

**INDIA'S UNIVERSAL
PERIODIC REVIEW FOR
THE FOURTH CYCLE**

**REPORT SUBMISSION BY:
NATIONAL HUMAN RIGHTS
COMMISSION, INDIA**



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/>

Contents

Foreword	5
1. Introduction	6
2. Implementation of UPR recommendations	6
2.1 Ratification of Human Rights Treaties and Conventions, Implementing Human Rights Mechanisms, Facilitating UN Special Procedures	6
2.2 NAP-HR	7
2.3 Women & Children	7
2.4 Vulnerable Sections	8
2.4.1 Elderly	8
2.4.2 People with Disabilities	8
2.4.3 SC & ST	8
2.4.4 LGBTQI+	8
2.4.5 Religious Minorities and Refugees	9
2.5 Health	9
2.6 Right to Education (including HRE)	10
2.7 Social Security, Right to work and labour rights	10
2.8 Housing, Water & Sanitation, Poverty Alleviation	10
2.9 Environment, Business and Human Rights	11
2.10 Right to Food	11
2.11 HRDs	12
2.12 Human Trafficking	12
2.13 Legal Immunity	12
2.13.1 Immunity and Human Rights Violations by Security Forces and Police.	12
2.13.2 Judiciary: Vacancies & Judicial Delay	13
2.13.3 Excessive Pre-Trial Detention & Prisons	13
2.13.4 Legal Aid & Assistance	13
2.13.5 Death Penalty	14

Annexure

[Annexure 1: Role and Functioning of National Human Rights Commission](#)

[Annexure 2: Protection of human rights amid the crisis of Covid-19](#)

[Annexure 3: Process adopted](#)

[Annexure 4: Human Rights Advisories issued by NHRC during COVID-19](#)

[Annexure 5: UPR III Recommendations](#)

List of Abbreviations:

CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CrPC	Code of Criminal Procedure
CSOs	Civil Society Organizations
DIKSHA	Digital Infrastructure for Knowledge Sharing
DLSAs	Delhi state Legal services Authority
FCRA	Foreign Contribution Regulation Act
GDP	Gross Domestic Product
GoI	Government of India
HRDs	Human Rights Defenders
HRE	Human Rights Education
LGBTQI+	Lesbian, Gay, Bisexual, Transgender, Queer, Intersex+
NALSA	National Legal Services Authority
NAP-BHR	National Action Plan on Business and Human Rights
NEP	National Education Policy
NGOs	Non-Governmental Organisations
NHRC	National Human Rights Commission
NHRIs	National Human Rights Institutions
MGNREGA	Mahatma Gandhi National Rural Employment Guarantee Act
Ors.	Others
PHRA	Protection of Human Rights Act
PMAY-U	Pradhan Mantri AwasYojana-Urban
PwD	Persons with Disability
RTE	Right to Education
SCs	Scheduled Castes
SLSAs	State Legal Services Authorities
SOP	Standard Operating Procedure
SR	Special Rapporteur
STs	Scheduled Tribes
SWAYAM	Study Webs of Active-Learning for Young Aspiring Minds
UN	United Nations



FOREWORD

Universal Periodic Review (UPR), a unique mechanism of the United Nations Human Rights Council, examines and assesses the human rights situation in every UN Member State through a peer-review process.

The UPR is undertaken in cycles of four and a half years each. For each cycle, the Indian Government prepares a National report on the overall human rights record of the country. Independent reports are also called from stakeholders, including civil society organisations/HRDs/NGOs/academic institutions, etc., and "A" accredited NHRIs.

The National Human Rights Commission, India, has been an active participant in the UPR process ever since the First Cycle (2008). The Commission's current submission analyses and puts forward its observations comments on the 250 recommendations made in respect of India by various countries during the third UPR cycle, out of which 152 were accepted and of remaining 98 were noted by the Government of India.

The document highlights the steps taken by India to ensure the protection and promotion of the human rights of the citizens of the country. It acknowledges the progressive actions taken by India for migrant workers, bonded labour, trafficking, ensuring the rights of women and children, human rights education, access to affordable, timely and acceptable healthcare resources, etc., and at the same time, it also reflects and makes recommendations on the areas where India needs to improve its performance towards protection and promotion of the rights of its people.

The document also sheds light on the challenges posed by the Covid-19 pandemic and how the Commission acted as a watchdog in safeguarding the rights of vulnerable sections of the society during these challenging times.

The UPR process has assumed a crucial role in the advancement and monitoring of human rights records of the state members and its further improvement across the globe. I look forward to engaging with the Government, CSOs, HRDs and the international community as we strive to realise human rights enshrined in the Universal Declaration of Human Rights.

(Justice Arun Mishra)
Chairperson, NHRC, India

1. Introduction

The review of India under the third UPR cycle was held on 4th May 2017, and the Government of India's report was adopted on 21st September 2017. A total of 250 recommendations were made by the UPR Working Group in respect of India, out of which 152 were accepted by the GoI.

The recommendations accepted by the GoI pertain to a broad range of issues such as Acceptance of International Norms, Poverty Alleviation, Rights of Women, children, Persons with Disabilities, Elderly, Marginalised Populations, Labour, Right to Health, Right to Education, Promotion of HRE etc.

This report of NHRC is based on inputs from the GoI, Human Rights Defenders, Civil Society Organisations, etc. and various assessments held by the Commission. It provides an overview of the implementation of UPR III recommendations and assesses steps taken by the Government of India on the Human Rights scenario in India.

2. Implementation of UPR recommendations

2.1 Ratification of Human Rights Treaties and Conventions, Implementing Human Rights Mechanisms, Facilitating UN Special Procedures

India has accepted and ratified a number of conventions, including the MINIMUM AGE CONVENTION, 1973 and THE WORST FORMS OF CHILD LABOUR CONVENTION, 1999 of the International Labour Organization. India has accepted the 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/s State of West Bengal¹ etc., 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 laws 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. India has not signed the Convention on Migrant Labour. However, the Labour Code that are formed for providing social security and other measures for the workers are in the process of enactment of rules by the States.

Special Rapporteurs (SRs) play an important role in the implementation of human rights. India at present has a standing invitation to all the SRs to visit the country. During Covid-19,

¹ 1997 (1) SCC 416

restrictions on visits were in place.

India has not yet ratified the Convention on Enforced Disappearance of any person; however, enforced picking up of any person is prohibited by the existing laws and is unconstitutional.

2.2 National Action Plan-Human Rights (NAP-HR)

NHRC is assisting in the formulation of NAP-HR. The Commission has constituted a Task Force consisting of various Ministries/Departments for its preparation. Recently, after various levels of consultation, a template to be used for the preparation of NAP-HR was prepared and sent to the members of the Task Force.

2.3 Women & Children

The employability of women needs to be enhanced, for which the Government is providing training and enabling provisions have been added to Labour Codes for creating a congenial work environment. Representation of women in Parliament and State Legislative Assemblies and Judiciary has increased. Efforts are being made for the enhancement of the skills, in particular of women. Sensitisation programmes need to be held repeatedly to promote gender equality.

The GoI has taken steps to eliminate VIOLENCE AGAINST WOMEN AND CHILDREN through numerous policies, laws, and programs. In India, there are multiple laws such as the Protection of Women from Domestic Violence Act, Protection of Children from Sexual Offences Act, Prohibition of Child Marriage Act, etc. The law with regard to safety and protection from sexual harassment at the workplace is an effective instrument for protection and needs to be enforced more strictly by the concerned authorities. The law enforcement and program monitoring institutions should coordinate their activities, and effective training is required to identify and redress crimes against women and children in the field of cyberspace.

The extant Prohibition of Child Marriage Act forbids child marriage up to 18 years of age. Further, the Government has introduced a bill to raise the legal age for marriage for women from 18 to 21 years. As in some pockets, child marriages based on illegal custom takes place clandestinely. The government agencies need to work in tandem to sensitize and implement the extant laws to prevent child marriages.

As per Article 24 of the Constitution of India, "No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment." Various Acts, including the Factories Act, prohibit the employment of children below 14 years in hazardous employment. Child Care Institutions need to monitor the rehabilitation of

rescued children effectively. Efforts must be made by the Child Welfare Department to prevent re-victimisation.

The matter related to the validity of CRIMINALISATION OF MARITAL RAPE is sub-judice before the High Court.

2.4 Vulnerable Sections

2.4.1 Elderly

There are legislations and mechanisms to protect the RIGHTS OF ELDERLY. Efforts are to be made to spread information about the schemes related to medical and other welfare schemes.

2.4.2 People with Disabilities

There is an enhancement of the quotas for PwDs in Government jobs, railway stations and Airports are made accessible, access audits of important buildings and insurance cover are some of the initiatives taken in India. As per the provisions of the Rights of Persons with Disability Act 2016, no discrimination against PwDs is permissible. Their services cannot be terminated due to disability incurred during employment. There are special institutions catering to the interests of disabled persons. NHRC, through its Core Group and otherwise, regularly enforces the rights of PwDs. Sensitisation programs for citizens and government staff may be organised to promote the interest of the PwDs.

2.4.3 Scheduled Castes & Scheduled Tribes

The Government is progressing in protecting the rights of SCs & STs. There are Special Courts for them. National Commissions for SC & ST are in place. Reservations are provided to them in education and employment. India has various welfare schemes for the emancipation of SCs & STs in social and economic aspects.

2.4.4. LGBTQI+

The Supreme Court of India has struck down Section 377 of the Indian Penal Code in relation to the criminalisation of same-sex relationships as ultra vires.

Under "The Transgender Persons (Protection of Rights) Act, 2019", discrimination against Transgender Persons is prohibited. The scheme 'Comprehensive Rehabilitation for Welfare of Transgender Persons' has been framed in consonance with the Act.

However, effective implementation of the law and sensitisation needs to be ensured.

2.4.5 Religious Minorities

The provisions in Articles 25/ 26 of the Constitution ensure no discrimination against minorities, and it contains special provisions for professing one's faith of choice. There is no anti-conversion law in India, and everyone is free to profess and propagate the religion of their choice. Inter-communal violence is dealt with by law enforcement agencies. India has a separate Ministry of Minority Affairs and a National Commission for Minorities to protect their interests. Indian Constitution ensures that there is no discrimination is made vis-a-vis Muslims, Sikhs, Christians and other religious minorities.

Over the last few years in India, no incident of the nature of Afro-phobia on persons of African descent has been noted. The authorities have to ensure communal harmony is maintained throughout the country.

2.5 Health

The Central and State governments' budgeted expenditure on the HEALTH sector reached 2.1 % of GDP in 2021-22. This is within a touching distance of the targeted 2.5% of GDP by 2025, as well as recommended in UPR III and envisaged in the National Health Plan, 2017. Progress has been witnessed in aspects and parameters of Health for the poor and marginalised, and benefits are trickling down to them. Government-sponsored health insurance coverage has seen an increase.

There are a plethora of schemes sponsored by the Government regarding Health, such as Aayushman Bharat, Pradhan Mantri- Aayushman Bharat Health Infrastructure Mission, etc. India has succeeded in providing free optional vaccination against COVID-19. The pandemic brought about an unprecedented burden on health care, and as a result, considerable infrastructure has been developed. The Commission has issued annexed Advisory on Health.

2.6 Right to Education (including HRE)

Article 21 (A) of the RTE Act provides for free and compulsory education for children from 6 to 14 years. Recently the National Education Policy (NEP) 2020 was introduced with the foundational pillars of Access, Equity, Quality, Affordability and Accountability. It ensures universal access to education at all levels- pre-school to secondary.

The digital divide has been brought about due to covid-19. To provide requisite support to digital education, various steps are being taken to address the gaps. Community-based learning has increased. NHRC has also issued an advisory covering the aspect of children's education so that there are no dropouts and they are back in school. Efforts must also be made by the authorities to work along with civil society organisations to identify the school dropouts and gaps in learning.

The NEP 2020 includes aspects of HUMAN RIGHTS EDUCATION (HRE) in the curriculum. Human Rights Education has been introduced by various boards in India. Many universities have introduced HRE in their curriculum and also Post Graduate and Doctoral level courses in Human Rights. NHRC, to promote HRE, is working in collaboration with schools, colleges, and universities and has made available the content on HRE on SWAYAM and DIKSHA portal. A vigorous approach to inculcate HRE as a professional avenue is required.

2.7 Social Security, Right to work & Labour Rights

29 central laws on labour have been consolidated into four LABOUR Codes to ensure the Right to minimum wage, SOCIAL SECURITY, occupational safety, health and working conditions and industrial relations and the Right to earn in relation to workers of unorganised and new-age sectors. A pension scheme, namely Pradhan Mantri Shram Yogi Maan-dhan, prevails, and for registration, an E-Shram portal for the welfare of unorganised workers who are not members of the Employees' Provident Fund Organisation, or Employees' State Insurance Corporation, has been introduced. MGNREGA, the largest employment scheme for the rural areas, is in vogue across the country.

2.8 Housing, Water & Sanitation and Poverty Alleviation

To take care of the housing needs of the poor, the Govt. has introduced Pradhan Mantri Awas Yojana, a free housing scheme. For an affordable rental scheme, Affordable Rental Housing Complexes have been introduced.

Schematic interventions at rural & urban levels like the introduction of the National Rural Drinking Water Programme, Swachh Bharat Mission, & Jal Jeevan Mission have expanded the right to WATER AND SANITATION. Efforts are being made to provide safe drinking water to all under the schemes.

India is progressing towards attaining universal REGISTRATION OF BIRTHS, and the statistics on the registration of deaths have improved considerably. Registration systems have been made smoother for better accessibility, and awareness programmes have been

undertaken. The Government should continue to monitor the registration of births and deaths through local bodies in the rural areas.

India has made significant progress in reducing multidimensional poverty. Government-sponsored POVERTY ALLEVIATION programmes such as Poshan Abhiyan and Pradhan Mantri Shram Yogi Maan-dhan focus on nutrition & old age protection, including social security for unorganised workers. The Commission also issued annexed advisory on the subject.

2.9 Environment, Business and Human Rights

India has made several policy interventions in the field of ENVIRONMENT, including climate change, which is evident from National Supercomputing Mission, National Mission for Enhanced Energy Efficiency, National Mission for Sustaining the Himalayan Ecosystem, and National Action Plan on Climate Change. To curb pollution, a concerted effort by all stakeholders is required.

Various bodies function to address the environmental issues in India. The Supreme Court also has time and again delivered judgments for protecting ecology, environment & Green Cover (in T.N. Godvarman and MC Mehta's Case). There are legal provisions for Corporate Social Responsibility.

The draft of NAP-BHR has also been prepared relating to the issues of Business and Human Rights. The Commission also issued annexed advisory on the subject.

2.10 Right to Food

Efforts are being made in India to ensure the RIGHT TO FOOD as well as food security. Free ration was provided to the needy during Covid-19. The National Food Security Act, 2013 is enacted to provide food and nutritional security to the needy by ensuring access to an adequate quantity of quality food at affordable prices. Integrated Child Development Scheme is being implemented during pre-school education to improve the nutrition and health of children in the age group of 0-6, and it also aims to lay down the foundation for proper psychological, physical and social development of the child. Right to food is to be ensured more effectively to vulnerable sections. NHRC has also issued annexed advisory on the Right to food.

2.11 Human Rights Defenders

NHRC has been working in close cooperation with HRDs, to take care of human rights and is rendering support and protection to HRDs. NHRC has established a Focal Point and a

dedicated web portal for HRDs on the NHRC website. They play a positive and formidable role in the field of human rights.

Article 19 of the Indian Constitution is in line with Article 19 of the International Covenant on Civil and Political Rights that ensures freedom of speech, expression and association of all individuals, including HRDs, with reasonable restrictions.

FCRA Amendment 2020 was made an issue, but the Supreme Court of India has recently upheld the same.

2.12 Human Trafficking

The GoI has initiated the process of the formation of comprehensive legislation in this regard and has invited comments/suggestions from stakeholders on the draft 'Trafficking in Persons (Prevention, Care and Rehabilitation) Bill, 2021' on which NHRC provided its comments. India is making efforts to curb human trafficking. NHRC has issued an SOP on Combating the Trafficking of persons in India. Trafficking is an intra, and inter-country offence; as such, measures to check trafficking should involve a more effective & integrated approach.

2.13 Legal Immunity

2.13.1 Impunity and Human Rights Violations by Security Forces and Police

In recent years, the Armed Forces (Special Powers) Act 1958 has been lifted from many districts in the country. The extant laws prohibit during encounter excessive use of force than necessary by law enforcement agencies. Human Rights Cell has also been created by the Indian Army. The apex court in DK Basu Vs State of West Bengal has also issued guidelines required to be followed in all cases of arrest, interrogation and detention. NHRC also looks into complaints.

2.13.2 Judiciary: Vacancies & Judicial Delay

The disposal of pending cases is within the domain of the judiciary. Courts are fully committed to speedy disposal of cases in accordance with the Constitution, and efforts are on to reduce the pendency. The budget has been increased to develop and upgrade infrastructure. Funds have been allocated to set up fast-track courts to try cases of sexual crimes against women and also for the universal computerisation of district and subordinate courts in the country. India has Human Rights courts at the district level, as per Chapter 6 of the PHR Act

1993, for accelerating the speedy trial of offences arising out of violation of Human Rights has also been set up. Judicial reform is an ongoing process.

2.13.3 Excessive Pre-Trial Detention & Prisons

Judiciary is looking after pre-trial detentions. Under Section 436 A of CrPC, a person during the period of investigation, inquiry or trial of any offence under the law has undergone detention for a period extending up to one-half of the maximum period of imprisonment specified for that offence, can be released by the Court on personal bond with or without sureties. Several initiatives in the rehabilitation and welfare of prison inmates have been made. For the improvement of prison infrastructure with emphasis on hygiene conditions and also for sensitisation of prison staff, there are various schemes. NHRC has also made suggestions from time to time to improve the condition of prisons. For further reforms, a committee has been appointed by the Supreme Court.

2.13.4 Legal Aid & Assistance

Aiming to extend legal aid to marginalised, poor and vulnerable communities, the Government of India is monitoring its three empowerment initiatives—pro bono legal services, a tele-law service and the 'NyayaMitra' scheme, which are justice facilitation mechanisms introduced to reduce case pendency at the district level. NALSA, SALSAs and DLSAs were created under the Legal Services Authorities Act, 1987. All authorities are taking necessary steps to engage legal aid lawyers for the undefended accused at the cost of the States. Union Governments have allocated funds to resolve disputes through mediators by the courts for early and quick disposal of cases. Lok Adalat is another successful mode of quick and amicable disposal of cases.

2.13.5 Death Penalty

The imposition/abolition of the death penalty is sub-judice in the courts. The courts in India accord the death penalty in rarest of rare cases. Due to delay in execution of the death penalty, it has been commuted to life imprisonment in many cases by the Apex Court, on the basis of the decision of *Shatrughan Chauhan & Anr Vs Union of India & Ors*². The President or the Governor can also exercise the powers under Articles 72 and 161 of the Constitution of India, respectively, to commute the death sentence.

² (2014) 3 SCC1