were forced to sit on the floor and in the grounds outside. After waiting for one and a half hours, the victims were “fortunate” to run into him for a brief meeting in the corridor as he quickly fled from the premises for his lunch. Notably, while NHRC Chairperson Anand was too busy to meet with such an unpolished group of vulnerable victims, President Manmohan Singh, even while injured with a cast on his arm, made time to meet this group from Tamil Nadu desperately seeking help.

In order to finally have their meeting with Chairperson Anand, the group had to make another trip from Tamil Nadu to Delhi in November 2006. Still, no order was issued. Indeed, no compensation order would be issued while the NHRC was under the direction of Chairperson Anand because the files were “safely hidden” in the registry of the NHRC. After these two encounters in October and November, Justice Shivaraj Patil who was the senior most member after the Chair took interest, met the victims for over 2 hours, patiently listened to each of their stories solicited the members of the campaign and the victims to also meet the other members of the commission ensured that the file was brought for the full commission for hearing by which Dr. Anand completed his term as the Chair. A file, which was almost ready for 2 years, could then be disposed in 2 months. This was the result of the

access the victims finally got with Shivaraj Patil intervening. It calls for the commission's quality of access - space for providing counseling and details to victims. It is noteworthy that there is no seating arrangement for visitors in the waiting hall) It was only on January 15, 2007, ten years after the NHRC first became involved and three years after it had completely finished hearing witnesses that a compensation order was finally issued by the NHRC under the direction of Acting Chairperson Shivaraj Patil.⁹⁴

It took the victims of a horrendous, publicly known series of human rights violations years of public hearings, physical protection from NGOs, and numerous trips across the country to secure any form of condemnation of these acts. These victims were only able to fight for justice because they had the financial, physical, and emotional support of resourced NGOs.

However, the majority of victims of human rights violations do not have these resources; to them, the NHRC is a distant entity that is wholly unapproachable. The lack of access to the NHRC experienced by these visitors indicates that the NHRC currently provides almost no additional value to the protection and promotion of human rights for the average, poor citizens of India living far away from Delhi. People should be allowed, guided inside and should be provided information, allowed to meet the Chair. Human rights are advanced when the Chairperson is able to physically hold the dirtied hands of victims who have traveled over a thousand miles in the hope of a few words of consolation. Human rights are also attended by that and not just the pen of the Chair. The final meeting with the Chair can be preceded by the Registrar, the Counselor etc but the final words from the Chair and assurance of speedy action and sympathetic words enquiring about their health will go into the healing process. Access also in terms of information has to be looked at - from the inside to the outside and from outside to the inside. There are layers of bureaucracy that it doesn't reach the highest person and vice versa. The STF victims' group did not go without intimation. Two weeks prior to their visit, fax was sent.

The Commission should be different from the Government institutions and it should be a 'pro - victim house'. Access should also be in the presence of people speaking different languages so that there can be effective communication with people from the different states of the country. When there are

As already explained the NHRC, India is accessible to each and every citizen of India. The officers and staff of the Commission are from every part of the country with different culture and

<p>no women on the Commission it reduces access as women will feel more confident and comfortable speaking to women. Anybody coming to the commission and seeing the Chair / Members of the commission walking out of the building and leaving immediately without paying them attention is not comforted by the Commission. That portrays them only as the Ambassador, Chief Justice that they previously were. Staff members are so groomed that they prevent the Chair / Members from meeting visitors. There is need for a warm welcoming place in the NHRC. Security personnel needn't be in police attire as the police are the accused in most of the complaints that the NHRC receives and are seen by victims as symbols of violence. A Dispensary for victims who might come with injuries and a place where they can stay the night if they are traveling from far with some advance booking arrangement is also essential. Human Rights also have a very strong humanitarian concern component built into it. It cannot be brought just through law, judgments and there is a need for 'human' beings in the NHRC. Attire of the persons in the Commission should not be intimidating to the victims.</p>	<p>languages. Hence language is not a barrier for the complainant to access the Commission. More over there is the facility to get translated versions of complaints/documents in any language of the country.</p>
<p>For the vast majority of citizens of India who will never be able to make the journey to the NHRC premises in Delhi, the NHRC has created a website designed to give wider accessibility to the public through an "online" premise.⁹⁵ However, as recent as June 14, 2010, the first thing a visitor reads is a running line stating, "There is no provision for membership/registration/affiliation/enrolment of NGOs and individuals with the NHRC. Hence no request on these issues will be entertained by the Commission." This strong message is not only in direct violation of the Paris Principles, encouraging a strong relationship between the NHRIs and civil society, it provides a strong warning to the many NGOs that are working on behalf of many computer illiterate, poor victims. Indeed, as the vast majority of Indians, in particular the more than 75% marginalized, rural poor people still living in poverty,⁹⁶ are unlikely to have access to the internet or sufficient English or computer literacy, the NHRC website does little to improve their access to the NHRC without the help of civil society.</p> <p>While the webpage is neat and organized, it is devoid of any pictures and full of English text. The website is not available in any regional languages. It should at least have a Hindi version</p>	<p>Commission has been receiving a number of requests for registration/ affiliation/ membership by a large number of NGOs from various parts of the country.</p> <p>This message is to clarify that there is no provision for registration of NGOs with the Commission because registration is the job of the Registrar of Societies and other concerned departments of the Government. Hence the statement of AiNNI is not factually correct and just to raise unnecessary issues.</p>

- this indicates an intentional unwillingness to improve access to the website. The left side of the website lists the available contents, with the right side stating some important recent headlines entitled, "News Update/What's new." On June 14, 2010, two headlines report that the NHRC has taken *suo moto* cognizance on cases of poisonous manholes and polluted water and issued notices to government officials of these findings. A third headline reports a long-awaited happy ending for a small village in Rajasthan when the Home Ministry stated that it had no objection if the name of the village 'Chamaron Ka Vas' is changed back to 'Kuan Ka Vas'.⁹⁷

While these steps prove positive, the website also hints at the political influence over the NHRC. The website proudly reports their appointment of a new Chairperson, the controversial, widely-contested former Chief Justice of the Supreme Court of India Balakrishnan. The NHRC also reports on the highly politicized incidents of "police encounters," in which police allege to have killed an individual in self-defense, but which evidence often suggests are actually intentional murders or fake "encounters" by police. After investigating cases, the NHRC reports finding only 27 fake "encounters" by police in the over 2,956 cases registered with the NHRC since the NHRC's inception in October 12, 1993 to April 31, 2010. In the last 17 years, the NHRC has only made efforts to complete investigations of 1,846 cases of the possible murders, leaving 1,110 cases, or 38%, of possible murders in unlawful extra-judicial killings in various stages of incompleteness.⁹⁸

Despite the website's failure to build initial confidence in the NHRC, those able to access the NHRC website can learn a great deal about the NHRC and its available resources. Through the website, individuals from across the country, and internationally, can read the Protection of Human Rights Act, 1993, access selected library resources of the NHRC, including issues of the *Journal of the National Human Rights Commission*, learn about available human rights courses and their internship program, and read important decisions, lectures, and speeches. Also, the website has a very useful function in allowing complaints to be registered directly online.

Despite this positive wealth of information available through the NHRC website, the website is missing real, substantive information that can assist victims immediately. Even an experienced activist, Mr. S. Anand of the Anti-Corruption Forum of Karnataka, reported having problems

The full information about NHRC is available on NHRC website including the numerous reports made by Special Rapporteurs on a number of human rights issues

gaining information from the National Human Rights Commission. He complained that the rules of the NHRC are not available on the website. "On the website there is a huge lack of information." He stated that it is necessary for the Commission to clarify rules regarding even the basic definition of what exactly constitutes a human rights violation to more detailed questions regarding circumstances in which victims can be denied entrance into Magistrate courts. If even experienced activists are not able to capture essential information required to effectively utilize the NHRC, the NHRC website would only marginally, if at all, improve accessibility to the NHRC for average and poor Indian citizens, silenced by the political climate and suffering from a lack of education, wealth, and resources. An archive of all decisions of the NHRC with full text and summary of orders that would constitute jurisprudence by the NHRC of India is not there. For students, lawyers visiting the website, it should be a place for generating new jurisprudence for human rights and that is not seen here. NHRC has practice guidelines / directions for complaints handling (give headings here) but these are not made available there. If the Commission is providing quarterly information on expenditure, it should give the latest and why should it be quarter. Item 14 under the sub link RTI is wrong - not all their information is in soft copy and not all orders which are all available in e form are uploaded on the website and not all their SR reports are available on the website. In Item No.16 there is information on a facilitation centre but the telephone number or email id has not been provided. These are instances to show that the website has to be better equipped.

NHRC has encounter guidelines and it says that it should receive half yearly reports from states. Why can't these reports or at least status of reporting on whether the States following the guidelines and if they are effective too, be uploaded on the website?

All materials relating to the ICC on NHRIs which public should have access to, as they are invited to make shadow reports, are not found on the website

Section on reports has no posting after 2005. This has only reports of Mr. Chaman Lal, a former Special Rapporteur of the Commission. This is why the reports of another Special Rapporteur Mr. K. R. Venugopal had to be posted on his own website the Sentinel99.

<p>In the prison population statistics given on the website, the figures that are there are as old as 30 June 2008 and not current</p> <p>Nowhere are statistics current on the website. There is no Human Rights Education material / teaching module, excepting for the publications. These are essential because the mandate is to protect <i>and promote</i></p> <p>If applications for information under the RTI Act have to be reduced the Commission would essentially have to put all institutional material on the website. There is no information on the NHRC core group, not even a mention. Even minutes of the meetings of the full commission, if uploaded, can help Civil Society analyse what the areas covered are but it is not done.</p> <p>The website also does not have a link to the National Commission for Women, National Commission for Minorities, the Central Information Commission and the National Commission on Protection of Child Rights</p>	
<p>The NHRC has also envisioned a phone helpline after office hours but many a time it goes unanswered and the persons manning it are not conversant in languages other than Hindi hampering this method of reaching out to people. The hotline is not always available and is often unresponsive, this system works very poorly.¹⁰⁰</p>	<p>Factually incorrect. The help line is available 24 hours a day.</p>
<p>Other than the website and the dysfunctional helpline, it seems that the NHRC has made no further efforts to ensure accessibility to the broader population, or even those individuals or communities more likely to be exposed to or victims of human rights violations, such as women, ethnic, linguistic, religious, and other minorities, persons with disabilities, non-nationals, or the impoverished. The NHRC has made no advertisements in newspapers, televisions, or movie previews. The NHRC has not issued any informational posters to Collector's offices or the Superintendent of Police offices at the district or taluk level telling common people when and how they can approach the NHRC or the SHRCs or the nodal officers. This lack of awareness and understanding of the NHRC and its functions further contributes to the current lack of accessibility to the NHRC. The slowly growing awareness that has arisen is largely from civil society,</p>	<p>The annual reports of the Commission are circulated to the State authorities which gives information about the NHRC, India activities. The monthly news letters are circulated to all the State Governments and local administration. The Commission has also circulated the manual for District Magistrates to all the District Magistrates in the country and other publications. More over the Commission conducts awareness programmes in all parts of the country. A large number of regional workshops, seminars, discussions are organized around the year apart from the numerous visits by the Members, Special Rapporteurs and officers of the</p>

<p>encouraging victims to seek assistance from the NHRC.</p>	<p>Commission.</p>
<p>2. Budget</p> <p>The NHRC must be adequately funded in order to perform its functions under the mandate of the Protection of Human Rights Act, 1993. The Paris Principles state that the NHRI shall have adequate funding and not be subject to financial control that might affect its independence. The ICC developed some criteria to clarify what “adequate funding” by the state requires. First, provisions of adequate funding by the state must include, as a minimum: 1) allocation of funds for adequate remuneration, at least its head office, 2) salaries benefits awarded to its staff comparable to public service salaries and conditions, 3) remuneration of Commissioners (where appropriate), and 4) establishment of communications systems including telephone and internet.</p> <p>In addition, the ICC provides that adequate funding should ensure the gradual and progressive realization of the improvement of the organization’s operations and the fulfillment of their mandate. This then, suggests that adequate funding requires consideration of factors, such as the dramatically rising number of complaints, and appropriately increases funding to account for the growing need of staff to fulfill its complaints-handling functions.¹⁰¹</p> <p>While the NHRI may seek funding from external sources, such as from development partners, these grants should not compose the core funding of the NHRI. The ICC observed that it is the responsibility of the state to ensure the NHRI’s minimum activity budget in order to allow it to operate towards fulfilling its mandate. They further state that financial systems should be such that the NHRI has complete financial autonomy. This should be a separate budget line over which it has absolute management and control.</p> <p>Chapter VII of the PHRA, 1993, entitled “Finance, Accounts, and Audit,” sets out rules for ensuring adequate funding for the NHRC. The PHRA does not allow the NHRC to develop or submit for approval a budget of its own making. Rather, under Section 32, the NHRC receives funds by the Central Government only after Parliament appropriates funds by law on behalf of the Commission. Monetary grants are given to the Commission by the Central Government in the amount which</p>	

<p>the Central Government may think fit for being utilized for the purposes of meeting its mandate.¹⁰²</p>	
<p>While the NHRC is allowed to manage and utilize the funds granted to it by the Government of India, the NHRC is guaranteed almost no influence in developing their financial budget. Notably, the NHRC has no legally-mandated power, either in the PHRA or the NHRC (Procedural) Regulations, 1994 (amended in 1997). The NHRC requires a provision that protects its right to have a direct, independent opportunity to propose a budget that communicates the needs and plans of the Commission, and demand the funds it requires to adequately fulfill its mandate. The lack of legal provisions that ensure the effective, meaningful participation of the NHRC not only undermines the independence of the NHRC, but leaves the government with a great void of knowledge while forming its budget.</p> <p>However, the NHRC has reported that before the proposed budget is presented for approval by Parliament, the Commission's budget is developed by the Central government through a specially constituted "Steering Committee of the NHRC."¹⁰³ This Committee, responsible for approving the Commission's budget, is headed by the Chairperson of NHRC and consists of two members of the Commission in rotation, Secretary (Expenditure) from the Ministry of Finance serving as Secretary of the Committee. After the budget is approved by the Steering Committee, it is sent to the Ministry of Home Affairs for inclusion in the "Demand for Grant" of the budget document. This is placed before Parliament, along with the Union Budget. The NHRC further reported that upon approval from Parliament, the funds are allocated to the NHRC in the form of monetary grants by the Ministry of Home Affairs.¹⁰⁴ Section 34(2) states that the Commission is permitted to spend as much of these granted funds as it deems fit for performing its functions and exercising its powers, and money spent from these aforementioned grants shall be treated as "expenditure payable."¹⁰⁵</p> <p>Even if the NHRC has this limited opportunity to shape the development of its budget, it is not sufficient in the face of the large, powerful influence of the Government of India. So, while the management and expenditure of allocated funds rests with the NHRC, the determination of how much funding is required</p>	<p>This is a misleading presentation by AiNNI. The annual budget of the Commission is prepared and approved by the Commission and accordingly sent to the Government for incorporating into the national budget to be voted by the Parliament. To assist the Commission in this exercise, a Steering Committee has been constituted under the Chairmanship of NHRC and two other members. Secretary Expenditure, Government of India is the member from Government to provide expert advise to the Commission on budget matter. The proposals prepared by this Committee are discussed and approved by the Commission.</p> <p>The Commission has full freedom in proposing, utilizing and preparing accounts of the fund. Government has no interference whatsoever in this regard.</p>

<p>to fulfill the Commission’s mandate is overwhelmingly controlled by the limited knowledge and discretion of the government.</p> <p>Notably, while the Paris Principles state that the NHRI should be predominantly funded by the state, it allows some funding from external sources. However, the NHRC currently receives 100% of its funding from the Central Government of India.¹⁰⁶ The lack of real, effective control of the NHRC in developing its budget manifests in an inadequate budget reflecting the government’s ignorance in allocating funds adequate for fulfilling the depth and scope of the functions entrusted to the NHRC and a constant under-appreciation of the continual, often dramatic changes in its workload. For example, while the number of complaints filed with the NHRC has continually increased since its origination, the budget has not been adjusted to reflect these dramatic changes. Underfunded and drowning in work, even a well-intentioned NHRC would be left overwhelmed and resigned that the tasks before them are beyond their ability.</p>	
<p>While the NHRC’s budget has increased over time, it has not been adjusted sufficiently to allow the NHRC to fulfill its mandate. The NHRC requires more qualified, competent, and compassionate staff dedicated to protecting and promoting human rights. The NHRC requires not only the existing staff to be provided adequate remuneration through salary and benefits, but also more staff to be recruited to fulfill its functions and serve the people of India. For example, although the number of complaints filed with the NHRC has increased dramatically every year since the establishment of the NHRC, from a mere 487 to almost 100,000 in 2009, the hiring of staff responsible and equipped to handle these complaints has not increased proportionately, or more importantly, adequately. The Ministry of Home Affairs however is the Ministry that looks after subjects like border management, internal security, in turn meaning police, law & order etc, foreigners, immigration and it also has a Human Rights division dealing with matters related to communal harmony, assistance to victims of terrorist violence, the NHRC, international governance, a whole set of laws, the UN Decade on Human Rights Education etc. It is very unfair that Human Rights is placed in the Ministry of Home Affairs which deals with the AFSPA. Human Rights and the budget for NHRC being dealt by this ministry conveys that</p>	<p>NHRC has been receiving adequate budget allocation to carry out its activities. As and when additional allocation has been sought, it has been provided by the Government without any reservation. The budget of NHRC has increased significantly over the years and so are its activities.</p>

Human Rights is controlled by those who control Law Enforcement Officials. It is a mismatch. If the NHRC is a recommending organization, it should report to the highest level and it should therefore be to the Prime Minister's Office.

This is not only reflected in the case load of staff members, but also the backlog of pending cases and decreasing quality of jurisprudence.¹⁰⁷ The table below (Table 4.3) details the amount of granted funding and expenditures by the NHRC from its establishment in 1993 until 2010, as well as the number of complaints received by the NHRC.

Table 4.3 Allocation of Funding and Expenditures by the NHRC (1993-2007)

Year Plan Funding Non-Plan Funding Total Budget Expenditures No. of complaints received by NHRC

1993-1994	150 Lakhs	94.6 Lakhs	496
1994-1995	--	NA	11,153
1995-1996	225 Lakhs	216 Lakhs	
1996-1997	--	--	16,823
1997-1998	450 Lakhs		
1998-1999	650 Lakhs	--	
1999-2000	650 Lakhs		
2000-2001	620 Lakhs	566.08 Lakhs	
2001-2002	720 Lakhs	693.05 Lakhs	
2002-2003	860 Lakhs	817.62 Lakhs	
2003-2004	100 Lakhs	1033 Lakhs	1133 Lakhs 1061.15 Lakhs
2004-2005	188 Lakhs	1070 Lakhs	1158 Lakhs 1063.51 Lakhs
2005-2006	1228 Lakhs	1228 Lakhs	1119.82 Lakhs
2006-2007	1348 Lakhs	1348 Lakhs	1322.50 Lakhs
2007-2008			
2008-2009			

The NHRC of India serves over 1 billion individuals. The Government of India must take seriously the broad and demanding mandate of the NHRC and dramatically and appropriately increase its funding and resources to the NHRC. Moreover, while funding should be monitored to ensure accountability, the NHRC should be allowed greater participation in shaping their budget to meet their needs and maintain independence. An adequate budget, responsibly and transparently used, is required for the NHRC to be effective in

Already explained. As regards research the Commission has a separate research division and hire research officers, research assistants who highly qualified to conduct studies.

Twice a year the NHRC, India take enough 50 law and post graduate students for a month's paid internships on the full

protecting and promoting human rights and serve the over 1 billion people living in India. NHRCs budgets should be in relation to its functions. The functions of the NHRC are many. It is not only complaints handling. It is also to intervene in any proceeding involving human rights violations before any court with its approval. This task means the identification of several litigations in courts all over the country and the possibility of NHRC intervening in them to provide the best available Human Rights standards, the opportunity to influence judgments at various courses with the highest available national and international Human Rights standards and norms - this requires high quality lawyers, almost working full time and researchers. The Law has been amended in 2005 giving them opportunity to visit jails and other institutions where people are detained. For this to be done effectively the NHRC needs resources to appoint people to visit persons in jail. Studying treaties calls for major intervention of NHRC because India is always late in its periodic reports to the UN bodies and in the absence of the country doing it, an independent commission should be able to send a Shadow Report on how the country is doing. The NHRC not providing this will be construed as lack of independence. For this work highly qualified researchers are needed to look at facts across the country, follow activities of NGOs in the country and produce a report. There is no money for this and the NHRC does not do this. By now the commission should have had an effective research wing to create awareness. Research scholarships for students should have been issued and resources are needed for that. Research is currently being looked at from the point of view of a Judge or a law enforcement official and not as a promoter of human rights. If that had happened the Commission would have come out with advertisements, TV programs etc. The country needs resources for human rights and the NHRC is the one to do it. The NHRC should have created a constituency for itself outside. It should invest in both houses of Parliament and in political parties and that is still not done.

range of human rights issues and also give budgetary supports to a number of Universities and Collages to run programme on human rights. The NHRC, India commissions research from academics and experts on a range of issues, particularly on those, less known but complex. The prominent studies and research conducted are:

- i) *"The Human Rights Status of Denotified and Nomadic Communities of Delhi, Gujarat and Maharashtra"* by the Bhasha Research and Publication Centre;
- ii) *"Land, Labour and Human Rights Violations in Bundelkhand and Sonbhadra Region of Uttar Pradesh"* by Dr. K. Gopal Iyer;
- iii) *"Bonded Child Labour in Karnataka's Silk Industry"* by the Institute of Social and Economic Change;
- iv) *"Status of Tendu-leaf Pluckers in Orissa"* by the Human Development Society;
- v) *"Current trends in Child Laboaur: A Study of Beedi Indudstry in Bharatpur-II Block, Muradabad, West Bengal"* by Shri Debotosh Sinha, Surul Centre for Services in Rural Area (CSRA), Birbhum, West Bengal;
- vi) *"Review of the status of HR education in India"* - Director National Institute of Human Rights (NLSIU), Bangalore;
- vii) *"Role of Civil Administration in the Protection of Human Rights in Strife-Torn areas of Jammu and Kashmir"*;
- viii) *"Dependency on Forests for Livelihood and its Impact on*

	<p><i>Environment – A case of the Baiga Tribe of Mandla District, Madhya Pradesh”;</i></p> <ul style="list-style-type: none"> ix) <i>“The Musahar : A socio-economic study”;</i> x) <i>“A study to assess the promotion of Economic, Social and Cultural Rights in India”;</i> xi) <i>“NHRC-CHRC-IGNOU Linkage Project Project on ‘Human rights for Persons with Disabilities”;</i> xii) <i>“Estimating precise costs and providing level playing field to Persons with Disabilities (PWDs)”;</i> xiii) <i>“Operation Oasis” – A study related to mentally ill persons in West Bengal”;</i> xiv) <i>“Research and Review to Strengthen Pre-Conception and Pre-Natal Diagnostic Techniques (Provisions of Sex Selection) Acts Implementation Across Key States”.</i>
<p>CHAPTER V</p> <p>EXECUTIVE SUMMARY: QUASI-JURISDICTIONAL FUNCTIONS</p> <p>Five members of the National Human Rights Commission have been entrusted with the responsibility of handling complaints received from victims throughout India. The 487 cases that were received during the first year of the Commission’s establishment have dramatically escalated to approximately 400 cases in a single day. With no increase at all in the number of members responsible for disposal of these cases, it is no surprise that the quality of complaints handling is suffering greatly.</p> <p>The Commission, however, maintains that they have not had problems disposing of hundreds of cases they receive and that they review and give orders in approximately 60-80 cases per day. If true, the limited number of members and the enormous case load of the Commission indicates that even working 16</p>	<p>The Commission as per practice acknowledges the receipt of every complaint. Non acknowledgement of the same is an exception which could be the result of factors like postal hiccups/human error etc.</p> <p>The time taken for disposal of a case depends upon the facts and circumstances of a case/response from the concerned authorities. There are instances of disposal of cases even within a month.</p> <p>NHRC, as per established practice, never transfers the complaints to the same</p>

hours, twice the average workday, and disposing of the minimum 60 cases per day, each complainant receives less than 30 minutes of the five Commission members attention before a pivotal decision on whether a human rights violation has occurred and any potential recommendations.

Given the other tasks of Commission members, the actual time spent on each case is far less than 30 minutes. Not only does the lack of attention the Commission gives to each complaint draw attention to the low quality of complaints-handling, even where the Commission addresses large, high-profile cases, the Commission often fails to take a bold or courageous stand or develop a strong jurisprudence. Rather than pushing the country to incorporate and exercise existing human rights standards and laws existing in this country or develop new standards or encourage adoption of international human rights standards, the Commission remains silent in the face of precious opportunities to foster an human rights jurisprudence that can not only provide relief to victims, but promote human rights for all Indians.

V. Quasi-jurisdictional functions

Legal Authority of the NHRC's Quasi-jurisdictional Functions

The Paris Principles state that a national institution may be authorized to hear and consider complaints and petitions concerning individual situations. Cases may be brought before it by individuals, their representatives, third parties, non-governmental organizations, and associations of trade unions or any other representative organizations. The functions entrusted to them may be based on the following principles: a) Seeking an amicable settlement through conciliation or, within the limits prescribed by the law, through binding decisions or, where necessary, on the basis of confidentiality; b) Informing the party who filed the petition of his rights, in particular the remedies available to him, and promoting his access to them; c) Hearing any complaints or petitions or transmitting them to any other competent authority within the limits prescribed by the law; and d) Making recommendations to the competent authorities, especially by proposing amendments or reforms of the laws, regulations and administrative practices, especially if they have created the difficulties encountered by the persons filing the petitions in order to assert their rights.

The legal authority for the NHRC's quasi-jurisdictional

authority against whom the allegations are leveled. Instead it is transferred to the authorities senior to them. As regards the transfer of complaints, the same is carried out in terms of the provisions laid down in PHR Act and NHRC regulations. To ensure justice at all levels, the grievances of the complainants against such transfers are considered by the Commission and requisite directions are made based on merits.

functions is derived from the NHRC's founding law, PHRA, and the procedure for ensuring its effective functioning has been subsequently provided for in the NHRC (Procedure) Regulations, 1994 (amended in 1997) and periodically issued Practice Directions.

Protection of Human Rights Act, 1993

The mandate and accompanying power to conduct quasi-jurisdictional functions are granted under Chapter III, Sections 12(a) and 13 of the Protection of Human Rights Act, 1993. Section 12(a) of the PHRA provides that the NHRC shall inquire suo motu or on a petition presented to it by a victim or any person on his behalf, into complaint of (i) violation of human rights or abetment thereof or (ii) negligence in the prevention of such violation, by a public servant; (b) intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court. Further, the Commission may intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court.

Taking seriously the Commission's responsibility to investigate complaints and wanting to ensure that it would be able to effectively conduct inquiries, the Commission has been granted all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908. In particular in respect of the following matters, namely (a) summoning and enforcing the attendance of witnesses and examine them on oath; (b) discovery and production of any document; (c) receiving evidence on affidavits; (d) requisitioning any public record or copy thereof from any court or office; (e) issuing commissions for the examination of witnesses or documents; (f) any other matter which may be prescribed.

The PHRA was amended in 2006 to permit the transfer of complaints from the NHRC to state human rights commissions (SHRCs) under Section 13(6), where the Commission considers it necessary or expedient to transfer any complaint filed or pending before it to the State Commission of the State from which the complaint arises, for disposal in accordance with the provisions of this Act. Section (7) provides that every complaint transferred under sub-section (6) shall be dealt with and disposed of by the State Commission as if it were a complaint initially filed before. While it is beneficial to work with the SHRCs, this provision undercuts the discretion of

complainants who want to pursue their claims with the NHRC in light of its expertise and greater resources.

NHRC (Procedure) Regulations, 1994 (amended in 1997)

In addition to the PHRA, the Commission has promulgated internal regulations, the NHRC (Procedure) Regulations, 1994 (amended in 1997), which states the procedure to be followed in handling complaints. In particular, Section 8 establishes that in dealing with complaints and suo motu actions, complaints may be made to the Commission in English or Hindi, but the NHRC may also entertain complaints in any other language included in the Eighth Schedule of the Constitution. The Commission does not charge fees for submitting complaints. The complaint shall disclose a complete picture of the matter leading to the complaint. The Commission may seek further information/affidavit as may be considered necessary.

Section 9 of the regulations also restricts which complaints would not ordinarily be entertained by the Commission and thus, may be dismissed in limine. Accordingly, the Commission may only dismiss complaints in limine that are illegible, vague, anonymous or pseudonymous, trivial or frivolous, barred under section 36(1) of the Act,¹⁰⁸ barred under section 36(2)¹⁰⁹ of the Act. Further, the Commission may dismiss in limine cases in which the allegation is not against any public servant, or the issue raised relates to a civil dispute, such, as property rights or contractual obligations, service matters, or labour/industrial disputes. Cases may also be dismissed if the allegations do not make out any specific violation of human rights, or if the matter is already sub judice before a Court/Tribunal, covered by a judicial verdict/decision of the Commission, or outside the purview of the Commission on any other ground.

Section 15 also establishes that all newly registered complaints shall be placed before the commission for preliminary consideration as expeditiously as possible, but in no case, later than seven days from the date of its receipt. Complaints requiring urgent consideration shall be placed before the Commission, as far as possible, within 24 hours of its receipt. Notably, Section 32 of the NHRC (Procedural) Regulations strips parties of the right to review an order or proceedings of the Commission.

Practice Directions

The NHRC has also issued a series of guidelines under the name of "Practice Directions" for providing more clarity on its functioning. The directions were largely issued in the early years of the NHRC under the leadership of Chairperson Justice Mr. M.N. Venkatachaliah and discussed and set out procedure for dealing with a wide range of concerns, such as recommendations for grants of interim relief and punishment, fast-track movement of urgent cases, processing of cases of custodial death, and compliance of recommendations. The practice direction states the existing or potential problem it seeks to address. It assigns procedure, responsibilities, and time frames. For example, on 24 February 1998, the NHRC issued "Practice Direction No. 7" on transferring cases. These directions state that in cases in which complaints have been simply transmitted for taking appropriate action without calling for action taken reports, the Law Division may select and make a list of such cases at the end of each quarter and 2% of all such cases, selected by a systematic sample along with the particulars of the orders made by the Commission, will be sent to the Investigation Division. Notably, the practice directions state that on receipt of these cases, the Director General of Investigation shall cause enquiries to be made in respect of cases to find out whether the authorities to whom the petitions are transmitted have indeed taken any action or not. Further, a report of the results of the monitoring will be placed before the Commission every quarter.

It should be noted that, many of these practice directions are not being followed today. Further, after Justice Venkatachaliah's tenure, the NHRC has stopped identifying problem areas and has no longer issued new, relevant practice directions to improve the functioning of the NHRC¹¹⁰.

a. Failure to carry out complaints handling function in practice

The complaints handling procedure is managed by the Law Division, which is headed by the Registrar (Law). The Registrar (Law) is assisted by a Joint Registrar, Deputy Registrars, Assistant Registrars, and others. There are also four Presenting Officers coming from the subordinate judiciary, who assist the Commission in fulfilling its very important complaints handling function.

While there is more than enough legal basis upon which the

To ensure prevention of human rights violations, as per the established practice, the Commission endeavours to initiate action on the complaints at the earliest. However, the urgent cases are segregated and action taken on the same day, within a couple of days or within a period of one week, as the case may be. There are even instances where the Commission has

<p>NHRC has been empowered to handle and act on complaints on human rights violations, the NHRC has unfortunately failed to carry out effectively this function.</p>	<p>dispatched its investigation team within hours of receipt of complaint.</p>
<p>Despite the number of cases received by the NHRC increasing dramatically from just 487 in the year of its establishment in 1993 to an incredible 100,000 in 2009, there has been no proportionate increase in staff or resources. In fact, the NHRC is not even permanently staffed to full capacity. At a minimum, the NHRC has not even taken advantage of the procedures provided to it under Section 12(a) and 13 of the PHRA to handle complaints and has not put in place a system that will ensure that victims have a source to secure justice and protection against human rights violations, as was first envisioned by the creation of the NHRC.</p> <p>All staff in the NHRC's division tasked to handle complaints are court staff. While knowledge and expertise on legal procedures may be necessary to handle these complaints, it is also important to consider the human rights aspect of these cases. As mentioned earlier, India has thousands of human rights organisations and human rights defenders who may be brought into the NHRC or partner with NHRC to add a human rights perspective in handling these complaints. Upon receiving a complaint, it is not enough to pass this complaint through a process of legal procedures. More often than not, it would also be necessary to undertake fact-finding missions, investigation, and even do the simple task of talking to the victim, which the NHRC does not do in this process.</p> <p>It is absolutely necessary that a careful reading of the complaint is done from a human rights perspective. It is also doubtful if any of the members of the NHRC ever peruse over these complaints on their own.</p>	<p>The Commission is already seized with the idea of normalizing its staff strength as per the present workload. However, to cater to the present workload, NHRC is engaging legally qualified consultants, Special Rapporteurs to assist it. 22 % staff is deputanist remaining is permanent and the process of full permanence takes place from time to time.</p>
<p>Procedure for Registering and Processing a Complaint</p> <p>The majority of complaints received by the NHRC come directly from victims, or their representatives. A minority of cases are taken <i>suo moto</i> under the Commission's powers under Section 12(a) of the PHRA. The complaint must be in writing, either in the suggested format¹¹¹ or in any other format that is complete with all details.</p>	<p>On receipt of reports, if the Commission itself is satisfied about a human rights violation having been committed, comments of the complainant are not sought, rather it proceeds to grant relief in the matter. In appropriate cases, which is</p>

The complaint first requires the complainant's information, including name, sex, and full address, complete with pin code, district, and state, and the incident details, including the date and location of the incident. Next, the victim's complete details are required, including the number of victim(s), the name of the victim(s), full address, sex, religion, caste, age, whether person has a disability. The complainant must provide a brief summary of the facts/allegations of human rights involved. Specific questions seek information on whether the complaint is against a member of the Armed Forces/paramilitary and whether a similar complaint has been previously filed before any Court/State Human Rights Commission. Finally, the complainant must include what prayer or relief he or she is seeking. The NHRC offers a mobile phone number which may be called after office hours and this is made public on its website which victims may seek to help to register complaints or pass on vital information to the commission.

Upon receiving a complaint, a single member of the NHRC immediately ranks complaints according to their importance either issues a notice thereon and/or places the complaint before a full commission, either before a single bench, division bench, or a full bench. Notices are sent to the relevant government authorities, the investigation wing, or a Special Rapporteur of the NHRC.

Reports received from the government are rarely sent to the concerned complainants for their comments. Occasionally, where the complainant insists, parties are given a hearing, which had previously been held in an open court. Lastly, final recommendations are passed.

A majority of complaints are dismissed by the NHRC wholly on the basis of state responses or police reports that deny the violation. Often, in cases of custodial death and custodial rape, the police are registered as complainants because they are obliged by law to report the cases within 24 hours. Though there are no guidelines prohibiting the registration of multiple complainants in cases before the NHRC, and indeed there are numerous examples of multiple-complainant cases, in practice, in cases in which the police are registered as complainants, families of the specific victims are precluded from bringing their claims since another party has already brought them. There is no legal basis for this peculiar practice, and it does have grave implication. Not only does this deny

a major percentage, reports are sent to the complaints for comments before further consideration/closure.

victims and their families a chance for a fair hearing of their claims, but it also allows the police, as registered complainants, to control the prosecution of claims against their very own members. This regularly leads to an illegitimate dismissal of case, even though clear evidence can be easily procured to prove the perpetrator's guilt.

The experience of prejudicial treatment precluding consideration of a complaint was experienced by Mr. Suhas Chakma, of the Asian Centre for Human Rights, who while filing several cases with the NHRC was never provided a single opportunity to review and rebut the police's response.¹¹² One such case handled by Mr. Chakma involved the alleged torture of six individuals by the Assam Rifles in 2005. Relying on solely the state's reply, the NHRC went on to close the complaint without affording Mr. Chakma a hearing or access to the state's reply. Mr. Chakma later petitioned for information on this case, using the Right to Information Act. The information that was revealed was that the police's report had corroborated the victims' claims of police torture.

As mentioned earlier, the procedure of the NHRC involves sending the complaint to "concerned authorities", which more often than not, would be the very police authorities named in the complaint as the perpetrators. What happens therefore is that the complainant or the victim is called by the "concerned authority" into his office and is made to discuss the complaint with the perpetrator. Some examples of cases are provided below to illustrate.

This masked backdoor, prejudicial, internal processing of complaints is a mockery of the mandate of the NHRC. A supposed protector of human rights must be an ally for victims, not a partner to potential perpetrators. At a minimum, the NHRC's current practices result in delays due to improper handling of complaints. More importantly, forcing a victim to confront, without any protection, the perpetrator is a highly traumatic experience. Moreover, it reveals the true dynamics of human rights protection that leaves the victim feeling betrayed, vulnerable, and cheated of his dignity.

The current procedure of the NHRC lacks sensitivity for the victims of human rights violations. When such encounters take place between the victims and the alleged perpetrator, what actually takes place is that the only hope of an alternate

institution on which the victim genuinely relied upon no longer exists for the victim. And the victim is left almost at a stage where he or she wants to settle the matter and buy peace since he or she realizes that it is better to buy peace than to fight for the enforcement of a human right that he or she thought was possible.

Since the NHRC is a public institution, the status of cases registered with the NHRC must be accessible to the public. Compared to the prior unacceptable action of destroying all records after six months of adjudication in case there is no positive recommendation made in the case(s) the NHRC has after 2009 improved their system of complaints handling documentation

Only cases from late 2008 onwards are available online. With the exception of a small minority of cases, complainants who have filed cases prior to 2008 will not have their cases posted on the website and have no avenue to track the progress of their complaints.

Also, the status of pending cases registered before 2008 are predominantly unavailable on the NHRC website. In spite of this having been brought to the attention of the NHRC in meetings of the Core Group of NGOs and in private meetings with very senior officials there has been no effort to rectify this at all. This is not a matter of finance and is a matter of determination and accountability to victims. This is one more indication that complaints handling is complaints disposal for the NHRC.

The NHRC claims that it makes recent cases accessible to the public, but in reality, it is extremely difficult to track down cases that have been registered after 2008. Their website includes a section called "Frequently Asked Questions" which outlines the procedure through which complaints would go after having been received by the NHRC. However, there is no information of how a complainant could track his or her case through the various stages. Only those who are fortunate to have had their case uploaded and updated on the NHRC website, and receive a precise and accurate complaint number can attempt to trace the outcome of their case online. However, due to the NHRC's many clerical errors, notably in entering misspelled names and providing incomplete or inaccurate complaint numbers, it is almost impossible to access many cases. Not only does the sloppy information processing cause the

information to be unreachable to even an educated or sophisticated complainant, but these errors are also an indicator of the carelessness and lack of importance the NHRC gives to victims of human rights violations in India.

Despite the issue of transparency and the lack of information available on the website being raised at 20 September 2009 meeting of NGO Core Group and the reassurance of the NHRC Chairperson that information would become available on the website, no progress has been made on this matter.

How the NHRC Conducts its Proceedings

The NHRC fails to take a victim-centered approach. The Law Division and Investigation Division are responsible for assessing the hundreds of thousands of complaints received by the NHRC. These officials incharge of the complaints-handling process, generally former police officials, ranking from Constables to Deputy Inspector General of Police, do not seem to possess any code of conduct or rules of business in writing that govern their investigation methods as investigators of human rights violations committed by the instrumentalities of the state. Accordingly, it is unsurprising, although extremely problematic, that these officials, who receive no specialized human rights training to be incorporated in investigation methods, find themselves more comfortable following the methods of crime investigation that they have known in the past or methods of investigation actually followed in the paramilitary forces like the BSF, Assam Rifles, CISF etc, bodies from which a large section of our investigation officers are drawn from. It should be noted that there is a clear distinction between human rights investigation and crime investigation. Thus, it is really questionable that people in the BSF, CISF, or Assam Rifles are deemed fit by the NHRC to investigate human rights violations.

Victims are often treated as second-class citizens at the NHRC, rather than as individuals deserving the same equality and respect as all other individuals in the room. While these prejudices are sometimes blatant, they are often subtle, but definite. In the rare case in which the Commission holds a full hearing, the Commission addresses victims directly by name and addresses only alleged perpetrators respectfully as "Ms." and "Mr." or "Madam" and "Sir." Similarly, seating priority is always given to uniformed officers and individuals in high positions, leaving ordinary people without seating or forced to

NHRC has a full fledged investigation Division which conducts impartial enquiry into such cases. The complaints received in these matters are duly considered by the Investigation Division and reported to the Commission for directions.

sit on the lawns or stand in a corner. Often the alleged perpetrator is accommodated with much courtesy at the NHRC office upon his arrival at the NHRC office. Not only does this suggest a lack of independence of the NHRC, but it is a manifestation of the utter disregard by the NHRC to keep the investigation victim-centered.

In 2001, the NHRC constituted a Committee, headed by the retired Karnataka High Court judge, Justice Sadasiva, to look into the complaints of the victims in Tamil Nadu of alleged violations perpetrated by the Special Task Force. During the hearing, the victims saw, as they entered the building premises, the very same police officers who had raped them, stripped them naked and electrocuted them, and/or killed their husbands, proudly saluting these highly formal officials seated far above them in large cushioned chairs in Gobichettipalayam, Kolathur and Madheswaran Hill Temple. Rather than taking a sensitive, victim-centered approach to assessing the situation of human rights in Tamil Nadu, the NHRC appointed committee both physically and emotionally distanced themselves from the vulnerable victims seeking protection. NGOs had to draw attention to their behavior and insisted that they act with sensitivity.¹¹⁵

Access to Justice by Victims of Human Rights Violations

Although the PHRA allows for hearings of the NHRC to take place anywhere in India, most, if not all, of these hearings exclusively take place in Delhi. The only exception occurred during the 2006-2007 tenure of Acting Chairperson Justice Shivaraj Patil when the NHRC undertook an initiative to conduct “camp sitting” type hearings outside of Delhi. After the success of the first camp in Lucknow, Uttar Pradesh in January 2007 a second camp was conducted in Patna, Bihar in May, shortly after Justice Babu assumed the Chairperson position.¹¹⁶ Notably during Patil’s tenure, the Commission also carried out a special drive from 1 February to 15 May 2007, wherein they disposed of 1678 cases. Despite the success of these camps, the camps were not continued by the NHRC.

This leaves the vast majority of Indians without physical access to the NHRC. No explanation whatsoever has been provided by the then chairperson Justice Rajendra Babu or his successor Justice Mathur on why this practice initiated during the tenure of Justice Shivraj Patil as the acting Chief Justice

and about which Justice Rajendra Babu had chosen to comment so favourably in terms of decentralization and camp commission sittings etc

Thus one aspect of functioning of the NHRC which was actually favourably commented upon by the ANNI 2008 report on page 57 has now been withdrawn without an explanation. These explanations have also not been made in any meeting formally of National Core Group of NGOs. Whereas on the contrary, these camp commission sittings were initiated after formally being mentioned in the national core group meetings. This only indicates the lack of a belief in decentralized functioning, sittings of the commission to carry out a vital function of the NHRC and the tendency to conduct regional sittings only to review cases with Chief Secretaries, Additional Chief Secretaries, DGPs, additional DGPs, IGP, DMs and SPs.

The principle of access to justice has to be understood and interpreted and thereafter implemented from the point of view of the ultimate beneficiary of justice, this being the victim. Although the NHRC had made efforts to move towards this direction in 2007, it has regressed in its efforts afterwards with no explanation whatsoever why this is so in any of its reports. Access to justice therefore has to mean access to all the states in the country at least once a year if not by the full commission, at least by benches of 3 persons. Such sittings can also be jointly organized as joint sittings of both the SHRC and the NHRC so that the lessons learned through 17 years of experience of the NHRC gradually gets transferred to the SHRCs and where SHRCs have evolved. A joint sitting of both an SHRC and the NHRC may, however, be out of the question at this point since the NHRC seems to perceive itself as a far more superior body than an SHRC. Hierarchy seems to be the paramount consideration of the NHRC on this point.

Additionally, most victims of human rights violations are also economically impoverished. The NHRC does not offer pro bono legal services for impoverished victims seeking protection before the Commission. Victims come before the NHRC in many matters in which they would be eligible for pro bono assistance; however, these same victims are ineligible to have competent, free legal services before the NHRC. It is essential that a legal aid program, like the National Legal Services Authority (NLSA) and the State Legal Services Authority (SLSA) be established for victims of human rights

<p>commissions when they are presenting their case and seeking justice before the NHRC. A strong alliance needs to be built between the NHRC and NLSA and SLSA</p>	
<p>Handling of Encounter Death Cases</p> <p>India continues to experience a high occurrence of extrajudicial killings, euphemistically called “encounter killings,” which are unlawful murders of individuals by law enforcement officials or persons acting in direct or indirect compliance with the State when the use of force is inconsistent with the criteria of absolute necessity and proportionality. Often, the murdered individual is not in a position to pose any threat against law enforcement personnel, yet the law enforcement personnel use lethal force against them, causing severe injuries or death, and claim self-defense. Deaths due to attacks or killings by security forces of the State, or by paramilitary groups, death squads, or other private forces cooperating with or tolerated by the State are also considered extrajudicial killings.</p> <p>Due to the severity and frequency of this problem, the NHRC issued guidelines as early as 1996, and then again on 2 December 2003, regarding encounter killings. The NHRC claims that it receives information on encounter killings, particularly on compliance with the guidelines regarding deaths in police or judicial custody, as well as killing in police encounters and that it “also receive[s] the requisite reports in accordance with its guidelines”¹¹⁷ However, as experienced by many human rights groups, these guidelines have, unfortunately, been largely ignored across India.¹¹⁸</p> <p>On 21 May 2010, the NHRC reported information regarding the results of their investigations of encounter deaths. Of the 2,956 cases registered with the NHRC from the period starting 12 October 1993 to 31 April 2010, 1590 cases had been registered on the basis of information received from the public authorities about an encounter that occurred involving the police and the remaining 1,366 cases were registered as complaints received from the public alleging a fake encounter by police. These numbers suggest then, that there were no cases in which both the public authorities and the public attempted to register a complaint.</p> <p>After 17 years, the NHRC had only completed investigations of 62% of these killings, leaving 1110 unexamined in 2010,</p>	<p>Already explained. The Commission has issued guidelines on encounter deaths and also taken up with the State authorities for compliance of the directions of the Commission.</p>

through consideration of various reports, materials on record, and through notices and examinations of the concerned public authorities. The NHRC found that of the investigated 1,846 cases, only 27 were the result of intentional murders staged during a fake encounter by the police. As such, the remaining 1,819 killings were determined by the NHRC to be the result of genuine police encounters. It is unclear whether the cases investigated were the killings registered by the public authorities or the public. In the 27 cases of fake encounters, the Commission recommended that the state authorities take punitive action against the guilty officials and pay monetary relief to the next of the kin of the deceased depending on the facts and circumstances of the case.

Since 1,110 cases remain unexamined on encounter death after 17 years, it is clear that the NHRC is unable to handle the workload it has been entrusted. The cases of encounter deaths are only a small fraction of the cases that the NHRC must dispose of per year. While the number of NHRC members has remained at 5, the number of complaints received by the NHRC has risen for a few hundred to over hundred thousand complaints per year. A dramatic increase in the body and membership of the NHRC is required if it is to be adequately equipped to effectively perform the task of thoroughly investigating these complaints and reach considered conclusion. Additionally, if the NHRC enlisted the assistance of the SHRC in enforcing these guidelines and started taking suo moto actions on these encounters, the number of pending cases would be dramatically decreased. Instead, the NHRC fails to work with any other institution or group to stop this exceedingly serious matter of halting extrajudicial killings in India.

The carelessness and disregard for responsibly fulfilling its mandate, as shown in the case above, is unacceptable and appalling. If the NHRC can't even take the time to investigate an extremely high profile, controversial case with strong evidence indicating suspicious behavior and a violation of human rights in its very own headquarters, then what chance do the majority of vulnerable, marginalized, uneducated victims, from India's largely rural background, geographically spread throughout its vast lands, with very little ability to save and protect evidence, have in gaining protection from this supposedly national human rights institution?

Furthermore, even if the NHRC's finding that no staged

Factually incorrect and vague allegations without any substantial base.

encounter took place and its reliance on the report of the concerned authorities was correct, a true protector of human rights would still have issued an inquiry into the investigation. Even if the NHRC believed the evidence that the encounter was not premeditated or pre-calculated, it does not eliminate the possibility of a violation of human rights. There are extremely limited circumstances in which the state, or a representative of the state, may be permissibly involved in an extra-judicial killing. In a system of law and order, even a police officer acting in self-defense still has no right to kill citizens. As such, even if this wasn't a staged encounter and the police were truly defending themselves, the NHRC should have recommended a full, judicial inquiry into the matter in order to ensure that the use of force by the police was lawful in protecting themselves

b. Legal basis of the NHRC's decisions/recommendations

Most worrisome about the quasi-judicial functions of the NHRC is the quality of complaints handling. Overwhelming evidence indicates that the NHRC carelessly disposes of cases at random, without issuing reasoned orders based on case law and analytical reasoning. Orders issued by the NHRC dispose of the majority of cases with extremely general, uninformative reasoning. The majority of cases are dismissed in limine or rejected. The orders offer a mere one line generally rejecting or dismissing the case in limine under Section 36 of the PHRA. These orders do not even specify whether it is rejected under Section 36(1) because it is deemed by the NHRC to be pending before another Commission or Section 36(2) because it has been found that the act constituting a violation of human rights occurred more than a year prior.

Although the NHRC maintains that it issues well-argued and documented directions having reference to the case law of the Supreme Court of India and statutory provisions, it does not claim to refer to international human rights instruments to which India is a state party and admits that case law is not always cited. When asked about the NHRC's process of disposing of cases, the NHRC (states that it refers to important cases in every Annual Report of the Commission.)

.While documentation of cases is important, this response indicates a misunderstanding of the use of cases and unawareness of the need for judicial reasoning that fosters

consistency, legitimacy, and equal protection of rights. Because of this practice of summarily dismissing cases without any legal basis, no jurisprudence is developed. The importance of developing a body of sound jurisprudence cannot be emphasized enough for an institution where members are constantly changing and where most of the members and staff are without grassroots experience in human rights.

For example in a case from Ogalur in Perambalur District, Tamil Nadu, during the tenure of Justice Verma as the Chair, the precedent was laid that in a full court hearing where lawyers of the State appearing for the District Magistrate and the Superintendent of Police sought an adjournment, the NGO appearing in public interest on behalf of the victims before the NHRC should be paid their airfare to Delhi and back. This information is known only to the concerned persons in this case and not even to the NHRC, its new members or its staff because it has not been reported anywhere. Precedence of this sort in matters of compensation prosecution and paying costs and very intelligent remedies provided could act as very strong direction on which the investigation team, the Special Rapporteurs and Presenting Officers could then rely upon.

c. An account of complaints-handling statistics (e.g. number and typology of complaints received and processed; resolved; dismissed; referred)

Complaints handled by the NHRC may be disposed of and categorized into one of the four following categories: 1) Closed cases, 2) Rejected/Dismissed in limine, 3) Disposed with Direction, and 4) Under Consideration. Closed cases include both i) cases finally disposed of by the Commission after consideration of the report of the authority(s) without making any positive recommendation/direction to the concerned authority requiring a further act of compliance on the part of the authority and (ii) cases finally disposed of by the Commission on consideration of the report of compliance of the Commissions' recommendations/ directions by the concerned authority. Tellingly, a small minority of the NHRC's cases fall into this "Closed" category. Rather, the majority of cases are Rejected/Dismissed in Limine, which refers to complaints which are not entertained as per NHRC procedure regulations, after consideration at the preliminary stage. The NHRC commonly dismisses cases in limine as out of the

jurisdiction of the NHRC under Section 36 of the PHRA¹²⁵ read with Section 9 of the NHRC (Procedure) Regulations, 1994.¹²⁶

NHRC cases may also be “disposed with direction” if it is forwarded to the appropriate authority for taking appropriate action in the matter. The entire Commission’s order in these cases provide no further information than stating, “the complaint may be transmitted to the concerned authority for such action as deemed appropriate.”¹²⁷ This category includes referral of cases to state human rights commissions. The final category includes cases that are “under consideration,” meaning that the case is still pending with the Commission for final disposal.

An Examination of a sample of cases and their disposal reveals the extremely worrisome carelessness with which the NHRC handles cases. A sample of cases disposed of over a two-week period, 1 August to 15 August, in three different years, 2007, 2008, and 2009, was analyzed. The results revealed that the overwhelming number of cases had been rejected, later described in 2008 and onwards as being dismissed in limine, by the NHRC. The percentage of cases rejected without any consideration has been increasing with a shocking 75% or three out of every four victims’ cases being dismissed in limine in 2009. Therefore, only 1 out of every 4 victims seeking protection before the NHRC was not immediately rejected. In 2008 and 2009, 10% and 11%, respectively, of cases were transferred to state human rights commissions. In 2009, only 1 out of 3,111 cases, or .03% of all cases, disposed of by the NHRC was actually closed in 2009.

In a 2008 meeting of the NGO Core Group, the NHRC Chairperson defended the NHRC’s right to transfer cases to state authorities and openly acknowledged that it will not be possible for the Commission, due to its own limitations, to process the enormous number of complaints and look after all matters throughout the country.¹²⁸ As victims come to the NHRC seeking protection from a broad, powerful national institution, the Commission claims that it considers all cases on the merits and only transfers cases to State authorities for appropriate action if it “feels that the grievance raised in any particular complaint can be dealt appropriately and expeditiously by State authorities.”¹²⁹

However, when cases are transferred to the poorly run or

<p>inactive SHRCs, they often fall into a dark abyss and victims lose their ability to seek justice from a human rights commission. As the below data in Table 7.2 indicates, a substantial number of cases are routinely transferred to the 18 state human rights commissions across India, as permitted under the 2006 amendment of section 13(6) of the PHRA. The number of complaints transferred to state authorities has grown, with approximately 20-30% of complaints filed to the NHRC being transferred annually.</p>	
<p>While the NHRC has been increasingly utilizing this section to transfer cases, it has still not created an effective and supportive working relationship with the SHRCs. In 2006, through a committee headed by Justice Ahamadi, there were efforts to integrate the SHRCs into the organizational infrastructure of the NHRC, but these efforts were in vain. Currently, the NHRC does not monitor cases to ensure transferred cases are appropriately considered by the SHRC. As it would be inefficient, ineffective, and encroach upon the authority of the SHRC for the NHRC to monitor every case transferred to SHRCs, Practice Direction No. 7132 issued guidelines to select a random sample and ensure proper consideration of transferred cases. As mentioned previously, Practice Direction No. 7 directs the Law Division to select 2% of the cases from a pool that have been transferred to SHRCs at the end of each quarter and send details of these cases to the Investigation Division. To date, the NHRC has failed to follow its own directions and appears to have made no attempt to conduct any follow-up.</p> <p>It therefore appears that SHRCs are still not held accountable by the NHRC for disposing of these cases appropriately, ultimately resulting in a loss of justice for victims of human rights violations. This is evidenced by the fact that the NHRC still has not released publicly any data pertaining to cases forwarded to SHRCs. It should be noted that under Section 4 of India's Right to Information Act, the NHRC is required to publish or post online this type of information.</p> <p>It should be noted that while the enabling law of the NHRC does not grant it supervisory functions over the SHRCs, the law does not preclude them from establishing a system of cooperation with the SHRCs. More cooperation and coordination with SHRCs would certainly lead to less workload for the NHRC, as well as better handling of cases that the</p>	<p>Already explained</p>

SHRC might have more capacity to look into.

The Indian government should consider amending the NHRC's enabling law to clearly elaborate on the relationship between the NHRC and the SHRCs. The NHRC's failure to take a leadership role and establish an effective working relationship with the 158 state human rights commissions and thematic human rights institutions actually results in the NHRC being over-worked and unable to implement its message of human rights at the local level.

Below is a case study illustrating how victims of human rights violations are not able to get redress or are denied access to justice due to the lack of an effective working relationship between the NHRC and the SHRCs.

The Case of Encounter Deaths in Karnataka

Mr. Kalkuli Vittal Hegde is from the organization called *Okkuta Adivasi Girijana Hitharakshana Samithi*, a group working on the rights of tribal people in the state of Karnataka. From his work, he discovered that in many encounter deaths, the evidence and testimonies of witnesses reveal that many of the victims were killed with a close range bullet to the head. It was found out that these cases, the policemen would force the victims to lie down on the floor of their house and executed them.

In one case, one child, a witness to the brutal massacre, escaped. Mr. Hegde filed a complaint to the NHRC and SHRC but appeared hesitant to take on this controversial case. The, contrary to its own guidelines that it issued in 2003, sat on this case for 8 months before transferring the case to the SHRC of Karnataka. For two years, this case shuttled between the NHRC and the SHRC. At the end, in April, 2008 the SHRC of

Karnataka finally addressed the case and ordered judicial inquiry thereon. The SHRC of Karnataka did not undertake its own inquiry of the case. The judicial inquiry resulted into findings that said that the police were merely protecting themselves. No compensation was awarded to the families of the victims. It only ordered that education be ensured for the surviving child.

Steps taken against non-implementation of recommendations

Under Section 18 of the PHRA, the NHRC has the power to take various steps after the completion of an inquiry held under the PHRA. Notably, in cases where the inquiry discloses the commission of a violation of human rights or negligence in the prevention of violation of human rights by a public servant, the NHRC has the power to recommend to the Government or concerned authority the initiation of proceedings for prosecution or such other appropriate action against the concerned person or persons.¹³³ The NHRC may also recommend the concerned Government or authority to grant immediate interim relief to the victim or the members of the family.¹³⁴ Section 18 of the PHRA also provides that the Commission must send a copy of its inquiry report and recommendations to the concerned Government or authority and then must receive, within a period of one month or longer, if permissible by the Commission, comments on the report, including the action taken or proposed to be taken thereon, from the Government or authority.¹³⁵

While the NHRC has the power to issue recommendations upon finding a violation of human rights, it has reserved use of this power for only the very rarest of cases. During the period between 12 October 1993 and 31 August 2009, the Commission has considered over 800,000 cases.¹³⁶ Of these cases, the NHRC made recommendations for compensatory monetary relief and/or disciplinary action against public servants or prosecution of public servants in a mere 1431 cases. This represents less than 0.2% of total cases brought before the NHRC. ¹³⁷ Out the rare cases in which the NHRC has issued a recommendation, 387 cases still remain pending for compliance at various stages. This indicates that only 0.136% of the victims of human rights violations who have sought assistance and protection from the NHRC have actually received some type of justice or compensation.

The NHRC, under the leadership of former Chairperson Justice Mr. M.N. Venkatachaliah, issued Practice Direction No. 10, which states the proper action to take in cases in which the NHRC's directions/recommendations have not been complied with. Practice Direction No. 10 states that in cases where the compliance is not forthcoming despite pursuing the matter with the concerned authority/authorities,

or where there is undue delay in compliance or the concerned authority has expressed its intention or inability to make

Though NHRC, India is a recommendatory body more than 99 % of the recommendations are complied by the State Governments.

compliance of the orders/directions of the Commission, such cases shall be put up before the Commission for further directions in the matter. The Registrar may also put up any case before the Commission for further directions necessary in order to secure the compliance of the original directions/recommendations of the Commission.

A register shall be maintained by the Board Branch of all the compliance cases and all such cases shall be put up before the Registrar periodically for directions on a weekly basis until such time the compliance is received. In appropriate cases, the Registrar may issue conditional summons for appearance of the concerned authority before the Commission with a stipulation that the personal appearance of the authority shall be dispensed with if full compliance is reported to the Commission by a particular date which shall ordinarily be about 10 days prior to the date fixed for appearance of authority before the Commission.

It appears however that at present, the NHRC has forgotten or is unaware of these Practice Directions. In response to a petition filed under the Right to Information Act, asking for the procedure it follows to monitor the compliance with its recommendations, the NHRC responded that in cases of non-compliance with the NHRC's recommendations by the State Government and the Government of India, the "NHRC tries to ensure compliance by persuasion and going public."

Assignments undertaken by the NHRC on the orders of the Supreme Court

Occasionally, the Supreme Court refers cases of great severity involving gross violations of human rights to the NHRC for disposal. In 1998-1999, the NHRC undertook five assignments on orders passed by the Supreme Court of India. These five assignments include the following: i) Inquiry into allegations of fake encounters and mass cremations by the Police in Punjab; ii) Food Scarcity and starvation in the KBK Districts of Orissa; iii) Monitoring the administration of laws against bonded labour; iv) Monitoring the functioning of Mental Hospitals at Ranchi Agra and Gwalior; v) Overseeing the Agra Protecting Home for Women.

Practice Direction No. 12 was issued as a guideline for how the NHRC should fulfill their responsibilities under the court order. In addressing the first two orders, the guidelines state that these matters be heard in a session of the full commission

and that orders may be issued thereby from time to time. Further, in these two cases, the Registrar (Law) should ensure that definite dates be calendared for the hearings. The remaining three projects were assigned procedural requirements and safeguards to ensure prompt follow up action by the Commission. In all cases, periodic reports were required to be submitted to the Supreme Court as to the progress of these projects, and the matter brought up at the sessions of the Commission every fortnight.

The NHRC's inquiry into the extrajudicial execution of thousands of Sikhs by security forces during a violent Sikh separatist movement in Punjab during the 1980s was initiated in 1997 after the Supreme Court's petition transferring jurisdiction of this case to the NHRC. Although the NHRC was mandated to look into all issues relating to the human rights violations, which included disappearances, extrajudicial killings, and mass cremations occurred throughout all of Punjab, the NHRC limited its investigation to the 2,097 unlawful cremations occurring in Amritsar and to look into the liability of the state. It did not look into direct liability of individual perpetrators, for violations of the right to life and dignity of the dead.

The NHRC was then widely criticized by civil society and human rights organizations for failing to tackle the broad range of issues mandated to it by the Supreme Court. However, the NHRC concluded most of the main issues in its investigation by 2006 and delegated the task of identifying the remaining unknown 814 cremation victims to a secondary commission, headed by retired Punjab and Haryana High Court judge, Justice K.S. Bhalla. After the nine-month time frame elapsed, the Bhalla Commission had still failed to identify 657 victims. The Bhalla Commission's attention was called by the NHRC in an order dated 25 February 2008 for using arbitrary procedures and an erroneous approach that adversely affected the participation rights and compensation entitlements of victims' families.¹⁴⁰

While the NHRC recognized the "obligation of every civilized State to ensure that its acts, which have been found to be in violation of humanitarian laws and/or which impinge on human rights of the citizens, do not reoccur..." and the need for "medical/psychological assistance to a member/members of any such family which has suffered as a result of the tragedy, who approaches it,"¹⁴¹ the NHRC should have taken a more

active leadership role in both holding perpetrators liable for their unlawful conduct and securing available and comprehensive psychological rehabilitation facilities to all those requiring services.

In 2008, the NHRC was again called to conduct an inquiry into allegations, this time “relating to violation of human rights by the Naxalites and Salwa Judum.” The Salwa Judum is an anti-Maoist movement, started by the state government in 2005 to bring the area dominated by armed rebels back under government control. The Salwa Judum, meaning “Peace March” or “Purification Hunt,” has been occurring in the state of Chhattisgarh and is considered one of the worst manifestations of the struggle between the state army and civilians. The state has recruited local indigenous people, including many children, who had previously been fighting the Naxalite insurgency in India to fight as state “Special Police Officers” (SPOs). The violence, accounting for 65 percent of the Naxalite violence in the country, has escalated dramatically and is responsible for the burning of at least 644 villages, forcing 300,000 people to flee their homes and leaving 40,000 individuals living in displacement camps.¹⁴² However, upon completing the investigation with a team of former police officers employed by the NHRC, the NHRC reported that while the state extended support to the Salwa Judum, it did not directly sponsor it and was not “deliberately and actively” pursuing a policy of displacing the civilian population.¹⁴³ The NHRC concluded that the Salwa Judum was not state-sponsored, but rather the direct consequence of the decision by a section of the tribals to fight Naxalites.¹⁴⁴ Civil society activists were outraged at the poorly-conducted, heavily-biased investigation and reporting conducted by the NHRC.¹⁴⁵ Defending itself, the Acting Chairperson Rajendran Babu reported that the NHRC did not give “a clean chit to Salwa Judum. What we said in our report to the Supreme Court was that the problems afflicting Chhattisgarh are not law and order problems but socio-economic ones.”¹⁴⁶

CHAPTER VI

EXECUTIVE SUMMARY: RELATIONSHIP WITH RELEVANT HUMAN RIGHTS STAKEHOLDERS

The Commission has created Core Groups to draw from the expertise of eminent persons but has not ensured that any formal administration of these groups occurs. Unsurprisingly, it

NHRC, India since its inception has worked in close cooperation with the NGOs and civil society actors in order to

remains unclear how these groups have been used throughout their constitution and what impact the expertise of core groups has made towards the fulfillment of the Commissions' mandate to have constructive engagements with relevant human rights stakeholders.

Relationship with Relevant Human Rights Stakeholders

1. Relationships with Civil Society

In recognition of the fundamental role played by non-governmental organizations in expanding the work of national institutions, a core principle of the Paris Principles remains that national institutions shall develop relations with non-governmental organizations involved in a variety of areas promoting and protecting human rights, from involvement in economic and social development, combating racism, protecting particularly vulnerable groups (especially children, migrant workers, refugees, physically and mentally disabled persons), to other specialized areas.

While the relationship between the NHRC and civil society is not specifically formalized in the

Protection of Human Rights Act, 1993, Sections 12(h) and (i) indicate that the NHRC must interact with India's diverse and active civil society as part of its mandate. Section 12 (h) requires that the NHRC spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, the media, seminars and other available means, while Section 12(i) directs the NHRC to encourage the efforts of non-governmental organisations and institutions working in the field of human rights.

Unfortunately, in practice, the NHRCs relationship with civil society is very limited and deprives the NHRC of the opportunity to engage with a powerful, passionate, and knowledgeable partner in promoting and protecting human rights.

The Establishment of the Core Group of NGOs

As mentioned earlier, in 2000, the NHRC established a variety of core groups to enrich and shape its work with the knowledge and expertise of "eminent people working in the field," including legal, medical, and mental health

fulfill its mandate. The Commission is conscious of the complementary role of the civil society and NGOs in promotion and protection of human rights. In order to strengthen the relationship with the civil society and NGOs the Commission interact with them during the seminars, conferences, workshops consultations etc. This has proven to be of considerable value both to the Commission, to the civil society and NGOs, reinforcing their understanding of each other and their capacity to work together in the furtherance of rights across the country. The Commission provides financial assistance to credible NGOs for organizing seminars, workshops etc. associated with spreading human rights awareness amongst the people.

The Commission has constituted Core Groups on various human rights issues and the Members of these groups are experts in their respective fields and advice and recommendations proffered by them is valued highly by the Commission.

The Commission firmly believes that NGOs and other civil society actors are indispensable allies in the Commission's efforts to realize a just society, predicated on a respect for the rights of every individual to a secure and dignified existence.

professionals, retired government officials, non-governmental organization members, academics, and activists in the field. Core groups have been established on a temporary basis or long term basis. Some of the most important core groups that have been established include the following: Health, Disability, Mental Health, Right to Food, NGOs, and Lawyers.¹⁴⁷

In each of these core groups, the NHRC has engaged a team of civil society members who, together, have a valuable combination of professional, grassroots, international, practical, and/or technical expertise and can actively contribute to the discussion on the promotion and protection of human rights in specific areas. Unfortunately, the NHRC's first proactive steps to engage with civil society have not been followed up with subsequent effective action.

Notably, the NHRC constituted a Core Group under the Chairmanship of Shri Chaman Lal, Special Rapporteur of the NHRC, to work specifically with non-governmental organizations. This Core Group of NGOs was to serve as a monitoring mechanism for Consultation with NGOs in the Commission on 17 July 2001, and was re-constituted on 10 October 2006, 10 November 2006, 6 August 2008, 4 September 2008, and 7 August 2009.¹⁴⁸ With the "view to utilize the knowledge, experience, and expertise of credible NGOs working in the field of Human Rights," the Core Group of NGOs group was constituted under Section 12(i) of the PHRA, 1993 to have "consultation with the NGOs on a regional basis and thereafter, work in partnership with selected NGOs with good track records to jointly take up issues concerning human rights and spread awareness and human rights literacy amongst the people in different parts of the country."

In addition to its Chairperson Chaman Lal, Special Rapporteur of the NHRC, the first core group had the following nine members: Ms. Aruna Roy (Mazdoor Kisan Shakti Sangathan), Mr. Henri Tiphagne (People's Watch), Mr. Harsh Mander (Action Aid India), Mr. Javed Abidi (National Centre for Promotion of Employment for Disabled People), Mr. Ravi Nair (South Asian Human Rights Documentation Centre), Dr. Y.P. Chhibbar (People's Union for Civil Liberties), Ms. Meera Shiva (Voluntary Association of India), Mr. Ashok Rawat (Helpage India), and Ms. Federica Donati (UNICEF).¹⁴⁹

The group was given a broad mandate to 1) identify the NGOs

A Core Group of NGOs has been

<p>engaged in the field of human rights with a good track record for the purpose of consultation and interaction on a regular basis on issues concerning human rights and to build up a database of NGOs, 2) identify broad areas of cooperation between the NHRC and the selected NGOs from the different regions, and 3) consider any other issues relevant to the consultation with NGOs. In later re-constitutions, the third mandate was modified to “identify important human rights issues which could be jointly taken up with the NGOs after considering the suggestions/proposals received from them.” The core group was loosely scheduled to “meet at intervals deemed as necessary by the group” and had no real reporting requirements, other than to submit their reports from “time to time” to the Secretary General of the NHRC.</p>	<p>constituted which provides Commission with crucial inputs regarding the hopes, aspirations and expectations of the civil society.</p>
<p>Unfortunately, the interaction of the NHRC with these civil society members does not produce the level of enhancement of the protection and promotion of human rights from the knowledge and expertise that was originally envisioned with the creation of core groups. The meetings of the Core Groups do result in sharing of new viewpoints that challenge and encourage creativity in the NHRC, but it seems that the irregularity of core groups meetings and lack of transparent, established procedures contributes to ineffective functioning of these core groups, which ultimately results in the failure of the NHRC and civil society to make a meaningful partnership. The NHRC’s initiative to start these core groups comprised of civil society members must be followed with a systematic, deliberate method for forming, using, and maintaining these groups.</p>	<p>The statement is not factually correct. The NGO Core Group meets regularly. In the ANNI report the meetings held in 2009 and 2010 have not been given deliberately.</p> <p>Even though intimations have been given in advance to the Members of the NGO Core Groups, some of the members failed to attend the meetings even after giving confirmation of their attendance.</p> <p>It is factually incorrect that the NGO group has not produced any result. The workshop on Human Rights Defenders in India in 2009 was based on the recommendations of the Core Group of NGOs. The action taken reports on the minutes of the meetings are placed before the members of the Core Group for their perusal and approval.</p> <p>The NHRC, India has written to the Government to facilitate the visit of UN Special Rapporteur on Human Rights Defenders to India which was one of the recommendations of the workshop based on the inputs received from the NGO Core Group. Accordingly the UN Special Rapporteur visited India in January, 2011. Hence the allegation that the NGO Core</p>

	Group is not effective is misleading and false.
<p>Epilogue: The Current Leadership of the NHRC</p> <p>As this report was being drafted, several issues emerged in the media surrounding the current Chairperson of the NHRC, Mr. Justice K.G. Balakrishnan. Initially, the team of human rights defenders preparing this report thought not to discuss these issues in the report. However, it was decided that a report meant to look into the compliance of the NHRC of India with the Paris Principles would not give a complete picture unless there is a discussion on the current leadership of the Commission. As written in the regional analysis of the 2009 Report of the Asian NGOs Network on National Human Rights Institutions (ANNI), “[f]or a national human rights institution, its independence and effectiveness to promote and protect human rights in its countries relies to a great extent on the integrity, commitment, and capacity of its leaders.”¹⁵⁰ Indeed, it cannot be denied that what make an institution are its people.</p> <p>It should also be made clear that in including this discussion in this report, there is no intention to disparage a single person in the Commission. The writers of this report merely felt that they will be failing in their duty to the larger civil society in the country if this issue is not discussed in the report.</p> <p>Mr. Justice K.G. Balakrishnan assumed his post as Chairperson of the NHRC in 2010, after the NHRC went for more than a year without a Chairperson. Despite his candidature being widely criticized for a number of his controversial stands – such as blocking the prosecution of former Justice Nirmal Yadav for corruption, attempting to exempt the Office of the Chief Justice of India from the purview of the Right to Information Act, and delaying action against Justice P.D. Dinakaran after Parliament initiated an impeachment motion in connection with a land dispute and corruption case the government appointed Justice K.G. Balakrishnan to lead the NHRC.</p> <p>Since Mr. Justice K. G. Balakrishnan assumed his post at the NHRC, there have been several revelations in the media that associated him with cases of corruption. This prompted a widespread call for his resignation, not only from NGOs, but also from eminent jurists in the country. Mr. Balakrishnan is being alleged of receiving sums of money for brokering the</p>	<p>As elsewhere, this is deliberately misleading. Justice Shri K.G. Balakrishnan was appointed as Chairperson by the Committee as per the PHRA, 1993 and warrant of precedence issued by the President of India.</p> <p>The attempts of character assassination by leveling unsubstantial allegations on his honesty and integrity in the report are condemnable.</p> <p>The statements made in the AiNNI report about the allegations on the Chairperson’s stand are absolutely incorrect. It is incorrect to say that the Chairperson, while as Chief Justice of India blocked the prosecution of former Justice Nirmal Yadav for corruption. In fact, in this case, the CBI had sought the opinion from the Attorney General of India and it was decided not to prosecute Justice Nirmal Yadav at that time.</p> <p>As regards the elevation of Justice P.D. Dinakaran to the Supreme Court, the decision was taken by the Collegium and not solely by the then Chief Justice of India. When there were allegations of corruption against Justice P.D. Dinakaran and there was a move for impeachment, his name for consideration as Judge of the Supreme Court was withdrawn as decided by the Collegium.</p> <p>As regards the new assignment as Chairperson, National Human Rights Commission, not a single revelation has been made against any corruption associated with the Chairperson, NHRC. There is also not a single allegation that there was extraneous consideration in the</p>

appointments of judges and in exchange for favorable decisions during his tenure at the Supreme Court. Many questions also emerged regarding how his family unusually amassed vast wealth.

As mentioned earlier, there is now a call for Mr. Balakrishnan's resignation from civil society, as well as eminent jurists in the country, such as Justice V.R. Krishna Iyer (Former Judge of the Supreme Court of India 1973 -1980), Justice J. S. Verma (Former Chairperson of the NHRC and Former Chief Justice of India), Mr. Sudharshan Aggarwal (Former Governor of Sikkim and Member of the NHRC), and Mr. Fali Nariman, a jurist of international repute and a Former Member of the Advisory Council of Jurists (ACJ) of the Asia Pacific Forum of NHRIs (APF). Furthermore, there is currently a petition filed in the Supreme Court of India seeking a probe into the allegations against Mr. Balakrishnan's kin.

The recent controversies surrounding Mr. Balakrishnan has prompted civil society to again question the effectiveness of current selection and appointment processes for members of the NHRC. If the accusations against Mr. Balakrishnan are proven true, it is clear therefore that it is not enough to merely automatically install a retired Chief Justice of the Supreme Court as the Chairperson of the Commission. The process needs to be totally transparent and not restricted to only retired Judges or Chief Justices of the Supreme Court or to former bureaucrats – IAS or IPS or IFA or IRS etc. It is clear that the system that has been envisaged has not been proven to be useful now in the year 2010 – it also does not ensure diversity in a country known for its varied diversity.

It is this case that singularly points out to the urgent need for reforms in the selection and appointment process to make it more inclusive, transparent and participatory. What is important is not the prestige of the position that a candidate had previously held. What should be a paramount consideration in the selection and appointment process is the candidate's firm belief in internationally accepted principles of human rights and his willingness advocate for the rights of victims. Below is a list of articles from the Indian media regarding the recent controversies surrounding Mr. Balakrishnan.

matter of promotion of judges or for any decision of the Supreme Court. All decisions of Chief Justice's Court in the Supreme Court are made by three Judges sitting together. As far as the appointment of Judges is concerned, there is a Committee of five Judges of the Supreme Court which takes the decision in the matter.

Media Reports:

It was based on the incorrect reports that Justice V.R.Krishna Iyer, former Judge of the Supreme Court, Justice J.S.Verma, former Chief Justice of India, Mr.Sudarshan Aggarwal, former Governor of Sikkim and Shri Fali S.Nariman, a Jurist and others demanded the resignation of Chairperson, NHRC. This is just to malign the image of the Chairperson, NHRC and not based on any proved facts. The Chairperson, NHRC was appointed by a Committee under the Chairmanship of the Prime Minister consisting of the Speaker of the House of People, Minister in-charge of the Ministry of Home Affairs in the Government of India, Leader of Opposition in the House of People, Leader of Opposition in the Council of States and Deputy Chairman of the Council of States as Members.

List of NGO's invited for Camp Commission Sitting at
Bhubaneswar, Orissa, held on 18-19, January , 2011.

Sl No	Name of the NGO/Person	Name of the Dist.
1	Gram Vikas AI/PO-Mohuda Berhampur Ganjam, Phone-0680- 2261875 Fax-0680- 2261862	Ganjam
2	PRAPIDITANK A KAYAN SAMITI, Railway Station Road. Berhampur Ganjam	Ganjam
3	GUIDE. At-Purunapada. Po-Bh-Patna, Kalahandi. Ph-06670-231746	Kalahandi
4	OPDC AI/Po-Raniguda Farm Dist-Rayagada, Phone-06856- 222516/224751	Rayagada
5	FRIENDS ASSOCIATION FOR RURAL RECONSTRUCT ION. Muniguda. Rayagada	Rayagada
6	CYSD E-I, Institutional Area Po-RRL Bhubaneswar, Phone-0674- 2300983	Khurdha

7	Tagore Society of Rural Development.A-47 Rameswarapatna. Bhubaneswar Phone-0674-2431334	Khurdha
8	CPSW. Plot No. 4696/5190 Adimata Colony. PO: Mancheswar Rly Colony. Bhubaneswar Phone-0674-2744704	Khurdha
9	BHUMIKA. D-72. Maitri Vihar Bhubaneswar-23 M.9437006667	Khurda
10	CITIZENS' FORUM FOR HUMAN RIGHTS. Saheed Nagar. Bhubaneswar Ph.0674-2540242	Khurda
11	BISWA At/Po-Danipalli Dist-Sambalpur Phone-9437056453	Sambalpur
12	ASSOCIATION FOR WOMEN AND RURAL DEVELOPMENT(AWARD). Po-Jarabaga Dist. Sambalpur Ph 06642-226422	Sambalpur

No	Name of the NGO/Person	Name of the Dist.
13	KIRDTI Behind Kasipur Primary School At/PO: Kasipur Dist-Keonjhar. Phone-06766- 255147	Keonjhar
14	CENTRE FOR RURAL POOR SERVICE AT/Po- Chandanvati Bolangir Ph.6652-281015	Bolangir
15	GRAMYA VIKAS PARISAD.(GVP) At-Amthapada, Po-Baghiapada, Via-Sarasara, Dist-Boudh, Pin-272026, Ph-06841-227249	Boudh
16	PANCHPADA SEVASADAN. At-Panchapada, PO- Industrial Estate, Jharsuguda Ph.No.06645- 270896	Jharsuguda
17	DARIA At-Atharica Po-Alasahi Puri Mob-9437189782	Puri

Sl No	Name of the NGO/Person	Name of the Dist.
18	GLOBAL HUMAN RIGHTS COMMUNICATION, Kalamati, Dibyasinghpur chhak, Raigurupur, Puri	Puri
19	ODISHA GOTIMUKTI ANDOLAN, L-232, GGP Colony, Rasulgarh, Bhubaneswar	Puri
20	LOKSHAKTI At/Po-Sergarh Dist. Balasore Ph.06782-236409	Balasore
21	SAHAYA At-Panchumu Po-Bhalkilidhi Via-Godipara Nayagarh Ph.06753-265180/265047	Nayagarh
22	CENTRE FOR PROFESSIONAL AND SOCIAL DEVELOPMENT.(CPSD) At-Prasanta Bhawan Palace Garden Dist-Subarnapur Ph.06654-220736	Subarnapur

Sl No	Name of the NGO/Person	Name of the Dist.
23	SOCIAL WELFARE ORGANISATION FOR RURAL DEVELOPMENT(SWORD) At/Po- Ghantapada Via-Talcher Angul Ph.06760-269555	Angul
24	JANA KALYAN PRATISTHAN S.K.C.G. Hostel Road Parlakhemundi Gajapati Ph.6815-223769	Gajapati
25	COUNCIL OF ANALYTICAL TRIBAL STUDIES(COATS) At-D.N.K Road Koraput Ph.6852-251708	Koraput
26	SAMUHA BIKAS At-Niladri Nagar. Po-Balmela Malkangiri Ph.06861-232271	Malkangiri
27	IYSARA At. Gandhinagar Dist-Nabarangpr M.9437328707	Nabarangpur

Sl No	Name of the NGO/Person	Name of the Dist.
28	SOCIAL UPLIFTMENT & REHABILITATION ASSOCIATION THROUGH VILLAGE INDUSTRIES(SURAVI) At-Bargarh, Dist-Baragarh	Bargarh
29	WGRTS At/Po-Reamal Dist-Deogarh	Deogarh
30	PARIBARTAN At-F-E-43 Basanti Colony Rourkela-42	Sundargarh
31	SEVAK. At -Sundargarh Dist- Sundargarh	Sundargarh
32	PRAGATI, At/Po -Rourkela Dist-Sundargarh	Sundargarh
33	CENTRE FOR INTEGRATED SOCIAL DEVELOPMENT. At-Upulai, Dist-Jajpur Ph.0674-2741871	Jajpur

Sl No	Name of the NGO/Person	Name of the Dist.
34	UTSHARGA. At-Biribati Jagatsingpur Ph.06724-220586	Jagatsingpur
35	DEVELOPMENTS AGENCY IN NEGLECTED AREAS(DANA). Baripada. Mayurbhanj Ph.06792-252550	Mayurbhanj
36	SOCIETY OF MASS INITIATIVES FOR CHILDRENS LIBERATION & EMPOWERMENT (SMILE). At-Lokanathpur, Dhenkanal Ph.06769-211621	Dhenkanal
37	SRIMA AUROVINDA SEVA SANSTHA. At-Raitundi, Kendrapara Ph.9937445113	Kendrapara
38	RAMA KRISHNA SEVASHRAM. At/Po-Kulana, Bhadrak M.9437727006	Bhadrak
39	CHETANA MAHILA SANGATHAN. Komna. Nuapada M-9437623867	Nuapada

Sl No	Name of the NGO/Person	Name of the Dist.
40	INDIAN ENVIRONMENTAL AND HUMAN RIGHT ORGANISATION. Bidanasi. Cuttack Ph.0671-2604641	Cuttack
41	Project Swarajya. Ganeshghat. Bukhrabad Cuttack-2 Ph.0671-2363980	Cuttack
42	COMMITTEE FOR LEGAL AID TO POOR. 367. Markat Nagar. Sector-6. Cuttack	Cuttack
43	BASUNDHARA. Bidanashi. Cuttack Ph-0671-2603178	Cuttack
44	Jagruti At/Po/Dist- Phulbani Ph.06849-245406	Kandhamal
45	SEVA BHARATI. Mundigarh. Tumudibandha. Kandhamal	Kandhamal

Sl No	Name of the NGO/Person	Name of the Dist.
46	SWATI, Phiringia, Tikabali, Kandhamal	Kandhamal
47	Chitta Mohanty	
48	Rutupurna Mohanty, Sanjeevani <sanjeevanee@yahoo.com>	
49	Subash Singh, HRID	
50	Pradip Purohit, Gandhanardan Surakshya Samiti	
51	Mahendra Parida, Loka Adhikaar Manch	
52	Baghamber Pattnaik, Gopi Mukti Andolan	
53	Narendra Mohanty, Banabasi Surakshya Parisad	
54	Chitta Mohanty/Prasant Piakray/Rutupur na Mohanty	
55	Adikanda Singh, NCDHR	

Sl No	Name of the NGO/Person	Name of the Dist.
56	Pradipta Nayak. People's Watch	
57	Pradipta Sahoo. Chilika Andolan	
58	Jugal Ranjit. Jana Vikas	
59	Sankar Prasad Pani. VASUNDHARA	
60	Pradip Pradhan. Odisha Soochana Adhikar Abhijan	
61	Pramila Swain. President. NAWO-Odisha	
62	Dr. Biswajit, RYS	
63	Achyut Das. Agramee	
64	Bibekananda Das. Journalist	
65	Duskar Barik. Secretary. KIRDTI	
66	Adv. Biswapriya Kanungo. Human Rights Activist	

Sl No	Name of the NGO/Person	Name of the Dist.
67	Pramodini (PUCL)	
68	Rabi Das. Journalist	
69	Saila Behera, Basundhara	
70	Chitta Behera, RTI Activist	
71	Lingaraj Azad, Niyangiri Suraksha Andolan	
72	Kisan Patnaik, ALVM	
73	Kedar Mishra, Writer and Journalist	
74	Adv. Prasant Jena, Advocate	
75	Pradipta Nayak, IHRE/People's Watch	
76	Rajashree Mohanty, IHRE/People's Watch	

Sl No	Name of the NGO/Person	Name of the Dist.
77	Manoj Jena. People's Watch	
78	Chandranath Dani. People's Watch	
79	Dhirendra Panda. CSNR	
80	Rabi Ranjan Sahoo. Writer	
81	Nageswar Pattnaik, Journalist	
82	Prafulla Das. Journalist	
83	Rabi Sankar. Journalist	
84	Amarjyoti. Action Aid	
85	Sanosh Padhy. Action Aid	
86	Ajay Singh. Jana Vikas	
87	Bijay Singh, SFDC	
88	Madhumita Ray, Action Aid	
89	Manas Ranjan, Action Aid	
90	Pramod Pattnaik, Seva Bharati	

Sl No	Name of the NGO/Person	Name of the Dist.
91	Nicholas Barla. HUam Rights Activist	
92	Rumita Kundu, Bandi Mukti Abhijan.	
93	Lalita Missal. NAWO	
94	Bishakha Bhanja. NAWO	
95	Santosh Das, Trade Unionist	
96	Rajkishore Mishra, Food rights activist	
97	Sashi Bindhani, Swabhimanee	
98	Sneha Mishra, AAINA	
99	Rasini Ranjan Jena, Advocate	
100	Sangram Mallik, ALVM	

NGO/Person	Dist.
Manas Jena, Development Initiative	
Akshay Das	
Akshay, NNS	
Ranikanta, Sarvodaya	