

**INDIA'S
ICCPR PERIODIC REVIEW – FOURTH CYCLE**



Submission by:

**NATIONAL HUMAN RIGHTS COMMISSION,
INDIA**

About the Commission

The National Human Rights Commission, India, was established on October 12, 1993 under the Protection of Human Rights Act (PHRA), 1993, for the 'protection and promotion of human rights'. It is an independent and autonomous institution which acts as an embodiment of India's concern for Human Rights.

The Commission is an "A" accredited NHRI and is in full conformity with the Paris Principles. Section 12 of the PHR Act assigns the Commission various functions, including complaint handling, visits to detention institutions, review of laws, research in the field of human rights, the spread of human rights literacy, and encouraging efforts of Non - Governmental Organisations, etc.

More information about the Commission's activities and engagements can be accessed at <https://nhrc.nic.in/>

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List of Abbreviations

AFSPA	Armed Forces (Special Powers) Act, 1958
AFSPA J&K	Armed Forces (Jammu and Kashmir) Special Powers Act, 1990
ATR	Action Taken Report
BNS	Bhartiya Nyaya Sanhita, 2023
BNSS	Bhartiya Nagrik Suraksha Sanhita, 2023
CBI	Central Bureau of Investigation
CCTV	Closed Circuit Television
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
Cr. P.C.	Code of Criminal Procedure, 1973
CRC	Convention on the Rights of the Child
CSAM	Child Sexual Abuse Material
CVC	Central Vigilance Commission
DGP	Director General of Police
DNT	De- Notified Tribes
FIR	First Information Report
GOI	Government of India
HRD	Human Rights Defender
HRCNet	Human Rights Commissions Network
ICCPR	International Covenant on Civil and Political Rights
IGNFA	Indira Gandhi National Forest Academy IGNFA

IGP	Inspector General of Police
IPC	Indian Penal Code
JJCPA	Juvenile Justice (Care and Protection of Children) Act, 2015
J&K PSA	Jammu and Kashmir Public Safety Act, 1978
LGBTQIA+	Lesbian, gay, bisexual, transgender, queer/questioning, intersex, asexual
MTP	Medical Termination of Pregnancy Amendment Act, 2021
NALSA	National Legal Services Authority
NCSC	National Commission for Scheduled Castes
NCST	National Commission for Scheduled Tribes
NCBC	National Commission for Backward Classes
NCPCR	National Commission for Protection of Child Rights
NGO	Non-Governmental Organization
NHRC	National Human Rights Commission
NHRI	National Human Rights Institutions
NoK	Next of Kin
NT	Nomadic Tribes
PCPNDT	Pre-conception and Pre-Natal Diagnostic Techniques Act, 1994
PHRA	Protection of Human Rights Act
PMLA	Prevention of Money Laundering Act, 2002
POCA	The Prevention of Corruption Act, 1988
POTA	Prevention of Terrorism Act, 2002
PVTG	Particularly Vulnerable Tribal Group
SC	Supreme Court of India
SHRC	State Human Rights Commission

SIT	Special Investigation Team
SNT	Semi- Nomadic Tribes
SOP	Standard Operating Procedure
SP	Superintendent of Police
SSP	Senior Superintendent of Police
ST	Scheduled Tribe
TADA	Terrorist and Disruptive Activities (Prevention) Act, 1987
UAPA	Unlawful Activities (Prevention) Act, 1967
UDHR	Universal Declaration of Human Rights
UNTOC	United Nations Convention against Transnational Organized Crime

Foreword

The International Covenant on Civil and Political Rights (ICCPR) is an international treaty that protects civil and political rights including right to liberty, freedom from discrimination, freedom to liberty and security of person, right to equality between men and women to name a few. It is instrumental in promoting democracy, rule of law and respect for human dignity internationally.

Every international human rights instrument, including the ICCPR, has a Treaty Body comprised of independent experts who periodically evaluate the State Parties. The Human Rights Committee is the treaty body of the ICCPR. The Committee, composed of independent experts, oversees how state parties to the ICCPR carry out their obligations under the covenant. It reviews state party reports and provides "concluding observations" that address the reports' issues and recommendations. It works to guarantee the observance of state laws, regulations, and procedures that facilitate the exercise of these rights. Additionally, it takes appropriate and proactive measures when a state struggles to uphold and protect human rights.

As India is a State Party to ICCPR, one of the obligations is to undertake periodic reviews and submit reports. Additional perspectives can be brought forth by report submissions from National Human Rights Institutions (NHRIs), non- governmental organizations (NGOs) and civil society actors.

Previously, the Human Rights Committee issued concluding observations as part of the Third Periodic Review under the ICCPR Cycle encompassing positive aspects, areas of concern and specific recommendations to enhance the implementation of the ICCPR.

The Fourth Periodic Review of India during the 141st Session of the Human Rights Committee is scheduled on 15- 16 July 2024. The Government of India submitted its report on 22 September 2021 in which it responded to the List of Issues along with providing further information and clarification regarding how it has upheld its commitment under the ICCPR.

The National Human Rights Commission (NHRC), India has meticulously compiled this report to provide a comprehensive overview of the measures undertaken by India to fulfill its obligations under ICCPR. The preparation of this report has been an inclusive process with contributions from a diverse range of stakeholders such as human rights defenders, non- governmental organizations and civil society organizations to ensure that an accurate assessment is provided. It is a testament to our dedication to ensuring that every individual in our country enjoys the fundamental rights and freedoms guaranteed by the covenant.

NHRC, India recognizes the vital importance of international human rights mechanisms in enhancing accountability and fostering dialogue among states. We look forward to collaborating positively with the Human Rights Committee and the wider global community in order to promote our common goal of enhancing human rights.

With the submission of this report, NHRC, India reiterates its dedication to upholding the principles of ICCPR and is committed to working for a society where the civil and political rights of every individual are respected, protected and fulfilled.

Dated July 8, 2024
New Delhi



[Bharat Lal]
Secretary General, and
Chief Executive Officer
National Human Rights Commission, India

Human Rights Framework in India

India, as the world's largest democracy is committed to the protection and promotion of human rights. India's ethos in human rights is deeply rooted in its ancient cultural, religious, and philosophical traditions, which emphasize dignity, compassion, non-violence, and social justice. Vedas, Upanishads and various Dharma Shastras resonate with principles that align with the spirit of human rights, respect for individual's inherent worth and the need for ethical demeanour in society.

The human rights framework during the Indian independence movement was characterized by a strong emphasis on political freedom, civil liberties, social justice, and economic rights. Mahatma Gandhi's philosophy of non-violence (ahimsa) and civil disobedience was rooted in the principle of respect for human dignity. Dr. Hansa Mehta, a noted Indian freedom fighter, educator, and social activist, was a key member of the United Nations Commission on Human Rights. She played a pivotal role in shaping the language of the UDHR, particularly in ensuring that the declaration was inclusive and gender-sensitive.

India's culture has profound and enduring tradition of empathy, compassion to all at its core. Our scripture records "*Surve Bhavanthu Sukhinah*", meaning "let the entire world be happy" which is part of India's cultural ethos and philosophical thinking. Our values are also reflected in our Constitution. Dr. B. R. Ambedkar focused on drafting the Indian Constitution with a strong emphasis on fundamental rights and social justice.

The Indian Constitution is remarkable for its dedication to democratic ideals, with one of the most notable being the inclusion of universal adult franchise, guaranteeing the voting rights of all adult citizens irrespective of their caste, gender, religion, or socio-economic standing. Various fundamental rights and directive principles of state policy present in the Constitution cover the essence of human rights in India. The Supreme Court and High Courts of the country address human rights issues through their judgments and proactive measures.

Various statutory and constitutional bodies such as National Human Rights Commission, National Commission for Women, National Commission for Scheduled Castes, National

Commission for Protection of Child Rights, National Commission for Scheduled Tribes etc. play a crucial role in promoting and safeguarding human rights in India. State Human Rights Commissions are established in various states of India to address human rights violations at the state level. These National and State level Institutions along with Special Rapporteurs, Special Monitors and Core Groups comprising of NGOs, human rights defenders and domain experts provide a robust human rights protection mechanism. The human rights framework of India is in close alignment with the principles outlines in ICCPR.

The National Human Rights Commission's (NHRC) online digital complaints management system enables individuals to lodge complaints from anywhere and in any language. In 2023- 24, the Commission received 76,891 complaints and disposed of 73,958 cases. It took *suo motu* cognizance in 106 cases and conducted 30 spot inquiries. The Commission awarded compensation of more than Rs. 1,820.47 lakh to the concerned parties. NHRC also organizes camp sittings which serve as a mechanism for dispensing justice directly to the general public. NHRC India works tirelessly to provide a dignified life to the most vulnerable sections of the society along with enhancing the quality of life of all citizens. It issued advisories on subjects related to rights of transgender persons, education, employment, mental health to name a few. It studies international treaties and makes recommendations for their effective implementation, undertakes and promotes research and spreads human rights awareness. NHRC has been involved in policy advocacy and law reform. It provides recommendations to the government on various legislative and policy changes.

This report of NHRC is based on assessments held by the Commission and various inputs from various Human Rights Defenders, non- governmental organizations and civil society organizations have also been incorporated. It provides an overview of the implementation of the concluding observations and assesses the measures implemented by the Government of India in relation to ICCPR.

A. General information on the national human rights situation, including new measures and developments relating to the implementation of the Covenant

Reply to paragraph 1

NHRC is dedicated to protect the rights of the underprivileged sections of the society. These include the rights of scheduled castes, tribes, impoverished, women and the like. The Commission constantly organises expert groups meetings to address the challenges faced by such groups and issues recommendations to the relevant stakeholders of the government. It also issues guidelines in the form of advisories for compliance. In the past the Commission has issued advisories for the protection of prisoners, mental health patients, bonded labourers, women, children, LGBTQIA+ community, individuals engaged in beggary among others.

To address the human rights concerns raised by terrorism, the Commission is in the process of forming a core expert group. This expert group will have deliberations on the issues and come up with effective solutions.

Reply to paragraph 2

A number of significant developments in the legal and institutional framework within which human rights have been protected and promoted have taken place since last few years. Some of these significant ones are Protection of Women from Sexual Harassment at Workplace Act, Dowry Prohibition (Amendment) Act, Mental Healthcare Act, Domestic Violence Act, Transgender Persons (protection of rights) Act, Rights of Persons with disability Act, Maintenance and Welfare of Parents and Senior Citizens Act, among others.

Recently, India has revamped its criminal legislations and enacted new laws guiding the criminal justice system in the country. The new criminal legislations of India represent a significant overhaul of the legal framework in India, modernizing and updating laws to reflect

contemporary values and societal needs. The Bhartiya Nyaya Sanhita (BNS) 2023, which is set to replace the Indian Penal Code (IPC) 1860, is dedicated to redefining and detailing various legal definitions, principles, and procedural aspects. It provides a foundational understanding of how crimes are classified, how punishments are determined, and the fundamental principles guiding these decisions. By introducing concepts such as community service as a form of punishment and redefining offenses like sedition and terrorism, the Act aims to create a more just and equitable legal system.

The Bhartiya Nagrik Suraksha Sanhita (BNSS), which replaces the Code of Criminal Procedure, prescribes measures like audio-visual recording of search and seizure operations as well as the presence of a forensic expert at the crime scene for offences punishable with more than seven years imprisonment, which are significant improvements in the criminal justice system of India.

B. Specific information on the implementation of articles 1–27 of the Covenant, including with regard to the previous recommendations of the Committee

Constitutional and legal framework within which the Covenant is implemented (art. 2)

Reply to paragraph 3

The Indian ethos and culture are profoundly ingrained with the notion of Civil and Political Rights. As evidenced by old writings like the Manusmriti, which highlight the significance of the judicial system for the orderly development of the nation, India has long upheld and practiced these rights. It recommends that the King try to be pleased with every subject and "behave like a father towards all men." Following independence, India's robust Constitution automatically grants its citizens civil and political rights. All of the civil, political, economic, cultural, and social rights that have been the focus of centuries-long human rights debates are recognized by India's Constitution.

The Universal Adult Franchise, which grants the right to vote to all people in India, regardless of gender or sexual orientation, upon reaching the age of 18, is the largest example

of how India's social system even acknowledges the poorest of the poor. The general elections of 2024 served as a powerful example of both the value of civic responsibility and democratic process. The accomplishment of such a large-scale election process in India is a testament to the country's strong democratic institutions and resilient populace.

Part III of the Indian Constitution makes it mandatory to protect and promote freedom, and to assure every citizen a decent standard of living. It makes a strong commitment to promoting the wellbeing of all individuals without any discrimination on the grounds of religion, race, caste, sex, place of birth.

The realm of fundamental rights in India has been given unlimited scope of expansion by the Constitution of India through the powers given to the Supreme Court and High Courts of India under Article 32 and 226. Making robust and proactive use of these powers, the Supreme Court of India has by judicial interpretation expanded the scope of the fundamental rights, particularly in relation to article 21, and this has included more civil and political rights which were not explicit in Part III, In the landmark case of *Vishaka v. State of Rajasthan & Ors.*¹ It has held that “*any international convention not inconsistent with fundamental rights and in harmony with their spirit must be read into these provisions to enlarge the meaning and content thereof, to promote the object of the constitutional guarantee.*” Thus, to the extent that international norms are consistent with the domestic normative principles, they are now enforceable in the domestic courts despite the absence of any specific legislative incorporation of the same.

Further, the Supreme Court of India in *Navtej Singh Johar v. Union of India*² relied on the General Comment 16 on Article 17 of the Covenant while explicitly recognizing “right to privacy” as part of right to life embodied in the Constitution of India. The foundational philosophy of ICCPR as recognizing inherent and inalienable rights has permeated deep into the

¹AIR 1997 SUPREME COURT 3011

² AIR 2018 SUPREME COURT 4321

domestic legal regime, either through explicit reference to the ICCPR or otherwise. The judiciary has utilized these obligations to progressively interpret existing laws and incorporated international principles in domestic legislations.

While judicial academies train judges and prosecutors on norms and rights, NHRC also provides training on numerous regulations, laws, and rights to judges, police, officials, and civil society members. State commissions also promote and uphold the legislation, provide district and state level authorities with training at the local level, and offer student internships. Apart from the Supreme Court and High Courts, India has statutory mechanisms like the NHRC and SHRCs to address these violations.

Reply to paragraph 4

There is no proposal to review the reservations and declarations made by India while acceding to the Covenant, at this point of time.

Reply to paragraph 5

NHRC India, established in 1993, has been further strengthened and made more compatible with the Paris Principles through the Protection of Human Rights (Amendment) Act (PHRA), 2019 which is aimed at providing greater autonomy and independence to the Commission. The primary membership has been increased from five to six, with three sitting or retired judges and three other members appointed from among those having knowledge and practical experience in human rights, one of whom has to be a woman. Chairpersons of Constitutional and statutory bodies established for the protection and promotion of rights of vulnerable groups, such as National Commission for Scheduled Castes (NCSC), National Commission for Scheduled Tribes (NCST), National Commission for Backward Classes (NCBC), National Commission for Protection of Child Rights (NCPCR), etc., are deemed members of NHRC. A selection committee, a pluralistic group made up of elected officials from both ruling and opposition political parties, makes recommendations to the President of India about member appointments. The PHRA, 2006 enhanced the scope of remedies that NHRC may recommend to the concerned government to include payment of compensation or damages to

the complainant or victim or members of his family as well as to take such further action as it may deem fit.

According to section 19 of the PHRA, 1993, the NHRC could seek a report from the Central Government on its own motion or in response to petitions alleging that the armed forces have violated human rights. Upon receiving the report, it has the option to either drop the complaint or, if appropriate, offer recommendations to the government. The Act states that the Central Government must notify the Commission of its decision about the recommendations' implementation within three months, or for as long as the Commission allows. It is further stipulated that the Commission shall publish its report together with its recommendations made to the Central Government and the action taken by that Government on such recommendations. A copy of the report so published will also be given to the petitioner.

The efficacy of this provision can be gauged from the fact that, since inception till 01.07.2024, in all 3,550 cases pertaining to armed forces have been registered in the Commission. Out of the same, 3508 cases have been disposed of.

The Commission has recommended compensation of Rs. 45,030,000 (Forty five million and thirty thousand) in 102 cases.

Anti-corruption measures (arts. 2 and 25)

Reply to paragraph 6

India is committed to zero tolerance against corruption and proactively works towards eradicating it. The Prevention of Corruption Act, 1988 (POCA), Prevention of Money Laundering Act, 2002 (PMLA), Whistle Blowers Protection Act, 2014 are important legislations to curb corruption in the country.

Other legislative efforts include the Lokpal and Lokayukta Act, 2013, which establishes institutions to inquire into allegations of corruption in public functionaries. The Prohibition of Benami Property Transactions Act, 1988, amended in 2016, penalizes those who divert their

funds by securing ownership of property in the name of another person while it is intended to be utilized by the person diverting the funds.

As an institutional measure, the Central Vigilance Commission (CVC) was set up in 2003. The Commission formulates strategies to combat corruption, one of them being the preventive vigilance efforts that seek to identify areas vulnerable to corruption and subsequently establish mechanisms to arrest the concern.

In 2018 after the landmark judgment of Swapnil Tripathi v. Supreme Court of India in an attempt to enhance transparency in judicial proceedings the Supreme Court permitted live streaming of proceedings in certain cases. Recently, on 20th September 2022 the Full Court of the Supreme Court decided to live stream the proceedings of the Constitution Benches and the work is ongoing to fully operationalize it. Judicial academies in India regularly organize workshops to impart training on combating corruption.

Corruption activities have been declining as a consequence of the Indian Government's and other institutions' efforts to go completely online and ensure that there is no manual intervention in the delivery of services. Nowadays, it is customary to send benefits directly to recipients' accounts, eliminating the corruption that middlemen perpetrate.

NHRC has zero tolerance towards corruption. In one of the conferences on "Effects of Corruption on Good Governance and Human Rights" it was unanimously recommended that NHRC should act as a catalyst in creating good governance and a corruption-free society.

It was also recommended to amend the Constitution of India by adding one more clause to Article 51 A, that deals with the Fundamental Duties stating therein that nobody should indulge in any corrupt practices.

To monitor and fast-track the complaints of corruption received in NHRC, a separate incident code for registering cases pertaining to corrupt practices/ demand of illegal gratification by public servants has been incorporated in the HRCNet software. Since inception, the Commission has registered 5,686 cases related to corruption out of which 5,662 have been disposed of.

Non-discrimination (arts. 2 and 26)

Reply to paragraph 7(a)

The anti-discrimination framework embodied in the Constitution of India has dynamically evolved over the years through robust legislations and a spirited interpretation of the Constitution by the Supreme Court of India. Articles 14–18 of the Constitution establish a structure consisting of mutually reinforcing values of non-discrimination and substantive equality. Guarantee of equality before law and equal protection of law under Article 14 of the Constitution checks discrimination on any arbitrary ground based on one's identity, status, opinion or orientation. Article 15 prohibits discrimination on the grounds of religion, race, caste, sex or place of birth. Article 17 not only abolishes but also penalizes untouchability. Non-discrimination and equality irrespective of one's religious or other identities is also reinforced by explicit recognition of freedom of religion and by specifically protecting interests of linguistic and cultural minorities under Articles 25, 29 and 30 of the Constitution. The broad normative framework established by Articles 2 and 26 of the Covenant stands demonstrably embodied in the legal framework prevailing in India as evident in the Supreme Court's judgment in *Jeeja Ghosh v. Union of India*. In this case the Court held that equality implies "embracing the notion of positive rights, affirmative action and reasonable accommodation."

The anti-discrimination legal framework in India is conscious of and responsive to not just direct but indirect and intersectional forms of discrimination at both horizontal and vertical levels. For instance, section 3(1)(w) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 redresses the offence of outraging the modesty of a woman belonging to either of these groups specifically, despite there being a general provision for the same in the Indian Penal Code, 1860 (IPC).

The NHRC India plays a very important role in promoting and protecting the rights of the marginalized communities, especially Scheduled Castes/ STs, transgender, women, children etc. It actively investigates and addresses complaints related to discrimination. It ensures that victims of discrimination have a platform to voice their grievances and seek redressal. The

Commission u/s 12(a)(i) of the PHRA, 1993 is mandated to act on complaints of violation of their rights and extend remedies, based on merits, as per the provisions u/s 18 of the Act.

Reply to paragraph 7(b)

The Constitution of India extends the most formidable catena of human rights to the citizens as well as non-citizens in certain cases, with vast powers being conferred on the High Courts and the Supreme Court. The Supreme Court had been conferred original jurisdiction to enforce each one of the fundamental rights by entertaining direct writ petitions. Section 482 of the Code of Criminal Procedure, 1973 grants inherent powers to the High Courts and empowers them to exercise their jurisdiction to provide appropriate legal remedy.

NHRC through the mandate provided under Section 12(a) (i) of PHRA, 1993 gives appropriate remedy as per Section 18 of the Act, after the enquiry in a case discloses violation of human rights. The Commission also holds Open Hearings/ Camp Sittings to provide doorstep justice to the marginalized communities.

Reply to paragraph 8

India is committed to securing all the rights recognized in the Covenant equally for all sections of society, especially the right to life, liberty and dignity. Efforts at addressing violence against weaker sections of the society, including Scheduled Castes/ STs, have been in the form of ensuring that the law is stringent and effective, those entrusted with the enforcement of law are sensitized to the issue, and educating people to establish a culture of mutual respect and dignity.

Reply to paragraph 8 (a)

In order to address crimes against Scheduled Castes/ Scheduled Tribes and to secure their rights, far reaching amendments were introduced in the Scheduled Caste & Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015. The Amendment has strengthened the Act by adding many additional offenses to its list, and the duties for public employees have been more precisely and thoroughly defined.

The Supreme Court of India in *National Campaign on Dalit Human Rights v. Union of India*³ called upon the state and the central governments to “strictly enforce the provisions of the Act,” and directed the National Legal Services Authority (NALSA) to prepare a scheme to spread awareness and provide free legal aid to the members of the Scheduled Castes/ STs.

NHRC has effectively worked for the promotion and protection of human rights of the marginalized communities. Every complaint of violation of human rights of the marginalized communities is registered in the Commission and orders based on merits are passed. Further, to give easy doorstep access to these victims, the Commission has initiated Open Public Hearings to hear and decide cases of atrocities against persons belonging to the Scheduled Castes.

This is in keeping with the recommendations made by the K. B. Saxena Report, commissioned by the NHRC to study the problems faced by persons belonging to Scheduled Castes. NHRC interacts with officials of the state, NGOs, civil society and the media to understand the key human rights concerns within a state. On the intervention of the Commission during the Camp Commission Sitting in Odisha, the customary ‘bartan’ system in the State was officially recognized as debt bondage and abolished by the Government through a public notification. Such hearings in the Camp Sittings provide a platform for speedy justice to the victims of human rights violations. Starting from the year 2007, the Commission has also held camp sittings in various States including Uttar Pradesh, Bihar, Karnataka, Odisha, Gujarat, Assam, Meghalaya, Chhattisgarh, Manipur, Madhya Pradesh, Punjab, Kerala, Puducherry, Andhra Pradesh, Jharkhand, Andaman & Nicobar, Nagaland, Uttarakhand, Rajasthan, Arunachal Pradesh, West Bengal, Tamil Nadu, and Maharashtra.

The success of NHRC’s role in promotion and protection of their rights is evident from the fact that since its inception, the Commission has received around 56006 complaints pertaining to violations of the human rights of Scheduled Castes, disposed of 55978 cases and recommended compensation in 149 cases.

³AIR 2017 SUPREME COURT 132,

Reply to paragraph 8 (b)

The Amendment Act of 2015 provides for establishment of exclusive special courts by the state government for the speedy trial of offences. Timeline of sixty days has been prescribed for completion of investigation and filing of charge sheet in the court.

Advisory issued by the Ministry of Home Affairs recommends conduct of well-structured training programmes for sensitising and raising awareness among police personnel and inclusion of such programmes in the syllabi of various police training centres and academies. Further atrocity-prone areas are to be identified for taking preventive measures to save life and property of the members of the Scheduled Castes/ STs.

NHRC ensures compliance to the timelines of the extant laws and schemes for promotion and protection of human rights of the victims of marginalized communities. Through its proactive measures and collaborative efforts with stakeholders, the NHRC strives to uphold the principles of justice and human rights protection effectively.

Reply to paragraph 8 (c)

To eliminate the practice of manual scavenging to provide for rehabilitation of persons working as manual scavengers, the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 (Manual Scavengers Act) was enacted repealing the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993. The Act specifically prohibits direct or indirect engagement or employment of any person for hazardous cleaning of a sewer or a septic tank.

National Safai Karamcharis Finance and Development Corporation organises sensitization workshops in municipalities for engineers, sanitary workers and contractors on safe cleaning of sewers and septic tanks.

The Ministry of Social Justice and Empowerment has launched a mobile application "Swachhata Abhiyan" in 2020 under which any person can upload the details, including photographs of the insanitary latrine and manual scavenger, if any, engaged in its cleaning. A

National Action Plan is being formulated in consultation with the Ministry of Housing and Urban Affairs and Department of Drinking Water and Sanitation, Ministry of Jal Shakti to eliminate manual cleaning of sewer system and septic tanks and rehabilitation of workers engaged in manual cleaning.

NHRC has termed manual scavenging as one of the worst violations of Human Rights.⁴ The Commission has addressed numerous cases involving manual scavengers and the deaths of victims in septic tanks, granting compensation in accordance with the SC's order. It requires Rs 10 lakh in compensation to be provided to the NoK of each manual scavenger who has died while cleaning gutters since 1993. The compensation amount has been enhanced to Rs 30 lakhs by the Judgment of the SC dated 20.10.2023 in *Balram Singh vs. Union of India*⁵. The Commission ensures compliance with order while dealing with such complaints.

The Commission has issued an "*Advisory on Protection of Human Rights of Persons Engaged in Manual Scavenging or Hazardous Cleaning*" to the Union and State Governments, as well as local authorities, aiming to eradicate this dehumanizing practice completely. It emphasizes the provision of protective gear and safety equipment for sanitary workers. Additionally, the advisory recommends conducting a comprehensive survey at least once every three years, in collaboration with credible NGOs. With regard to the hazardous cleaning of the septic tanks, the Commission recommended to provide safety equipment and to ultimately adopt mechanical cleaning. It also stresses that appropriate and timely compensation is paid to the victims of the hazardous cleaning.

Reply to paragraph 9(a)

NHRC plays a crucial role in combating societal discrimination and violence, including abuses by the police, against LGBTQI+ community by evaluating existing laws and policies to ensure their rights are protected.

⁴ <https://nhrc.nic.in/press-release/commission-calls-manual-scavenging-one-worst-violations-human-rights>

⁵ WRIT PETITION (CIVIL) NO(S). 324 OF 2020

Through its core committee on LGBTQI+ issues, the Commission works with NGOs, civil society organizations, and international bodies to enhance protections and support for the LGBTQI+ community in India.

Reply to paragraph 9(b)

Through its judicial pronouncement in *Navtej Singh Johar v. Union of India*⁶ SC of India decriminalized homosexuality among consenting adults in private, removing the unreasonable restriction on freedom of choice and expression of LGBT community. This ruling also created enabling environment for lesbians, gays and bi-sexual individuals to access justice as envisaged by the Covenant. Further, the Parliament has enacted the Transgender Persons (Protection of Rights) Act, 2019 which comprehensively prohibits discrimination against transgender persons in all spheres of life and imposes obligations on the state to secure their inclusion in society by providing social security, education and health facilities.

NHRC is of the view that all people regardless of their sexual orientation or gender identity should be able to enjoy their human rights. The Commission has a Core Group on LGBTQI+ which holds regular meetings to discuss various issues in the community. It also issued an advisory for providing free sex reassignment surgery in government hospitals, for permitting inclusivity, be treated at par with a married daughter in the family, be allowed to inherit ancestral agricultural land, and expenditure for upliftment be included in the social responsibility goals u/s 135(1) of the Companies act, 2013.

The Commission through its orders ensures compliance of the law of the land while dealing with the cases. The Commission has resolved 158 complaints of victimization against LGBTQI+ individuals based on their merit.

⁶ AIR 2018 SC 4321

Equality between men and women (arts. 2, 3 and 25)

Reply to paragraph 10(a)

India has implemented a comprehensive approach to tackle deep-seated patriarchal norms that fuel discrimination against women. This strategy involves legal reforms, educational initiatives, and administrative actions aimed at changing attitudes. NHRC plays a pivotal role by addressing complaints of benefits denial and ensuring fair access to government schemes. It actively promotes gender equality through advocacy, awareness campaigns, and policy recommendations. By investigating cases of discrimination and engaging stakeholders, the NHRC works to dismantle systemic barriers, advocate reforms, and foster a society where women enjoy equal rights and opportunities.

Reply to paragraph 10(b)

India has been actively promoting women's participation in various facets of public life. The representation of women in the Lok Sabha has increased steadily, reaching 14.4% in 2019, and voter turnout among women has surpassed that of men. Efforts to enhance judicial diversity include calls for consideration of women candidates among other marginalized groups for higher judiciary appointments. The Constitution mandates at least 33% reservation for women in local government, with many states exceeding this with 50% reservation. A recent legislative milestone is the Women Reservation Bill, 2023, proposing one-third reservation for women in the Lok Sabha and state assemblies. In the armed forces, there has been progress in integrating women as Short Service Commission officers and considering them for Permanent Commission roles. Financial inclusion initiatives like Pradhan Mantri Mudra Yojana and Pradhan Mantri Jan Dhan Yojana have significantly benefited women, with over half of the accounts owned by women. NHRC advocates for gender-sensitive policies and monitors compliance with gender equality norms, including issuing advisories to protect the human rights of widows, emphasizing their welfare and legal rights.

Reply to paragraph 10(c)

Marriage and family relations in India are primarily governed by personal laws based on religious communities, with the state adhering to a policy of non-interference unless initiated by the community. Despite this, India has been steadily moving towards gender equality in family matters through legislative reforms and judicial decisions. The Hindu Succession (Amendment) Act, 2005 granted daughters equal rights to ancestral property, and amendments to the Guardian and Wards Act, 1890 recognized both parents as guardians of minors. The Muslim Women (Protection of Rights on Marriage) Act, 2019 criminalized triple talaq, enhancing protections for Muslim women. Supreme Court rulings have narrowed gender disparities in guardianship rights under Hindu law and expanded rights to maintenance for divorced Muslim women. Legislation such as the Protection of Women from Domestic Violence Act, 2005 and the Dowry Prohibition Act, 1961 further aim to prevent exploitation of women in marriage and family, with recent laws like the Bhartiya Nyaya Sanhita 2023 criminalizing cruelty against women by husbands or relatives.

Reply to paragraph 10(d)

Although customs have the force of law in India, they may be outlawed on account of being violative of the Constitution of India. The Constitution recognizes both gender equality and right to conserve culture. In *Madhu Kishwar v. State of Bihar*⁷, the Supreme Court of India while upheld the customary practice that provided for the right of inheritance to the male descendants among Scheduled Tribes, it carved out the right of the females to derive livelihood from that land and limited the right of the male descendants to the exclusive ownership of the inherited land till female dependents/descendants choose another means of livelihood. The decision manifests the interface of cultural rights and right to equality and non-discrimination.

⁷(1996) 5 SCC 125

Violence against women and harmful practices (arts 2,3,6,7,8 and 26)

Reply to paragraph 11

NHRC plays a pivotal role in addressing entrenched violations of women's rights, utilizing a multifaceted approach that combines legal scrutiny, advocacy for policy reform, and proactive measures to raise societal awareness. It meticulously evaluates the implementation of existing laws, identifies gaps, and issues recommendations to government bodies for necessary amendments and enforcement.

India boasts a comprehensive legal framework aimed at eradicating harmful practices and ensuring gender equality. The historical enactment of the Sati Prevention Act in 1987, reinforced by earlier regulations dating back to 1829, stands as a landmark measure prohibiting the abetting or glorification of Sati, a practice where widows self-immolate upon their husband's funeral pyre. State-specific laws, such as those in Bihar, Jharkhand, Chhattisgarh, Odisha, Rajasthan, and Maharashtra, further address practices like witch-hunting, which unjustly accuse and persecute women based on superstitions.

In addition to legislative actions, NHRC responds to individual cases of human rights violations with rigorous investigations and specific interventions. For instance, in cases like 'Nata Pratha', a harmful traditional practice, NHRC not only investigates but also initiates comprehensive studies to understand its root causes. Special Rapporteurs are appointed to conduct field visits, gather evidence, and prepare detailed reports, highlighting the Commission's commitment to addressing deeply ingrained societal issues affecting women.

Furthermore, NHRC issues proactive advisories to prompt timely action and monitor the implementation of its directives. A recent advisory on the Protection of Human Rights of Widows exemplifies this proactive stance, urging authorities to ensure compliance and submit detailed reports on their actions within specific deadlines.

Beyond reactive measures, India's efforts extend to proactive initiatives aimed at empowering women comprehensively. Mission Shakti exemplifies this approach, integrating safety programs like One Stop Centres and Women Helplines with empowerment schemes such

as Ujjwala for clean cooking fuel, SwadharGreh shelters for women in distress, and economic empowerment programs under PMMVY. These initiatives not only aim to protect women from violence and exploitation but also promote their economic independence and social empowerment within families and communities.

In essence, NHRC stands as a vigilant guardian of women's rights, employing a blend of legal vigilance, advocacy, and proactive measures to foster a society where every woman can live with dignity, free from discrimination and violence.

Termination of pregnancy, maternal mortality and reproductive rights (arts 2, 3, 6 and 7)

Reply to paragraph 12

The Medical Termination of Pregnancy (MTP) Amendment Act, 2021 addresses concern regarding termination of pregnancy for both married and unmarried women. It allows termination up to 20 weeks with the opinion of one Registered Medical Practitioner, and from 20 to 24 weeks with the opinion of two practitioners. Beyond 24 weeks, approval from a State-level medical board is required. These measures aim to prevent unsafe abortions and ensure women's safety. The amended Act also emphasizes confidentiality by prohibiting the disclosure of a woman's identity whose pregnancy has been terminated.

Reply to paragraph 12(a)

The Commission has focused on enhancing access to contraceptives to uphold reproductive rights, emphasizing voluntary family planning in India's population control strategy. The government implements various schemes to improve accessibility, utilizing AASHA workers at the grassroots level to reach remote regions effectively. The amended Act allows termination of pregnancy up to 20 weeks with the consent of one Registered Medical Practitioner. For pregnancies between 20-24 weeks, termination is permitted with the opinion of two Registered Medical Practitioners, particularly for rape survivors. Beyond 24 weeks, approval from a State-level medical board is required. These provisions prioritize medical supervision to prevent unsafe abortions, safeguarding women's health.

Reply to paragraph 12(b)

Aborting pregnancy may involve health complications and may turn detrimental to the health of women and girls undergoing termination. Hence, it is important that it is undertaken under the supervision of experts.

Reply to paragraph 12(c)

While endowing Sexual and reproductive rights to women and girls, it is also the responsibility of a state to ensure that every abortion is safe. As the advancement in the field of medical science allows termination of pregnancies safely beyond this period, the given time period has been revised through The Medical Termination of Pregnancy (MTP) Amendment Act, 2021. Under the amended Act, a pregnancy can be terminated upto the period of 24 weeks without any requirement of judicial authorization and beyond this under suitable condition.

Reply to paragraph 12(d)

Newly amended Act allows termination of pregnancies for both married and unmarried women on the ground of failure of contraceptives.

Reply to paragraph 12(e)

The rationale for providing this provision is two-fold. First is a girl child may be prone to manipulation and can be abused sexually leading to manipulated termination of pregnancies which can also be life threatening for the minor. This provision is important for protecting minor girls who does not possess the capacity to give consent. Also, pregnancies are complicated process in terms of health especially for minor and require adequate care after the process.

Reply to paragraph 12(f)

The Government in recent past increase investment in health sector. Ayushman Bharat which focuses more on health insurance and tertiary care, its broader impact on strengthening

health infrastructure and improving health outcomes can indirectly support efforts to enhance access to safe abortion services in India.

Reply to paragraph 12(g)

The Pre-conception and Pre-Natal Diagnostic Techniques (PCPNDT) Act, 1994 aims to prevent sex-selective abortions and improve the sex ratio in India. It is viewed as a tool for empowering women and girls rather than a barrier, with strict penalties for any misuse against medical professionals. Similarly, the Protection of Children from Sexual Offences Act, 2012 emphasizes reporting pregnancies resulting from sexual abuse to ensure victims receive compensation and justice, and perpetrators are prosecuted.

India promotes voluntary family planning, emphasizing education as a primary contraceptive method while prohibiting coerced sterilizations. The National Health Policy of 2017 acknowledges concerns about unsafe sterilization camps and aims to phase out their use. Assurance Committees have been established nationwide to oversee sterilization camp operations, ensuring safety and quality standards are upheld.

Trafficking in persons (arts. 7, 8 and 9)

Response to paragraph 13

India is deeply committed to upholding human rights and combating human trafficking through various national and international initiatives. It is a signatory to the United Nations Convention against Transnational Organized Crime (UNTOC) and its protocols since 2011, demonstrating its dedication to addressing crime, violence, corruption, and terrorism comprehensively. India's constitution guarantees fundamental rights crucial to its legal framework against trafficking, including equality before the law (Article 14), prohibition of trafficking and forced labor (Article 23), and protection from child labour (Article 39(e)).

NHRC plays a crucial role in advocating for victims' rights and investigating cases of human trafficking. It conducts independent inquiries through its Investigation Division, led by a senior police officer, to scrutinize complaints and reports of human rights violations, including

custodial misconduct. NHRC appoints Special Rapporteurs who conduct visits nationwide to address human rights abuses, including trafficking.

NHRC has issued advisories and Standard Operating Procedures (SOPs) to combat human trafficking effectively. The 'Human Rights advisory on combating Human Trafficking in Context of Covid-19 pandemic' outlines measures for security, prevention, healthcare access, district administration functions, and survivor rehabilitation. The 2017 SOP provides detailed guidelines for anti-trafficking professionals and stakeholders involved in identifying, rescuing, rehabilitating victims, and prosecuting traffickers.

In summary, India's commitment to combating human trafficking is underscored by its legislative framework, international engagements, and proactive measures through NHRC to protect and promote human rights across the country.

Counter-terrorism and security measures and accountability for serious human rights violations (arts. 2, 6, 7, 9, 14 and 26)

Reply to paragraph 14

India has faced ongoing challenges with terrorism, leading to the implementation of specific measures such as the Terrorist and Disruptive Activities (Prevention) Act, 1987 (TADA) and the Prevention of Terrorism Act, 2002 (POTA) to safeguard its citizens' security. The Supreme Court of India upheld the constitutional validity of these laws in *Kartar Singh v. State of Punjab* and *People's Union for Civil Liberties and Another v. Union of India*.

Both TADA and POTA included sunset clauses, limiting their duration, and savings clauses allowing ongoing trials to continue post-repeal. Since their repeal, no new cases have been filed under these acts. NHRC expressed concerns that maintaining human rights would be compromised under TADA, emphasizing its role in safeguarding human rights during its enforcement.

Reply to paragraph 15

India has enacted several national security legislations, including the Armed Forces (Special Powers) Act, 1958 (AFSPA), the Armed Forces (Jammu and Kashmir) Special Powers Act, 1990 (AFSPA J&K), the National Security Act, 1980, the Unlawful Activities (Prevention) Act, 1967 (UAPA), and the Jammu and Kashmir Public Safety Act, 1978 (J&K PSA). These laws aim to protect India's sovereignty and ensure the security of its citizens by granting special powers to armed forces and security personnel to maintain public order and counter threats to national defense.

The use of force and detention powers under these legislations requires specific conditions to be met, such as declaring an area as 'disturbed', an association as 'unlawful', or providing grounds for detention to the detainee. The Supreme Court of India, in cases like *Extra Judicial Execution Victim Families Association v. Union of India*, emphasized the necessity of minimum force even against terrorists and insurgents, and the need for inquiries into any disproportionate use of force.

These laws incorporate safeguards against arbitrary arrests and detentions, including requirements for prompt reporting and revocation of detention orders for temporary release. They also provide legal recourse, such as appeals and cancellations, to those affected by their provisions. The Supreme Court has upheld the constitutionality of AFSPA in *Naga Peoples' Movement of Human Rights v. Union of India*, establishing additional conditions for its implementation to ensure compliance with constitutional rights.

The operation of AFSPA is periodically reviewed, and its scope has been reduced in certain states like Tripura and Meghalaya due to improved security situations and developmental efforts. Recently, partial withdrawals have been made in Assam, Nagaland, and Manipur, reflecting ongoing efforts to address insurgency and promote peace in these regions.

NHRC addresses complaints of misuse of powers under these acts, providing relief to victims based on individual circumstances and ensuring accountability for public servants involved.

Reply to paragraph 16

Certain regions in India have faced significant challenges from cross-border terrorism and insurgency, necessitating stringent measures to maintain law and order. The Constitution of India and its laws provide mechanisms such as *habeas corpus* to safeguard individual liberties. Criminal laws, including provisions in the Indian Penal Code (IPC), address aggravated forms of crimes like rape by armed forces personnel.

NHRC considers custodial deaths and extrajudicial killings as serious violations. It has issued detailed guidelines requiring prompt reporting of such incidents within 24 hours to the Commission. Procedures for post-mortem examinations, encounter deaths, arrests, and reporting in juvenile facilities are also outlined. These guidelines ensure timely reporting and adherence to prescribed formats through online submissions.

Upon receiving reports, NHRC investigates cases to ascertain if excessive force was used leading to injury or death. The Commission has the authority to award compensation to victims' next of kin and recommend prosecution of responsible officials if unjustified force is found to have caused grievous harm.

NHRC plays a pivotal role in addressing extrajudicial killings, which are unlawful under Indian law. It intervenes to ensure accountability, justice, and protection of human rights by conducting inquiries, investigating complaints, and recommending legal actions against perpetrators. In 2023, the Government of India transferred 713 cases, including those related to human rights violations during protests and disappearances, to NHRC from the erstwhile Jammu & Kashmir State Human Rights Commission for consideration and action.

Right to life and prohibition of torture and other cruel, inhuman or degrading treatment or punishment, liberty and security of person (arts. 6, 7, 9 and 14)

Reply to paragraph 17

Death penalty is still in existence in various statutes as a mode of punishment but it can only be applied in 'rarest of the rare' cases as pronounced by the Supreme Court. Jurisprudence

has developed that death penalty has to be reviewed differently by the Superior Court as opposed to other criminals appeals and in fact the Supreme Court has formulated guidelines that specify that review petitions of death penalty shall be heard in open court by a Bench of not less than 3 judges.

Constitutional provisions under Article 72 and 16 empowers the President of India and the Governor of the State to grant pardon or to suspend, remit or commute the death sentences, which is an executive power and the same is also subject to the judicial review by the Constitutional Court. In case of rejection of mercy petition, death convict can approach the High Court or the Supreme Court under Article 226 and 32 of the Constitution to examine its legality. Besides that in *Shatrughan Chouhan & Anrs v Union of India and Ors*, the Supreme Court had decided that death convict is equally entitled under Article 21 of the Constitution of India to have dignity and equality under the law and, therefore, in case of inordinate delay in execution of the death sentence, the right to life of the convict has been impinged upon which could be a ground for commutation of death penalty to life imprisonment.

Moreover, no execution of death penalty could ever be made in case any petition of review/ commutation is pending before any Court of Law, which also causes delay in actual execution of the death penalty. Therefore, it can be construed that *ipso facto* execution of death penalty is a rare exercise under the statute by the executive.

Reply to paragraph 18

NHRC views custodial deaths or extra-judicial killings very seriously. Detailed Guidelines for reporting death in Judicial Custody 'within 24 hours' and death during the course of Police Action 'within 48 hours' have been issued by the Commission. The detailed procedure has also been stated in the guidelines. The Commission ensures compliance of the same. To make the procedure more efficient and less time consuming, the submission of intimation/ reports etc. has been made online.

The guidelines also lay down 'mandatory requirement of videography' of the post-mortem examination. The Commission does not rely fully on the reports received from the

authorities. The Commission has a panel of experts who are technically competent to give their opinion on matters referred to them, on any case of custodial death or otherwise, to rule out any foul play or medical negligence by a public servant.

India has accepted recommendation for the ratification of the Convention against Torture (CAT); the process of its ratification is underway. Various existing laws and the Supreme Court decision in *D.K. Basu v. State of West Bengal*⁸ prevent torture in India by public servants and is punishable. Public Servants cannot inflict any kind of mental and physical torture, even during interrogation. India has a comprehensive framework of dealing with the subjects of the treaties. Every custodial death by suicide, natural causes, illness or otherwise is required to be mandatorily reported to NHRC within 24 hours. It adjudges that death is not due to any excess, negligence and awards suitable compensation to the victim even in cases of suicide or negligence. The Commission receives many cases of torture by police. The cases are dealt with as per law of the land and relief is granted on merits. Since inception the Commission has registered 11350 complaints in which 11323 cases have been disposed of. Further, the Commission has recommended compensation of Rs 22,394,000/- (Twenty two million and three hundred ninety four thousand only) in 217 cases.

Liberty and security of person, administration of justice and fair trial (arts. 2, 7, 9 and 14)

Reply to paragraph 19

The provisions governing arrest of individuals under the Cr.P.C are governed by the principles of reasonableness, certainty and necessity.

Highlighting the criticality of individual liberties, the Supreme Court of India in *DK Basu v. State of West Bengal* laid down extensive guidelines pertaining to arrests. Indian Courts have provided compensation for established violations of the fundamental rights, including that of liberty. The Supreme Court of India in this regard has observed "*the right to compensation is*

⁸ 1997 (1) SCC 416

some palliative for the unlawful acts of instrumentalities which act in the name of public interest and which present for their protection the powers of the State as a shield”.

NHRC has issued a detailed guideline on “Arrests” and transmitted them to all the states for compliance. The pre-arrest, arrest and post arrest procedure has been laid down in the guideline. It has also issued the guidelines on measures to improve police-public relationship which include setting up of human rights cells, Constitution of District Complaint Authority etc.

The Commission, in many such cases has recommended compensation, where the inquiry has disclosed commission of violation of human rights.

Reply to paragraph 19(a)

India, the most populous country of the world with around 1.4 billion people with diverse legal needs and requirements, ensures that everyone gets access to legal aid. To strengthen the legal aid framework in India, new initiatives which include training and capacity building of panel lawyers, para legal volunteers, elected representatives of panchayats and rural health workers have been undertaken at frequent intervals.

NHRC has been instrumental in advancing legal aid initiatives to safeguard human rights. It actively promotes the provision of free legal aid services to marginalized and vulnerable sections of society. It includes ensuring that victims of human rights violations, especially women, children, and marginalized communities, have access to legal representation and support.

Reply to paragraph 19(b)

Article 21 of the Constitution equally applies to all citizens and foreigners, guaranteeing against arbitrary deprivation of their life and personal liberty. India continues to provide consular access to foreign nationals detained/ arrested in India.

NHRC intervenes pro-actively if any complaint of such nature is received. In one such complaint from Victor Lawrence Gaffney of Australia, jointly with Bernd Manfred Lippold of

Germany and 18 other foreign nationals, it was alleged that Wael Adil Yassin and his wife, Mansurova Munavar Bahramovna, holding UN-issued refugee cards, were abducted by the Uttar Pradesh police. They claimed the couple was illegally detained at Maharajganj District Jail, UP, deprived of essentials, and had their belongings seized.

Following NHRC directives, reports from prison authorities indicated several corrective measures which included the arrest of Deputy Jailor in connection with criminal charges, installation of western-style toilets and RO systems, provision of free vegetables, and separate cooking facilities for foreign prisoners. Legal and medical facilities were assured, with ongoing investigations into allegations of misconduct and crimes under various acts. NHRC reviewed subsequent updates affirming the completion of pending jail improvements.

Based on comprehensive reviews and confirmations of compliance with recommended actions, NHRC closed the case.

Reply to paragraph 19(c)

The presumption of innocence is a cardinal principle of criminal jurisprudence in India. However, under a limited number of special circumstances as clearly enumerated in the appropriate legislations, the presumption has been done away with. Therefore, the lack of presumption of innocence under UAPA is extremely limited to those instances wherein there exists a specific connection between the offence committed and the accused, and such a connection is scientifically established by experts.

Reply to paragraph 19(d)

Under the Indian Evidence Act, all confessional statements made to police officers are inadmissible in evidence, unless permitted by special laws. Notwithstanding this, any confession that is coerced is inadmissible as evidence in a court of law. To prevent its occurrence during investigation, the Supreme Court of India has given extensive directions for installation of CCTV cameras in Police Stations.

NHRC acts on such complaints of coerced confessions. To rule out such possibilities, it has ensured compliance to the laws and has ensured installation of CCTVs in the police stations, in compliance of the Supreme Court Judgment. It has also issued guidelines against conduct of polygraph test under coercion and without informed consent.

Reply to paragraph 19(e)

India is party to the Convention on the Rights of the Child (CRC) and abides by its principles of taking the best interests of the child as a primary consideration in all actions concerning children. The JJCP Act, 2015 was passed to comprehensively provide for care and protection to children found to be in conflict with law. Only when a heinous offence is alleged to have been committed by a child of 16 years and above, the Juvenile Justice Board constituted under the Act conducts a preliminary assessment as regards the mental and physical capacity to commit such an offence, ability to understand the consequences of the offence and the circumstances under which allegedly the crime was committed. Pursuant to such an inquiry, if the Board orders that there is a need for trial of the child as an adult, it may transfer the trial of the case to the Children's Court. This Court then decides whether to try the child as an adult. In any case, death sentence or life imprisonment (without the possibility of release) shall not be passed for any child in conflict with law.

The JJCP Act, 2015 and the Juvenile Justice (Care and Protection of Children) Model Rules, 2016 have been amended in 2022. A detailed procedure has been spelt out to deal with such cases.

Reply to paragraph 20

Some of the recommendations of the Law Commission of India pertaining to bail have been incorporated in the new criminal laws namely, Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS) and Bharatiya Sakshya Adhinyam (BSA). The newly incorporated section 479 in the BNSS redefines the terms 'bail' and 'bail bond'. It also introduces a provision that reduces the maximum period of detention for under trial detention

period for first-time offenders under certain circumstances and legally empowers the jail superintendent to assist the accused or under trials in applying for bail.

The new laws have been made enforceable from July 1, 2024 and have been formulated in a manner, which would help improve the justice delivery mechanism in India, and thus, resolve lengthy delays in the delivery of justice.

The new criminal laws seek to move towards a reformatory justice system by providing for community service instead of imprisonment. This approach would help in reduction of undertrial prisoners or those in prisons for petty offences.

Treatment of persons deprived of their liberty (art. 10)

Response to paragraph 21

The Model Prison Manual, 2016 offers comprehensive recommendations on a number of crucial areas of prison administration, including medical treatment, education, welfare, legal assistance, after-care and rehabilitation, women in prison, and official prison inspections. The Manual allows for the filing of reports to appropriate authorities and both official and informal prison inspections.

Overcrowding in prisons in India has been an issue of major concern for the Commission. It also receives complaints on such issues and action is taken as per the provisions of the Act. The Commission took suo-motu cognizance of a newspaper report highlighting the non-availability of doctors in 6 central and 40 district jails in Madhya Pradesh, leading to numerous inmate deaths. The compliance report received from the Chief Secretary, Govt. of Madhya Pradesh revealed steps such as issuing health instructions, enforcing the Model Prison Manual 2016, creating new staff posts, and addressing medical staff vacancies. Proposals for additional resources and facilities are under consideration.

In another complaint, received from Shri Radhakanta Tripathy, a human rights activist, overcrowding and poor conditions in Bhadrak Jail, Odisha was highlighted. The Commission sought a report from the DG, Prisons, Odisha. The report stated that Rs. 49,336,000/- (Forty

nine million and three hundred thirty six thousand only) had been allocated and released for constructing the new jail building, along with other steps to address overcrowding.

A complaint highlighted severe overcrowding in Uttar Pradesh jails, where an average of 208 prisoners are housed in facilities meant for 100, compared to the national average of 131. Many prisoners lack basic necessities and are held despite being granted bail due to the inability to furnish bail bonds. The report from the Uttar Pradesh government revealed that 823 prisoners granted bail remain jailed due to financial constraints. The state is considering financial aid for these prisoners. The Commission referenced Supreme Court guidelines from 31.01.2023 to address such issues, which include measures to assist prisoners in furnishing bail bonds and relaxing conditions if necessary.

Despite the issue still existing in many prisons in India, it is imperative to say that the government, along with judicial and other relevant bodies, has been undertaking several measures to address this problem. Special fast-track courts have been set up to expedite the trial of cases, especially those involving undertrial prisoners who often constitute a significant portion of the prison population. Efforts have been made to make bail procedures more accessible and efficient. The judicial process is accelerated by using video conferencing tools during court proceedings to eliminate the requirement for actual prisoner transportation. The establishment of open prison has also helped in reducing overcrowding in traditional prisons. Relaxation and better implementation of parole and furlough policies to ensure eligible prisoners can temporarily leave the prison, thus reducing the overcrowding. Strengthening of legal aid services ensure that prisoners, especially those from marginalized sections, have access to legal representation and timely justice. The government has also launched modernization programs that include the improvement of prison infrastructure, better training for prison staff, and enhanced living conditions for inmates. The government continues to strive to find long-term ways to control and lessen prison overcrowding in India, in collaboration with civil society organizations.

Treatment of aliens, including refugees and asylum seekers (arts. 7, 9, 13 and 24 (3))

Response to paragraph 22

India does not have a comprehensive national legislation for refugees because it is not a signatory to the Refugee Convention or the Protocol. However, refugees are protected by several domestic laws. These include Article 21 of the Constitution that underscores the protection of human rights for all individuals, regardless of citizenship status, Article 51(c) that requires the State to foster respect to international obligations and Article 51A(e) that makes promoting harmony and the spirit of common brotherhood amongst all the people of India mandatory for every citizen. Article 21 of the Constitution underscores the protection of human rights for all individuals, regardless of citizenship status. The Principle of Non-Refoulement, which prohibits the forced return of individuals to situations where they may face persecution, is a cornerstone of both refugee and human rights law. Despite not being a signatory to the 1951 Refugee Convention due to national security concerns, India has ratified several other human rights treaties, such as the UN Declaration on Territorial Asylum, the Universal Declaration of Human Rights, and the Convention against Torture. These treaties impose obligations on India to protect refugees fearing persecution. In addition, juvenile imprisonment is forbidden by Section 12 of the Juvenile Justice Act of 2014. All children, including those who do not hold Indian citizenship, are included in the word "child."

NHRC has always taken proactive measures for protecting the Rights of Refugees, and even played a vital role in bringing the plight of the Chakma community to the attention of the Supreme Court and securing legal remedies to protect their fundamental rights, particularly the right to life and personal liberty. It's actions helped address the alleged persecution and threats faced by the Chakmas and led to important directions from the Supreme Court to ensure their safety and consider their applications for citizenship. It has also taken suo-moto cognizance in the case of 500 Pak-Hindu Refugees. The Commission in their letter dated 08 May 2017 directed for a detailed report from the concerned authorities on the issue of grant of Long-Term Visa and Citizenship to 500 Hindu Pak refugees living in Delhi. In another case, it took suo-moto cognizance regarding the plans of the Government of India to deport about 40,000 illegal

Rohingya immigrants from Myanmar, who are residing in various parts of India. It has issued a notice to the Union Home Ministry, through its Secretary, calling for a detailed report on the matter. It has observed that refugees are no doubt foreign nationals but they are human beings and before taking a big step, the Government of India has to look into every aspect of the situation, keeping the fact into focus that the members of the Rohingya community, who have crossed into the Indian borders and are residing here for long, have a fear of persecution once they are pushed back to their native country.

Over the years, NHRC had received numerous complaints alleging inconsistency and discrimination in the handling of different groups of refugees. It is also being asserted that, on certain occasions, acts of 'refoulement' or the forced repatriation of refugees against their will, were occurring and NHRC has always considered such communications carefully and, on each occasion, sought the response of the Ministries of External Affairs and of Home Affairs. It had set up an Expert Group on Refugees with a view to have an expert opinion on the subject in order to tackle issues faced by refugees. Research projects were also carried out under the aegis of the Commission to assist the government in formulation of policies for them.

Further, NHRC had taken suo-moto cognizance against the proposal of the GOI to deport about 40,000 Rohingya immigrants from Myanmar who are residing in various parts of India after fleeing from their own country, Myanmar. The Amnesty International and Human Rights Watch had reportedly called upon the Government of India to abide by international legal obligation and not to force the Rohingya refugees to return as it will be an outrageous move. NHRC took suo motu cognizance of the matter based on several media reports published in various newspapers and sought for a response from the Secretary, Ministry of Home Affairs, Govt. of India in the matter. It had considered the matter and opined that since the writ petition filed by the aggrieved parties is pending before the Supreme Court, there was no need to keep the matter pending further.

Right to privacy (art. 17)

Response to paragraph 23

The right to privacy isn't explicitly guaranteed by the Indian Constitution. The right to privacy has been established by the country's courts throughout the years, mainly through Article 21, which guarantees the right to life and liberty. These interpretations of the other rights in the Constitution have led to this right of privacy. The Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Data or Information) Rules 2011 currently govern how sensitive personal data about citizens is used and transferred.

Since technology has made it possible for more personal information to be shared, the right to privacy has gained more recognition in the digital age. India has implemented many methods to enhance service delivery using technology in recent times, as part of its efforts towards good governance. The Aadhaar Project, which was initiated in accordance with the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016, is the cornerstone project in this respect. The Court in a landmark judgement on 24 August, 2017 unanimously ruled that privacy is a fundamental right, and that the right to privacy is protected as an intrinsic part of the right to life and personal liberty, as a part of the freedoms guaranteed by Part III of the Constitution.

A Joint Parliamentary Committee has begun investigating the Personal Data Protection Bill 2019, which aims to create a comprehensive legal framework for the processing, storage, and protection of personal data. Similarly, the Ministry of Electronics and Information Technology established an expert group in 2019 to discuss non-personal data-related concerns and provide a thorough governance structure for its regulation.

The Commission acknowledges the concerns regarding data and privacy breaches associated with the Aadhaar biometric identification project. In a landmark decision, a nine judge Constitution Bench of the Supreme Court of India in Justice K.S. Puttuswamy (Retd.) v. Union of India (2017) recognised the right to privacy as a fundamental right and any limitations thereon was required to satisfy the triple test of legality, legitimate aim and proportionality.

NHRC remains vigilant in monitoring these developments and is committed to upholding human rights by ensuring that all measures, including data protection and privacy safeguards, are effectively implemented and adhered to. It recognizes the urgent need to address the proliferation of Child Sexual Abuse Material (CSAM) to ensure their data protection and privacy of children and for the same NHRC conducted a workshop on CSAM and issued an Advisory for Protection of the Rights of Children against Production, Distribution and Consumption of Child Sexual Abuse Material.

Freedom of conscience and religious belief, non-discrimination, and prohibition of advocacy of national, racial and religious hatred (arts 2, 18, 20 and 26)

Reply to paragraph 24

NHRC is actively addressing cases of hate speech, particularly in the digital space, and closely monitoring the development of laws to effectively tackle such offenses. Social media intermediaries are mandated to swiftly remove hate speech content under the new IT Rules for intermediaries, which provide a comprehensive framework for managing digital spaces.

Moreover, the Bharatiya Nyaya Samhita Act introduces penal provisions specifically targeting mob lynching and other forms of hate crimes, underscoring the legal response to such incidents. The offense of mob lynching can be punishable with the death penalty under the new Act. Further, clause 103 categorise murder on ground of race, caste, or community. The Commission has also intervened in a few cases and called for report from the Government authorities. Moreover, Supreme Court of India has proactive in issuing directions to deal with such cases. Pursuant to the order of the Supreme Court of India, in *Tehseen S Poonawalla v. Union of India*, senior police officers of the Police Department have been nominated as the Nodal Officer in each District, with the mandate to take strict action against members of vigilante cow protection mobs that behave or engage in unlawful activities including any form

of vigilantism. Such check and balance keep the government agencies at its toe to act. Also, the hate speech by politician and government officials can invite disciplinary and penal action under The Representation of People Act 1951 and government officials' Code of Conduct respectively.

Reply to paragraph 25

Right to freedom to profess, practice and propagate one's religion is a fundamental right guaranteed by the Constitution of India. It also provides special rights to minority group based on religion and language to protect their cultural right. It is pertinent to note that these rights do not permit forced conversion. The Anti-conversion laws enacted in a few states actually impose restrictions and prohibit conversions from one religion to another by the use of force, inducement, allurements, or fraudulent means. This actually is not targeting any group be it majority or minority, particularly Muslims and Christians who have engaged in proselytism, rather it aims to protect the culture and rights of vulnerable tribal groups from any form of forced imposition of religion on them and protect their true identity and preserve their culture and custom.

Freedoms of expression and peaceful assembly (arts. 19 and 21)

Reply to paragraph 26

Any complaint received in the Commission, including from the Union Territory of Jammu & Kashmir, pertaining to restriction of freedom of speech and expression, freedom of peaceful assembly and association, attack on journalists, human rights defenders are taken seriously by the Commission. The Commission intervenes in such matters and takes action based on merits. Some important interventions are detailed hereunder:

On 07.08.2020 a complaint was received in the Commission regarding illegal arrest of Journalist and a Human Right Defender Qazi Shibli. The Commission called for an (ATR) Action

Taken report from Director General of Police. Pursuant to the directions of the Commission, a report dated 31.03.2021 was submitted by the Director General of Police, Jammu and Kashmir. It is reported that the victim has been running an online news portal since 2016, which has instigated/provoked youth for anti-national activities, beside his participation in agitations, thus creating problems for maintenance of law and order. Five FIRs have been registered at P.S. Anantnag against the victim and investigations in all cases have been pending adjudication before the court of law. The preventive measures were taken against the victim in order to prevent any disruption in public order and to maintain peace. The comments of the complainant were called in the matter.

On 15.02.2021 a complaint was received in the Commission regarding harassment and false implication against the victim (Journalist) Deepak Singh Jamwal. The Commission transmitted the complaint to Director General of Police with directions to take appropriate action associating the complainant/ victim and to inform him/ her of the action taken in the matter.

The Government of India has transferred 713 cases to NHRC which were pending in the erstwhile Jammu & Kashmir State Human Rights Commission. The cases inter-alia also includes cases of human rights violations during large scale protest, pellet injuries, enforced disappearances etc. The Commission has issued notices in all the matters and the same are under consideration.

Reply to paragraph 27

NHRC India has effectively worked for the protection and promotion of human rights of the Human Rights Defenders. Specific mentioned cases dealt with by the Commission are as under:-

Killing of Activist Govind Pansare

NHRC took cognizance of the attack on eighty-year-old activist Shri Govind Pansare and his wife in Kolhapur, Maharashtra, on 16 February 2015. The incident was widely reported, including by 'The Hindu'. Shri Pansare, involved in various social movements and leading an Anti-Toll Movement, was shot thrice during a morning walk, while his wife sustained a severe skull injury. They were immediately rushed to a hospital for multiple surgeries. One accused was arrested and a chargesheet filed. Considering the legal proceedings and investigations in progress, the NHRC decided to close the matter.

Killing of Dr. Narendra Dabholkar

NHRC took suomotu cognizance of the murder of Dr. Narendra Dabholkar, who was killed on 20 August 2013 during his morning walk in Pune. Notices were issued to the Chief Secretary and DGP of Maharashtra for a report within four weeks.

A detailed report from the Additional Commissioner of Police, Pune, stated that Crime No. 154/2013 was registered under various sections of the IPC and Arms Act. The High Court of Mumbai transferred the investigation to the CBI.

NHRC found no complaints against the police or investigation and deemed it unnecessary to keep the case pending, given the CBI's involvement under the High Court's direction. The case was closed, allowing the law to take its course.

Recently, after nearly three years of trial, a Pune court convicted two persons and acquitted three others in the murder of anti-superstition activist Narendra Achyut Dabholkar.

Killing of Professor Malleshappa M. Kalburgi

NHRC took cognizance of the murder of Professor Malleshappa M. Kalburgi, former Vice Chancellor of Kannada University, Hampi, Karnataka. Proceedings on 21.10.2016 directed the

Commissioner of Police, Hubli, Dharwad City, to comply with conditional summons issued in default.

The NHRC noted the matter was also pending before the State Human Rights Commission (SHRC) of Karnataka and requested a report from the SHRC. The SHRC informed that it had taken cognizance on 9.9.2015, prior to the NHRC's cognizance on 30.9.2015.

After careful consideration, the NHRC decided that since the SHRC had taken earlier cognizance, it was appropriate for the SHRC to continue proceedings. Consequently, the NHRC closed its case, allowing the SHRC to handle the matter.

Killing of Ms. Gauri Lankesh

Mr. Andrew Anderson approached the Commission alleging that the victim, a journalist, was shot and killed in front of her own home. The Commission issued a notice to the DGP. As per the report submitted, a case Cr. No. 221/2017 has been registered U/s 302 IPC and Section 25 of Arms Act. A Special Investigation Team (SIT) headed by IGP has been formed for the investigation of the murder case. The Commission observed that required action had been initiated by the concerned authorities therefore no further intervention of the Commission was deemed necessary and the case was closed.

NHRC has effectively worked against abuse and misuse sedition laws, law on criminal defamation and other laws such as National Security Act, the Unlawful Activities (Prevention) Act and the Jammu and Kashmir Public Safety Act. Some important interventions are as under:-

UAPA Related Interventions

The complaint alleged that on 09 March 2021, Human Rights Defender Hidme Markam, a 28 years old anti mining and tribal rights activist, was picked up from the program marking the International Working Women's Day in Sameli, Dantewada. The HRD Hidme Markam, was shown as arrested in 4 cases involving serious charges, including charges under UAPA. Further, the young woman activist was forcibly taken away from a Women Days program, trampling on

all her fundamental rights and the Criminal Procedure Code guidelines of lawful arrest and that too in the immediate presence of the Sub Divisional Magistrate. Furthermore, the victim person (HRD Hidme Markam) was dragged in front of 300 villagers and activists who had peacefully gathered there, including activists from PUCL, Chattisgarh, Jail Bandi Rihai Committee and Chhattisgarh Mahila Adikhari Manch. The victim was also assaulted by the police officials. The commission called for an action taken report from the DGP, Chhattisgarh, and Secretary, Chhattisgarh SHRC. The case has now been closed.

The Complainant alleged that the police conspired against Natasha Narwal. She was charged under UAPA and was harassed by the police. The matter was disposed of with directions to the Commissioner of Police, Delhi, and a report was received from the Deputy Commissioner of Police.

The complainant, a HRD, states that more than 25 HRDs were raided from 31.03.2021 to 01.04.2021 by the NIA in Andhra Pradesh and Telangana. In November 2020 FIRs were filed against them and in March 2021 the NIA took over the investigation. The victims include lawyers, gender activists and writers. The complainant further alleges that such a pattern of fabricated cases and harassment of HRDs is repeatedly seen in states like Andhra Pradesh and Telangana, where he alleges that a witch hunt is being carried out against those who speak up for the rights of people. The complainant also requests the NHRC to review the UAPA. The case was closed with directions to the Secretary, MHA.

The Complainant alleged that the victims had organized a meeting to protect the State of Tamil Nadu from Caste-based violence and on a subsequent day the victims were arrested from their home without a warrant and was detained for a day and then was subsequently charged with UAPA. The commission called for an action taken report from the Commissioner of Police, and proceeded to call for additional information from the DGP, TN. The case has now been closed.

The complainant alleged that the police were abusing their powers and misusing certain provisions of the law, including the draconian Unlawful Activities Prevention Act (UAPA), to intimidate and harass journalists in Kashmir. Furthermore, these are cases of reprisals against

journalists for carrying out their professional endeavours in a non-partisan manner and covering issues pertaining to human rights abuses by the State and its security agencies. Such acts of police are also aimed at deterring other journalists in Kashmir from pursuing such endeavours. The commission called for an action taken report from the DGP, Jammu and Kashmir, and called for additional information as well. The case has now been closed.

The Complainant alleged that 5 dalit activists were charged under UAPA. They were specifically targeted to undermine their human rights work. The commission called for an action taken report from the DGP, Maharashtra, and the case has now been closed.

Complaints are regarding allegations that police had invoked draconian charges including UAPA and others on HRD lawyers/Activists by Tripura Police for either undertaking a fact finding inquiry regarding communal violence or for social media posts post violence in the State of Tripura. The commission called for an action taken report from the SSP, West Tripura on 12/11/2021, and on 06/12/2021, an action taken report was called from the DGP Tripura and SSP again, and eventually additional information was called for. Subsequently, the Commission noted that on the same issue, three Writ Petitions are pending before the Hon'ble Supreme Court, wherein the Hon'ble Court has passed an order on 10.1.2021 that there shall be an ad-interim direction restraining SP, Cyber Crime from acting against the petitioners.

The Commission vide order dated 27.03.2023 observed that in view of the fact that the Hon'ble Supreme Court of India is seized of the matter, further intervention of the Commission is not required as per section 9 of the NHRC (Procedure) regulations, 1994. However, the victim/ complainant may approach the Commission, if they are aggrieved, subject to decision of the Hon'ble Supreme Court of India. With this observation, the case has been closed.

The Commission has taken cognizance on the complaint of Henri Tiphagne, who sought intervention of the Commission in the matter of arrest of Journalist Mr. Fahad Shah under the Unlawful Activities Prevention Act (UAPA) and sedition by the J&K police for his social media posts, violating his fundamental right to freedom of expression. The complainant submitted that between June 2017 and January 2021, Mr. Shah faced six cases of intimidation according

to the UN. As alleged by the complainant, Fahad Shah was arrested on 04.02.2022 in FIR No. 19/2022 and was sent to police remand until February 2022. Mr. Shah had been arrested by the police under fabricated charges of UAPA and sedition as an act of reprisal for covering issues pertaining to human rights abuses by the State and security agencies. The Commission after perusal of the complaint adjudicated that the matter is such which may be agitated before the Court.

The Commission takes any complaint seriously, including those from the Union Territory of Jammu and Kashmir, that pertains to restrictions on freedom of speech and expression, freedom of peaceful assembly and association, or attacks on journalists and human rights defenders.

The Commission intervenes in such matters and takes action based on merits. Some important interventions are detailed hereunder:

On 07.08.2020 a complaint was received in the Commission regarding the illegal arrest of Journalist and Human Right Defender Qazi Shibli. The Commission called for an (ATR) Action Taken report from the Director General of Police. Pursuant to the directions of the Commission, a report dated 31.03.2021 was submitted by the Director General of Police, Jammu and Kashmir. It is reported that the victim has been running an online news portal since 2016, which has instigated/provoked youth for anti-national activities, beside his participation in agitations, thus creating problems for maintenance of law and order.

Five FIRs have been registered at P.S. Anantnag against the victim and investigation in all cases have been pending adjudication before the court of law. The preventive measures were taken against the victim in order to prevent any disruption in public order and to maintain peace.

The comments of the complainant have been called for in the matter.

On 15.02.2021 a complaint was received in the Commission regarding harassment and false implication against the victim (Journalist) Deepak Singh Jamwal. The Commission transmitted the complaint to the Director General of Police with directions to take appropriate action associating the complainant/ victim and to inform him/ her of the action taken in the matter.

The NHRC took suomotu cognizance of the Anti-Sterlite Protest in Thoothukudi, Tamil Nadu on May 22-23, 2018. An investigation team conducted a spot enquiry and submitted a report to the Commission with several recommendations to the Tamil Nadu government. These included addressing the long-standing demand for the closure of Sterlite Copper Company, enhancing compensation for the permanently disabled, conducting a resurvey to identify all injured victims, providing security to Sterlite employees and their families, and reporting steps to prevent future incidents.

The Tamil Nadu government, in response, appointed a judicial commission led by Justice Aruna Jagadeesan to investigate the incident and the use of force by police. The government also provided compensation to the victims' families and injured persons.

The NHRC closed the case on October 25, 2018, noting the compensation and the judicial commission's inquiry.

Ms. Kanimozhi later requested reopening the case, which the NHRC rejected on July 22, 2019, emphasizing the judicial commission's role and adequate compensation provided. Further representations from human rights activists Shri R. Sathiamoorthy, Shri Mathew Jacob, and Shri Henri Tiphagne prompted the NHRC to re-examine the case.

A joint report by the NHRC's Investigation and Research Divisions found no new facts warranting reopening the case. The Madras High Court had also issued directives regarding the NHRC's involvement. The NHRC maintained that adequate compensation had been provided and the judicial commission was investigating police actions. Given the ongoing judicial inquiry

and court proceedings, the NHRC declined further intervention, reaffirming the closure of the case.

The NHRC advised that Sterlite employees with security concerns approach relevant authorities. The petitioners were directed to address their issues with the High Court or the judicial commission. Consequently, the NHRC informed the Madras High Court and the petitioners of its decision to reject reopening the case, emphasizing no new facts justified revisiting the matter.

Freedom of Association (art 22)

Reply to paragraph 28

Right to Freedom of Association forms a fundamental right under Article 19 of the Constitution of India available to every citizen. While, there does not exist any form of restrictions in forming any association, it is important that these associations work under the limit prescribed by the Constitution and law of the land so that, it may not jeopardise the security of the nation and lead to violation of human rights at large scale. In fact, the Government at various level collaborate with NGOs/ CSOs to reach the most unserved people. NHRC also incorporates the members of eminent association in its Core Group. In fact, Mr. Anand Grover, himself, is a member of the NHRC Core Group on LGBTI Issues. Moreover, NHRC understands the importance of such organisation and intervenes in case-by-case basis when the functioning of any association is affected due to the provisions of Foreign Contribution (Regulation) Act, 2010, either on suo motu cognizance basis or on the received of complaint. It has intervened in the case of Amnesty International.

Citizenship and Prevention of Statelessness (Arts 2, 18, 24, 26 and 27)

Reply to paragraph 29

The Citizenship Amendment Act 2019, was enacted to give citizenship to a few vulnerable sections of people who were migrated to India to evade prosecution in their home state. It is in no way intended to take away citizenship from anyone. Any case of misuse of the law if reported to NHRC is dealt seriously.

The process of updating the NRC in the State of Assam has been commenced under the direction of the Supreme Court of India. The legal framework governing this process includes The Citizenship Act, 1955, and The Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003. The process is aimed to create a robust mechanism with safeguards to protect the rights of individuals involved and to address concerns of discrimination.

However, it is true that protest against and for the law and the process of updation led to violence. NHRC dedicated a team to conduct independent enquiry. Based on the findings, appropriate compensations were recommended to the victims.

Participation in public affairs (arts. 25 and 26)

Reply to paragraph 30

The Government of India has implemented the electoral bond scheme to reform the system of political funding, ostensibly to address issues of transparency and to curb the influence of black money in elections. However, in a recent judgment, the Supreme Court has found and declared the Electoral Bond Scheme and the provisions of the Finance Act, 2017 which amended the provisions of the Representation of People Act, 1951 and the Income Tax Act, 1961, unconstitutional on the ground that the non-disclosure of information regarding the funding of political parties is violative of the right to information of citizens under Article 19(1)(a) of the Constitution.

The 'right to vote' is guaranteed under the Constitution of India and Representation of People Act, 1951. The legal framework governing various aspects of electoral process has been provided. The statutory right to vote based on principle of one person one vote ensures right in participatory democracy. The right to vote of an eligible person with intellectual or psycho-social disabilities is protected under the applicable law.

The current Panchayati Raj legislation in India is largely compatible with national and international covenants promoting decentralized governance, human rights, and inclusive participation. There is still a lot of scope to achieve its full potential, by focusing on inclusive governance procedures, financial autonomy, capacity building, and efficient execution.

The Panchayati Raj system enhances the right to participation in public affairs, as stipulated by the ICESCR. By involving local communities in decision-making processes, the legislation promotes inclusive governance. Panchayati Raj Institutions are tasked with ensuring the provision of essential services like education, health, and sanitation, aligning with the ICESCR's emphasis on the right to an adequate standard of living. The reservation of seats for women in PRIs supports CEDAW's goal of eliminating gender discrimination and empowering women in political and public life. This legislative measure is a step towards achieving gender parity in local governance.

Rights of indigenous peoples (art. 27)

Reply to paragraph 31

NHRC plays a crucial role in raising awareness about rights of tribal communities and other forest dwellers through advisories, monitoring, and advocacy. Collaborating with government bodies and other stakeholders, it ensures the protection and promotion of the socio-economic and cultural rights of tribal communities. It organized an Open House Discussion on the Protection of Nomadic, Semi-Nomadic, and De-Notified Tribes (NTs, SNTs, and DNTs) in India. The discussions highlighted the challenges faced by these communities due to the stigma imposed by the Criminal Tribes Act of 1872 and the Habitual Offenders Act of 1952. Measures were suggested to mitigate these challenges and ensure representation of De-

Notified Tribes in parliament, government institutions, and higher education, with a particular focus on women and children within these communities. During the COVID-19 pandemic, NHRC released an advisory on protecting the human rights of Particularly Vulnerable Tribal Groups (PVTGs). It emphasised that the land and forest rights of tribal groups were being compromised and that this was leading to relocation as a result of extractive and other industrial operations that were frequently allowed without adequate consultation.

The Indira Gandhi National Forest Academy (IGNFA) and NHRC collaborated to organise a human rights capacity-building residential programme for senior Forest Officers working in various States. The initiative's goal was to include human rights viewpoints into the management of forests and other natural resources, the application of policies, and actual activities. The program emphasized the criticality of human rights education for forest officers and the need to protect the rights of forest dwellers, Scheduled Tribes, and forest laborers amidst challenges posed by climate change. Training sessions addressed legal frameworks, climate change impacts, and community welfare, with experts discussing the UN Human Rights Council, legal aspects of forest rights, and sustainable development goals.

NHRC in February, 2024, intervened to ensure school facilities for the poor children of tribals at Jajulabandha village in the Alluri Sitharama Raju district of Andhra Pradesh. As an interim measure, the district administration set up a temporary shed with water, mid-day meal facilities and deputed a teacher. The process for constructing a new primary school building also began. NHRC also requested the Commissioner of School Education to provide free books and waive fees as a welfare measure.

NHRC's efforts in raising awareness, advocating for policy changes, and monitoring the implementation of recommendations have significantly contributed to the protection and promotion of tribal rights in India. Through open discussions, advisories, capacity-building program, and research studies, it continues to work towards ensuring the socio-economic and cultural rights of tribal communities, addressing their challenges, and promoting their fair treatment in various aspects of society.