



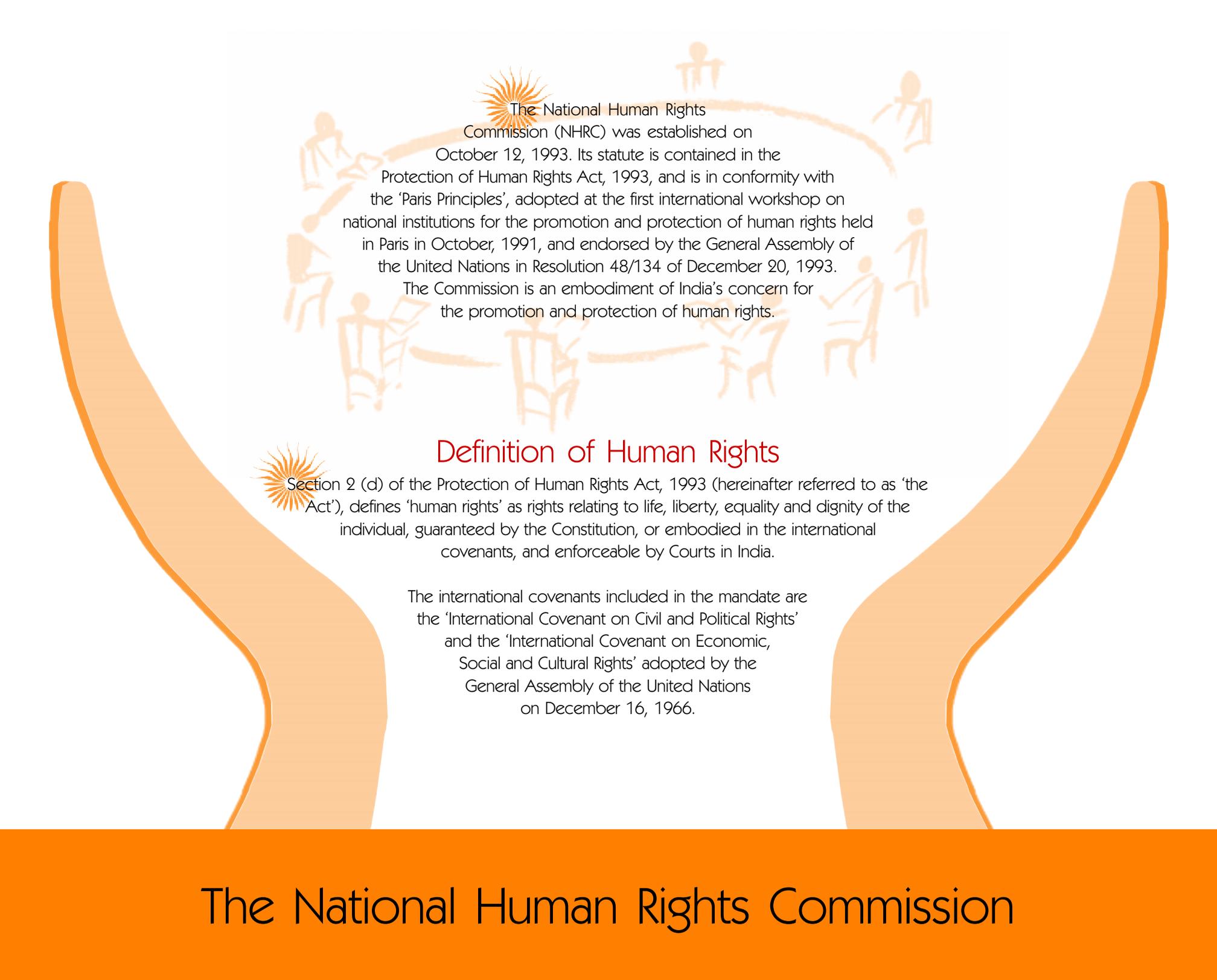
THE NATIONAL  
HUMAN RIGHTS COMMISSION  
India

You must be the change you wish to see in the world

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*Mahatma Gandhi*



The background features a large, stylized illustration of two hands, one on the left and one on the right, reaching upwards. In the center, there is a circular arrangement of various human figures in different poses, some sitting, some standing, and some holding hands. A sunburst icon is positioned at the top center of this circle. The entire scene is rendered in shades of orange and white.

The National Human Rights Commission (NHRC) was established on October 12, 1993. Its statute is contained in the Protection of Human Rights Act, 1993, and is in conformity with the 'Paris Principles', adopted at the first international workshop on national institutions for the promotion and protection of human rights held in Paris in October, 1991, and endorsed by the General Assembly of the United Nations in Resolution 48/134 of December 20, 1993. The Commission is an embodiment of India's concern for the promotion and protection of human rights.

## Definition of Human Rights

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Section 2 (d) of the Protection of Human Rights Act, 1993 (hereinafter referred to as 'the Act'), defines 'human rights' as rights relating to life, liberty, equality and dignity of the individual, guaranteed by the Constitution, or embodied in the international covenants, and enforceable by Courts in India.

The international covenants included in the mandate are the 'International Covenant on Civil and Political Rights' and the 'International Covenant on Economic, Social and Cultural Rights' adopted by the General Assembly of the United Nations on December 16, 1966.

# The National Human Rights Commission

# Certain Distinctive Features of the NHRC

The NHRC has certain distinctive features not enjoyed by other Commissions/Regulatory bodies/Autonomous institutions.

## Composition

The statute lays down the high qualifications that the members are required to have, to be eligible to be appointed to the Commission. Section 3 of the Act lays down that the Commission shall consist of:

- ▶ A Chairperson who has been a Chief Justice of the Supreme Court of India
- ▶ One Member who is, or has been, a Judge of the Supreme Court of India
- ▶ One Member who is, or has been, the Chief Justice of a High Court
- ▶ Two Members to be appointed from among persons having knowledge of, or practical experience in, matters relating to human rights.

The Chairpersons of the National Commissions mentioned below are 'ex-officio' Members of the Commission:

- ▶ The National Commission for Minorities
- ▶ The National Commission for the Scheduled Castes and Scheduled Tribes
- ▶ The National Commission for Women

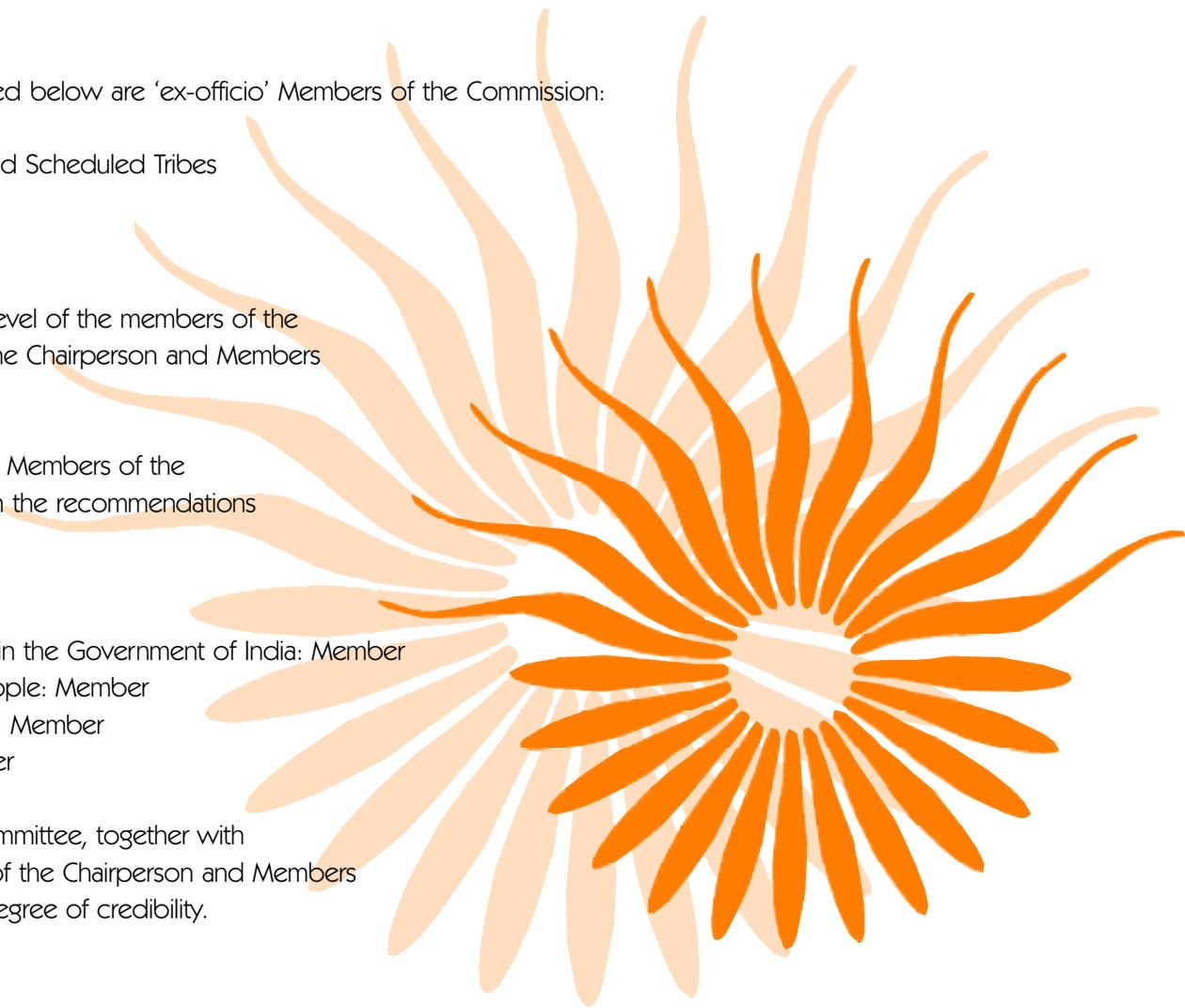
## Appointment

The other unique feature of the Commission lies in the level of the members of the Committee, on the basis of whose recommendations the Chairperson and Members of the Commission shall be appointed.

Section 4 of the Act states that the Chairperson and the Members of the Commission are appointed by the President of India, on the recommendations of a Committee consisting of:

- ▶ The Prime Minister: Chairperson
- ▶ The Speaker of the House of the People: Member
- ▶ The Minister-in-charge of the Ministry of Home Affairs in the Government of India: Member
- ▶ The Leader of the Opposition in the House of the People: Member
- ▶ The Leader of the Opposition in the Council of States: Member
- ▶ The Deputy Chairman of the Council of States: Member

The high level and politically balanced quality of the Committee, together with the statutory requirements relating to the qualifications of the Chairperson and Members of the Commission, result in the NHRC enjoying a high degree of credibility.



# Administrative Functioning of the Commission

There are five Divisions in the Commission. Though each of these have been entrusted specific tasks, the Divisions work in close consultation and coordination with each other. These are:

- ▶ The Administration Division
- ▶ The Law Division
- ▶ The Investigation Division
- ▶ The Policy Research, Projects and Programmes Division (PRP&P Division)
- ▶ The Information and Public Relations Division



The Commission has a Library and a Computer Cell.

The Chief Executive Officer of the Commission is the Secretary-General, an officer of the rank of Secretary to the Government of India. The Secretariat of the Commission works under the general supervision of the Secretary-General.

**The Administration Division:** This Division is headed by a Joint Secretary, assisted by Under Secretaries, Section Officers and other secretarial staff, and functions under the overall guidance of the Secretary-General. This Division looks after the administrative, personnel, establishment and cadre matters of the staff and officers of the Commission.

The Accounts Branch, functioning under the overall guidance of the Joint Secretary, consists of a Senior Accounts Officer, Assistant Accounts Officers, a Drawing and Disbursing Officer and other ministerial staff.

The General Section of the Division takes care of house-keeping jobs.

The Hindi Section of the Commission arranges for the translation of complaints from Hindi and other Indian languages into English, as well as the normal Hindi work of the Commission, including the translation of the monthly Newsletters and the Annual Reports.

**The Law Division:** This Division is headed by a senior judicial officer. The post has a scale of Additional Secretary to the Government of India.

The Division services the Commission in the receipt and disposal of complaints relating to human rights violations.

The Registrar (Law) is assisted by a Joint Registrar, Assistant Registrars and others.

**The Investigation Division:** When the Commission requires an independent enquiry to be conducted, it is effected through the Investigation Division, which is headed by an officer of the rank of Director General of Police. He is assisted by an Inspector General of Police/Deputy Inspector General of Police, Superintendents of Police, Deputy Superintendents of Police, Inspectors of Police and Constables. The Division also assists the Commission in examining complaints, in scrutinising reports received from the Police and other investigation agencies and in looking into reports of custodial violence or other misdemeanours.

The Policy Research, Projects and Programmes Division: Whenever the Commission, on the basis of its hearings, deliberations or otherwise, arrives at a conclusion that a particular subject is of generic importance, it is converted into a project/programme to be dealt by the PRP&P Division.

The Division also undertakes and promotes research in human rights.

The PRP&P Division is headed by the Joint Secretary and consists of a Director, an Officer on Special Duty (Research), a Senior Research Officer, Consultants and secretarial staff.

The Information and Public Relations Division: This Division disseminates information relating to the activities of the Commission, through the 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. The Division also has an Assistant Information Officer.



The Library, besides serving the Commission, is also a resource centre used by interns, research workers and NGOs. It contains a collection of books and a variety of documents of the United Nations, AIR Manuals, Supreme Court Reports, Government Reports, NGO Bulletins, etc.

The Computer Cell of the Commission functions in close coordination with the National Informatics Centre (NIC). It has developed a user-friendly package for monitoring the status of complaints, from receipt to final disposal.

## Other Functionaries

Personnel serving in the Commission are limited in number, presently around 290. However, the reach of the Commission is greatly enhanced by the appointment of Special Rapporteurs/Special Representatives, and the constitution of Core Groups.

## Special Rapporteurs/Special Representatives

Special Rapporteurs/Special Representatives are very senior officers who, prior to their retirement, have served as Secretaries to the Government of India or Directors General of Police. They are either given a subject, or a group of subjects, to deal with, such as Bonded Labour, Child Labour, Custodial Justice, Dalit Issues, Disability, etc., or have territorial jurisdictions.



### Core Groups

Core Groups consist 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. Presently there are Core Groups on:

- ▶ Public Health
- ▶ Disability
- ▶ NGOs
- ▶ Legal Issues

# Functions of the Commission

The Commission has a wide mandate including civil and political rights, economic, social and cultural rights, and group rights.

Section 12 lays down that the Commission shall perform all or any of the following functions, namely:

- ▶ Inquiring, *suo motu*, or on petitions, presented to it by victims, or any persons on their behalf, into complaints of violation of human rights or abetment thereof, or negligence in the prevention of such violation, by a public servant.
- ▶ Intervening in any proceeding involving any allegation of violation of human rights pending before a Court, with the approval of such Courts.
- ▶ Visiting, under intimation to the State Government concerned, any jail or any other institution under the control of the State Government, where persons are detained or lodged for purposes of treatment, reformation or protection, to study the living conditions of the inmates, and making recommendations.
- ▶ Reviewing the safeguards provided by, or under, the Constitution, or any law for the time being in force, for the protection of human rights, and recommending measures for their effective implementation.
- ▶ Reviewing the factors, including acts of terrorism, that inhibit the enjoyment of human rights, and recommending appropriate remedial measures.
- ▶ Studying treaties and other international instruments on human rights, and making recommendations for their effective implementation.
- ▶ Undertaking and promoting research in the field of human rights.
- ▶ Spreading human rights literacy amongst various sections of society, and promoting awareness of the safeguards available for the protection of these rights, through publications, the media, seminars and other available means.
- ▶ Encouraging the efforts of non-governmental organisations, and institutions working in the field of human rights.
- ▶ Undertaking such other functions as may be considered necessary for the promotion of human rights.

## Complaints Redressal

### Filing and Processing

A complaint to the NHRC may be made in Hindi, English or any other language recognised by the Constitution of India, and may be sent through post, telegram, fax or e-mail. Urgent complaints can also be lodged, beyond the working hours of the Commission, through mobile number 98-102-98900. No fee is charged on complaints. The complainants can ascertain the status of their complaints through the Commission's website (<http://www.nhrc.nic.in>).

Complaints are processed by the Law Division of the Commission. On receipt of a complaint, a case number and a file number is assigned to it. Thereafter details of the complaint are entered into the computer, and an acknowledgement is mailed to the complainant. The complaints are later placed before a Single-Member bench, or before the Full Commission, for directions. If any complaint requires an investigation to be conducted by the Commission, this is done by the Investigation Division of the Commission.

The Commission either:

- ▶ Dismisses complaints 'in *limini*' ordinarily if these do not fall within the purview of the Commission, that is, if the matter is sub judice, or pending before another Commission; if the event of the complaint occurred more than a year prior to the lodging of the complaint; if the complaint is vague, anonymous; or if the complaint relates to a service matter.
- ▶ Disposes cases with directions to the authorities concerned to take necessary action.
- ▶ Issues notices and seeks detailed reports from the authorities concerned, and issues appropriate directions/recommendations thereafter.

## Powers Relating to Inquiries

The Commission is vested with wide-ranging powers relating to inquiries and investigation under Section 13 of the Act. While inquiring into complaints under the Act, the Commission has all the powers of a Civil Court trying a suit under the Code of Civil Procedure, 1908, and, in particular, in respect of the following matters:

- ▶ Summoning and enforcing the attendance of witnesses and examining them on oath
- ▶ Discovery and production of any document
- ▶ Receiving evidence on affidavits
- ▶ Requisitioning any public record or copy from any court or office
- ▶ Issuing commissions for the examination of witnesses or documents
- ▶ Any other matter that may be prescribed



## Inquiry into Complaints

As mentioned earlier, the Commission while inquiring into complaints of violations of human rights, may, under Section 17 of the Act:

- ▶ Call for information or reports from the Central or State Governments, or any other authority or organisation subordinate thereto, within such time as specified by it.
- ▶ If the information or reports are not received within the time stipulated by the Commission, it may proceed to inquire into the complaints.
- ▶ If, on the receipt of information or reports, the Commission is satisfied that no further inquiry is required, or that the required action has been initiated or taken by the Government or authority concerned, it may decide not to proceed with the complaint, and inform the complainant accordingly.

## Steps After Inquiry

After completion of the inquiry the Commission may, under Section 18 of the Act, take any of the following steps:

- ▶ In cases of human rights violations by a public servant, the Commission may recommend to the Government or authority concerned, initiation of proceedings for prosecution, or any other appropriate action the Commission may deem fit, against the person(s) concerned.
- ▶ Approach the Supreme Court or the High Court concerned for directions.
- ▶ Recommend to the Government or authority concerned the grant of immediate interim relief to the victim or his/her family members.
- ▶ Send a copy of its inquiry report together with its recommendations to the concerned Government or authority and the concerned Government or authority shall, within a period of one month, or such further time as the Commission may allow, forward its comments on the report, including the action taken or proposed to be taken thereon, to the Commission.

## Procedure in Respect of Armed Forces

While dealing with complaints of violation of human rights by members of the armed forces under Section 19 of the Act:

- ▶ The Commission may, either on its own motion, or on receipt of a petition, seek a report from the Central Government.
- ▶ After receipt of the report from the Central Government, the Commission may decide either not to proceed with the complaint or, may make recommendations to the Government.
- ▶ The Central Government is required to inform the Commission of the action taken on the recommendations within three months, or such further time, as the Commission may allow.
- ▶ The Commission shall publish its report, together with its recommendations, made to the Central Government and the action taken by the Government on such recommendations.
- ▶ The Commission shall provide a copy of the report published to the petitioner or his representative.

## Research Projects and Programmes

As mentioned earlier, whenever the Commission on the basis of its hearings, deliberations or otherwise arrives at a conclusion that a particular subject is of generic importance, it is converted into a project/programme to be dealt by the Policy Research, Projects and Programmes Division (PRP&P Division).

The Division has over 50 projects/programmes. The Commission in dealing with projects/programmes functions as a catalyst. It normally holds meetings with officers of the departments/organisations concerned, so that there is focused attention on the problem in question. It thereafter coordinates, orchestrates and monitors the plan of action and implementation. Details of some of the important programmes are given below:

### Monitoring of Projects/Organisations under the reference of the Supreme Court

▶ The Supreme Court has asked the Commission to monitor programmes relating to Child and Bonded Labour, and the functioning of the Ranchi Institute of Neuro-Psychiatric and Allied Sciences, the Institute of Mental Health and Hospital, Agra and Gwalior 'Mansik Arogayashala', and the functioning of the Agra Protective Home.

### Custodial Justice Management

As part of its duties, the Chairperson, Members, Special Rapporteurs/Representatives and officers of the Commission inspect jails and make recommendations.

#### ▶ Custodial Deaths/Torture/Encounters

The Commission has issued guidelines to all States and Union Territories, that all deaths in Police and Judicial custody should be promptly reported, within 24 hours of the occurrence, to the Commission. The Commission has further directed that in cases of death in Police custody, the post-mortem is to be video-graphed, and the video tape sent to the Commission. These measures enable the Commission to exercise checks on custodial torture and violence by the Police and other public servants.





The Commission has also issued detailed guidelines to all States and Union Territories on the procedure to be adopted by law enforcement agencies in cases of deaths in encounters.

On the direction of the Commission, Human Rights Cells have been constituted in the offices of the Directors General of Police in all States. These Cells are headed by officers of the rank of Additional Directors General/ Inspectors General of Police, who act as links between the Commission and the State Police. The main responsibility of the State Human Rights Cells and the Nodal Officers is to expeditiously process complaints sent by the Commission to the State Government, for enquiry and appropriate action, and also to sensitise Police personnel in matters relating to human rights.

The Commission has also been involved, together with other bodies, in various programmes for training and sensitisation of Police personnel.

#### ► Penal Reforms

The Commission recommended the introduction of a new Prisons Act to replace the Prisons Act, 1894, with a view to incorporating modern trends in penological thinking. The Commission also suggested the adoption of a model All-India Jail Manual.

Continuous attempts have been made by the Commission to address issues such as overcrowding, lack of sanitation, delay in trials, health of prisoners, payment of wages, premature release of lifetime prisoners and other measures relating to improvement of prison administration.

### Consideration of Important Bills/Ordinances and Monitoring their Impact

The Commission has been regularly examining and giving its comments on important Bills/Acts such as:

- The Terrorist and Disruptive Activities (Prevention) Act, 1987
- The Prevention of Terrorism Bill, 2000
- The Prevention of Terrorism Ordinance, 2001
- The Freedom of Information Bill, 2000

The implementation of international treaties is also reviewed by the Commission.



## Rights of Women and Children

The Commission has been working in areas relating to:

- ▶ Review of the Child Marriage Restraint Act, 1929
- ▶ Child Labour
- ▶ Child Abuse
- ▶ Trafficking in Women and Children
- ▶ Destitute/Marginalised Women of Vrindavan
- ▶ Sexual Harassment of Women at the Workplace

## Rights of Marginalised Sections

The Commission has shown special concern towards the violation of the rights of marginalised sections of the population and has been active in:

- ▶ The abolition of Manual Scavenging
- ▶ The abolition of Bonded Labour
- ▶ The rights of the Elderly
- ▶ The rights of Minorities
- ▶ The rights of Refugees, Migrants and Internally Displaced Persons

- ▶ The rights of those displaced by Mega Projects
- ▶ Dalit and Tribal Issues, including atrocities on Scheduled Castes/ Scheduled Tribes
- ▶ Problems being faced by Denotified Tribes

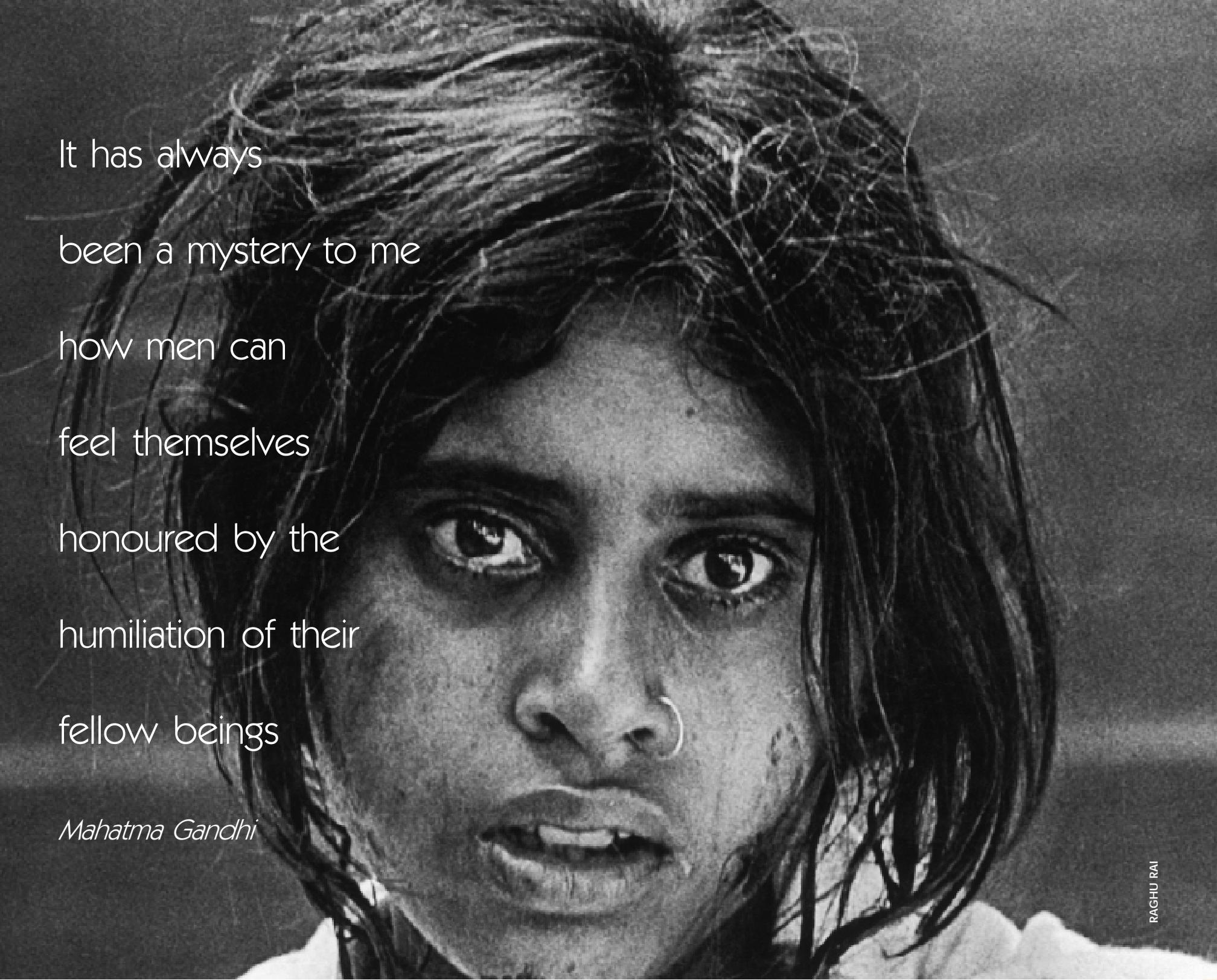
## Natural Calamities/ Man-made Tragedies

The Commission has taken the initiative in situations resulting from natural calamities and man-made tragedies which include:

- ▶ Monitoring of measures taken after allegations of starvation deaths in Orissa.
- ▶ Monitoring of relief in the aftermath of the super cyclone in Orissa.
- ▶ Monitoring of relief measures undertaken by the Government of Gujarat, and other agencies, for those affected by the earthquake of January 2001.
- ▶ Examination of the human rights situation in Gujarat, commencing with the Godhra tragedy of February 27, 2002.

RAGHU RAI





It has always  
been a mystery to me  
how men can  
feel themselves  
honoured by the  
humiliation of their  
fellow beings

*Mahatma Gandhi*

## Health/Disability-related Issues

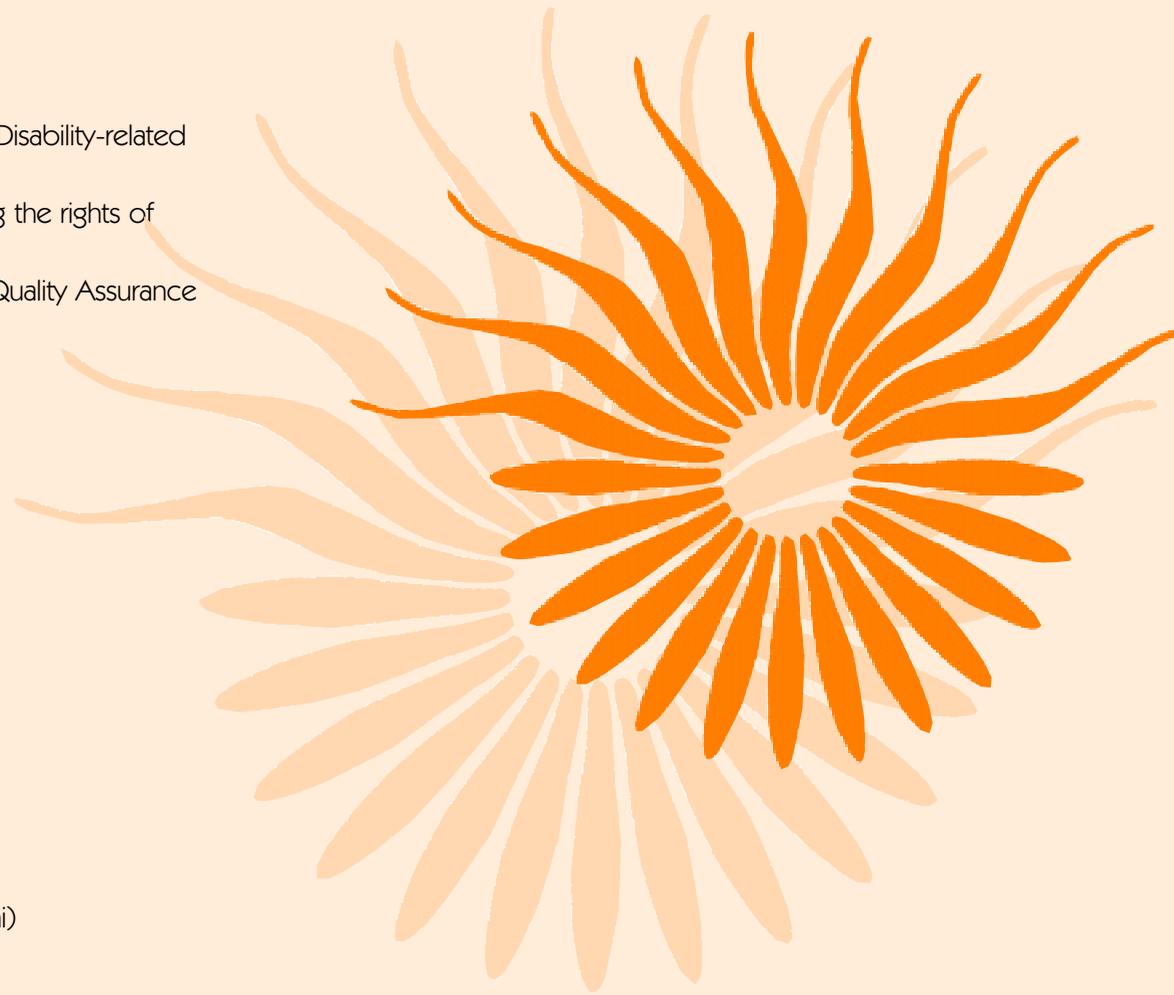


The Commission has taken initiatives in Health/Disability-related issues, including:

- ▶ Public Health and Human Rights, including the rights of those affected by HIV/AIDS
- ▶ Treatment of the Mentally Ill (including Quality Assurance in Mental Hospitals)
- ▶ Maternal Anaemia
- ▶ Matters relating to Disabilities

## Publications of the Commission Include:

- ▶ Important Instructions/Guidelines issued by the NHRC
- ▶ NHRC Guidelines for Sponsoring Research
- ▶ State-of-the-Art Forensic Sciences: For Better Criminal Justice
- ▶ Professional Policing: Human Rights Investigation & Interviewing Skills and Human Rights & Custody Management
- ▶ Handbook on Human Rights for Judicial Officers
- ▶ Large Volume Parenterals: Towards Zero Defect
- ▶ Report of the National Conference on Human Rights and HIV/AIDS (November 24-25, 2000, New Delhi)
- ▶ Report & Recommendations of the Regional Consultation on Public Health & Human Rights (April 10-11, 2001, New Delhi)
- ▶ Quality Assurance in Mental Health
- ▶ Information Kit on Trafficking in Women and Children
- ▶ Reports of the National Seminar-cum-Public Consultation on Racism, Racial Discrimination, Xenophobia & Related Intolerance (August 3-4, 2001, Bangalore; August 11, 2001, New Delhi)



## Some Major Accomplishments

- ▶ The number of complaints received by the Commission has increased from 496 in 1993-94 to 72,107 in 2001-2002, reflecting the growing credibility of the Commission and the trust reposed in it by citizens.
- ▶ A fast-track system for complaints has been introduced, and computerisation and other procedural changes adopted, to deal with the heavy load of case work.
- ▶ All States have set up Human Rights Cells in the offices of the Directors General of Police.
- ▶ Some States have set up State Human Rights Commissions and a number of them have also set up Human Rights Courts.
- ▶ Apart from attending to individual complaints, the Commission has also recommended systemic reforms in Police functioning, and in prison administration.
- ▶ The Commission has also laid down stringent reporting requirements in cases of deaths/rapes in custody.
- ▶ The Commission has reviewed a number of legislative Bills/Acts, which impinge on human rights of people in general, and vulnerable sections of society in particular. The Commission has played an important role in monitoring the misuse of the Terrorists and Disruptive Activities (Prevention) Act, 1987 (TADA) and gave its opinion on the Prevention of Terrorism Bill, 2000 and the Prevention of Terrorism Ordinance, 2001 (POTO).
- ▶ Pursuant to the Commission's efforts, the Government of India has signed the Convention against Torture and Other Cruel, Inhuman, Degrading Treatment or Punishment in 1997.
- ▶ Since its inception, the Commission has been strongly recommending that steps be taken to ensure the realisation of the Right to Education of all children up to the age of 14 years, as provided in Article 45 of the Constitution. Efforts are currently under way to process a Constitutional amendment, which seeks to make the right to education of children in the age group 6-14 years a Fundamental Right.
- ▶ Pursuant to the Commission's efforts, the subject of human rights has been introduced in the curricula of educational institutions from school to the

university level. Certificates/Post-Graduate/Diploma/Degree courses in human rights have been introduced in over 20 universities in the country.

- ▶ The Commission has contributed to the evolution of a National Plan of Action on human rights education and is closely monitoring the preparation of a National Action Plan for the protection and promotion of human rights.

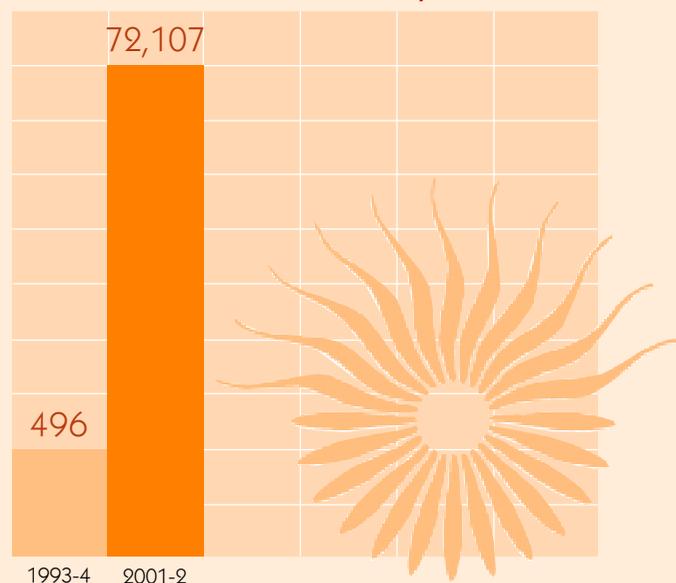
- ▶ The Commission has been actively involved, in collaboration with other organisations, in providing human rights sensitisation and training to civil servants, personnel of army and paramilitary forces, judicial officers and prison officials.

- ▶ Recognising the crucial linkages between public health and human rights, the Commission has made significant recommendations on maternal anaemia, HIV/AIDS and access to healthcare.

- ▶ In the field of social and economic rights, the Commission has made comprehensive and systematic recommendations for the protection of the vulnerable sections of the people, including Women, Children, Dalits, Minorities, Disabled and Denotified and Nomadic Tribes. It has also undertaken programmes for the elimination of Manual Scavenging, Bonded Labour, Child Labour and Trafficking in Women and Children.

- ▶ The Commission has monitored disaster relief in the wake of the super cyclone which hit Orissa in 1999, and later, the massive earthquake in Gujarat in January, 2001.

## Number of Complaints



1993-4 2001-2



- ▶ The Commission took a stand on the issue of caste discrimination at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance held at Durban in 2001 which received wide coverage.
- ▶ Following the tragic incident in Godhra, Gujarat, on February 27, 2002, and the communal violence that followed, the Commission made comprehensive recommendations in respect of the situation and the protection of human rights of those who had been affected.



सर्वे भवन्तु सुखिनः ।  
सर्वे सन्तु निरामयाः ।  
सर्वे भद्राणि पश्यन्तु ।  
मा कश्चित् दुःखभाक् भवेत् ॥

May all be happy  
May all be healthy  
May all see auspiciousness  
May none suffer  
Peace be unto all.







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