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## Human Rights Violations by Police in India: The Role of NHRC

Padala Tharun Prabhakar

Damodaram Sanjivayya National Law University

### Introduction: The Foundations of Human Rights

Human rights represent the most fundamental entitlements to which every human being is inherently entitled by virtue of their existence. These rights are not a grant or gift from the state or any governing authority. Instead, they derive from the very nature of humanity itself. Irrespective of race, gender, nationality, ethnic origin, religion, or social status, human rights apply universally. They range from basic protections like the right to life and personal liberty to socio-economic rights such as the right to food, education, health, and an adequate standard of living.

The notion of human rights emphasizes that every individual deserves dignity, respect, and the ability to participate freely and fully in society. Without these rights, the realization of human potential would be severely constrained.

In contemporary democracies, the safeguarding of human rights has become a core function of governance. Nevertheless, state machinery, particularly law enforcement agencies like the police, are frequently implicated in human rights violations. While tasked with maintaining public order and security, police sometimes engage in abuses that directly infringe upon the very rights they are meant to protect.

### The Universal Declaration of Human Rights (UDHR) and International Human Rights Framework

The aftermath of World War II exposed the world to the horrors of mass human rights violations, prompting the international community to codify fundamental protections. The **Universal Declaration of Human Rights (UDHR)**, adopted by the **United Nations General Assembly** on December 10, 1948, was the first global expression of rights to which all human beings are inherently entitled.<sup>1</sup>

The UDHR articulates 30 essential rights and freedoms, ranging from civil and political rights to social, cultural, and economic entitlements. Although it is not a treaty and thus not legally binding, the UDHR has profoundly influenced the development of international human rights law, serving as the foundation for subsequent treaties such as:

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<sup>1</sup> [https://www.un.org/en/udhrbook/pdf/udhr\\_booklet\\_en\\_web.pdf](https://www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf)

- **International Covenant on Civil and Political Rights (ICCPR)**
- **International Covenant on Economic, Social and Cultural Rights (ICESCR)**

Together, these documents constitute the **International Bill of Human Rights**. They establish clear obligations for states to respect, protect, and fulfill human rights.

Among other treaties, the **Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)** is particularly relevant when examining police misconduct. Disappointingly, India has not yet ratified CAT, despite introducing the **Prevention of Torture Bill**. The Bill lapsed without becoming law, leaving a significant gap in India's human rights legal framework.

### **Police and Human Rights: A Global Perspective**

Policing is one of the most sensitive spheres where human rights concerns arise. Globally, instances of police brutality, unlawful detention, custodial torture, and extrajudicial killings persist. Recognizing this, the **Office of the United Nations High Commissioner for Human Rights (OHCHR)** published a guide aimed specifically at law enforcement agencies<sup>2</sup>.

This guide highlights best practices regarding:

- Arrest procedures
- Detention standards
- Use of force
- Investigations

The OHCHR emphasizes that police must serve the public in a manner consistent with human rights obligations. Law enforcement, if conducted abusively, undermines democratic governance and public trust.

The international consensus is clear: policing must be carried out in a manner that respects the dignity and rights of all individuals, regardless of the circumstances.

<sup>2</sup> <https://www.ohchr.org/sites/default/files/Documents/Publications/training5Add3en.pdf>

### **The Paris Principles and Establishment of National Human Rights Institutions (NHRIs)**

Recognizing the need for robust national mechanisms to monitor and promote human rights, the **Paris Principles** were adopted in 1991. These principles establish minimum standards for the legitimacy and efficacy of **National Human Rights Institutions (NHRIs)**. The key elements of the Paris Principles include<sup>3</sup>:

- **Independence** from government
- **Broad human rights mandate**
- **Pluralism** in composition
- **Adequate funding and infrastructure**
- **Powers of investigation and reporting**
- **Engagement with civil society and international bodies**

India's commitment to the Paris Principles led to the enactment of the **Protection of Human Rights Act, 1993**, which established the **National Human Rights Commission (NHRC)**<sup>4</sup>.

## The National Human Rights Commission (NHRC): Structure and Mandate

The NHRC was created as an autonomous statutory body in 1993 to oversee the protection and promotion of human rights in India. It draws its mandate from Section 12 of the Protection of Human Rights Act, 1993.

### Composition of NHRC

According to Section 3 of the Act, the NHRC comprises:

- A Chairperson (a retired Chief Justice of India)
- Four full-time members with legal and human rights expertise
- Other ex-officio members drawn from national commissions such as the National Commission for Minorities and the National Commission for Women

<sup>3</sup> <https://ganhri.org/paris-principles/>

<sup>4</sup> [https://www.indiacode.nic.in/bitstream/123456789/13233/1/the\\_protection\\_of\\_human\\_rights\\_act\\_1993.pdf](https://www.indiacode.nic.in/bitstream/123456789/13233/1/the_protection_of_human_rights_act_1993.pdf)

### Functions of the NHRC

The NHRC's core functions include:

- Investigating complaints of human rights violations
- Intervening in court proceedings involving human rights issues
- Visiting prisons and detention centers to assess conditions
- Promoting research and education in human rights
- Reviewing constitutional and legal safeguards
- Encouraging compliance with international human rights obligations

The NHRC also utilizes the **residuary clause under Section 12(1)(j)**, which empowers it to undertake "such other functions as it may consider necessary" for the promotion of human rights, thereby granting it significant flexibility.

### NHRC Guidelines for Police Conduct

The NHRC recognizes that policing is inherently linked to the protection of human rights. Consequently, it has issued detailed guidelines for police personnel, focusing on<sup>5</sup>:

- Humane treatment of accused persons
- Lawful arrest and detention procedures
- Prohibition of torture and ill-treatment
- Respect for the dignity of marginalized groups
- Use of minimum necessary force

The NHRC stresses that police officers, by virtue of their role as first responders, must be particularly sensitive to human rights concerns. Violations not only harm victims but also delegitimize the institution of policing itself.

## The Rule of Law and Its Application to Policing

The concept of **Rule of Law** is fundamental to India's constitutional democracy. It ensures that the government and its officials, including police officers, act within the framework of the law.

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[https://nhrc.nic.in/sites/default/files/guideline\\_for\\_police\\_personnel\\_on\\_various\\_HR\\_issues\\_Eng.pdf](https://nhrc.nic.in/sites/default/files/guideline_for_police_personnel_on_various_HR_issues_Eng.pdf)

Three core principles of Rule of Law in India include:

1. **Absence of Arbitrary Power:** Articles 14 and 21 of the Constitution prohibit arbitrary state actions and protect individuals' rights to equality and life.
2. **Equality Before Law:** The Constitution guarantees equality through Articles 14-18, emphasizing that no person is above the law.
3. **Supremacy of the Constitution:** Articles 13 and 32 provide mechanisms for judicial review, ensuring that laws and executive actions conform to constitutional mandates.

For police officers, adherence to Rule of Law implies that their actions must be just, fair, and reasonable. Deviations, whether in the form of unlawful detentions or custodial torture, constitute serious violations.

### Corruption within the Police: A Threat to Human Rights

A persistent obstacle to human rights protection in India is the deep-seated corruption within police forces. **Transparency International India's** survey revealed that a vast majority of citizens have experienced or witnessed bribery within police departments.

Corruption breeds:

- Lack of accountability
- Arbitrary arrests
- Fabrication of charges
- Extortion

When citizens must pay bribes or rely on political influence to obtain justice, the legitimacy of law enforcement collapses. It becomes evident that corruption is not a peripheral issue but lies at the heart of human rights violations.

### Human Rights Violations by the Police

Police abuses take multiple forms, including:

- **Illegal Detentions:** Arrests without legal authority
- **Custodial Torture and Deaths:** Brutality leading to deaths in custody
- **Sexual Violence:** Rapes committed within custody facilities
- **Disappearance and Fake Encounters:** Individuals "disappearing" after police intervention

The **National Police Commission(NPC)** has condemned custodial torture as a "grossly unlawful and despicable" practice. Yet, despite numerous judicial pronouncements, custodial deaths and abuses remain endemic.

The NHRC receives thousands of complaints every year relating to police misconduct, highlighting the systemic nature of the problem.

### Code of Conduct for the Police

In 1985, the **Ministry of Home Affairs** issued a **Code of Conduct** for police officers, emphasizing values such as<sup>6</sup>:

- Upholding constitutional rights
- Enforcing law impartially
- Limiting use of force
- Promoting public welfare
- Maintaining integrity and professionalism
- Respecting religious and cultural diversity

These principles aim to transform the police from an oppressive force into a public service institution. However, actual implementation remains patchy at best.

### Encounter Killings and the Need for Independent Investigations

**Encounter killings** — extrajudicial killings by police — represent one of the gravest threats to human rights. The public often perceives them as swift justice, but they fundamentally erode the Rule of Law.

In **PUCL v. State of Maharashtra (2014)**, the Supreme Court laid down guidelines requiring:

- Independent investigation of encounter deaths
- Mandatory FIR registration

<sup>6</sup> [https://nhrc.nic.in/sites/default/files/Unit\\_3.pdf](https://nhrc.nic.in/sites/default/files/Unit_3.pdf)

- Magisterial inquiry
- Post-mortem examination by independent doctors
- Intimation to the NHRC

These guidelines aim to prevent fake encounters and ensure accountability.

However, cases such as the **Hyderabad encounter killing of 2019** (involving the accused in the "Disha" case) show that extrajudicial killings still evoke widespread public approval, reflecting a dangerous erosion of legal norms.

### Important Supreme Court Judgments Related to Police and Human Rights

Several landmark rulings have shaped India's legal response to police violations:

- **D.K. Basu v. State of West Bengal (1997)**: Laid down 11 crucial guidelines for arrests and detentions, including mandatory production of arrestees before magistrates and information to family members.
- **Prakash Singh v. Union of India (2006)**: Directed states to implement police reforms, including establishing Police Complaints Authorities.

- **N.C. Dhoundial v. Union of India (2004)**: Stated that while NHRC recommendations are not binding, they possess persuasive value.
- **EEVFAM v. Union of India (2016)**: Criticized the Armed Forces Special Powers Act (AFSPA) and highlighted NHRC's inadequacy in addressing thousands of encounter deaths in Manipur.
- **NHRC v. State of Arunachal Pradesh (1996)**: Upheld NHRC's right to intervene to protect vulnerable populations like the Chakma refugees.

These judgments have collectively advanced the jurisprudence on human rights protections, although enforcement continues to lag.

### **Excessive Surveillance: The New Frontier of Police Violations**

Emerging technologies present fresh challenges to human rights. The use of **Facial Recognition Technology (FRT)** by police, as seen in the **SQ Masood case**<sup>7</sup> in Hyderabad, illustrates the dangers of mass surveillance.

Such surveillance:

- Violates privacy rights
- Targets marginalized groups
- Occurs without adequate legal oversight

The absence of data protection laws and regulatory frameworks means that police surveillance practices operate largely unchecked, threatening civil liberties.

### **Conclusion: The Way Forward**

The **National Human Rights Commission (NHRC)** has played a pivotal role in promoting human rights and checking police excesses in India. However, its powers remain largely recommendatory. Without the authority to enforce its directives, NHRC's effectiveness is inherently limited.

To address police-related human rights violations, India must:

- Strengthen the NHRC's statutory powers
- Implement long-pending police reforms
- Enforce strict accountability for misconduct
- Curb mass surveillance through legal regulation
- Promote a human rights culture within police forces

Only when human rights are firmly embedded in the fabric of policing can India truly claim to be a democracy that respects the dignity of all its citizens.

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<https://drive.google.com/file/d/1cQdzjT8mW0VRwtJh1shW0RKWQ4k4J1sM/view?ref=static.internet.freedom.inCpli=1>