

Role of International and National Human Rights Commissions in Safeguarding Human Rights

Ms. Ekpreet Kaur

LL. M Student, University School of Law, Rayat Bahra University, Mohali

Abstract

Human rights commissions occupy a difficult but necessary position between law, administration and public accountability. They are neither ordinary courts nor political departments, yet they are expected to respond to violations that often arise from the conduct of the State itself. This article examines the role of international and national human rights commissions in safeguarding human rights, with particular reference to the United Nations human rights system, the Paris Principles, the National Human Rights Commission of India and State Human Rights Commissions. The central argument is that human rights commissions are indispensable accountability institutions, but their effectiveness depends upon independence, accessibility, plural composition, adequate resources, credible investigation, transparent appointments and meaningful follow-up of recommendations. At the international level, mechanisms such as treaty bodies, the Human Rights Council, Universal Periodic Review and Special Procedures create normative pressure and supervisory engagement, although they suffer from weak enforceability and political selectivity. At the national level, the Indian NHRC has contributed to rights protection in areas such as custodial violence, prison conditions, bonded labour, women's rights, child rights, disability rights and socio-economic entitlements. However, the recommendatory character of its powers, delay, vacancies, appointment concerns, limited field presence and dependence on government agencies restrict its impact. The article concludes that human rights commissions must be strengthened not as symbolic bodies but as independent constitutional-democratic institutions capable of translating human dignity into administrative accountability.

Keywords: Human Rights Commission; NHRC; International Human Rights; Paris Principles; Protection of Human Rights Act; Accountability; Human Rights Enforcement.

1. Introduction

Human rights are not merely moral aspirations. In modern constitutional and international law, they operate as standards by which the legitimacy of State action is tested. They protect the individual against arbitrary power, require equal treatment, recognise human dignity and impose duties upon public institutions. The contemporary understanding of human rights combines civil and political liberties with economic, social and cultural entitlements. A person unlawfully detained, a prisoner denied medical care, a bonded labourer trapped by economic coercion, a woman facing institutional indifference after sexual violence, a child forced into hazardous work, or a community denied equal access to basic

services all illustrate the same legal problem: rights lose their force when no effective institution is available to secure them.¹

The Indian constitutional scheme reflects this understanding. Articles 14, 19 and 21 form the core of constitutional rights jurisprudence, while Articles 22, 23 and 24 address specific forms of State and social coercion. The expansive interpretation of Article 21 after *Maneka Gandhi* converted procedure, fairness and dignity into central constitutional values. Articles 32 and 226 create judicial remedies, but courts cannot alone bear the burden of everyday human rights enforcement. Human rights violations are often factual, localised, recurring and administrative in character. They require inquiries, inspections, reports, compensation recommendations, policy advice, training, monitoring and public pressure. These are functions for which specialised human rights institutions are particularly suited.²³

International law developed a similar institutional response after the Second World War. The Universal Declaration of Human Rights placed dignity, equality and freedom at the centre of global legal consciousness. The International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights converted much of that moral language into treaty obligations. Yet the international system remained dependent on State consent, periodic reporting, diplomatic pressure and public scrutiny. It therefore produced a range of supervisory mechanisms, including treaty bodies, Special Rapporteurs, the Human Rights Council and the Universal Periodic Review.⁴

National human rights institutions emerged as a bridge between international standards and domestic enforcement. The Paris Principles adopted by the United Nations General Assembly in 1993 set out the minimum conditions for credible national institutions: independence, pluralism, broad mandate, adequate resources and effective investigative authority. India enacted the Protection of Human Rights Act, 1993 and established the National Human Rights Commission. The Act also provides for State Human Rights Commissions and Human Rights Courts. Its statutory definition of human rights links the concept to life, liberty, equality and dignity guaranteed by the Constitution or embodied in international covenants and enforceable by courts in India.⁵

The research problem addressed in this article is whether international and national human rights commissions are effective safeguards of human rights or whether they remain largely advisory bodies with limited enforcement value. The objectives are fourfold: first, to explain the conceptual and legal role of human rights commissions; secondly, to examine the international human rights framework and the Paris Principles; thirdly, to analyse the Indian NHRC and State Human Rights Commissions; and fourthly, to evaluate their limitations and suggest reforms. The scope of the article is legal and institutional. It does not attempt an empirical audit of every commission, but it critically examines the design, functions and performance concerns that determine their credibility.

2. Conceptual Understanding of Human Rights Commissions

A human rights commission is a specialised public institution created to promote, protect and monitor human rights. Its authority may arise from a constitution, statute, executive instrument or international mandate. The label is not uniform. Some institutions are called commissions, others ombudsmen,

¹ Universal Declaration of Human Rights, 1948, G.A. Res. 217A (III), arts. 1 and 2.

² *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

³ The Constitution of India, arts. 14, 19 and 21.

⁴ International Covenant on Civil and Political Rights, 1966, 999 U.N.T.S. 171; International Covenant on Economic, Social and Cultural Rights, 1966, 993 U.N.T.S. 3.

⁵ The Protection of Human Rights Act, 1993, s. 2(d).

institutes, public defenders or equality bodies. Their common feature is that they are designed to stand at a distance from ordinary administration and to examine whether State action, and in some settings private conduct, conforms to human rights standards.

The preventive role of such commissions is often underestimated. Prevention does not begin after torture, discrimination or arbitrary eviction has occurred. It begins with inspection of vulnerable institutions, training of police and prison officials, review of laws, early warning, public education and the creation of complaint systems that allow people to approach an authority without the cost and fear associated with litigation. Preventive monitoring is especially significant in closed institutions such as prisons, mental health establishments, juvenile homes, detention centres and police lock-ups, where rights violations remain hidden unless an external institution has access.

The protective role is more direct. Commissions receive complaints, conduct inquiries, summon records, visit places of detention, recommend interim relief, refer matters for prosecution or disciplinary action, and ask governments to submit action taken reports. Their protective work is strongest when investigation is independent, time-bound and victim-sensitive. It becomes weak when inquiries depend entirely on reports supplied by the same agency against which the complaint is made. In that sense, the effectiveness of a commission is not measured merely by its legal mandate but by the credibility of its method.

The advisory role links human rights commissions with constitutional governance. They examine bills, laws, administrative practices and policy decisions from a human rights perspective. A commission may not invalidate a law as a constitutional court can, but it can identify incompatibility, recommend amendment and place reasoned criticism in the public domain. This function is essential because many violations arise not from isolated misconduct but from structural choices: overcrowded prisons, under-resourced shelters, discriminatory policing, exclusionary welfare design, or inadequate safeguards in surveillance regimes.

Human rights commissions also perform a promotional function by spreading rights awareness. Promotion is sometimes dismissed as soft work, but it has democratic value. A right that is unknown to its bearer is functionally weak. Public education, university engagement, training manuals and thematic reports convert legal rights into civic vocabulary. The Vienna Declaration affirmed that all human rights are universal, indivisible, interdependent and interrelated; commissions give institutional meaning to that principle by treating dignity, equality, liberty and socio-economic security as connected rather than isolated concerns.⁶

Conceptually, the legitimacy of human rights commissions rests on four principles. First, constitutionalism requires power to be limited by law and rights. Secondly, rule of law demands that official action be reasoned, reviewable and non-arbitrary. Thirdly, dignity insists that a person must not be reduced to an object of administrative convenience. Fourthly, accountability requires an institution capable of asking the State to explain itself. A commission that lacks independence, resources or public credibility cannot perform these functions. Conversely, a commission that speaks with evidence, transparency and consistency can shape public administration even when its recommendations are formally non-binding.

3. International Framework for Protection of Human Rights

The international human rights framework developed from the recognition that domestic treatment of in-

⁶ Vienna Declaration and Programme of Action, 1993, U.N. Doc. A/CONF.157/23, Part I, para. 5.

dividuals could no longer be regarded as a matter exclusively within sovereign discretion. The Universal Declaration of Human Rights, 1948 is formally a declaration, but its significance lies in its normative authority. It begins with the premise that all human beings are born free and equal in dignity and rights, and it recognises rights relating to life, liberty, equality before law, freedom from torture, fair trial, privacy, movement, asylum, nationality, expression, association, work, education and social security. Its language continues to influence constitutions, courts and national human rights institutions across jurisdictions.

The ICCPR and ICESCR deepened this framework by converting broad principles into treaty obligations. The ICCPR protects civil and political rights such as life, liberty, fair trial, privacy, conscience, expression, assembly and participation in public affairs. The ICESCR recognises rights relating to work, just conditions, trade unions, social security, family protection, adequate standard of living, health, education and cultural life. Their division reflects the politics of the Cold War, but the separation is not conceptually sound today. Arbitrary detention may destroy livelihood; denial of food may destroy liberty; caste violence or gender exclusion may impair both equality and socio-economic rights. Human rights commissions are therefore expected to treat both sets of rights as part of a common dignity-based framework.

The United Nations Human Rights Council is the principal inter-governmental body within the UN system for promotion and protection of human rights. It replaced the former Commission on Human Rights in 2006. Its functions include discussing country situations, adopting resolutions, creating commissions of inquiry or fact-finding missions, supervising Special Procedures and conducting the Universal Periodic Review. The Council's political character is both its strength and its weakness. It allows human rights to be discussed at a high diplomatic level, but it also exposes the system to selectivity, bloc politics and strategic silence.⁷

Treaty bodies provide a more expert form of supervision. They are committees of independent experts that monitor implementation of core human rights treaties. They examine periodic State reports, issue concluding observations, adopt general comments and, where optional procedures are accepted, decide individual communications. Their jurisprudence has shaped the interpretation of fair trial, non-discrimination, torture, enforced disappearance, women's equality, child rights and disability rights. Yet treaty bodies suffer from delayed reporting, uneven State cooperation and limited enforceability. Their decisions rely heavily on persuasion, public reasoning and domestic reception.⁸

The Universal Periodic Review is distinctive because it applies to every UN Member State. Each State's human rights record is periodically reviewed on the basis of national reports, UN material and stakeholder submissions. The process has encouraged States to accept recommendations on legal reform, prison conditions, discrimination, gender violence, access to justice and national human rights institutions. Its universal character reduces the charge of selective targeting. At the same time, the UPR is not a judicial process. Recommendations may be general, politically negotiated and dependent on voluntary implementation.⁹

Special Rapporteurs and Working Groups contribute an investigative and thematic dimension. They send communications to governments, conduct country visits, prepare thematic reports and bring

⁷ U.N. General Assembly, Human Rights Council, G.A. Res. 60/251, U.N. Doc. A/RES/60/251 (3 April 2006).

⁸ Office of the High Commissioner for Human Rights, Treaty Bodies, available at: <https://www.ohchr.org/en/treaty-bodies> (last visited on June 28, 2026).

⁹ Office of the High Commissioner for Human Rights, Universal Periodic Review, available at: <https://www.ohchr.org/en/hr-bodies/upr/upr-home> (last visited on June 28, 2026).

attention to patterns of violation. Their independence allows them to speak in ways that inter-governmental bodies may avoid. Mandates on torture, extrajudicial executions, arbitrary detention, freedom of religion, minority issues, violence against women, privacy, and extreme poverty have influenced domestic reform debates. The limitation is familiar: Special Procedures can expose, analyse and recommend, but they cannot compel compliance.¹⁰

The effectiveness of international mechanisms should therefore be judged realistically. They are rarely coercive in the manner of domestic courts. Their value lies in standard-setting, documentation, reputational pressure, interpretation of treaty obligations and the creation of channels through which domestic actors can internationalise rights concerns. International mechanisms are strongest when their findings are used by national courts, legislatures, commissions, civil society and media. They are weakest where States reject scrutiny, delay reporting or treat international recommendations as diplomatic ritual. Human rights commissions at the national level become crucial precisely because they can internalise these standards within domestic administration.¹¹

4. Paris Principles and National Human Rights Institutions

The Paris Principles are the central international standard for national human rights institutions. Adopted by the General Assembly in 1993, they do not prescribe a single institutional model. Instead, they identify minimum requirements for a credible NHRI: a broad mandate based on universal human rights standards, independence guaranteed by law, autonomy from government, pluralism, adequate resources, powers of investigation, cooperation with civil society and engagement with international mechanisms.¹² The requirement of independence is not ornamental. A commission that investigates custodial death, police violence, prison abuse, displacement, discrimination or minority insecurity may have to criticise powerful public authorities. If its leadership, budget, staff or investigation wing are controlled by the executive, its independence becomes formal rather than real. Independence must therefore be secured at multiple levels: appointment, tenure, removal, finances, staffing, premises, procedure and public communication.

Pluralism is equally important. Human rights violations do not affect society uniformly. Women, children, Scheduled Castes, Scheduled Tribes, religious and linguistic minorities, persons with disabilities, refugees, prisoners, older persons and sexual minorities experience law and administration differently. A commission composed narrowly of retired officials, without adequate representation of civil society and vulnerable groups, may understand legality but fail to understand lived vulnerability. Pluralism enriches institutional judgment and improves public trust.

A broad mandate allows an NHRI to address all human rights rather than a narrow class of complaints. The Paris Principles contemplate advice to government and parliament, examination of laws, preparation of reports, public education, cooperation with the United Nations, and hearing or transmitting complaints. GANHRI's account of the Paris Principles identifies broad mandate, broad functions, independence, pluralism, adequate powers, adequate resources, cooperative work and international

¹⁰ Office of the High Commissioner for Human Rights, Special Procedures of the Human Rights Council, available at: <https://www.ohchr.org/en/special-procedures-human-rights-council> (last visited on June 28, 2026).

¹¹ Office of the High Commissioner for Human Rights, Human Rights Council Sessions, available at: <https://www.ohchr.org/en/hr-bodies/hrc/sessions> (last visited on June 28, 2026).

¹² Principles Relating to the Status of National Institutions (Paris Principles), G.A. Res. 48/134, U.N. Doc. A/RES/48/134 (20 December 1993).

engagement as core requirements. These criteria are not procedural niceties; they are conditions for credibility.¹³

Adequate funding is a practical expression of independence. A commission with insufficient investigators, translators, regional offices, forensic support, digital infrastructure and legal staff cannot respond to a large and diverse population. Financial dependence also creates subtle pressure. Even where there is no direct interference, an institution that depends entirely on annual executive discretion may hesitate to confront systemic violations.

Investigative powers determine whether a commission can move beyond paper review. Access to records, power to summon witnesses, power to inspect institutions and authority to obtain expert evidence are necessary. Yet powers alone are insufficient if investigation is carried out by officers drawn from agencies whose conduct is under scrutiny. The appearance of independence matters as much as actual independence, because victims must believe that the institution will not reproduce the power imbalance against which they complain.

The Paris Principles also explain why national human rights commissions are not merely domestic bodies. A Paris-compliant NHRI participates in international mechanisms, submits independent material to treaty bodies and the UPR, follows up recommendations and brings global standards into national debate. This bridging role is particularly significant in legal systems where international treaties are not automatically enforceable unless incorporated by domestic law.

5. Role of National Human Rights Commission in India

The National Human Rights Commission of India was established under the Protection of Human Rights Act, 1993. The long title of the Act states that it was enacted to provide for the constitution of a National Human Rights Commission, State Human Rights Commissions and Human Rights Courts for better protection of human rights. The statutory purpose is thus institutional and remedial rather than merely declaratory.¹⁴

The composition of the NHRC reflects a judicially weighted model. The Act provides for a Chairperson who has been the Chief Justice of India or a judge of the Supreme Court, judicial members and members having knowledge of, or practical experience in, human rights. Certain national commissions are associated as deemed members for specified functions. The appointment is made by the President on the recommendation of a committee consisting of high constitutional and parliamentary functionaries. As of June 2026, the NHRC's official composition page identifies Justice V. Ramasubramanian as Chairperson, along with other members appointed in 2023 and 2024.¹⁵¹⁶

The functions of the NHRC under section 12 are broad. It may inquire suo motu or on a petition into complaints of human rights violation or negligence in prevention of such violation by a public servant; intervene in court proceedings with approval; visit jails and detention institutions; review constitutional and legal safeguards; study treaties and international instruments; undertake research; spread human

¹³ Global Alliance of National Human Rights Institutions, Paris Principles, available at: <https://ganhri.org/paris-principles/> (last visited on June 28, 2026).

¹⁴ Supra note 5, long title.

¹⁵ National Human Rights Commission of India, Composition of the Commission, available at: https://nhrc.nic.in/about-us/composition_of_commission (last visited on June 28, 2026).

¹⁶ Supra note 5, ss. 3 and 4.

rights literacy; encourage non-governmental organisations; and perform other necessary functions for human rights promotion.¹⁷

The Commission's inquiry powers resemble those of a civil court for summoning witnesses, receiving evidence, requisitioning public records, issuing commissions and requiring information. Proceedings before it are deemed judicial proceedings for specified purposes. These provisions give the Commission procedural seriousness, but they do not make it a court. Its final authority is principally recommendatory. After inquiry, it may recommend compensation, prosecution, disciplinary action, interim relief or other steps, and require the government to inform it about action taken.¹⁸¹⁹

The NHRC's contribution has been most visible in areas where ordinary remedies are slow or inaccessible. Custodial violence is the clearest example. Death or torture in custody represents the extreme failure of rule of law because the victim is under the physical control of the State. Judicial decisions such as *D.K. Basu* created procedural safeguards for arrest and detention, including arrest memo, information to relatives, medical examination and production before magistrate. The NHRC's guidelines, reporting requirements and compensation recommendations have helped keep custodial violence within public accountability, although they have not eliminated it.

The Supreme Court's decision in *D.K. Basu* is especially relevant because it treated custodial violence not as a mere departmental wrong but as a constitutional injury. Compensation for violation of Article 21 has also been recognised in cases such as *Nilabati Behera*. The NHRC's work in custodial death cases draws strength from this constitutional jurisprudence, but its reliance on magisterial inquiries and police reports continues to raise concerns about independent fact-finding.²⁰²¹

Police excesses, fake encounters, illegal detention, failure to register complaints and discriminatory investigation form another important area. The difficulty is structural. Police agencies are both protectors of rights and frequent subjects of complaints. A commission must therefore scrutinise not only individual misconduct but also training, supervision, incentives, forensic capacity and political pressure. Recommendations for compensation are important for victims, but systemic reform requires follow-up on prosecution, disciplinary action and institutional change.

Prison conditions show the need for inspection-based human rights work. Overcrowding, prolonged undertrial detention, lack of medical care, poor sanitation, mental health neglect and violence within prisons cannot be addressed only through individual petitions. The NHRC and State Commissions can visit prisons, call for reports and issue recommendations. The constitutional foundation lies in Article 21, which does not stop at the prison gate. Decisions concerning detainees and women prisoners show that custody intensifies, rather than diminishes, the State's duty of care.²²

Bonded labour and forced labour bring the NHRC close to socio-economic rights. Article 23 prohibits traffic in human beings, begar and similar forms of forced labour. The Bonded Labour System (Abolition) Act, 1976 provides a statutory framework, but enforcement depends on identification, release, rehabilitation and monitoring. In *Bandhua Mukti Morcha*, the Supreme Court expanded the meaning of forced labour and treated social action litigation as a means to reach vulnerable workers.

¹⁷ Ibid., s. 12.

¹⁸ Ibid., s. 18.

¹⁹ Ibid., s. 13.

²⁰ *Nilabati Behera v. State of Orissa*, (1993) 2 SCC 746.

²¹ *D.K. Basu v. State of West Bengal*, (1997) 1 SCC 416.

²² *Sheela Barse v. State of Maharashtra*, (1983) 2 SCC 96.

Human rights commissions can assist by treating bonded labour not as an isolated labour dispute but as a denial of dignity, liberty and equality.²³

Women's rights have entered the NHRC's mandate through complaints, advisory interventions, collaboration with specialised commissions and public reporting. The decision in *Vishaka* is a landmark because it used constitutional guarantees and international obligations to create workplace sexual harassment guidelines before legislation was enacted. The case demonstrates a larger point: human rights protection in India often develops through interaction between constitutional law, international standards and institutional follow-up. Commissions can strengthen this interaction by monitoring implementation, especially in workplaces, shelter homes, police stations, prisons and educational institutions.²⁴

Child rights require a similarly integrated approach. Child labour, trafficking, institutional abuse, sexual offences, denial of education and malnutrition cannot be addressed through criminal law alone. Articles 21A and 24, read with child protection statutes, impose duties on the State. Although the National Commission for Protection of Child Rights has a specialised mandate, the NHRC can address child rights where violations involve detention, bonded labour, displacement, police action or systemic administrative neglect.

The rights of Scheduled Castes and Scheduled Tribes require attention because caste and tribal vulnerability often appear as ordinary administrative issues: refusal to register atrocity cases, displacement from land, violence against manual scavengers, custodial abuse, denial of forest rights, or discrimination in public services. A human rights commission must be attentive to structural discrimination. Formal equality under Article 14 is insufficient unless institutions are able to identify patterns of exclusion and demand accountability from local authorities.

Disability rights and rights of sexual minorities also show how the Commission's mandate must evolve with constitutional morality. The recognition of transgender persons' rights in *NALSA*, the decriminalisation of consensual same-sex relations in *Navtej Singh Johar*, and the emphasis on decisional autonomy in *Puttaswamy* reveal a jurisprudence of dignity that goes beyond physical liberty. Human rights commissions must translate this jurisprudence into accessible complaint handling, institutional audits and policy recommendations.²⁵²⁶²⁷

Refugee-related concerns occupy an unusual position in India because India is not party to the 1951 Refugee Convention and does not have a comprehensive refugee statute. Nevertheless, constitutional protections under Articles 14 and 21 extend to persons, not only citizens. In the *Chakma* refugees case, the Supreme Court directed protection of life and liberty against threats of expulsion and violence. The NHRC's intervention in that matter remains an important example of a national human rights institution using constitutional remedies to protect vulnerable non-citizens.²⁸

The NHRC's jurisdiction is subject to limitations. It ordinarily cannot inquire into matters after one year from the date of the alleged violation, and its jurisdiction over armed forces cases is restricted to seeking reports and making recommendations to the Central Government. These restrictions are not trivial. Many victims approach institutions late because of fear, poverty, illiteracy or official intimidation.

²³ *Bandhua Mukti Morcha v. Union of India*, (1984) 3 SCC 161.

²⁴ *Vishaka v. State of Rajasthan*, (1997) 6 SCC 241.

²⁵ *National Legal Services Authority v. Union of India*, (2014) 5 SCC 438.

²⁶ *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1.

²⁷ *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1.

²⁸ *National Human Rights Commission v. State of Arunachal Pradesh*, (1996) 1 SCC 742.

Similarly, allegations from conflict-affected areas require credible independent scrutiny. A limitation rule designed for administrative certainty may therefore weaken substantive justice in serious cases.²⁹ The NHRC should be understood neither as a substitute for courts nor as an ordinary complaints office. Its best function is to create a rights-sensitive administrative record, identify systemic failure, recommend relief, push governments to respond and educate public institutions. Its weakness appears when recommendations are treated as optional correspondence. The Indian experience therefore reveals both promise and incompleteness: the Commission has helped normalise human rights accountability, but its statutory design does not yet guarantee effective enforcement.

6. State Human Rights Commissions and Their Importance

State Human Rights Commissions are provided for under the Protection of Human Rights Act, 1993. Their creation recognises that human rights violations are often local. A custodial assault in a district lock-up, abuse in a shelter home, displacement by local authorities, denial of welfare, discrimination by police or violence in a prison may require immediate local response. A national institution located in Delhi cannot alone provide accessible remedies for a country of India's size and diversity.³⁰

State Commissions improve accessibility in three ways. First, they reduce distance. Victims, lawyers and civil society organisations can approach an institution closer to the place of violation. Secondly, they understand local administrative structures, languages and social conditions. Thirdly, they can conduct visits and hearings with greater speed. In theory, State Commissions should be the first line of institutional protection, while the NHRC should handle national, systemic, inter-state and exceptional matters.

The decentralised model also supports federal constitutionalism. Human rights protection is not exclusively a central subject in practice. Police, prisons, public health, local welfare, land administration and many social services are administered substantially at the State level. A State Commission can therefore engage directly with the officials who control the relevant institutions. It can also issue state-specific recommendations on prison manuals, police training, compensation schemes, shelter homes, mental health institutions and bonded labour rehabilitation.

The actual performance of State Commissions, however, is uneven. Many suffer from vacancies in the posts of chairperson and members. Some lack adequate staff, independent investigation teams and funds. Public awareness remains limited, particularly among rural, poor and marginalised communities. Reports may be delayed. Follow-up mechanisms are weak. In some States, commissions function intermittently, undermining confidence among complainants. Where an institution is not fully constituted, the right to approach it becomes formal rather than practical.

State Commissions also face the same structural limitation as the NHRC: recommendations are not binding in the strict judicial sense. This does not make them meaningless, but it requires strong publication, legislative oversight and action-taken monitoring. A recommendation ignored by a department should not simply disappear into a file. It should be placed before the legislature, made accessible to the public and tracked until compliance or reasoned disagreement is recorded.

7. Comparative Perspective

A comparative perspective helps separate institutional design from local habit. The Equality and Human

²⁹ Supra note 5, s. 36(2).

³⁰ Ibid., ss. 21-29.

Rights Commission in Great Britain is established under the Equality Act, 2006. It combines equality and human rights mandates and has enforcement powers in relation to equality law, including investigations, unlawful act notices, agreements, interventions and legal assistance. Its model shows the value of linking human rights to anti-discrimination enforcement rather than treating discrimination as a peripheral social problem.³¹

The Australian Human Rights Commission operates under the Australian Human Rights Commission Act, 1986. It investigates and conciliates complaints, conducts national inquiries, undertakes education, intervenes in court proceedings and reports to Parliament. Australia's model is significant for its use of conciliation in discrimination and human rights matters. Conciliation cannot replace adjudication in serious violations, but it can provide accessible, less adversarial remedies in appropriate cases. The Indian system may learn from structured complaint resolution, stronger thematic inquiries and clearer reporting to Parliament.³²

The South African Human Rights Commission has a constitutional foundation. Section 184 of the Constitution mandates it to promote respect for human rights, promote protection, development and attainment of human rights, and monitor and assess observance of human rights. It has powers to investigate, report, take steps to secure redress, carry out research and educate. Its specific mandate to require organs of State to provide information on measures taken towards realisation of socio-economic rights is a particularly important design feature. It recognises that socio-economic rights require continuing institutional monitoring, not only episodic litigation.³³

Three best practices emerge from this comparison. First, human rights institutions should have clear statutory or constitutional independence, including control over staff and budget. Secondly, equality, non-discrimination and socio-economic rights should be integrated into the mainstream mandate. Thirdly, commissions should be able to use a range of tools: investigation, conciliation, legal intervention, public inquiry, parliamentary reporting, compliance notices where appropriate and systematic follow-up. India's NHRC has a broad mandate, but it requires stronger enforcement pathways and a more diversified institutional culture.

8. Critical Analysis of Effectiveness

The strengths of human rights commissions should not be dismissed. They provide a forum less formal than courts. They can act *suo motu*. They can reach into prisons, police stations and institutions that courts do not routinely inspect. They can produce thematic studies and advise governments. They can develop human rights literacy and bring international standards into domestic debate. They also create an official record of violations, which is valuable for litigation, policy reform and democratic accountability.

Their second strength is institutional continuity. Courts decide cases placed before them. A commission can monitor patterns over time: repeated custodial deaths in a State, recurring bonded labour practices in an industry, abuse in a category of institutions, or non-compliance with compensation recommendations. This pattern-recognition function allows commissions to move from individual grievance to structural

³¹ Equality Act, 2006 (U.K.), c. 3, ss. 3 and 8; Equality and Human Rights Commission, Our Enforcement Powers, available at: <https://www.equalityhumanrights.com/our-work/our-legal-work/our-legal-powers/our-litigation-and-enforcement-policy/our-enforcement-powers> (last visited on June 28, 2026).

³² Australian Human Rights Commission Act, 1986 (Cth), ss. 11, 20-23 and 46P.

³³ Constitution of the Republic of South Africa, 1996, s. 184.

reform. When used seriously, it makes a commission a democratic watchdog rather than a passive complaint desk.

The limitations are equally serious. The first is the recommendatory character of decisions. A recommendation may carry moral and political weight, but a resistant department can delay, dilute or ignore it. The absence of binding authority is not fatal if there is strong public reporting and legislative follow-up. In practice, however, action taken reports may be delayed and non-compliance may not produce meaningful consequences. The result is a gap between finding and remedy.

Delay is the second limitation. A commission that takes years to dispose of a complaint may reproduce the very denial of justice it was created to address. Delay weakens evidence, exhausts victims and reduces deterrence. Human rights violations require urgency because harm often continues. Interim relief, time-bound inquiries and digital tracking are therefore not administrative conveniences; they are part of the remedy.

The third limitation concerns institutional dependence. Under the PHRA, staff and investigative capacity are heavily connected with government structures. GANHRI's Sub-Committee on Accreditation, in its March 2025 report, recommended that India's NHRC be downgraded to B status, with the recommendation not taking effect for one year, while noting concerns regarding police officers in investigation, appointment of the Secretary General, composition and pluralism, selection and appointment, addressing violations and cooperation with civil society. This is a significant warning because accreditation is linked to compliance with the Paris Principles.³⁴

Appointment concerns also affect credibility. A selection committee composed of high constitutional functionaries may appear impressive, but the process must be transparent, consultative and open to diverse candidates. Public advertisement of vacancies, objective criteria, civil society consultation and publication of reasons can improve legitimacy. The same principle applies to State Commissions, where vacancies and delayed appointments have often weakened functioning.³⁵

A further concern is limited public awareness. Rights institutions cannot protect people who do not know that the institution exists or who cannot access it in their language. Marginalised communities may lack internet access, legal literacy or confidence in official forums. Accessibility must therefore include regional outreach, legal aid coordination, simplified complaint formats, mobile hearings, translation support and protection against retaliation.

Are human rights commissions effective watchdogs or merely advisory bodies? The answer depends on design and practice. Legally, many commissions are advisory because their recommendations do not bind the government like a court decree. Institutionally, however, they can still be watchdogs if they investigate independently, publish findings, insist on action taken reports, engage legislatures, use media responsibly and build alliances with courts and civil society. A commission becomes merely advisory when it avoids controversial issues, depends on departmental reports, fails to follow up, or treats disposal statistics as a substitute for justice.

The balanced conclusion is that human rights commissions are necessary but insufficient. They cannot replace courts, legislatures, police reform, prison reform, anti-discrimination law or welfare accountability. Yet without them, many violations would remain invisible. Their proper role is to make the State answerable in ordinary administrative spaces where constitutional promises are most frequently tested.

³⁴ GANHRI Sub-Committee on Accreditation, Report of the 45th Session, March 2025, pp. 17-24.

³⁵ Supra note 5, ss. 3, 4 and 22.

9. Challenges in Safeguarding Human Rights

Human rights commissions operate in an environment shaped by political power. Political interference may be direct, as in pressure over appointments or reports, or indirect, as in budgetary control, delayed vacancies and selective cooperation by departments. A commission that depends on the executive for staff, finances and information is vulnerable to subtle forms of control. Independence must therefore be built into everyday administration, not only written into statutes.

Financial autonomy remains a major challenge. Rights protection requires trained investigators, forensic support, data analysts, regional offices, translators, social workers, legal researchers and technology infrastructure. Without these, a commission becomes dependent on the same administrative machinery it is supposed to scrutinise. Underfunding also affects prison inspections, field inquiries, research projects and follow-up visits.

Non-binding recommendations create a compliance problem. Governments may accept compensation recommendations in some cases while ignoring structural recommendations. A commission may repeatedly identify overcrowded prisons, poor medical facilities or police misconduct, but without binding effect or legislative monitoring the recommendations may not change institutional behaviour. This challenge is more serious where violations are systemic and require budgetary or disciplinary action.

Under-reporting of violations is another serious problem. Victims may fear retaliation by police, prison staff, landlords, employers, local elites or political actors. Women may avoid complaints due to stigma. Migrant workers may lack documents. Refugees may fear deportation. Persons with disabilities may face communication barriers. A commission's complaint statistics therefore do not necessarily reflect the scale of violations. Low numbers may indicate silence, not justice.

Custodial violence continues to test the credibility of rights institutions. Guidelines, CCTV requirements, medical examination and reporting obligations are important, but torture often survives through informal practices, poor investigation and social acceptance of violence as a policing tool. A commission must challenge the culture of impunity, not only recommend compensation after death or injury.

Digital surveillance has created a newer field of human rights concern. The Court's earlier telephone-tapping decision in *People's Union for Civil Liberties* had already insisted that surveillance must be legally controlled. Privacy is no longer limited to physical intrusion. Data collection, interception, facial recognition, predictive policing, internet shutdowns and algorithmic profiling affect liberty, expression, association and equality. The Supreme Court's recognition of privacy as a fundamental right requires institutions to examine surveillance through legality, necessity, proportionality and procedural safeguards. Human rights commissions must build technical capacity to address these questions.³⁶

Discrimination, minority rights and gender violence present both legal and social challenges. Human rights commissions must be careful not to treat communal violence, caste violence, hate speech, mob violence or gender-based violence as isolated law-and-order incidents. These violations often reflect deeper patterns of exclusion and official inaction. Institutional neutrality should not mean silence; it should mean evidence-based scrutiny of all violations without partisan selectivity.

Socio-economic rights pose a further challenge because violations often appear as policy failures rather than rights breaches. Hunger, homelessness, denial of health care, unsafe work, manual scavenging and lack of education require the commission to engage budgets, schemes and administrative design. The

³⁶ *People's Union for Civil Liberties v. Union of India*, (1997) 1 SCC 301.

right to food litigation showed how judicial monitoring can transform welfare entitlements into enforceable obligations. Human rights commissions can complement such litigation by tracking implementation, identifying exclusion and recommending corrective measures.³⁷

Violence by private actors also complicates the mandate. Lynching, bonded labour, trafficking, workplace harassment and domestic violence may involve non-State actors, but State responsibility arises when public authorities fail to prevent, investigate or remedy such violations. In *Tehseen S. Poonawalla*, the Supreme Court treated mob violence and lynching as requiring preventive, remedial and punitive measures by the State. Human rights commissions should use this logic to scrutinise administrative negligence, not only direct State abuse.³⁸

10. Suggestions and Reforms

The first reform is to strengthen the legal effect of recommendations. Making every recommendation automatically binding may raise separation of powers concerns, but a middle path is possible. Governments should be legally required to comply or give detailed written reasons for non-compliance within a fixed period. Non-compliance should be placed before the legislature and published in a searchable public database. Compensation recommendations in established cases of custodial death, illegal detention or institutional negligence should carry stronger presumptive force.

Secondly, appointment processes must become transparent. Vacancies should be publicly advertised. Eligibility criteria should be published. Civil society, bar associations, universities and rights groups should be able to nominate or comment on candidates. The final recommendation should record reasons, at least in summary form. Diversity in gender, caste, tribe, minority background, disability, region and professional experience should be treated as an institutional requirement, not as charity.

Thirdly, financial independence should be improved. Budgets of national and State commissions should be presented directly to the legislature or routed through a mechanism that prevents arbitrary executive reduction. Commissions should have authority to recruit their own specialised staff. Investigative wings should include independent investigators, lawyers, forensic experts, psychologists, social workers, data specialists and persons with field experience in vulnerable communities.

Fourthly, vacancies must be filled within a mandatory time frame. A human rights commission without a chairperson or members cannot perform its statutory function. The law should provide a timeline for initiating appointments before a vacancy arises and a consequence for unjustified delay. State Commissions require particular attention because delayed appointments at the State level directly affect local access to justice.

Fifthly, suo motu powers should be used more systematically. Media reports, civil society documentation, court records, parliamentary materials, audit reports and digital evidence can reveal patterns of violation. Suo motu action should not be arbitrary or publicity-driven; it should be guided by seriousness, vulnerability, urgency and systemic impact. Reasons for taking or declining suo motu cognisance should be recorded in significant matters.

Sixthly, coordination with civil society must be institutionalised. Non-governmental organisations, legal aid groups, prison visitors, disability rights groups, women's organisations, child protection networks, labour unions and minority rights groups often possess ground-level knowledge that commissions lack.

³⁷ *People's Union for Civil Liberties v. Union of India*, W.P. (C) No. 196 of 2001, orders dated 28 November 2001 and subsequent orders.

³⁸ *Tehseen S. Poonawalla v. Union of India*, (2018) 9 SCC 501.

Regular consultations should be held outside capital cities. Civil society inputs should inform thematic reports, inspections and follow-up priorities.

Seventhly, digital complaint access should be expanded without excluding offline access. Online filing, tracking numbers, vernacular interfaces, WhatsApp-based status updates, video hearings and digital evidence upload can improve access. At the same time, rural complainants, prisoners, migrants and persons without digital literacy must be able to file through post, district legal services authorities, mobile clinics and local facilitation centres.

Eighthly, follow-up mechanisms should be strengthened. Every recommendation should have a compliance calendar. Action taken reports should be evaluated, not mechanically received. Where a department rejects a recommendation, the reasons should be scrutinised. Repeat non-compliance by a department should be reported to the legislature and, in appropriate cases, brought to the attention of constitutional courts.

Finally, international and national mechanisms should be better connected. NHRC and State Commissions should use treaty body concluding observations, UPR recommendations and Special Rapporteur reports in domestic monitoring. They should also submit independent information to international mechanisms where appropriate. This would convert international scrutiny into domestic reform rather than leaving it at the level of diplomacy.

11. Conclusion

Human rights commissions are products of a simple institutional insight: rights require more than declarations and courts. They require bodies that can investigate, advise, inspect, educate, report, recommend and keep public authorities under continuing scrutiny. International mechanisms create norms, interpret obligations and generate pressure. National and State commissions translate those standards into domestic administrative accountability. Their position between courts and government makes them both useful and vulnerable.

The international framework, beginning with the UDHR and carried forward through the ICCPR, ICESCR, treaty bodies, the Human Rights Council, UPR and Special Procedures, has shaped a global vocabulary of dignity, equality, liberty and accountability. Yet the international system cannot by itself secure rights within police stations, prisons, labour sites, schools, hospitals, digital databases or local welfare offices. That task requires national institutions with independence, access and credibility.

India's NHRC has contributed to the protection of human rights by addressing custodial violence, prison conditions, bonded labour, women's rights, child rights, disability rights, caste and tribal vulnerability, refugee concerns and socio-economic entitlements. It has helped make human rights part of ordinary governance. Nevertheless, its limitations are clear: recommendatory powers, delay, dependence on government staff, restricted jurisdiction, appointment concerns, uneven pluralism and weak follow-up. State Commissions, although essential for local access, face similar and often sharper problems of vacancies, funds and public awareness.

The question is therefore not whether human rights commissions should exist. They are indispensable. The real question is whether they will be allowed to function as independent accountability institutions or remain advisory bodies whose findings can be ignored. Reform must focus on enforcement value, appointment transparency, financial autonomy, independent investigation, civil society engagement, digital access and compliance monitoring. A commission that cannot compel attention to suffering cannot safeguard dignity.

Human dignity is not protected by rhetoric. It is protected when institutions make power answerable. Human rights commissions, if properly strengthened, can serve as guardians of that accountability. They connect constitutional promises with administrative practice and international obligations with domestic remedies. Their future effectiveness will depend on whether law treats them as ceremonial bodies or as essential instruments of constitutional governance.

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