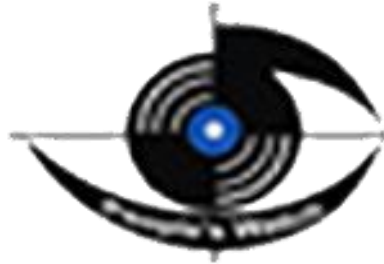


# **Pre-sessions 41 – INDIA**

**Presentation by**



**PEOPLE'S WATCH**

*A not-for-profit and independent organization  
set up to promote a society free of human discrimination and injustice*

# Addressing Issues

- ❑ Impunity and Human Rights Violations by Security Forces and Police.
- ❑ Performance of the National Human Rights Commission India (NHRCI) during this reporting period on crucial issues pertaining to human rights.

# Impunity and Human Rights Violations by Security Forces and Police

- ❑ Despite supporting thirteen recommendations out of twenty-one received during the previous UPR cycle, specifically on ratifying the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, India has failed to act upon its pledges.
- ❑ There were allegations of custodial violence and extrajudicial killings by police and security forces throughout the reporting period.

## Cont.

- ❑ As per the NHRCI data shared by the Ministry of Home Affairs (MHA), there were 9009 cases of judicial deaths across the country from 2017 to Feb 2022. Police custody death cases with NHRCI stood at 649 from 2017 to Feb 2022.
- ❑ In the last five years, disciplinary action was taken in just 21 cases of custodial deaths.

# Cont.

- ❑ The government has also so far failed to properly implement police reforms directed by the Supreme Court in 2006 to ensure accountability.
- ❑ Section 197 of the Criminal Procedure Code and the Armed Forces (Special Powers) Act (AFSPA) guarantee broad powers and immunity to public servants and security forces.
- ❑ AFPSA is currently active in a total of four North eastern states and Jammu & Kashmir.

# Recommendations

- ❑ Ratify the Convention against Torture and its Optional Protocol.
- ❑ Revise the Armed Forces (Special Powers) Act bringing it into compliance with international law, especially its obligations under the International Covenant on Civil and Political Rights (ICCPR).
- ❑ Remove immunity granted under the Criminal Procedure Code in cases of violations of fundamental rights.

# Cont.

- ❑ Implement police reform as recommended by the Supreme Court including establishing a complaint mechanism against police abuse.
- ❑ Ratify the Rome Statute of the International Criminal Court (ICC) and fully align the national legislation with the statute.

# Performance of the National Human Rights Commission India (NHRCI)

- ❑ The re-accreditation of the NHRCI was deferred in 2016 due to concerns raised by the Sub-Committee on Accreditation (SCA) of the Global Alliance of National Human Rights Institutions (GANHRI).
- ❑ The institution was able to retain its 'A' status in 2017.
- ❑ However, NHRCI seldom acted upon its mandate during this reporting period and certain specific matters will elucidate the statement.



# Cont.

- ❑ During the UPR III cycle, India witnessed several serious issues raising concerns over shrinking civic space which include:
  - Protests against the Citizenship Amendment Act
  - Farmers' protests against the three amended farm laws which were later withdrawn by the State
  - Clampdown in Kashmir post the abrogation of Article 370 of the Constitution of India.

# Cont.

- ❑ NHRCI has not undertaken a review of legislations that impact human rights
  - Foreign Contribution (Regulation) Act
  - Unlawful Activities (Prevention) Act
  - Citizenship Amendment Act

# Cont.

- ❑ NHRCI is required to study international human rights treaties and make recommendations for their effective implementation.
- ❑ During the UPR – III cycle, NHRCI has failed to take sufficient steps to ensure the implementation of several important treaties.
  - The UN Convention Against Torture

# Recommendations

- ❑ Amend the Protection of Human Rights Act 1993 in accordance with Paris Principles and in accordance with all the recommendations of GANHRI's SCA made in 2011, 2016 and 2017.
- ❑ Assure that the appointments in NHRCI reflect the diversity of the Indian society and make certain the representation of all minorities.
- ❑ Refrain from appointing retired bureaucrats, security officials and members of organisations associated with political parties in power as Members or even deemed Members of the NHRCI.

# Cont.

- ❑ End the practice of only deputing police officers to NHRCI's Investigation Division, and refrain them alone from conducting investigations in circumstances where the alleged perpetrators are the police.
- ❑ Ensure the NHRCI leads a consultative process of developing a National Action Plan on Human Rights Defenders, National Protection Law and Policy on Human Rights Defenders and guidelines on ensuring free assembly, association and expression.

THANK YOU  
FOR YOUR ATTENTION