

## Violation of Human Rights in Different Parts of India - A Case Study

**\*Dr. Anupama Parashar**

**\*\*Sakshi Mishra**

### Introduction

Universal Declaration of Human some fifty year has elapsed since the Rights was adopted by the United Nations on 10 December 1948. The Declaration was one of the first major achievements of the United Nations, and after 50 years remains a powerful instrument which continues to exert us effects an enormous on people's lives all over the world. This was the first time in history that a document considered to have universal value was adopted by an international organization. It was also the first time that human rights et forth in such detail. There and fundamental freedoms were based international support for-was board the Declaration when it was adopted. It represented "a world milestone in the long struggle for human rights," In the words of a UN General Assembly representative from France

### Human Rights Protection Act, 1993

The Human Rights Act 1993 is an Act of the Parliament of New Zealand that deals with discrimination. It was a consolidation and amendment of the Race Relations Act 1971 and the Human Rights Commission Act 1977. It came into force on 1 February 1994. The Act governs the work of the New Zealand Human Rights Commission.

The Act Outlawed Discrimination On a Wide Variety of Grounds, Including:

- Sex (including pregnancy and childbirth)
- Marital status
- Religious belief
- Ethical belief
- Colour
- Race
- Ethnic or national origins
- Disability
- Age
- Political opinion
- Employment status
- Family status
- Sexual orientation

There are a significant number of caveats, including "genuine occupational qualification," "domestic employment in a private household," "to preserve reasonable standards of privacy," "national security" and "organized religion."

---

## Violation of Human Rights in Different Parts of India - A Case study

*Dr. Anupama Parashar & Sakshi Mishra*

The act does not explicitly prohibit discrimination on the basis of gender identity, and the Human Rights Commission, supported by the government's legal office, has always accepted complaints of discrimination based on gender identity on the ground of sex. However, the decision to interpret the prohibition of discrimination based on sex to also cover discrimination based on gender identity is easily reversed. But an important dimension of the exercise undertaken by the Commission in New Zealand was toward the empowerment of trans people, referencing the Yogyakarta Principles. In effect the Commission was responding to one of the Yogyakarta Principles' Additional Recommendations to national human rights institutions that integrate the promotion of human rights of persons of diverse sexual orientations and gender identities into their work.

### **Human Rights Commission**

The National Human Rights Commission (NHRC) of India is a Statutory public body constituted on 12 October 1993 under the Protection of Human Rights Ordinance of 28 September 1993. It was given a statutory basis by the Protection of Human Rights Act, 1993 (TPHRA). The NHRC is the National Human Rights Commission of India, responsible for the protection and promotion of human rights, defined by the Act as "Rights Relating To Life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants".

### **Human Rights in India**

Human rights in India is an issue complicated by the country's large size and population, widespread poverty, lack of proper education, as well as its diverse culture, even though being the world's largest sovereign, secular, democratic republic. The Constitution of India provides for Fundamental rights, which include freedom of religion. Clauses also provide for freedom of speech, as well as separation of executive and judiciary and freedom of movement within the country and abroad. The country also has an independent judiciary and well as bodies to look into issues of human rights.

The 2016 report of Human Rights Watch accepts the above-mentioned faculties but goes to state that India has "serious human rights concerns. Civil society groups face harassment and government critics face intimidation and lawsuits. Free speech has come under attack both from the state and by interest groups. Muslim and Christian minorities accuse authorities of not doing enough to protect their rights. But in the recent years, more emphasis is given to minority rights & freedom of speech. The government is yet to repeal laws that grant public officials and security forces immunity from prosecution for abuses.

### **What caused need of Human Rights Act?**

#### **Use of torture by police**

The Asian Centre for Human Rights estimated that from 2002 to 2008, over four people per day died while in police custody, with "hundreds" of those deaths being due to police use of torture. According to a report written by the Institute of Correctional Administration in Punjab, up to 50% of police officers in the country have used physical or mental abuse on prisoners. Instances of torture, such as through a lack of sanitation, space, or water have been documented in West Bengal as well.

#### **Religious Violence**

Communal conflicts between religious groups (mostly between Hindus and Muslims) have been prevalent in India since around the time of its independence from British Rule. Communal riots took place during the partition of India between Hindus/Sikhs and Muslims where large numbers of people were killed in large-scale violence.

---

## **Violation of Human Rights in Different Parts of India - A Case study**

*Dr. Anupama Parashar & Sakshi Mishra*

The 1984 Anti-Sikh Riots was a four-day period during which Sikhs were massacred by members of the secular-centrist Congress Party of India; some estimates state that more than 2,000 were killed. Other incidents include the 1987 Hashimpura massacre during communal riots in Meerut, 1992 Bombay riots. The killing was done at the behest of Congress leaders such as Jagdish Tytler. Congress Party officials provided assailants with voter lists, school registration forms, and ration lists. Nanavati Commission also found out that several Congress leaders were behind this lynching. Former Prime minister Manmohan Singh apologized in the Lok Sabha for the involvement of Congress stalwarts in the Lok Sabha. According to the 2011 WikiLeaks cable leaks, the United States was convinced of Indian National Congress complicity in the riots and called it "opportunism" and "hatred" by the Congress government of Sikhs.

According to official figures, 2002 Gujarat riots ended with 1,044 dead, 223 missing, and 2,500 injured. Of the dead, 790 were Muslim and 254 Hindu. Unofficial sources estimate that up to 2,000 people died. There were instances of rape, children being burned alive, and widespread looting and destruction of property. The Chief Minister at that time, Narendra Modi, has been accused of initiating and condoning the violence, as have police and government officials who allegedly directed the rioters and gave lists of Muslim-owned properties to them. Narendra Modi was acquitted of such charges by the Supreme Court of India. The incident that resulted in the riots was the Muslim mob attack on a train full of Hindu pilgrims in the Godhra Train Burning, where 58 Hindus were killed. Lesser incidents plague many towns and villages; representative was the killing of five people in Mau, Uttar Pradesh during **Hindu-Muslim rioting**, which was triggered by the proposed celebration of a Hindu festival. Other such communal incidents include the 2002 Marad massacre, which was carried out by the militant Islamist group National Development Front, as well as communal riots in Tamil Nadu executed by the Islamist Tamil Nadu Muslim Munnetra Kazaghham against Hindus.

#### **Caste related issues**

Contemporary India, however, has seen the influence of caste start to decline. This is partly due to the spread of education to all castes which has had a democratising effect on the political system. However, this "equalising" of the playing field has not been without controversy. The Mandal Commission and its quotas system has been a particularly sensitive issue. It has been argued by Professor Dipankar Gupta that the role of castes in Indian elections have been overplayed.

More recently there has been a flux in caste politics, mainly caused by economic liberalization in India. This upsurge in lower-caste empowerment was accompanied in some regions by a spike in the level of corruption. This was partly due to lower caste perceiving development programs and rule of law as tools used by the upper caste to subjugate lower castes.

Amnesty International says "it is the responsibility of the Indian government to fully enact and apply its legal provisions against discrimination on the basis of caste and descent.

Denotified tribes of India, along with many nomadic tribes collectively 60 million in population, continue to face social stigma and economic hardships, despite the fact Criminal Tribes Act 1871, was repealed by the government in 1952 and replaced by Habitual Offenders Act (HOA) (1952), as effectively it only created a new list out of the old list of so-called "criminal tribes. These tribes even today face the consequences of the 'Prevention of Anti-Social Activity Act' (PASA), which only adds to their everyday struggle for existence as most of them live below poverty line. National Human Rights Commission and UN's anti-discrimination body Committee on the Elimination of Racial Discrimination (CERD) have asked the government to repeal this law as well, as these former "criminalised" tribes continue to suffer oppression and social ostracization at large and many have

---

### **Violation of Human Rights in Different Parts of India - A Case study**

*Dr. Anupama Parashar & Sakshi Mishra*

been denied SC, ST or OBC status, denying them access to reservations which would elevated their economic and social status.

### **Allegations of Sexual Assault**

Women are mostly raped during militant attacks where men of the villages or towns are gathered outside their homes and women are forced to stay indoors. Furthermore, most of the rapes go unreported due to the social stigma and fear of backlash.

The Assam Police between 2006 and 2011 received over 7000 complaints of rape and also 11,553 complaints of kidnappings involving women committed mainly by militants.

### **Freedom of Expression**

According to the estimates of Reporters Without Borders, India ranks 122nd worldwide in 2010 on the press freedom index (down from 105th in 2009). The press freedom index for India is 38.75 in 2010 (29.33 for 2009) on a scale that runs from 0 (most free) to 105 (least free). In 2014 India was down ranked to 140th worldwide (score of 40.34 out of 105) but despite this remains one of the best scores in the region.

The Indian Constitution, while not mentioning the word "press", provides for "the right to freedom of speech and expression" (Article 19(1) a). However this right is subject to restrictions under subclause (2), whereby this freedom can be restricted for reasons of "sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, preserving decency, preserving morality, in relation to contempt of court, defamation, or incitement to an offence". Laws such as the **Official Secrets Act** and **Prevention of Terrorism Act (POTA)** have been used to limit press freedom. Under POTA, person could be detained for up to six months before the police were required to bring charges on allegations for terrorism-related offenses. POTA was repealed in 2004, but was replaced by amendments to UAPA. The Official Secrets Act 1923 is abolished after right to information act 2005.

For the first half-century of independence, media control by the state was the major constraint on press freedom. Indira Gandhi famously stated in 1975 that All India Radio is "a Government organ, it is going to remain a Government organ..."

Organizations like Tehelka and NDTV have been particularly influential, in bringing about the resignation of powerful Haryana minister Venod Sharma. In addition, laws like Prasar Bharati act passed in recent years contribute significantly to reducing the control of the press by the government.

### **LGBT Rights**

Until the Delhi High Court decriminalized consensual private sexual acts between consenting adults on 2 July 2009, homosexuality was considered criminal as per interpretations of the ambiguous Section 377 of the 150-year-old Indian Penal Code (IPC), a law passed by the colonial British authorities. However, this law was very rarely enforced. In its ruling decriminalizing homosexuality, the Delhi High Court noted that existed law conflicted with the fundamental rights guaranteed by the Constitution of India, and such criminalizing is violative of Articles 21, 14 and 15 of the Constitution.

On 11 December 2013, homosexuality was again criminalized by a Supreme Court ruling. On 6 September 2018, a five judge constitutional bench of the Supreme Court of India, in a landmark judgment, decriminalized homosexuality and banned discrimination based on sexual orientation.

### **Human Rights violation in different states of India**

---

## **Violation of Human Rights in Different Parts of India - A Case study**

*Dr. Anupama Parashar & Sakshi Mishra*

**Assam**

A Human Rights Watch report notes that journalists and human rights activists have been arrested for falsely reporting on human rights abuses. Assam continues to be one of the forefront states where the claims of human rights abuses have been committed by India. Resultant secessionist and pro-independence movements have intensified the political situation, with widespread allegations of human rights abuses being committed by Indian security forces yet without any concrete proofs for allegations. Freedom House stated in their 2013 report on India that journalists in rural areas and regions coping with insurgencies — including Assam — are vulnerable and face pressure from both sides of the conflicts.

**Punjab**

From 1984 to 1994, the state of Punjab in northern India was engaged in a power struggle between the militant secessionist Khalistan movement and Indian security forces. The Indian government responded to the escalating Punjab insurgency by launching Operation Blue Star in 1984, storming the Harmandir Sahib, or Golden Temple complex in Amritsar—the center of Sikh religious and spiritual life, where some militant groups had retreated. The Operation was controversial and resulted in death of hundreds of civilians, militants and soldiers. After this incident, Sikh bodyguards assassinated Prime Minister Indira Gandhi, further violence ensued.

The aftermath of these events were felt for more than a decade. According to a Human Rights Watch report, state security forces adopted “increasingly brutal methods to stem the insurgency, including arbitrary arrests, torture, prolonged detention without trial, disappearances and summary killings of civilians and suspected militants”. Militant organizations responded with increased violence aimed at civilians, state security forces, and Sikh political leaders deemed to be negotiating with the government.

**Jammu and Kashmir**

Several international agencies and the UN have reported human rights violations in Jammu & Kashmir. In a press release the OHCHR spokesmen stated "The Office of the High Commissioner for Human Rights is concerned about the recent violent protests in Indian-administered Kashmir that have reportedly led to civilian casualties as well as restrictions to the right to freedom of assembly and expression." A 1996 Human Rights Watch report accuses the Indian military and Indian-government backed paramilitaries of "committing serious and widespread human rights violations in Kashmir." One such alleged massacre occurred on 6 January 1993 in the town of Sopore. The Human Rights Watch also wrote of other regular human rights abuses being committed by the Indian forces including "using rape as a means to punish and humiliate communities". TIME Magazine described the incident as such: "In retaliation for the killing of one soldier, paramilitary forces rampaged through Sopore's market setting buildings ablaze and shooting bystanders. The Indian government pronounced the event 'unfortunate' and claimed that an ammunition dump had been hit by gunfire, setting off fires that killed most of the victims." In addition, there have been claims of disappearances by the police or the army in Kashmir by several human rights organizations.

Many human rights organizations such as Amnesty International and the Human Rights Watch (HRW) have condemned human rights abuses in Kashmir by Indians such as "extra-judicial executions", "disappearances", and torture; the "Armed Forces Special Powers Act", (AFSPA) which "provides impunity for human rights abuses and fuels cycles of violence. The AFSPA grants the military wide powers of arrest, the right to shoot to kill, and to occupy or destroy property in

---

**Violation of Human Rights in Different Parts of India - A Case study**

*Dr. Anupama Parashar & Sakshi Mishra*

counterinsurgency operations. Indian officials claim that troops need such powers because the army is only deployed when national security is at serious risk from armed combatants. Such circumstances, they say, call for extraordinary measures." Human rights organisations have also asked Indian government to repeal the Public Safety Act, since "a detainee may be held in administrative detention for a maximum of two years without a court order." One 2008 report determined that Jammu & Kashmir, was 'partly Free',

### **Other Human Rights Violations**

Conflicts such as Anti-Bihari sentiment have sometimes escalated to violence between communal groups, despite government and police efforts to mediate the situation.

Invasive methods like 'narcoanalysis' (controlled anaesthesia), Brain mapping, and lie detector tests were once commonly permitted by Indian courts for crime investigation. Even though according to Indian constitution "nobody may be made a witness against himself".

Concerns regarding human rights violations in conducting deception detection tests (DDT)s were raised long back and the National Human Rights Commission of India had published Guidelines in 2000 for the Administration of Polygraph tests. However, only few of the investigating agencies were seen to follow these guidelines.

However, on May 5, 2010 the Supreme Court in India (Smt. Selvi vs. State of Karnataka) declared brain mapping, lie detector tests and narcoanalysis to be unconstitutional, violating Article 20 (3) of Fundamental Rights. These techniques cannot be conducted forcefully on any individual and requires consent for the same. When they are conducted with consent, the material so obtained is regarded as evidence during trial of cases according to Section 27 of the Evidence Act.

Inadequate investigation and hasty rulings by courts have caused some wrongful convictions of innocent people causing them to languish in jail for many years. For instance, the Bombay high court in September 2009 asked the Maharashtra government to pay ₹ 100,000 as compensation to a 40-year-old man who languished in prison for over 10 years for a crime he didn't commit.

### **Muslim Woman's Rights in India**

One of the vital concerns in India is the non-discrimination between genders. Muslim Woman in India are one of the major groups deprived of their equality within the Human rights framework. Their hardship has derived from cultural and religious reasons. This includes being negatively stereotyped within religion, incorporating both Muslim and even Judaic-Christian beliefs. This also includes male interpretations of the Quran. Where the functions of a woman concerning family matters are seen as less than half, according to hijab, then that of their male counterparts.

### **Conclusion**

Challenges still lie ahead, despite many accomplishments in the field of human rights. Many in the community believe that human rights, democracy and development are intertwined. Unless international rights are respected, the maintenance of international peace and security and the promotion of

economic and social development cannot be achieved. The world is still plagued of incidents of ethnic hate and acts of genocide. People are still victims of xenophobic attitudes, are subjected to discrimination due to religion or gender and suffer from exclusion. Around the world, millions of

people are still denied food, shelter, access to medical care, education and work, and too many live in poverty. Their inherent humanity and dignity are not recognized

---

## **Violation of Human Rights in Different Parts of India - A Case study**

*Dr. Anupama Parashar & Sakshi Mishra*

The future of human rights lies in our hands. We must all act when human rights are violated. States must .ty for the realization and effective protection of human rightstake responsibili

**\*Principal  
St. Wilfred's P.G. College  
\*\*Assistant Professor  
St. Wilfred's College for Girls  
Jaipur (Raj.)**

### References

1. Annual Report 1993-94 of the National Human Rights Commission
2. The Protection of Human Rights Act, 1993, as amended by the Protection of Human Rights (Amendment) Act, 2006
3. Nath, Damini. "NHRC issues notice to T.N." The Hindu. Retrieved 23 February 2017.
4. Singh, Vijaita (8 October 2017). "Ex-SC judges could soon be appointed NHRC chiefs" – via [www.thehindu.com](http://www.thehindu.com).
5. "NHRC website". Archived from the original on 9 June 2018. Retrieved 21 June 2018.
6. "Documents | National Human Rights Commission India" (PDF). [Nhrc.nic.in](http://nhrc.nic.in). Retrieved 14 November 2018.
7. "Archived copy". Archived from the original on 8 December 2015. Retrieved 4 December 2015.
8. "Archived copy". Archived from the original on 20 September 2016. Retrieved 17 September 2016.
9. "Archived copy". Archived from the original on 8 July 2018. Retrieved 26 December 2015.
10. The NHRC, and the Shivani Murder Controversy Archived 7 March 2016 at the Wayback Machine. [Indiatogether.org](http://Indiatogether.org).
11. CBDT to probe ex-CJI Balakrishnan's assets -Videos India:IBNLive Videos. [ibnlive.in.com](http://ibnlive.in.com) (2011-06-22). Retrieved on 2012-09-30.
12. Ex-CJI's son amasses property in four years. [Deccanherald.com](http://Deccanherald.com) (2012-09-21). Retrieved on 2012-09-30.
13. Fali Nariman wants judicial probe against ex-CJI, kin's assets : South News – India Today. [Indiatoday.intoday.in](http://Indiatoday.intoday.in) (2011-01-03). Retrieved on 2012-09-30
14. SC asks Centre about action taken against ex-CJI KG Balakrishnan – India News– IBNLive. [ibnlive.in.com](http://ibnlive.in.com). Retrieved on 2012-09-30.
15. NHRC declares 16 out of 19 encounters fake, orders compensation of Rs.80 lakh". 13 July 2012.

---

### **Violation of Human Rights in Different Parts of India - A Case study**

*Dr. Anupama Parashar & Sakshi Mishra*