APPENDICES
APPENDIX I

Questionnaire for the National Human Rights Commission of India

Environment and Human Rights

1. What is the Commission’s perspective/policy on the linkage between Environment and Human Rights?

2. In terms of importance, does the Commission distinguish between ‘civil and political rights’ and ‘economic, social and cultural rights’? Yes/No

3. In terms of importance, does the Commission distinguish between ‘individual rights’ and ‘group rights’? Yes/No

4. (a) Does ‘Environment’ rank as a priority with the Commission? Yes/No

   If the answer to above is yes, is this a result of internal reflection/thinking or the result of external Conventions/Summits?

Interventions

5. (a) Has the Commission assisted persons facing environmental degradation/ environmental harm and made any interventions with respect to environment issues from a human rights perspective? Yes/No

   (b) Was the intervention

      (1) In the form of advice or recommendation to the Government?
      (2) In the form of a direction to an enforcement authority
      (3) Any other (please specify)

   (c) What factors led the Commission to support the issue?

   (d) What was the outcome of the intervention?
Review of legislations

6. (a) Has the Commission reviewed any policy or legislation on environmental issues that impact human rights?

Yes / No

If so, what was the outcome thereof?

Availability of Expertise

7. Does the Commission have a person or a body of persons in-house to deal with environmental issues?

Yes/No

If yes, please specify.

8. Does the Commission seek advice from outside experts on the subject?

Yes/No

If yes, please specify.

Co-ordination

9. Does the Commission interact or co-ordinate with all or any of the following: (please tick)

- Government agencies
- Private sector
- Human rights organizations
- Human rights defenders
- Lawyers
- Journalists
- Academia
- Medical professionals
- Social workers
- Trade unions
- NGO’s
- UN Agencies

Education and Awareness

10. Has the Commission taken any steps towards creating awareness of the linkage between environment and human rights as part of its overall educational and awareness programme?

Yes/No
(a) If yes, what are the measures?
----------------------------------------------------------------------------------------------------------------------
----------------------------------------------------------------------------------------------------------------------
(b) The outcome thereof?
----------------------------------------------------------------------------------------------------------------------
----------------------------------------------------------------------------------------------------------------------
----------------------------------------------------------------------------------------------------------------------
----------------------------------------------------------------------------------------------------------------------
Research studies

11. Has the Commission conducted any research studies or brought out any reports and publications on 'environment and human rights'? Yes/No
If yes, please specify?
----------------------------------------------------------------------------------------------------------------------
----------------------------------------------------------------------------------------------------------------------
----------------------------------------------------------------------------------------------------------------------
----------------------------------------------------------------------------------------------------------------------
Legal assistance

12. Has the Commission assisted persons facing human rights violations (on account of environmental problems) with litigation? Yes/No
If yes, what were the outcomes?

Were there any cases relating to environment referred
(1) to the court by the Commission
(2) the Commission intervened in Court proceedings?
(3) the case was referred to the Commission by the Court

What was the outcome thereof?

Complaints

13. (a) What is the average number of complaints received and disposed annually?

(b) What kind of complaints figure most prominently?
----------------------------------------------------------------------------------------------------------------------
----------------------------------------------------------------------------------------------------------------------
----------------------------------------------------------------------------------------------------------------------
----------------------------------------------------------------------------------------------------------------------
(c) Is ‘environment’ one of them? Yes/No
(d) If yes, what is the percentage of complaints relating to environmental issues? ……..
(e) Do the complaints pertain to ‘individuals’ or ‘groups’ of people or ‘both’?
(f) Were any public inquiries held? Yes/No

If yes, what was the outcome thereof?
(g) Were there any cases in which the Commission recommended compensation for the victim? Yes/No

If yes, give a brief description

(h) How does the Commission ensure a fair hearing?

(i) Does it give opportunity to the complainant to appear before it in person?

14. **General Comments**, if any, on enhancing the role of the National Human Rights Institutions in promoting the linkage between environment and human rights and protecting the human rights of victims of environmental degradation.
Appendix II

Questionnaire for the State Human Rights Commissions of India

Environment and Human Rights

1. In terms of importance, does the Commission distinguish between ‘civil and political rights’ and ‘economic, social and cultural rights’?  
   Yes/No

2. In terms of importance, does the Commission distinguish between ‘individual rights’ and ‘group rights’?  
   Yes/No

3. What is the Commission’s perspective/policy on the linkage between Environment and Human Rights?

4 (a) Does ‘Environment’ rank as a priority with the Commission?  
   Yes / No
   If the answer to above is yes, is this a result of internal reflection/thinking or the result of external Conventions/Summits?

Interventions

5. (a) Has the Commission made any policy interventions with respect to environment issues from a human rights perspective?  
   Yes / No
   (b) Was the intervention
       (1) in the form of advice or recommendation to the Government?
       (2) in the form of a direction to an enforcement authority
       (3) Any other (please specify)
   (c) What factors/process led the Commission to support the issue?
(d) What was the outcome of the intervention?

……………………………………………………………………………………………………………
……………………………………………………………………………………………………………
……………………………………………………………………………………………………………
……………………………………………………………………………………………………………

Review of legislations

6. (a) Has the Commission reviewed any policy or legislation on environmental issues that impact human rights? Yes / No

If so, what was the outcome thereof?
……………………………………………………………………………………………………………
……………………………………………………………………………………………………………
……………………………………………………………………………………………………………
……………………………………………………………………………………………………………

Expertise

7. Does the Commission have a person or a body of persons in-house to deal with environmental issues? Yes/No

If yes, please specify.
……………………………………………………………………………………………………………
……………………………………………………………………………………………………………
……………………………………………………………………………………………………………
……………………………………………………………………………………………………………

8. Does the Commission seek advice from outside experts on the subject? Yes/No

If yes, please specify.

Co-ordination

9. Does the Commission interact or co-ordinate with all or any of the following : (please tick)

- Government agencies
- Private sector
- Human rights organizations
- Human rights defenders
- Lawyers
- Journalists
- Academia
- Research institutions
- Medical professionals
- Social workers
- Trade unions
- NGO’s
- UN Agencies

Education and Awareness

10. Has the Commission taken any steps towards creating awareness of the linkage between environment and human rights as part of its overall educational and awareness programme? Yes/No

(a) If yes, what are the measure
(b) The outcome thereof?
…………………………………………………………………………………………………………
…………………………………………………………………………………………………………
…………………………………………………………………………………………………………
…………………………………………………………………………………………………………

Research studies

11. Has the Commission conducted any research studies or brought out any reports and publications on ‘environment and human rights’? Yes/No
If yes, please specify?

Legal assistance

12. Has the Commission assisted persons facing human rights violations (on account of environmental problems) with litigation? Yes/No
If yes, what were the outcomes?
…………………………………………………………………………………………………………
…………………………………………………………………………………………………………
…………………………………………………………………………………………………………

Were there any cases relating to environment referred
(1) to the court by the Commission
(2) the Commission intervened in Court proceedings?
(3) the case was referred to the Commission by the Court
What was the outcome thereof?
…………………………………………………………………………………………………………
…………………………………………………………………………………………………………

Complaints

13. (a) What is the average number of complaints received and disposed of annually?
__________________________________________________________

(b) What kind of complaints figure most prominently?
…………………………………………………………………………………………………………
…………………………………………………………………………………………………………
…………………………………………………………………………………………………………
…………………………………………………………………………………………………………
What is the percentage of complaints relating to environmental issues? ……

(c) Do the complaints pertain to ‘individuals’ or ‘groups’ of people or ‘both’?
__________________________________________________________

(d) Were any public inquiries held? Yes/No
If yes, what was the outcome thereof?
14. **General Comments**, if any, on enhancing the role of the State Human Rights Commissions in promoting the linkage between environment and human rights and protecting the human rights of victims of environmental degradation.
APPENDIX III

Questionnaire for the Complainants

1. Name of Complainant(s) …………………………………………………………………………………

Address:
R/o………………………………………………………………………………………………………………
…………………………………………..Tele:………………………………..

District State:

Sex: Male/ Female /Both Male & Female
Age :

Occupation : Caste : (SC/ST/OBC/Gen/Others

2. Name of the Victim

………………………………………………………………………………………………………………

(Individual/Group of People)

Address:
R/o……………………………………………………………………..Tele: ……………………………

District State:

Sex: Male /Female /Both Male & Female
Age :

Occupation : Caste : (SC/ST/OBC/Gen/Others

3. Gist of the complaint.

………………………………………………………………………………………………………………

………………………………………………………………………………………………………………

………………………………………………………………………………………………………………

4. How did you learn about the National Human Rights Commission (NHRC)?

(Please tick (√) the appropriate answer)

(Television /Newspapers/Magazines/Internet/Discussions with relatives, friends and people you know/Government Offices//NGO/any other)
5. Did you contact any State/Central Government agency in respect of your complaint before approaching NHRC? Yes/No

If yes, which agencies did you contact …………………………………………………………………………………………….
…………………………………………………………………………………………………………………………………………
…………………………………………………………………………………………………………………………………………

6. What was your expectation from the National Human Rights Commission? …………………………………………………………………………………………………………
…………………………………………………………………………………………………………………………………………
…………………………………………………………………………………………………………………………………………
…………………………………………………………………………………………………………………………………………
…………………………………………………………………………………………………………………………………………
…………………………………………………………………………………………………………………………………………

7. Were you satisfied with the action taken on your complaint by National Human Rights Commission? Yes/No

If no, give reasons …………………………………………………………………………………………………………
…………………………………………………………………………………………………………………………………………
…………………………………………………………………………………………………………………………………………
…………………………………………………………………………………………………………………………………………
…………………………………………………………………………………………………………………………………………
…………………………………………………………………………………………………………………………………………

8. Any other information ………………………………………………………………………………………………………
…………………………………………………………………………………………………………………………………………
…………………………………………………………………………………………………………………………………………
…………………………………………………………………………………………………………………………………………
…………………………………………………………………………………………………………………………………………
…………………………………………………………………………………………………………………………………………

272
APPENDIX IV

COMPILATION OF THE ACTION TAKEN BY NHRC ON THE COMPLAINTS RELATING TO ENVIRONMENTAL ISSUES BASED ON ANALYSIS OF ARCHIVAL DATA
### Appendix IV

Statement containing details of the action taken by NHRC on the complaints relating to environmental issues, received by the Commission during the period 2002-2007

<table>
<thead>
<tr>
<th>S No</th>
<th>State &amp; Incident Code</th>
<th>Case No. &amp; Date</th>
<th>Particulars</th>
<th>Nature of Complaint</th>
<th>Action Taken (Investigation (I)/ Notice (N)/ Report (ATR)/ Summon (S)/ Others (O))</th>
<th>Authority responsible</th>
<th>Decision of the Commission and date on which the case was closed</th>
<th>Time taken for disposal of the Complaint</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.</td>
<td>Bihar 904</td>
<td>2651/4/2004-06 03/12/2002</td>
<td>Ramsheesh Yadav, R/0 Mohalla Banoochhapar, Betia, Champaran, West</td>
<td>Pollution affecting surroundings</td>
<td>Right to Health</td>
<td>Directions</td>
<td>State Government of Bihar</td>
<td>As concerned authority and complainant also did not pursue the matter, therefore case closed. 12/05/2004</td>
</tr>
<tr>
<td>4.</td>
<td>Bihar 904</td>
<td>341/34/2002-03 08/05/2002</td>
<td>Shiv Prasad Mahato, Jharkhand Mukti Morcha Village Bejkar Tand PO, Chanoor PS Tetulahari Begusarai</td>
<td>Pollution affecting surroundings</td>
<td>Right to Health</td>
<td>Notice</td>
<td>State Government of Bihar</td>
<td>Commission closed the case on receiving the action taken report from the concerned authority. 05/09/2006</td>
</tr>
<tr>
<td>No.</td>
<td>State</td>
<td>Date</td>
<td>Complainant Details</td>
<td>Issue</td>
<td>Respondent Details</td>
<td>Authority</td>
<td>Status</td>
<td>Time Taken</td>
</tr>
<tr>
<td>-----</td>
<td>--------</td>
<td>---------------</td>
<td>-------------------------------------------------------------------------------------</td>
<td>-------</td>
<td>-------------------------------------------------------------------------------------</td>
<td>-----------</td>
<td>--------------------------------------------------------------------------------------------</td>
<td>-------------</td>
</tr>
<tr>
<td>5</td>
<td>Goa</td>
<td>28/5/2002-2003 19/10/2002</td>
<td>H N Subramanya Amrut nagar Gogol PO Fatorda Goa</td>
<td>P</td>
<td>Huge garbage dump next to the Manovikas school</td>
<td>ATR</td>
<td>On the basis of an earlier decision regarding the same incident the Commission closed the case. 22/02/2005</td>
<td>2 years 4 months</td>
</tr>
<tr>
<td>6</td>
<td>Gujarat</td>
<td>53/25/2002-2003 10/04/2002</td>
<td>Ramesh Chander Ram Mal, R/O Taluk Khambhal a Jamnagar</td>
<td>P</td>
<td>Industrial pollution</td>
<td>ATR</td>
<td>Commission transmitted the report to the complainant. Case closed since no further comments were received from the respondent. 17/02/2005</td>
<td>2 years 10 months</td>
</tr>
<tr>
<td>7</td>
<td>Gujarat</td>
<td>187/6/2003-2004 4/08/2002</td>
<td>Premji Govindbhai Kansara Rangnath Road Byarline, Okha Jamnagar</td>
<td>P</td>
<td>Pollution affecting surroundings</td>
<td>ATR</td>
<td>Commission transmitted the report to the complainant. Case closed since no further comments were received from the respondent. 06/10/2005</td>
<td>2 years</td>
</tr>
<tr>
<td>No.</td>
<td>State</td>
<td>Date Range</td>
<td>Complainant Details</td>
<td>Subject</td>
<td>Nature</td>
<td>ATR Details</td>
<td>Commission Details</td>
<td></td>
</tr>
<tr>
<td>-----</td>
<td>-------------</td>
<td>------------------------</td>
<td>-------------------------------------------------------------------------------------</td>
<td>---------</td>
<td>--------</td>
<td>----------------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------------</td>
<td></td>
</tr>
<tr>
<td>8.</td>
<td>Gujarat</td>
<td>998/24/2003-2004</td>
<td>P Chidambaram Working President, Hind Mazdoor Kisan Panchayat, 405 Relief shopping Centre, Salapas Road Ahmedabad</td>
<td>Personnel working in power stations</td>
<td>P  G</td>
<td>Safety equipment for personnel working in Thermal Power Stations</td>
<td>Right to Life; Right to Health</td>
<td>Chief Inspector of Factories, Gujarat</td>
</tr>
<tr>
<td>9.</td>
<td>Gujarat</td>
<td>233/6/2005-2006</td>
<td>H A Pandya, President Manav Hak Adhikar Suraksha Seva Sangh, Opp Bhuj Old Railway Station, Kutch-Bhuj</td>
<td>Pollution affecting surroundings</td>
<td>P   I</td>
<td>Not on record</td>
<td>ATR</td>
<td>Not on record</td>
</tr>
<tr>
<td>10.</td>
<td>Haryana</td>
<td>1005/7/2002-2003</td>
<td>SS Yadav Village and PO Bharawas Rewari</td>
<td>Pollution affecting surroundings</td>
<td>P   G</td>
<td>Not on record</td>
<td>ATR</td>
<td>Haryana Paryavaran Authority</td>
</tr>
<tr>
<td>No.</td>
<td>State</td>
<td>Case No.</td>
<td>Date of Complaint</td>
<td>Date of Order</td>
<td>Complainant</td>
<td>Issue</td>
<td>Right to Life; Right to Health</td>
<td>Authority</td>
</tr>
<tr>
<td>-----</td>
<td>-------</td>
<td>----------</td>
<td>-------------------</td>
<td>---------------</td>
<td>-------------</td>
<td>-------</td>
<td>-------------------------------</td>
<td>-----------</td>
</tr>
<tr>
<td>11.</td>
<td>Haryana 904</td>
<td>1709/7/2002-2003 29/10/2002</td>
<td>Gulab Singh Gali No Ward no 3 Adarsh nagar, Gohana Sonepat</td>
<td>Gulab Singh and group of people of ward no. 3.</td>
<td>P G</td>
<td>Pollution affecting surroundings- Noise, odour and air pollution due to Bhattis in residential area.</td>
<td>Right to Life; Right to Health</td>
<td>ATR</td>
</tr>
<tr>
<td>12.</td>
<td>Haryana 904</td>
<td>833/7/2002-2003 13/07/2002</td>
<td>Dharam Singh S/O Chhajju Ram Vill: Neval Kamal</td>
<td>Dharam Singh</td>
<td>P I</td>
<td>Pollution affecting surroundings</td>
<td>Right to life; Right to Health</td>
<td>ATR</td>
</tr>
<tr>
<td>13.</td>
<td>Haryana 904</td>
<td>104/7/2003-2004 25/02/2003</td>
<td>Satya Bansai Aloo Godam Ambala, Haryana</td>
<td>Residents of the locality</td>
<td>P G</td>
<td>Pollution due to Spray paint work done by one Shri Hem Raaj and sons.</td>
<td>Right to Health</td>
<td>ATR</td>
</tr>
<tr>
<td>14.</td>
<td>Haryana 904</td>
<td>1174/7/2005-2006 13/08/2005</td>
<td>Karan Singh &amp; others R/O Rajeev Colony Ballabighar Faridabad</td>
<td>Karan Singh &amp; Residents of the locality</td>
<td>P I</td>
<td>Pollution affecting surroundings</td>
<td>Right to life; Right to Health</td>
<td>ATR</td>
</tr>
<tr>
<td>15.</td>
<td>Haryana 904</td>
<td>1653/7/2002-2003 19/10/2002</td>
<td>Dr V S Rathee Hamu Clinic Near Bi-Pass , Jind Road Rohatak</td>
<td>Dr V S Rathee</td>
<td>P I</td>
<td>Pollution affecting surroundings</td>
<td>Right to Life; Right to Health</td>
<td>ATR</td>
</tr>
<tr>
<td>16.</td>
<td>Haryana 904</td>
<td>1652/7/2002-2003 20/10/2002</td>
<td>Hawa Singh Pradhan Yuva Manch Rohatak</td>
<td>Hawa Singh</td>
<td>P I</td>
<td>Pollution affecting surroundings</td>
<td>Right to Life; Right to Health</td>
<td>ATR</td>
</tr>
</tbody>
</table>

*3 months* | *1 year* | *2 years* | *6 months* | *6 months* | *3 years 9 months*
<table>
<thead>
<tr>
<th>No.</th>
<th>State</th>
<th>DOB/Year</th>
<th>From/To</th>
<th>From/To</th>
<th>Name/Name, Address</th>
<th>Problem</th>
<th>Right to</th>
<th>Commission</th>
<th>State</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>17</td>
<td>Haryana</td>
<td>254/7/2005-2006</td>
<td>05/05/2005</td>
<td>Ram Karan &amp; others, s/o Shri Ganga Ram, Village Antri, Post Siroha, Bahali, Tal Narnali Mahindergarh</td>
<td>G Pollution affecting surroundings</td>
<td>Right to Life; Right to Health</td>
<td>ATR</td>
<td>05/05/2005</td>
<td>State Government of Haryana</td>
<td>Commission closed the case since appropriate action as prayed for by the complainant was taken by the concerned authority. 12/07/2006</td>
</tr>
<tr>
<td>18</td>
<td>Himachal Pradesh</td>
<td>904</td>
<td>9/8/2002-2003</td>
<td>Dr Anjan K Kalia House no 22/7 near Municipal Council Kotwali Bazaar Dharamshala</td>
<td>P Pollution affecting surroundings</td>
<td>Right to Life; Right to Health</td>
<td>ATR</td>
<td>09/11/2002</td>
<td>State Government of Himachal Pradesh</td>
<td>Commission transmitted the report to the complainant. Case closed since no further comments were received from the respondent. 14/01/2005</td>
</tr>
<tr>
<td>19</td>
<td>Karnataka</td>
<td>904</td>
<td>14/10/2003-2004</td>
<td>S Suresh &amp; others, s/o Shri Sudda Gappa Ram, r/o Appaiahana, PO Obadalapura Taluka Tumkur Tumkur</td>
<td>G Pollution affecting surroundings</td>
<td>Right to Life; Right to Health</td>
<td>ATR</td>
<td>29/10/2002</td>
<td>State Government of Karnataka</td>
<td>Commission closed the case since the issue raised in the complaint was the subject matter of a case pending before the court. 14/01/2005</td>
</tr>
<tr>
<td>20</td>
<td>Kerala</td>
<td>904</td>
<td>1028/22/2003-2004</td>
<td>V K Venkatachalam T C 35/571 Kunneth lane Shornur Road Thrissur</td>
<td>G Radiation leakage affecting six persons at KARP (Kalappakam Re-processing Plant)</td>
<td>Right to Health</td>
<td>Notice to Secretary Ministry of Defence</td>
<td>Department of Atomic Energy, Government of India</td>
<td>The Department of Atomic Energy explained the factual position and the safety aspects in place at the plant for the safety of the workers and the public. A copy of the report was sent to the complainant. No further comments were received from him. Case closed on 01/08/2006</td>
<td>3 years</td>
</tr>
<tr>
<td>21</td>
<td>Madhya Pradesh</td>
<td>904</td>
<td>182/12/2003-2004</td>
<td>Dr D P Jha Inaore Road, Khandwa</td>
<td>I Pollution affecting surroundings</td>
<td>Not on record</td>
<td>ATR</td>
<td>17/02/2003</td>
<td>Not on record</td>
<td>Commission closed the case since the issue raised in the complaint was of a civil nature and the court is the</td>
</tr>
<tr>
<td>No.</td>
<td>State</td>
<td>Date of Complaint</td>
<td>Name and Address of Complainant</td>
<td>Details of the Complaint</td>
<td>Category of Right to</td>
<td>Respondent</td>
<td>Status of the Case</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>-----</td>
<td>-------------</td>
<td>-------------------</td>
<td>---------------------------------</td>
<td>--------------------------</td>
<td>----------------------</td>
<td>------------</td>
<td>-------------------</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>22</td>
<td>Madhya Pradesh 904</td>
<td>334/12/2002-2003</td>
<td>K P Singh General Secretary, Oriental Paper Mills Shramik Sangh Amlai, Shahdol</td>
<td>People residing in the surrounding area of the Mill</td>
<td>Pollution due to discharge of effluents and emissions from orient paper mills</td>
<td>Right to Health</td>
<td>Notice to Chief Secretary (CS), Madhya Pradesh Madhya Pradesh Pollution Control Board</td>
<td>As per the report of the CS, Madhya Pradesh the Madhya Pradesh Pollution Control Board is keeping a watch over the functioning of the ETP facilities installed at the Mill. Case closed on 03/07/2003</td>
<td></td>
<td></td>
</tr>
<tr>
<td>24</td>
<td>Maharashtra 904</td>
<td>527/13/2002-2003</td>
<td>Ku. Meena Moti Ram Sahjani Block No. 446-A/2, SORU Chowk Ulhas nagar Thane</td>
<td>Residents of the locality</td>
<td>Pollution affecting surroundings</td>
<td>Not on record</td>
<td>ATR</td>
<td>State Government Commission closed the case since the issue raised in the complaint was the subject matter of a court case. 26/05/2003</td>
<td></td>
<td></td>
</tr>
<tr>
<td>25</td>
<td>Orissa 904</td>
<td>72/18/2003-2004</td>
<td>Anchal Das Ex-MP Chairman District Congress Committee SC Department R/0 Ambikai PO and Dist Jajpur</td>
<td>Tribal population in the area</td>
<td>Industrial pollution in tribal settlement and police atrocities on tribals</td>
<td>Right to Life</td>
<td>ATR</td>
<td>State Government of Orissa Commission closed the case since the issue raised in the complaint was the subject matter of a court case. 25/07/2006</td>
<td></td>
<td></td>
</tr>
<tr>
<td>26</td>
<td>Orissa 904</td>
<td>902/18/2003-2004</td>
<td>Yuva Jagran Samiti Phampuni Koraput</td>
<td>Residents of the locality</td>
<td>Environmental Pollution caused by M/s Seva paper Mills, Koraput by discharging smoke, wastewater and garbage</td>
<td>Right to Health</td>
<td>ATR</td>
<td>Collector and DM Koraput Commission closed the case since as per the report furnished by the office of the Collector, Koraput the required effluent treatment facilities have been installed and the discharge is being monitored.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
<td>---</td>
<td>---</td>
<td>---</td>
<td>---</td>
<td>---</td>
<td>---</td>
<td></td>
<td></td>
</tr>
<tr>
<td>27</td>
<td>Orissa 904</td>
<td>14/18/2002-2003 01/04/2002</td>
<td>T. Durya Dhana Reddy, 2000 MHR 0638 Vill. Panna Palli Ganjam</td>
<td>T. Durya Dhana</td>
<td>P</td>
<td>I</td>
<td>Pollution affecting surroundings</td>
<td>Right to Health</td>
<td>ATR</td>
<td>District Magistrate</td>
</tr>
<tr>
<td>28</td>
<td>Orissa 904</td>
<td>551/18/2002-2003 01/11/2002</td>
<td>Vijay Kumar Raut &amp; others Village Gohirapadia, Mahumuhan Gram Panchayat Soro Block, Soro</td>
<td>Children and people living in the area</td>
<td>P</td>
<td>G</td>
<td>Blasting operations carried out by Stone Crushing Units adjacent to the villages of the complainant</td>
<td>Right to Health</td>
<td>ATR</td>
<td>Collector Balasore</td>
</tr>
<tr>
<td>29</td>
<td>Orissa 904</td>
<td>210/18/2002-2003 06/05/2002</td>
<td>Pradeep Panda Advocate, Human Rights Activists Forum, Angul</td>
<td>Pradeep Panda</td>
<td>P</td>
<td>I</td>
<td>Pollution affecting surroundings</td>
<td>Right to Health</td>
<td>Directions</td>
<td>Not on record</td>
</tr>
<tr>
<td>30</td>
<td>Orissa 904</td>
<td>1002/18/2003-2004 31/12/2003</td>
<td>T. Duryodhana Reddy Vill. Pannapa, Mendrajpur Ganjam</td>
<td>T. Duryodhana Reddy and other residents</td>
<td>P</td>
<td>I</td>
<td>Pollution affecting surroundings</td>
<td>Right to Health</td>
<td>ATR</td>
<td>Not on record</td>
</tr>
<tr>
<td>31</td>
<td>Orissa 904</td>
<td>520/18/2003-2004 28/10/2003</td>
<td>Pradeep Panda Spokesman Environment Protection Committee Angul</td>
<td>Pradeep Panda</td>
<td>P</td>
<td>I</td>
<td>Pollution affecting surroundings</td>
<td>Right to Health</td>
<td>ATR</td>
<td>Not on record</td>
</tr>
<tr>
<td>No.</td>
<td>State</td>
<td>Date Range</td>
<td>Date Filing</td>
<td>Complainant</td>
<td>Case Details</td>
<td>Right to - Health</td>
<td>ATR</td>
<td>Responsible Authority</td>
<td>Status</td>
<td></td>
</tr>
<tr>
<td>-----</td>
<td>-------</td>
<td>------------</td>
<td>-------------</td>
<td>-------------</td>
<td>--------------</td>
<td>-------------------</td>
<td>-----</td>
<td>----------------------</td>
<td>--------</td>
<td></td>
</tr>
<tr>
<td>32</td>
<td>Orissa 904</td>
<td>736/18/2002-2003/9/10/2002</td>
<td>P</td>
<td>Manoj Mial, President Ananda Kirasani, Koraput</td>
<td>Pollution affecting surroundings</td>
<td>Right to Health</td>
<td>ATR</td>
<td>DM, Koraput</td>
<td>Commission closed the case since appropriate action as prayed for by the complainant was taken by the concerned authority, 18/03/2005</td>
<td></td>
</tr>
<tr>
<td>33</td>
<td>Orissa 904</td>
<td>24/18/2002-2003/27/03/2002</td>
<td>P</td>
<td>Smt Subedita Patnaik, Q No E-1/1 T Colony Raigangapur</td>
<td>Pollution affecting surroundings</td>
<td>Right to Health</td>
<td>ATR</td>
<td>DM Raiganganagar</td>
<td>Commission transmitted the report to the complainant. Case closed since no further comments were received from the respondent, 18/03/2005</td>
<td></td>
</tr>
<tr>
<td>35</td>
<td>Punjab 904</td>
<td>412/19/2005-2006/04/07/2005</td>
<td>P</td>
<td>O N Shastri, Secretary Staff side, Joint Consultative Machinery (Regional Council), Jullundur</td>
<td>Pollution affecting surroundings</td>
<td>Right to Health</td>
<td>ATR</td>
<td>State of Punjab, Police</td>
<td>Commission closed the case since appropriate action as prayed for by the complainant was taken by the concerned authority, 29/11/2005</td>
<td></td>
</tr>
<tr>
<td>36</td>
<td>Punjab 904</td>
<td>216/19/2005-2006/08/06/2005</td>
<td>S</td>
<td>Suo-motu-the Tribune: Childhood ruined by effluents, Ludhiana</td>
<td>Injury to children by accidental fire in heaps of straw and ash which was used to fill up pits</td>
<td>Right to Health</td>
<td>Directions</td>
<td>State of Punjab, Police</td>
<td>Commission closed the case since the matter was enquired into by the SHO Amloh and it was revealed that no person was responsible for the incident. The children got injured while playing, 10/11/2005</td>
<td></td>
</tr>
<tr>
<td>#</td>
<td>Rajas- than 904</td>
<td>752/20/2004-2005</td>
<td>Suman Meena Village Kharab Kotpootali Jaipur</td>
<td>Residents of the village</td>
<td>P</td>
<td>G</td>
<td>Pollution Affecting Surroundings</td>
<td>Right to Health</td>
<td>ATR</td>
<td>Not on record</td>
</tr>
<tr>
<td>----</td>
<td>----------------</td>
<td>-----------------</td>
<td>---------------------------------------------</td>
<td>-------------------------</td>
<td>---</td>
<td>---</td>
<td>---------------------------------</td>
<td>-----------------</td>
<td>-----</td>
<td>------------</td>
</tr>
<tr>
<td>38</td>
<td>Rajas-than 904</td>
<td>209/20/2002-2003</td>
<td>Rahamatullah Daundi 184/2 near Pakethe Talkies Kalma Nehru Nagar Choupasni Road Jodhpur</td>
<td>Residents of the village</td>
<td>P</td>
<td>G</td>
<td>Pollution Affecting Surroundings</td>
<td>Right to Health</td>
<td>ATR</td>
<td>Not on record</td>
</tr>
<tr>
<td>39</td>
<td>Rajas-than 904</td>
<td>74/20/2002-2003</td>
<td>Anju Gupta Chairman, Munshi Kedar Nath Marg. Loha Mandi, DEEG Bharatpur</td>
<td>Residents of the locality</td>
<td>P</td>
<td>G</td>
<td>Pollution Affecting Surroundings</td>
<td>Right to Health</td>
<td>ATR</td>
<td>Not on record</td>
</tr>
<tr>
<td>40</td>
<td>Rajas-than 904</td>
<td>780/20/2002-2003</td>
<td>Ram Autar, Ward No 11, Village Mahansar PS Bissau Jhunjhunu</td>
<td>Residents of the harijan basti in Mahansar</td>
<td>P</td>
<td>G</td>
<td>Accumulation of waste water from the village into a pond around the harijan basti and the complainant’s house.</td>
<td>Right to Health and Right to Life</td>
<td>ATR</td>
<td>Police</td>
</tr>
<tr>
<td>41</td>
<td>Rajas-than 904</td>
<td>2188/20/2002-2003</td>
<td>Naresh Chachan President Pradushan Sangharsh Samiti RICCO Industries Area, Nohar Hanumangarh</td>
<td>Residents of the locality</td>
<td>P</td>
<td>G</td>
<td>Pollution due to factories operating in the RICCO Industrial Area and Nahar District, Hanumangarh</td>
<td>Right to Health</td>
<td>Directions to DM Hanumangarh</td>
<td>Rajasthan State Pollution Control Board</td>
</tr>
<tr>
<td>42</td>
<td>Rajas-than 904</td>
<td>360/20/2002-2003</td>
<td>Eliyas Khan Bye-Pass Road Sujangarh Churu</td>
<td>Residents of the locality</td>
<td>P</td>
<td>G</td>
<td>Pollution affecting surroundings</td>
<td>Right to Health</td>
<td>ATR</td>
<td>Not on record</td>
</tr>
<tr>
<td>No.</td>
<td>State</td>
<td>Case No.</td>
<td>Dates</td>
<td>Name(s)</td>
<td>Complainants</td>
<td>Issue</td>
<td>Rights</td>
<td>Decision</td>
<td>Status</td>
<td>Duration</td>
</tr>
<tr>
<td>-----</td>
<td>---------</td>
<td>------------------</td>
<td>--------------------</td>
<td>-------------------------------</td>
<td>--------------------------------------</td>
<td>-------------------------------------------</td>
<td>--------------------</td>
<td>---------------------------------</td>
<td>---------------------</td>
<td>------------------</td>
</tr>
<tr>
<td>43</td>
<td>Rajasthan</td>
<td>1924/20/2003-2004</td>
<td>15/12/2003</td>
<td>Kumbha Ram s/o Shri Kishna Ram r/o Baipura, Merta Road Nagaur</td>
<td>Residents of the locality</td>
<td>Air pollution due to mining activities.</td>
<td>Right to Health and Right to Life</td>
<td>ATR</td>
<td>Not on record</td>
<td>Commission closed the case since the issue raised in the complaint was the subject matter of a court case. 22/07/2004</td>
</tr>
<tr>
<td>44</td>
<td>Rajasthan</td>
<td>2017/20/2003-2004</td>
<td>23/01/2004</td>
<td>Kisan Sangharesh Samiti Vill Balupura Thesil Jaitaran, Pali</td>
<td>Farmers, agriculturists and local residents</td>
<td>Acquisition of land by Ambuja Cements and air and water pollution created by the factory</td>
<td>Right to Health</td>
<td>Notice to Rajasthan State pollution Control Board</td>
<td>Rajasthan State Pollution Control Board</td>
<td>Commission transmitted the report to the complainant who reiterated the allegations and submitted that compensation be given to farmers. The Commission observed that the factory was operating with a valid consent and that for compensation they are at liberty to approach any competent forum. Case closed 24/06/2005</td>
</tr>
<tr>
<td>45</td>
<td>Tamil Nadu</td>
<td>609/22/2003-04</td>
<td>13/08/2002</td>
<td>Kathiravan 159 Chella Muthunagar Thiruvalanchi Patty Tinuchirapalli</td>
<td>Residents</td>
<td>Environment affecting surroundings</td>
<td>Right to Health</td>
<td>Directions</td>
<td>Not on record</td>
<td>Grievance made out in the complaint was subject matter of a court case therefore Commission did not find it necessary to pursue the matter. Case closed (07/01/2003)</td>
</tr>
<tr>
<td>No.</td>
<td>District</td>
<td>Case Number</td>
<td>Date of Filing</td>
<td>Date of Decision</td>
<td>Complainant</td>
<td>Category</td>
<td>Rights Affected</td>
<td>Recipient of Complaint</td>
<td>Status</td>
<td></td>
</tr>
<tr>
<td>-----</td>
<td>----------</td>
<td>-------------</td>
<td>----------------</td>
<td>------------------</td>
<td>-------------</td>
<td>----------</td>
<td>------------------</td>
<td>------------------------</td>
<td>-------</td>
<td></td>
</tr>
<tr>
<td>46.</td>
<td>Tamil Nadu</td>
<td>904</td>
<td>27/07/2002</td>
<td>23/09/2004</td>
<td>Sh N. Veluthambi Freedom Panther Founder Ramakey road Thiruvaur City Ward, No 9, Tamil Nadu Residents of the colony</td>
<td>P</td>
<td>I</td>
<td>Dumping of garbage on a vacant plot of land near his colony belonging to a Councillor</td>
<td>Right to Health</td>
<td>ATR</td>
</tr>
<tr>
<td>47.</td>
<td>Tamil Nadu</td>
<td>904</td>
<td>20/12/2002</td>
<td>17/05/2005</td>
<td>P M Govindsamy Pappavalasu, Pandalingapuram Kodumudi Karur Residents of the locality</td>
<td>P</td>
<td>I</td>
<td>Non implementation of pollution control laws and directions of the High Court</td>
<td>Not on record</td>
<td>Directions to Registrar Law to obtain the High Court’s orders</td>
</tr>
<tr>
<td>48.</td>
<td>Tamil Nadu</td>
<td>904</td>
<td>14/08/2002</td>
<td>02/03/2005</td>
<td>C Sundara Raman, President Farmers Association, Mela Pasai Manamadurai Taluk Sivaganga Local residents</td>
<td>P</td>
<td>I</td>
<td>Pollution due to charcoal factories in the area</td>
<td>Right to Health</td>
<td>ATR</td>
</tr>
<tr>
<td>No.</td>
<td>State</td>
<td>Reference No</td>
<td>Date of First Report</td>
<td>Date of Last Report</td>
<td>Complainant</td>
<td>Pollutant Affecting Surroundings</td>
<td>Right to Health</td>
<td>ATR</td>
<td>Decision</td>
<td>Comment</td>
</tr>
<tr>
<td>-----</td>
<td>-------</td>
<td>--------------</td>
<td>----------------------</td>
<td>---------------------</td>
<td>-------------</td>
<td>---------------------------------</td>
<td>-----------------</td>
<td>-----</td>
<td>----------</td>
<td>---------</td>
</tr>
<tr>
<td>49.</td>
<td>Tamil Nadu 904</td>
<td>58/22/2003-04 16/10/2002</td>
<td>A. Mayilvahanan, Contractor, No 2 Sathivani muthu nagar, 7th Street Ennore Chennai</td>
<td>A. Mayilvahanan</td>
<td>P</td>
<td>I</td>
<td>Pollution Affecting Surroundings</td>
<td>Right to Health</td>
<td>ATR</td>
<td>Not on record</td>
</tr>
<tr>
<td>50.</td>
<td>Tamil Nadu 904</td>
<td>438/22/2004-05 11/05/2005</td>
<td>P C Sellamathu Gounder Poolavalaju, Thandampalayam PO Sivagiri VTA, Dist Ennore.</td>
<td>P C Sella-mathu</td>
<td>P</td>
<td>I</td>
<td>Pollution Affecting Surroundings</td>
<td>Right to Health</td>
<td>Directions</td>
<td>Not on record</td>
</tr>
<tr>
<td>51.</td>
<td>Tamil Nadu 904</td>
<td>1056/22/2003-04 14/11/2005</td>
<td>Dr A G Sathyanesan Veedu, Mutton Kanya-Kumari</td>
<td>Local Residents</td>
<td>P</td>
<td>G</td>
<td>Request for issuance of directions to Nuclear Power Corporation of India Ltd to arrange a public hearing and to prepare a transparent Environment Impact Assessment report before embarking on any projects at Kundakulam Nuclear Power Plant.</td>
<td>Right to Life</td>
<td>ATR</td>
<td>Ministry of Environment and Forests and Department of Atomic Energy, Government of India</td>
</tr>
<tr>
<td>No.</td>
<td>State</td>
<td>Case No.</td>
<td>Date</td>
<td>Complainant/Location</td>
<td>Nature of Complaint</td>
<td>Right to Health</td>
<td>Action Taken</td>
<td>Resolution Time</td>
<td></td>
<td></td>
</tr>
<tr>
<td>-----</td>
<td>-----------</td>
<td>----------</td>
<td>-------</td>
<td>----------------------</td>
<td>--------------------</td>
<td>-----------------</td>
<td>-------------</td>
<td>----------------</td>
<td>----------------</td>
<td></td>
</tr>
<tr>
<td>52.</td>
<td>Tamil Nadu 904</td>
<td>381/22/2002-03 17/06/2002</td>
<td>P S Subramanian Murugandi No 1 Old 47 Ph-1, TNHB SATHUVACHARI</td>
<td>The people of dist. Vellore</td>
<td>Pollution of drinking water due to effluents released by tanneries in dist Vellore</td>
<td>Right to Health</td>
<td>Notice</td>
<td>Collector, Vellore dist.</td>
<td>Action taken report from the Collector was sent to the complainant for comments by the Commission. Since no response was received the case was closed 17/02/2006</td>
<td>3 yrs 8 months</td>
</tr>
<tr>
<td>53.</td>
<td>Tamil Nadu 904</td>
<td>201/22/2005-06 23/04/2005</td>
<td>U Venkatesh r/o Vill. Nergam, PO Gudisadanapalli,TK Hossur, Krishnagiri</td>
<td>Farmers of Nergam Chokkapuram</td>
<td>Creation of nuisance and causing pollution due to illegal operation of a crushing unit by one Sh Arogyaswamy</td>
<td>Right to Health</td>
<td>ATR</td>
<td>Dist. Collector Krishnagiri</td>
<td>It was reported that there was no crusher unit functioning nor was any license issued. Case closed. 25/04/2006</td>
<td>1 year</td>
</tr>
<tr>
<td>54.</td>
<td>Uttar Pradesh 904</td>
<td>16046/24/2002-03 18/07/2002</td>
<td>Munni Devi KCG Bal Vidyalaya Sasni, Tehsil Sasni</td>
<td>Residents</td>
<td>Pollution Affecting Surroundings</td>
<td>Right to Health</td>
<td>Directions</td>
<td>Not on record</td>
<td>Grievance made out in the complaint is subject matter of a court case. Commission did not find it necessary to pursue the matter. 05/03/2003</td>
<td>8 months</td>
</tr>
<tr>
<td>55.</td>
<td>Uttar Pradesh 904</td>
<td>34647/24/2002-03 30/12/2002</td>
<td>Sh Nakali Vill. Kuan Kheda, PS Nanota Saharanpur</td>
<td>Residents of the locality</td>
<td>Pollution Affecting Surroundings</td>
<td>Right to Health</td>
<td>Directions</td>
<td>Not on record</td>
<td>Grievance made out in the complaint is subject matter of a court case. Commission did not find it necessary to pursue the matter. 22/10/2003</td>
<td>10 months</td>
</tr>
<tr>
<td>No.</td>
<td>State</td>
<td>Case No.</td>
<td>Date of Filing</td>
<td>Complainant Details</td>
<td>Grievance Details</td>
<td>Directions</td>
<td>Status</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>-----</td>
<td>-------</td>
<td>----------</td>
<td>----------------</td>
<td>---------------------</td>
<td>------------------</td>
<td>------------</td>
<td>--------</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>56.</td>
<td>Uttar Pradesh</td>
<td>36560/24/2003-04 05/02/2004</td>
<td>Anwar r/o Village Kothi PS Kothi District Barabanki</td>
<td>Residents of the locality</td>
<td>Pollution Affecting Surroundings</td>
<td>Right to Health</td>
<td>Not on record</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>06/09/2004</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>7 months</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>57.</td>
<td>Uttar Pradesh</td>
<td>6211/24/2003-2004 10/03/3003</td>
<td>Km Priya Jain Class IX Ram Swarup girls Inter College Agra</td>
<td>Not on record</td>
<td>Pollution Affecting Surroundings</td>
<td>Right to Health</td>
<td>Not on record</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Commission transmitted the report to the complainant. Case closed by the Commission since no further comments were received from the respondent. 30/09/2004</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1 year 6 months</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>As the grievance made out in the case was of a Civil nature and the appropriate forum was the Court Commission declined to intervene and closed the case. 15/09/2004</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>4 months</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Case No.</td>
<td>State</td>
<td>Date of Filing</td>
<td>Date of Hearing</td>
<td>Complainant</td>
<td>Address</td>
<td>Issue</td>
<td>Demand</td>
<td>Resolution</td>
<td>Status</td>
<td></td>
</tr>
<tr>
<td>---------</td>
<td>-------</td>
<td>----------------</td>
<td>----------------</td>
<td>-------------</td>
<td>---------</td>
<td>-------</td>
<td>--------</td>
<td>------------</td>
<td>--------</td>
<td></td>
</tr>
<tr>
<td>59</td>
<td>Uttar Pradesh 904</td>
<td>25705/24/2002-2003</td>
<td>19/09/2002</td>
<td>Kishan Prasad</td>
<td>Shiv Puri Colony Sarojini Nagar Lucknow</td>
<td>P</td>
<td>I</td>
<td>Pollution Affecting Surroundings</td>
<td>Right to Health</td>
<td>ATR</td>
</tr>
<tr>
<td>60</td>
<td>Uttar Pradesh 904</td>
<td>10453/24/2003-2004</td>
<td>07/05/2003</td>
<td>Ashok Jain</td>
<td>Sarafa Bazar Kosi kalan Mathura</td>
<td>P</td>
<td>I</td>
<td>Pollution Affecting Surroundings</td>
<td>Right to Health</td>
<td>ATR</td>
</tr>
<tr>
<td>61</td>
<td>Uttar Pradesh 904</td>
<td>13432/24/2003-2004</td>
<td>01/08/2003</td>
<td>Jahir Ahmad</td>
<td>Moh. Midargan B-10 H No 26 Bijnore</td>
<td>P</td>
<td>I</td>
<td>Pollution Affecting Surroundings</td>
<td>Right to Health</td>
<td>ATR</td>
</tr>
<tr>
<td>62</td>
<td>Uttar Pradesh 904</td>
<td>2646/24/2003-2004</td>
<td>05/03/2003</td>
<td>S P Sharma</td>
<td>All India Crime Prevention Society 5/505 Gular Road Aligarh</td>
<td>P</td>
<td>I</td>
<td>Pollution Affecting Surroundings</td>
<td>Right to Health</td>
<td>Not on record</td>
</tr>
<tr>
<td>No.</td>
<td>State</td>
<td>Number</td>
<td>Date</td>
<td>Name</td>
<td>Designation</td>
<td>Issue</td>
<td>Authority</td>
<td>Decision</td>
<td></td>
<td></td>
</tr>
<tr>
<td>-----</td>
<td>-------</td>
<td>--------</td>
<td>------</td>
<td>------</td>
<td>-------------</td>
<td>-------</td>
<td>-----------</td>
<td>----------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>63.</td>
<td>Uttar Pradesh</td>
<td>904</td>
<td>22/286/24/2003-2004/2004</td>
<td>Mukesh Chandra</td>
<td>Village Ghitora</td>
<td>Inhabitants living around the area</td>
<td>P</td>
<td>G</td>
<td>Emission of poisonous gas from a PVC factory in a densely populated area of Ghitora</td>
<td>Right to Health</td>
</tr>
<tr>
<td>64.</td>
<td>Uttar Pradesh</td>
<td>904</td>
<td>30357/24/2002-2003/14/11/2002</td>
<td>Raghuvir Puri</td>
<td>Manager, Adarsh Junior High School, Ramnagar Gular Road Aligarh</td>
<td>Raghuvir Puri Manager</td>
<td>P</td>
<td>I</td>
<td>Pollution Affecting Surroundings</td>
<td>Right to Health</td>
</tr>
<tr>
<td>No.</td>
<td>State</td>
<td>Case No.</td>
<td>Date of Registration</td>
<td>Date of Closing</td>
<td>Complainant Address/Details</td>
<td>Issue</td>
<td>Affecting Surroundings</td>
<td>Right to Health</td>
<td>ATR</td>
<td>Status</td>
</tr>
<tr>
<td>-----</td>
<td>----------------</td>
<td>-----------</td>
<td>----------------------</td>
<td>-----------------</td>
<td>-----------------------------</td>
<td>-------</td>
<td>------------------------</td>
<td>----------------</td>
<td>-----</td>
<td>--------</td>
</tr>
<tr>
<td>65</td>
<td>Uttar Pradesh</td>
<td>1022/24/2003-2004</td>
<td>27/11/2002</td>
<td>Residents living in the area</td>
<td>P</td>
<td>G</td>
<td>Pollution Affecting Surroundings</td>
<td>Right to Health</td>
<td>ATR</td>
<td>Not on record</td>
</tr>
<tr>
<td>66</td>
<td>Uttar Pradesh</td>
<td>37844/24/2003-2004</td>
<td>11/12/2003</td>
<td>Residents living in the area</td>
<td>P</td>
<td>G</td>
<td>Pollution Affecting Surroundings</td>
<td>Right to Health</td>
<td>ATR</td>
<td>Not on record</td>
</tr>
<tr>
<td>67</td>
<td>Uttar Pradesh</td>
<td>30721/24/2003-2004</td>
<td>03/12/2003</td>
<td>Residents living in the area</td>
<td>P</td>
<td>G</td>
<td>Pollution of river Gorra due to discharge of effluents from Sardar nagar sugar factory and Saraiya distillery</td>
<td>Right to health</td>
<td>ATR</td>
<td>UP State Pollution Control Board</td>
</tr>
<tr>
<td>Case No.</td>
<td>State</td>
<td>Date/Year</td>
<td>Complainant</td>
<td>Issue</td>
<td>Resolution</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>----------</td>
<td>---------</td>
<td>-----------</td>
<td>----------------------</td>
<td>-------------------------------</td>
<td>------------</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>68</td>
<td>Uttar Pradesh 904</td>
<td>4045/24/2004-2005 30/04/2004</td>
<td>Haji Yusuf Kasaiyon ka Mohalla Muzaffar nagar</td>
<td>Pollution Affecting Surroundings</td>
<td>Right to Health</td>
<td>ATR</td>
<td>Not on record</td>
<td>Commission transmitted the report to the complainant. Case closed since no further comments were received from the respondent. 02/02/2005</td>
<td></td>
<td></td>
</tr>
<tr>
<td>69</td>
<td>Uttar Pradesh 904</td>
<td>25499/24/2002-2003 16/10/2002</td>
<td>Dr Biplove Choudhary Eco-N Friends 107 Kalash vihar Apartments 15/21 Civil Lines Kanpur</td>
<td>Pollution Affecting Surroundings</td>
<td>Right to Health</td>
<td>ATR</td>
<td>Not on record</td>
<td>Commission transmitted the report to the complainant. Case closed since no further comments were received from the respondent. 21/04/2005</td>
<td></td>
<td></td>
</tr>
<tr>
<td>70</td>
<td>Uttar Pradesh 904</td>
<td>27899/24/2003-2004 11/11/2003</td>
<td>Dinesh Chandra Sharma Village PO Maswasi Rampur</td>
<td>Pollution Affecting Surroundings</td>
<td>Right to Health</td>
<td>ATR</td>
<td>Not on record</td>
<td>Commission transmitted the report to the complainant. Case closed since no further comments were received from the respondent. 21/04/2005</td>
<td></td>
<td></td>
</tr>
<tr>
<td>No.</td>
<td>District</td>
<td>Complaint No.</td>
<td>Date of Complaint</td>
<td>Date of Decision</td>
<td>Complainant</td>
<td>Occupation/Address</td>
<td>Complaint Type</td>
<td>Issue</td>
<td>Action</td>
<td>Decision Type</td>
</tr>
<tr>
<td>-----</td>
<td>----------</td>
<td>---------------</td>
<td>------------------</td>
<td>-----------------</td>
<td>-------------</td>
<td>-------------------</td>
<td>---------------</td>
<td>-------</td>
<td>--------</td>
<td>-------------</td>
</tr>
<tr>
<td>71</td>
<td>Uttar Pradesh</td>
<td>366/99/24/2003-2004</td>
<td>30/01/2004</td>
<td>28/01/2004</td>
<td>Residents of the locality</td>
<td>P</td>
<td>G</td>
<td>Pollution Affecting Surroundings</td>
<td>Right to Health</td>
<td>ATR</td>
</tr>
<tr>
<td>72</td>
<td>Uttar Pradesh</td>
<td>27016/24/2003-2004</td>
<td>21/08/2003</td>
<td>21/08/2003</td>
<td>Hari Prasad &amp; Kanta Prasad</td>
<td>P</td>
<td>I</td>
<td>Pollution due to a diesel pump for cleaning carpets installed by one Sh Sant Lal in the middle of the village which is giving rise to foul smell and improper discharge</td>
<td>Right to health</td>
<td>ATR</td>
</tr>
<tr>
<td>73</td>
<td>Uttar Pradesh</td>
<td>260/24/2003-2004</td>
<td>05/01/2003</td>
<td>05/01/2003</td>
<td>Rakesh K Jaiswal</td>
<td>P</td>
<td>I</td>
<td>Pollution Affecting Surroundings</td>
<td>Right to Health</td>
<td>ATR</td>
</tr>
<tr>
<td>74</td>
<td>Uttar Pradesh</td>
<td>32683/24/2003-2004</td>
<td>26/12/2003</td>
<td>26/12/2003</td>
<td>Ganesh Singh</td>
<td>P</td>
<td>I</td>
<td>Pollution Affecting Surroundings</td>
<td>Right to Health</td>
<td>ATR</td>
</tr>
<tr>
<td>No.</td>
<td>State</td>
<td>Code</td>
<td>Case No.</td>
<td>Date</td>
<td>Applicant</td>
<td>Complainant</td>
<td>Issue</td>
<td>Resolution</td>
<td>Date</td>
<td>Status</td>
</tr>
<tr>
<td>-----</td>
<td>-------------</td>
<td>------</td>
<td>----------</td>
<td>------------</td>
<td>---------------</td>
<td>------------------</td>
<td>----------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------------------------</td>
<td>-----------</td>
<td>-----------</td>
</tr>
<tr>
<td>75</td>
<td>Uttar Pradesh</td>
<td>904</td>
<td>4079/24/2002-2003 09/11/2003</td>
<td>K L Sharma II F-158, Lajpat Nagar Ghaziabad</td>
<td>K L Sharma and Family II F-158, Lajpat Nagar Ghaziabad</td>
<td>P I</td>
<td>Pollution due to heavy generator installed by the neighbours</td>
<td>Right to health</td>
<td>ATR</td>
<td>UP Pollution Control Board</td>
</tr>
<tr>
<td>76</td>
<td>Uttar Pradesh</td>
<td>904</td>
<td>998/24/2003-2004 19/06/2003</td>
<td>Ayush Jalan Convener Save Water Society 58/5 Bithana Road Kanpur</td>
<td>Ayush Jalan</td>
<td>P I</td>
<td>Pollution Affecting Surroundings</td>
<td>Right to Health</td>
<td>ATR</td>
<td>Not on record</td>
</tr>
<tr>
<td>77</td>
<td>Uttar Pradesh</td>
<td>904</td>
<td>17690/24/2004-2005 01/01/1991*</td>
<td>Gulab Singh Chovan Nai Basti Yakub marg Ferozabad</td>
<td>Gulab Singh Chovan</td>
<td>P I</td>
<td>Pollution Affecting Surroundings</td>
<td>Right to Health</td>
<td>ATR</td>
<td>Not on record</td>
</tr>
<tr>
<td>Case No.</td>
<td>State</td>
<td>Case Ref.</td>
<td>Date of Filing</td>
<td>Case Description</td>
<td>Issue</td>
<td>Details</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>---------</td>
<td>-------</td>
<td>-----------</td>
<td>----------------</td>
<td>------------------</td>
<td>-------</td>
<td>---------</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>78</td>
<td>Uttar Pradesh</td>
<td>15160/24/2003-2004</td>
<td>11/08/2003</td>
<td>Pollution of the river Ganga at Kanpur due to discharge of raw sewage and toxic tannery effluents</td>
<td>Right to health</td>
<td>The Chief Secretary UP was asked to furnish his comments on the complaint</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>The public at large</td>
<td></td>
<td>State Government and the UP Pollution Control Board</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>P</td>
<td>I</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>79</td>
<td>Uttar Pradesh</td>
<td>7533/24/2004-2005</td>
<td>20/05/2004</td>
<td>Noise pollution due to generators installed by the Department of Communications on the premises taken on rent from the complainant.</td>
<td>Right to health</td>
<td>ATR called from the DM Farrukhabad</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Complainant</td>
<td>P</td>
<td>I</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Smt Neelam Gupta w/o Sh. Harish Chander R/O Mohalla Gandhi Nagar Kamal Gunj, Farrukhabad</td>
<td></td>
<td>DM Farrukhabad</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Report dated 01/10/2004 sent by the DM after an inquiry confirmed that one generator was being used by the Telephone department for electricity but no pollution was found to be caused by the generator. Report accepted and case closed on 09/09/2005</td>
<td>1 year 3 months</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>No.</td>
<td>State</td>
<td>Date</td>
<td>Name of Complainant</td>
<td>Details of Allegation</td>
<td>Action Taken by Commission</td>
<td>Decision</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>-----</td>
<td>---------</td>
<td>---------------</td>
<td>---------------------</td>
<td>-----------------------</td>
<td>---------------------------</td>
<td>----------</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>80</td>
<td>Uttar Pradesh</td>
<td>24615/24/2002-2003 16/09/2002</td>
<td>The Principal Shri Sanskrit College Delhi – Saharanpur Road Khera Baghpat</td>
<td>Not on record</td>
<td>P I Pollution Affecting Surroundings Right to Health ATR</td>
<td>Not on record</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>81</td>
<td>Uttar Pradesh</td>
<td>40018/24/2003-2004 02/03/2004</td>
<td>Dr Girish Kumar Nagpal M S Ophthalmologist H.16-21 Avantika Ph.1 Ramghat Road Aligarh</td>
<td>Not on record</td>
<td>P I Pollution Affecting Surroundings Right to Health ATR</td>
<td>Not on record</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>82</td>
<td>Uttarakhand</td>
<td>393/35/2002-2003 04/05/2002</td>
<td>Sh Dori Lal Sagar General Secretary, All India Scheduled Castes and Dalit Uthan Samiti AT- Baazpur Udham Singh Nagar</td>
<td>General public and crops and cattle in villages Chakarpur, Mudiamani, Maadiani</td>
<td>P I Pollution of river Levada due to discharge of effluents from Prakash Straw Board mills private limited, Bajpur</td>
<td>Right to Health ATR within 6 weeks from 01/8/2002</td>
<td>Uttarakhand Pollution Control Board</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>No.</td>
<td>State</td>
<td>DC No.</td>
<td>Date</td>
<td>Complainant</td>
<td>Issue</td>
<td>Category</td>
<td>ATR</td>
<td>Status</td>
<td>Date</td>
<td></td>
</tr>
<tr>
<td>-----</td>
<td>-------------</td>
<td>---------------</td>
<td>-------------</td>
<td>-------------------------------------------------</td>
<td>-------------------------------</td>
<td>---------------------------------</td>
<td>--------</td>
<td>-------------------------------------------------</td>
<td>------------</td>
<td></td>
</tr>
<tr>
<td>83</td>
<td>Uttarakhand</td>
<td>1479/35/2002-2003</td>
<td>13/12/2002</td>
<td>Irshad Hussain &amp; Others S/O Suban Ali Village sarovar nagar Th. Gadarpur Udham Singh Nagar</td>
<td>Not on record</td>
<td>P G Pollution Affecting Surroundings</td>
<td>Right to Health</td>
<td>ATR</td>
<td>Not on record</td>
<td>Commission transmitted the report to the complainant. Case closed since no further comments were received from the respondent. 07/04/2004</td>
</tr>
<tr>
<td>84</td>
<td>Uttar Pradesh</td>
<td>24615/24/2002-2003</td>
<td>16/09/2002</td>
<td>The Principal Shri Sanskrit College Delhi –Saharanpur Road Khera Baghpat</td>
<td>Not on record</td>
<td>P I Pollution Affecting Surroundings</td>
<td>Right to Health</td>
<td>ATR</td>
<td>Not on record</td>
<td>Commission transmitted the report to the complainant. Case closed since no further comments were received from the respondent. 20/09/2005</td>
</tr>
<tr>
<td>85</td>
<td>Uttar Pradesh</td>
<td>24615/24/2002-2003</td>
<td>16/09/2002</td>
<td>The Principal Shri Sanskrit College Delhi –Saharanpur Road Khera Baghpat</td>
<td>Not on record</td>
<td>P I Pollution Affecting Surroundings</td>
<td>Right to Health</td>
<td>ATR</td>
<td>Not on record</td>
<td>Commission transmitted the report to the complainant. Case closed since no further comments were received from the respondent. 20/09/2005</td>
</tr>
<tr>
<td>86</td>
<td>Uttar Pradesh</td>
<td>24615/24/2002-2003</td>
<td>16/09/2002</td>
<td>The Principal Shri Sanskrit College Delhi –Saharanpur Road Khera Baghpat</td>
<td>Students</td>
<td>P I Pollution Affecting Surroundings</td>
<td>Right to Health</td>
<td>ATR</td>
<td>Not on record</td>
<td>Commission transmitted the report to the complainant. Case closed since no further comments were received from the respondent. 20/09/2005</td>
</tr>
<tr>
<td>Case No.</td>
<td>State</td>
<td>Date of Filing</td>
<td>Date of Resolution</td>
<td>Complainant</td>
<td>Address</td>
<td>Issue</td>
<td>Relief Sought</td>
<td>Action Taken</td>
<td>Duration</td>
<td></td>
</tr>
<tr>
<td>----------</td>
<td>-------</td>
<td>----------------</td>
<td>-------------------</td>
<td>-------------</td>
<td>---------</td>
<td>-------</td>
<td>---------------</td>
<td>--------------</td>
<td>----------</td>
<td></td>
</tr>
<tr>
<td>87</td>
<td>West Bengal</td>
<td>53/25/2002-2003 10/04/2002</td>
<td>10/04/2002</td>
<td>Md Faiyaz s/o Late MD Mumtaz</td>
<td>Asansol, Burdwan</td>
<td>Pollution Affecting Surroundings</td>
<td>Right to Health</td>
<td>ATR</td>
<td>WB Pollution Control Board</td>
<td>Commission transmitted the report to the complainant on 14/09/2005 Case closed since no further comments were received from the respondent, 26/04/2006</td>
</tr>
<tr>
<td>88</td>
<td>Delhi 904</td>
<td>1045/30/2003-04 14/07/2003</td>
<td>14/07/2003</td>
<td>Manoj Aggarwal &amp; others</td>
<td>B-60 Swasthya Vihar</td>
<td>Pollution Affecting Surroundings</td>
<td>Right to Health</td>
<td>Notice</td>
<td>Police</td>
<td>Action taken by the police as prayed for by the complainant. Case closed (14/11/2003)</td>
</tr>
<tr>
<td>89</td>
<td>Delhi 904</td>
<td>3048/30/2002-03 03/12/2002</td>
<td>03/12/2002</td>
<td>Sh Roshan Lal &amp; others</td>
<td>590, Jheel Khurana</td>
<td>Pollution Affecting Surroundings</td>
<td>Right to Health</td>
<td>Notice</td>
<td>Not on record</td>
<td>As no response was received from the authority and complainant also did not pursue the matter, therefore case closed on 12/05/2004</td>
</tr>
<tr>
<td>91</td>
<td>Delhi 904</td>
<td>1534/30/2004-05 16/07/2004</td>
<td>16/07/2004</td>
<td>Rishi Dev</td>
<td>H. no 571, Village Barwala, North Delhi</td>
<td>Pollution Affecting Surroundings</td>
<td>Right to Health</td>
<td>Notice</td>
<td>Not on record</td>
<td>Grievance made out in the complaint was subject matter of a court case therefore Commission did not find it necessary to pursue the matter, 30/03/2005</td>
</tr>
<tr>
<td>No.</td>
<td>Location</td>
<td>Date Range</td>
<td>Complainant Address</td>
<td>Details</td>
<td>Issue</td>
<td>Action Taken</td>
<td>Authority</td>
<td>Action Taken Details</td>
<td></td>
<td></td>
</tr>
<tr>
<td>-----</td>
<td>-----------</td>
<td>------------</td>
<td>---------------------</td>
<td>---------</td>
<td>-------</td>
<td>-------------</td>
<td>-----------</td>
<td>----------------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>93</td>
<td>Delhi 904</td>
<td>4159/30/2003-04 19/02/2004</td>
<td>Munwar Hussein M-4, gaffer Manzila Chazi Colony, Okhla</td>
<td>Munwar Hussein M-4, gaffer Manzila Chazi Colony, Okhla</td>
<td>P</td>
<td>Pollution Affecting Surroundings</td>
<td>Right to Health</td>
<td>Direction Not on record</td>
<td></td>
<td></td>
</tr>
<tr>
<td>94</td>
<td>Delhi 904</td>
<td>108/11/2004-05 21/07/2004</td>
<td>Vilayodi Venugopal, General Secretary PUCL, 81 Sahayoga Apartments, Mayur Vihar, Delhi</td>
<td>People living in Elloor, Ernakulam district, Kerala</td>
<td>P</td>
<td>Release of toxic gases due to incidence of fire at Hindustan Insecticides Ltd brought to the notice by PUCL</td>
<td>Right to Health /Right to Life</td>
<td>ATR Government of India/ State Pollution Control Board ATR received from the Govt of India. Commission was satisfied with the report and closed the case. 29/4/2005</td>
<td></td>
<td></td>
</tr>
<tr>
<td>95</td>
<td>Delhi 904</td>
<td>698/30/2004-05 1603/2004</td>
<td>Residents Block C1 Yamuna Vihar, North east Delhi</td>
<td>Residents Block C1 Yamuna Vihar, North east Delhi</td>
<td>P</td>
<td>Pollution Affecting Surroundings</td>
<td>Right to Health</td>
<td>ATR Police Action taken by the police as prayed for by the complainant. Case closed 6/6/2005</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

---

**Note:**
- **P** indicates a pollution-related issue.
- **G** indicates a general issue.
- **ATR** indicates an action taken report.
- **Government of India/ State Pollution Control Board** indicates the authority responsible for the action taken.
- **Action taken by the police as prayed for by the complainant. Case closed by the Commission** indicates the specific action taken and the closure of the case.

---

298
<table>
<thead>
<tr>
<th>Case No.</th>
<th>Location</th>
<th>Date</th>
<th>Complainant</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>96</td>
<td>Delhi 904</td>
<td>3885/30/2004-05 17/12/2004</td>
<td>Subhash Narula 4/218 Subhash Nagar West Delhi</td>
<td>Pollution Affecting Surroundings, Right to Health, ATR, Not on record, Grievance made out in the complaint is subject matter of a court case. Commission did not find it necessary to pursue the matter. 6/6/2005, 6 months</td>
</tr>
<tr>
<td>97</td>
<td>Delhi 904</td>
<td>4621/30/2003-04 17/03/2004</td>
<td>Ranjit Singh 48-49 East Guru, Anand nagar, East Delhi</td>
<td>Pollution Affecting Surroundings, Right to Health, Directions, Not on record, Grievance made out in the complaint is subject matter of a court case. Commission did not find it necessary to pursue the matter. 6/6/2005, 6 months</td>
</tr>
<tr>
<td>98</td>
<td>Delhi 904</td>
<td>3615/30/2003-04 19/08/2003</td>
<td>Residents of Shahdra, Shahdra</td>
<td>Odour and air pollution due to work of skin and bones of animals by one Haji Iqbal, Right to Health, ATR, Police, Report from the police indicated that the complaint was anonymous and the allegations made were not found to be correct. 8/6/2005, 10 months</td>
</tr>
<tr>
<td>99</td>
<td>Delhi 904</td>
<td>3237/30/2002-03 20/01/2003</td>
<td>VP Tyagi A-203 ST. Kabir Nagar East Delhi</td>
<td>Dumping of garbage in an open plot, Right to Health, Directions, Municipal Corporation of Delhi (MCD), Case closed, Report from MCD received, 1 year 10 months</td>
</tr>
<tr>
<td></td>
<td>Delhi 904</td>
<td>3621/30/2002 06/02/3003</td>
<td>Residents of H No 10168 to 10174 Gali No 2, Block 15, WEA Karol Bagh</td>
<td>Local Residents</td>
</tr>
</tbody>
</table>
APPENDIX V

STATEMENT BASED ON ANALYSIS OF INFORMATION RECEIVED FROM THE COMPLAINANTS IN RESPONSE TO THE QUESTIONNAIRE
<table>
<thead>
<tr>
<th>S.no</th>
<th>Name of Complainant(s)</th>
<th>Complainant Sex Male (M) / Female (F)</th>
<th>Age Yrs</th>
<th>Caste Genera l (G) / SC/ ST OBC/ other</th>
<th>Occupation</th>
<th>Name of Victim(s)</th>
<th>Sex Male (M) / Female (F) / Both</th>
<th>Age</th>
<th>Caste Genera l (G) / SC/ST/ OBC/ other</th>
<th>Occupation</th>
<th>Complaint/ Issue raised by the complainant</th>
<th>What was the source of informat-ion about NHRC</th>
<th>What was the expectation from NHRC</th>
<th>Whether satisfied with the response</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>V P Tyagi F- 18 East Jyoti Nagar, Delhi -93</td>
<td>M</td>
<td>50</td>
<td>G</td>
<td>Service</td>
<td>Residents of Kabir Nagar</td>
<td>Both</td>
<td>All</td>
<td>All</td>
<td>Service &amp; Business</td>
<td>Dumping of garbage in the vacant land in the vicinity.</td>
<td>Newspapers</td>
<td>To enable stopping of the garbage dumping</td>
<td>Yes</td>
<td>Garbage dumping stopped due to NHRC’s intervention.</td>
</tr>
<tr>
<td>2.</td>
<td>Manoj Agarwal, B- 60, Swasthya Vihar, Delhi-110092</td>
<td>M</td>
<td>42</td>
<td>Other</td>
<td>Business</td>
<td>Residents of Swasthya Vihar, B Block Nos B53-B65</td>
<td>Both</td>
<td>All</td>
<td>G</td>
<td>Service &amp; Business</td>
<td>Contamination of drinking water with sewer waste</td>
<td>News-papers /discuss-ion with relatives and friends</td>
<td>Rectification of the problem through intervention of NHRC</td>
<td>Yes</td>
<td>NHRC wrote to Delhi Jal Board but no follow-up. It did play a role to some extent but it worked more on paper than actually looking into the problem and whether it was rectified or not.</td>
</tr>
<tr>
<td>3.</td>
<td>Munawar Hasan Shamsi, M-4 Gaffar Manzil Ext. Okhla Jamia Nagar New Delhi 1100025</td>
<td>M</td>
<td>44</td>
<td>G</td>
<td>Government Service</td>
<td>Munawar Hasan Shamsi and family members</td>
<td>Both</td>
<td>All</td>
<td>G</td>
<td>Service</td>
<td>Pollution affecting surroundings</td>
<td>Television</td>
<td>No</td>
<td>No appropriate action was taken by NHRC. Response was received after one year stating that the complaint had been forwarded to the concerned authorities.</td>
<td></td>
</tr>
<tr>
<td>4.</td>
<td>Rishi Dev H. No. 571, Village Barwala, North Delhi</td>
<td>M</td>
<td>45</td>
<td>G</td>
<td>Service</td>
<td>Rishi Dev H. No. 571, Village Barwala, North Delhi</td>
<td>M</td>
<td>45</td>
<td>G</td>
<td>Service</td>
<td>Damage due to vibrations caused to the house and walls by Shakti Food industry (Dal Mill) and ailments caused</td>
<td>Television</td>
<td>That the problem will be rectified by the intervention of NHRC</td>
<td>No</td>
<td>No action was taken by NHRC, MCD, Pollution Control Board and the Delhi Police.</td>
</tr>
<tr>
<td>No.</td>
<td>Name and Address</td>
<td>Age</td>
<td>Cast</td>
<td>Occupation</td>
<td>Problem Description</td>
<td>Action Taken</td>
<td>Result</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>-----</td>
<td>-----------------</td>
<td>-----</td>
<td>------</td>
<td>------------</td>
<td>---------------------</td>
<td>--------------</td>
<td>--------</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>H N Subrahmanya, Amrut Nagar, Gogol PO Fatorda, Goa</td>
<td>64</td>
<td>G</td>
<td>Service (Retired Engineer, PWD)</td>
<td>Large ‘garbage dump’ due to the dumping of city garbage near the school</td>
<td>To direct removal of the ‘garbage dump’ away from the school</td>
<td>No</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>S S Yadav Village &amp; PO Bharawas, Rewari Haryana</td>
<td>60</td>
<td>OBC</td>
<td>Farming</td>
<td>Pollution affecting surrounding</td>
<td>Government offices</td>
<td>No</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>Satya Bansal, Yogesh Kumar, ML Gupta Aloo Godam Ambala, Haryana</td>
<td>60, 25, 80</td>
<td>G</td>
<td>Business and Service both</td>
<td>Pollution due to spray paint by Hem Raj &amp; sons. Spreading air/noise pollution due to exhaust fans.</td>
<td>Rectification of the problem due to the intervention of NHRC</td>
<td>Yes</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>Gulab Singh Ward No. 3, Adarsh Nagar Gohana, Sonepat</td>
<td>67</td>
<td>G</td>
<td>Government Service (retired)</td>
<td>Noise odour &amp; air pollution due to Bhattis in residential area</td>
<td>News paper magazines friends, relatives and govt. offices.</td>
<td>No</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>Dugai Mandal and others Village. Bewa, District Jamtara, Jharkhand</td>
<td>47</td>
<td>OBC</td>
<td>Labourer</td>
<td>Pollution affecting surroundings</td>
<td>Government offices</td>
<td>Yes</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

- **Due to dust pollution.**
- **No concrete action was taken to move the dumping site away from the school.**
- **Action was taken by Chairman, Haryana Paryavaran Chandigarh on the basis of a letter written by the NHRC.**
- **Appropriate action was not taken.**
<table>
<thead>
<tr>
<th>S. No.</th>
<th>Name</th>
<th>Gender</th>
<th>Age</th>
<th>Occupation</th>
<th>Affected Group</th>
<th>Issue Description</th>
<th>Correspondents</th>
<th>Action Taken by NHRC</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td>Bhavatkar Atushar</td>
<td>M</td>
<td>50</td>
<td>Business</td>
<td>Both All All</td>
<td>Air and Water pollution in industrial area from Bhalad to Baroda</td>
<td>Relatives and Friends</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>Ativodh Samiti,</td>
<td></td>
<td></td>
<td>People of</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Maharashtra.</td>
<td></td>
<td></td>
<td>Gujarat State –</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Residents of Sargam,</td>
<td></td>
<td></td>
<td>Vapi, Surat</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>11</td>
<td>T. Durya Dhana Reddy</td>
<td>M</td>
<td>37</td>
<td>Human Rights</td>
<td>Both All All</td>
<td>Pollution affecting surrounding</td>
<td>Newspapers</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>MHR 0638</td>
<td></td>
<td></td>
<td>Activist</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Village Panna,</td>
<td></td>
<td></td>
<td>Dhirapur</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Palli, Ganjam.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>12</td>
<td>Ban Bihari Dash</td>
<td>M</td>
<td>69</td>
<td>State Government</td>
<td>Both All All</td>
<td>Pollution affecting surrounding</td>
<td>Newspapers</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Dhirapur Orissa.</td>
<td></td>
<td></td>
<td>Service (retired)</td>
<td></td>
<td></td>
<td>Family and Friends</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Group of people</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>in village Dhirapur</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>13</td>
<td>Eliyas Khan</td>
<td>M</td>
<td>48</td>
<td>Labourers</td>
<td>Both All All</td>
<td>Pollution affecting surroundings</td>
<td>Newspapers</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Bye-Pass Road,</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Sujangath, Churu</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Rajasthan.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>14</td>
<td>Ram Autar Ward No. 1</td>
<td>M</td>
<td>47</td>
<td>Labourer</td>
<td>Both All All</td>
<td>Spread of diseases and health problems due to accumulation of polluted waste water in Harijan Basti since last 10 years.</td>
<td>Newspapers</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>11 Village Mahanser</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>PS Bissau, Jhunjhunu</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Rajasthan.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>15</td>
<td>Kumbha Ram, s/o Kishna</td>
<td>M</td>
<td>70</td>
<td>Guard (retired)</td>
<td>Both All All</td>
<td>Environmental pollution due to unloading and loading of coal by Ambuja Cements – 20 persons stated to have died</td>
<td>Relatives and Friends</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>Ram, r/o Baipara,</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Metta Road Nagaur,</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Rajasthan.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>No.</td>
<td>Applicant Name and Details</td>
<td>Age</td>
<td>SC</td>
<td>Occupation</td>
<td>Details</td>
<td>Other Bodies</td>
<td>Case Summary</td>
<td>Result</td>
</tr>
<tr>
<td>-----</td>
<td>--------------------------</td>
<td>-----</td>
<td>----</td>
<td>-------------</td>
<td>---------</td>
<td>--------------</td>
<td>--------------</td>
<td>--------</td>
</tr>
<tr>
<td>16</td>
<td>Kissan Sanghash Samiti, Balupura, District Pali</td>
<td>Both</td>
<td>SC</td>
<td>Agriculture, labourers, Farmers service, students</td>
<td>All the people of village Balupura, District Pali</td>
<td>Service men, farmers, labourers, students.</td>
<td>Noise and air Pollution from Ambuja Cement factory resulting in health problems</td>
<td>No</td>
</tr>
<tr>
<td>17</td>
<td>S Suresh &amp; others, s/o Sudda Gappa Ram, s/o Appaihana PO Obalapoura Taluka, Tumkur, Karnataka</td>
<td>M 35</td>
<td>SC</td>
<td>Agriculture</td>
<td>Villagers of Appaihana Palya (public in general)</td>
<td>Mining operations by Sudarshan and Co.</td>
<td>L R Narayanchar, Human Rights Activist, Tumkur</td>
<td>No</td>
</tr>
<tr>
<td>18</td>
<td>Gopal Parvati, President Punarvasati Mattu Samaj Vikas Samudaya, Bagalkot, Karnataka</td>
<td>M 70</td>
<td>G</td>
<td>Advocate</td>
<td>Project displaced families under Upper Krishna project</td>
<td>Acquisition of shops and dwelling units forcibly even in the absence of any threat of submersion</td>
<td>NGO</td>
<td>No</td>
</tr>
<tr>
<td>19</td>
<td>Dr. R S Lal Mohan, 43-C Water Tank Road, Nagercoil, Tamil-Nadu</td>
<td>M 70</td>
<td>OBC</td>
<td>Scientist</td>
<td>People of Nagercoil Town (about 2.5 lakhs)</td>
<td>Supply of unclean drinking water by Nagercoil Municipality.</td>
<td>Newspapers</td>
<td>No</td>
</tr>
</tbody>
</table>

Other judicial bodies in this age of corruption.

NHRC sent a reply to their complaint after 3 years. Meanwhile, there were ill effects of pollution on agriculture and health of people.

Though NHRC directed the Deputy Commissioner, Tumkur to take necessary action vide letter dated 27.5.2003, no action in this regard was taken. As on date the problem is still persisting.

“Commission merely transmitted the complaint to the state officials for so called appropriate action and disposal. This amounts to appointing them judges in cases against themselves”.

“NHRC accepted the explanation from the District Collector that they have to drink polluted water till alternative arrangements are made. So far no arrangement has been made”.

306
<table>
<thead>
<tr>
<th>No.</th>
<th>Name</th>
<th>Age</th>
<th>Community</th>
<th>Occupation</th>
<th>Affected</th>
<th>Affected Group</th>
<th>Reason</th>
<th>Media</th>
<th>NHRC Action</th>
<th>Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>20</td>
<td>Sellamathu Gounder Polvalasu, Erode, TN</td>
<td>62</td>
<td>OBC</td>
<td>Group of people</td>
<td>Both</td>
<td>All</td>
<td>All</td>
<td>Pollution due to tanneries</td>
<td>Newspapers</td>
<td>That NHRC would stop the pollution</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Complaint was given in 2004 but till date the outcome was not known.</td>
<td></td>
</tr>
<tr>
<td>21</td>
<td>M Samuel 29 Pandian Nagar, 5th Street, Thinthangal, Viradhanagar, Tamil Nadu</td>
<td>31</td>
<td>OBC</td>
<td>Members, Thinthangar town Residents Association, r/o of Sathyanga r, Indira Nagar, Pandian Nagar, Kama rajan Colony</td>
<td>Both</td>
<td>All even unborn children</td>
<td>SC/ OBC/ Gen</td>
<td>Air pollution, water pollution, noise pollution water scarcity and damage to dwelling units</td>
<td>Newspapers, Internet</td>
<td>Speedy trial for early closure of quarries and compensation to affected people particularly SC and women.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>NHRC did not take any action against the Government Agencies responsible for containing the pollution.</td>
<td></td>
</tr>
<tr>
<td>22</td>
<td>P S Subramanya Murugandi No. 1 Old 47, Ph 1, Tamil Nadu</td>
<td>69</td>
<td>G</td>
<td>Advocate and Human Rights Activist</td>
<td>Both</td>
<td>All groups</td>
<td>SC</td>
<td>Pollution of drinking water due to release of effluents by tanneries in district Vellore</td>
<td>Newspapers and NGOs</td>
<td>That NHRC would take appropriate action</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>The complainant had sent his objection but NHRC informed that the file was closed since the complainant did not send any objection to the report of the District Collector. The DC suppressed the facts.</td>
<td></td>
</tr>
<tr>
<td>23</td>
<td>A Mayilvahan No. 2 Sathirani Muthu nagar 7th Street Ennore Chennai</td>
<td>67</td>
<td>OBC</td>
<td>Building Contractor</td>
<td>Complainant himself and people in the vicinity of the factory</td>
<td>Both</td>
<td>All</td>
<td>Various</td>
<td>Health related problems caused by the pollution due to EID Parry Company, Ennore</td>
<td>Relatives and friends</td>
</tr>
<tr>
<td>24</td>
<td>A G Sathyanesan, Vedu Mutton Kanya Kumari, Tamil Nadu</td>
<td>80</td>
<td>Other</td>
<td>Scientist and Professor (retired)</td>
<td>People of two districts, Kanya Kumari and Tinnanvelly Tamil Nadu</td>
<td>Both</td>
<td>All</td>
<td>Various</td>
<td>Installation of new Russian Nuclear Reactors without EIA and request for public hearing at Koodankulam</td>
<td>Television, Newspapers</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>NHRC has overlooked the amendment of the Water Pollution Act and allowed the construction of the reactors without EIA and Public Hearing.</td>
<td></td>
</tr>
<tr>
<td>No.</td>
<td>Name/Details</td>
<td>Gender</td>
<td>Age</td>
<td>Category</td>
<td>Occupation</td>
<td>Affected Group</td>
<td>Affected Area</td>
<td>Discussion Medium</td>
<td>Action Taken by NHRC</td>
<td>Remarks</td>
</tr>
<tr>
<td>-----</td>
<td>------------------------------------------------------------------------------</td>
<td>--------</td>
<td>-----</td>
<td>----------</td>
<td>------------</td>
<td>----------------</td>
<td>---------------</td>
<td>------------------</td>
<td>----------------------</td>
<td>---------</td>
</tr>
<tr>
<td>25</td>
<td>Gopal Gautam, 202-I Kazi Khera, Kanpur UP</td>
<td>M</td>
<td>57</td>
<td>SC</td>
<td>Defence service</td>
<td>Group of people</td>
<td>Both All All Various Pollution in residential area due to Dal mills</td>
<td>Discussion with relatives and friends</td>
<td>Removal and disallowing dust and noise pollution</td>
<td>Only temporarily Dal Mill owner took revenge by falsely implicating the complainant and filing a criminal complaint against him.</td>
</tr>
<tr>
<td>26</td>
<td>Smt Noelam Gupta Gandhi Nagar, Kamal Ganj, Farrukhabad, UP</td>
<td>F</td>
<td>43</td>
<td>G</td>
<td>Housewife</td>
<td>Group of people</td>
<td>Both All All Various Noise Pollution due to generator installed by Department of Communication on the premises taken on rent from complainant</td>
<td>TV/News-papers</td>
<td>Removal of the source of noise pollution</td>
<td>No comment The complainant stated the she is not aware of the steps taken by NHRC but the concerned departments responsible for noise pollution were shifted.</td>
</tr>
<tr>
<td>27</td>
<td>S P Sharma 5/405 Goolar Road, Aligarh, UP</td>
<td>M</td>
<td>42</td>
<td>G</td>
<td>Hawker</td>
<td>Group of people</td>
<td>Both All All Varied Pollution due to Multiple unauthorized factories</td>
<td>Discussion with relatives and friends</td>
<td>No</td>
<td>Despite several complaints no action was taken by NHRC</td>
</tr>
<tr>
<td>28</td>
<td>Jahir Ahmad Moh. Midargan B-10 H No. 26 Bijnore UP</td>
<td>M</td>
<td>40</td>
<td>G</td>
<td>Labourer</td>
<td>Group of people</td>
<td>Both All All Various Health problems and spread of diseases due to Slaughter House</td>
<td>Newspapers</td>
<td>No</td>
<td>No action has been taken against the slaughter house till date.</td>
</tr>
<tr>
<td>29</td>
<td>Vinod Kumar Tripathi, Village Chapra Bujurga, Nagawa Khas, PO Nagawa Khas, Deoria, UP</td>
<td>M</td>
<td>40</td>
<td>G</td>
<td>Advocate</td>
<td>Group of people</td>
<td>Both All All Various River water pollution form industries located upstream affecting the health of people living on the banks of the river.</td>
<td>TV, Newspapers, magazines, relatives and friends</td>
<td>No</td>
<td>No action has been taken against the slaughter house till date.</td>
</tr>
<tr>
<td>30</td>
<td>The Principal Shri Sanskrit College Delhi Saharanpur Road, Khekra, Bagpat UP</td>
<td>M</td>
<td>54</td>
<td>G</td>
<td>Teaching</td>
<td>Group of people</td>
<td>Both All All Students</td>
<td>Government offices</td>
<td>Yes</td>
<td>Despite the action taken by the NHRC the drinking water is not sweet and the ground water is also polluted</td>
</tr>
<tr>
<td>31</td>
<td>Usha Gautam GT Road Etah, UP</td>
<td>Femal e</td>
<td>50</td>
<td>G</td>
<td>Journalist</td>
<td>Group of People of Soron District Etah</td>
<td>Both 40 to 45 G Business Emission of smoke and odour due to Bhattis run by halwais</td>
<td>Newspapers</td>
<td>Expected an enquiry by NHRC</td>
<td>Yes</td>
</tr>
<tr>
<td>No.</td>
<td>Name</td>
<td>Address</td>
<td>Gender</td>
<td>Age</td>
<td>Occupation</td>
<td>Group</td>
<td>Description</td>
<td>Last Action</td>
<td>Result</td>
<td></td>
</tr>
<tr>
<td>-----</td>
<td>-------------------------------------------</td>
<td>----------------------------------------------</td>
<td>--------</td>
<td>-----</td>
<td>--------------------</td>
<td>-------</td>
<td>-----------------------------------------------------------------------------</td>
<td>-------------</td>
<td>--------------------------------------------</td>
<td></td>
</tr>
<tr>
<td>32</td>
<td>Md Faiyaz s/o Late MD Muntaz Pucca Bazaar</td>
<td>Afzal Hussain Lane, PO Asansol, Burdwan, WB</td>
<td>M</td>
<td>30</td>
<td>Other</td>
<td>Both</td>
<td>Group of people in the locality became ill. One person died.</td>
<td>TV</td>
<td>Yes</td>
<td></td>
</tr>
</tbody>
</table>
|     |                                           |                                              |        |     |                    |       |                                                                             |             | NHRC: "That is followed by NHRC."
| 33  | Premji Govindbhai Kansara Rangnath Road   | Byarline Okha Jamnagar Gujarat                | Both   | 45  | G                  | Both  | Group of people                                                             | NP          | Yes                                        |
|     |                                           |                                              |        |     |                    |       |                                                                             |             | "The unit was closed."
| 34  | P A Pandya                               | President Manav Hak Adikar Suraksha Seva Sangh, Opp. Bhuj Old Railway Station, Kutch-Bhuj Gujarat | M      | 76  | G                  | M     | Circus man                                                                  | Discussion with relatives and friends | No                                         |
|     |                                           |                                              |        |     |                    |       |                                                                             |              | "The people are suffering and have not received justice."
<p>| 35  | Kesho Deo Sharma                           | PES, Ragh- hubir Puri, Aligarh               | M      | 83+ | G                  | Both  | Self+ 600 Students of Junior High School                                    | NP          | No                                         |
|     |                                           |                                              |        |     |                    |       |                                                                             |              | Did not take any action. Kept the complaint for a long time.               |
| 36  | Kanta Prasad Modi                         | Naharod                                      | M      | 69  | G                  | M     | Land mafia and Lohia Mill Gangapur carved plots on leased land and beat up and threatened the complainant. | NP          | No                                         |
|     |                                           |                                              |        |     |                    |       |                                                                             |              | Till date no action has been taken.                                      |</p>
<table>
<thead>
<tr>
<th>No.</th>
<th>Name and Address</th>
<th>Gender</th>
<th>Age</th>
<th>Occupation</th>
<th>Description of the Problem</th>
<th>Relationship</th>
<th>Expectation</th>
<th>Verdict</th>
</tr>
</thead>
<tbody>
<tr>
<td>37</td>
<td>Vikram Pahawa, C-74 Kirti Nagar, New Delhi</td>
<td>M</td>
<td>37</td>
<td>G</td>
<td>Engineer</td>
<td>Self and Employees, 4781 Hauz Kazi Delhi</td>
<td>M</td>
<td>37</td>
</tr>
<tr>
<td>38</td>
<td>Kailash Behari Dist Kaithal, Haryana</td>
<td>M</td>
<td>62</td>
<td>G</td>
<td>Labourer</td>
<td>Self</td>
<td>M</td>
<td>62</td>
</tr>
<tr>
<td>39</td>
<td>Pramod Kumar Garg S/o Sh. Guru Dutt Prasad 16/51-Sania Nair Singh PO Jewar-Gautam-Budh Nagar, UP</td>
<td>M</td>
<td>37</td>
<td>G</td>
<td>Cloth Merchant</td>
<td>Self</td>
<td>M</td>
<td>37</td>
</tr>
<tr>
<td>40</td>
<td>Rakesh K Jaiswal Durga Housing Society, Kanpur.</td>
<td>M</td>
<td>49</td>
<td>OBC</td>
<td>Eco-activist</td>
<td>People of Noraia-kheda and Jajmau</td>
<td>Both</td>
<td>All</td>
</tr>
<tr>
<td>41</td>
<td>VK Venkatachalam TC 35/571 Trichur, Kerala.</td>
<td>M</td>
<td>43</td>
<td>Other</td>
<td>Teaching</td>
<td>People at large</td>
<td>Both</td>
<td>All</td>
</tr>
</tbody>
</table>

310
<table>
<thead>
<tr>
<th>Case Number</th>
<th>Name</th>
<th>Sex</th>
<th>Age</th>
<th>Caste</th>
<th>Occupation</th>
<th>Sector</th>
<th>Affected</th>
<th>Ethnicity</th>
<th>Duration</th>
<th>Issue Description</th>
<th>Approaches Taken by NHRC</th>
<th>Action Taken by NHRC</th>
</tr>
</thead>
<tbody>
<tr>
<td>42</td>
<td>Smt. Vimla Devi Purori, Farrukhabad, UP</td>
<td>F</td>
<td>35</td>
<td>OBC</td>
<td>Agriculture</td>
<td>Both</td>
<td>OBC</td>
<td>Self and others</td>
<td>Both</td>
<td>TB due to pollution in tribal settlement and police atrocities on tribals.</td>
<td>TV</td>
<td>No</td>
</tr>
<tr>
<td>43</td>
<td>Anchal Das, Ex MP, Ambikai, Orissa</td>
<td>M</td>
<td>51</td>
<td>SC</td>
<td>Social Service</td>
<td>Both</td>
<td>ST</td>
<td>Group of people</td>
<td>Both</td>
<td>Industrial pollution and police atrocities on tribals.</td>
<td>TV/News-papers</td>
<td>No</td>
</tr>
<tr>
<td>44</td>
<td>Ravinder Singh Shergarh, Bareilly</td>
<td>M</td>
<td>Not indicated</td>
<td>Journalist</td>
<td>Both 10-15 yrs</td>
<td>All</td>
<td>Students</td>
<td>Students of MM Malaviya Junior High School.</td>
<td>NGO</td>
<td>That NHRC will intervene to protect human rights of the tribal population.</td>
<td>No</td>
<td>‘NHRC takes too long to act’.</td>
</tr>
<tr>
<td>45</td>
<td>Chaitanya Dehog Angul, Orissa</td>
<td>M</td>
<td>47</td>
<td>Not indicated</td>
<td>Villagers of Panchmohala</td>
<td>Both</td>
<td>All</td>
<td>Tribal people</td>
<td>Air and noise pollution due to Balaji stone crushers</td>
<td>News-papers</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>46</td>
<td>Smt. Munni Devi Daouji Mohalla, Sasni, Hathras, UP</td>
<td>F</td>
<td>40</td>
<td>OBC</td>
<td>Teaching</td>
<td>Both</td>
<td>All</td>
<td>Self and students</td>
<td>All</td>
<td>Air and noise pollution affecting health of students due to Masala crushing unit</td>
<td>NHRC was expected to intervene. They went to court only after first going to NHRC.</td>
<td>No</td>
</tr>
<tr>
<td>47</td>
<td>Shri O N Shastri Security Staff Side JCM Refund Council Jullandhar Punjab</td>
<td>M</td>
<td>50</td>
<td>G</td>
<td>Service</td>
<td>Both</td>
<td>S0</td>
<td>Group</td>
<td>Pollution affecting surroundings</td>
<td>TV, Newspapers</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>48</td>
<td>P Chidambara Reddy Majdoor Kisan Panchayat Solapar Road Ahmedabad Gujarat</td>
<td>M</td>
<td>50</td>
<td>G</td>
<td>Service</td>
<td>Both</td>
<td>All</td>
<td>Group</td>
<td>People working in Power Station</td>
<td>Safety equipment for people working in Power Station</td>
<td>Friends</td>
<td>No</td>
</tr>
<tr>
<td>49</td>
<td>Irshad Husain UP Pradhan Village</td>
<td>M</td>
<td>Other</td>
<td>Agriculture/Transport</td>
<td>Both</td>
<td>All</td>
<td>Agriculture</td>
<td>Pollution affecting surroundings</td>
<td>Newspapers</td>
<td>Yes</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Police took the victim’s husband on the pretext of resolving the issue but charged him and she had to bail him out.

It did not intervene to save the tribals.

Complaint was lodged 4 years ago.

‘NHRC relied on the corrupt administrative machinery who take NHRC very lightly’.

Police took the victim’s husband on the pretext of resolving the issue but charged him and she had to bail him out.

It did not intervene to save the tribals.

Complaint was lodged 4 years ago.

‘NHRC relied on the corrupt administrative machinery who take NHRC very lightly’.
<table>
<thead>
<tr>
<th>No.</th>
<th>Name</th>
<th>Gender</th>
<th>Age</th>
<th>Occupation</th>
<th>Relationship</th>
<th>Complainant Details</th>
<th>Issue_details</th>
<th>Source</th>
<th>Satisfaction</th>
</tr>
</thead>
<tbody>
<tr>
<td>50</td>
<td>K L Sharma</td>
<td>M</td>
<td>55</td>
<td>Business</td>
<td>Self and Family</td>
<td>Both 10 to 55</td>
<td>Pollution due to generator of the neighbour</td>
<td>Newspapers</td>
<td>Yes</td>
</tr>
<tr>
<td>51</td>
<td>Raj Karan</td>
<td>M</td>
<td>44</td>
<td>Villagers</td>
<td></td>
<td></td>
<td>Noise and Air Pollution</td>
<td>Friend</td>
<td>Yes</td>
</tr>
<tr>
<td>52</td>
<td>Hirendar Narayan</td>
<td>M</td>
<td></td>
<td>People of Kashipur</td>
<td></td>
<td>Pollution due to generator in Kashipur Colony</td>
<td>Newspapers</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>53</td>
<td>Chaitanya Dehog</td>
<td>M</td>
<td>47</td>
<td>SC</td>
<td>Not given</td>
<td>Villagers of Panchamohala</td>
<td>Air and noise pollution from Balaji stone crusher.</td>
<td>Newspapers</td>
<td>No</td>
</tr>
<tr>
<td>54</td>
<td>S A Azad</td>
<td>M</td>
<td>40</td>
<td>NGO PRASAR</td>
<td>People working in stone quarries</td>
<td>Both</td>
<td>Labours mostly</td>
<td>Ill effects on health/ Silicosis due to stone quarrying Compensation and Rehabilitation for the victims of silicosis.</td>
<td>Newspapers</td>
</tr>
<tr>
<td>55</td>
<td>P K Mahendru</td>
<td>M</td>
<td>50</td>
<td>Service</td>
<td>Self and residents of the locality</td>
<td>Both</td>
<td>All</td>
<td>Mixed professions of people in the locality</td>
<td>Noise pollution due to public address system of Sanatan temples</td>
</tr>
<tr>
<td>56</td>
<td>Priya Jain Ram</td>
<td>F</td>
<td>17</td>
<td>Student</td>
<td>Students</td>
<td></td>
<td>Reply from the Principal that the student has since left the school.</td>
<td>Yes</td>
<td></td>
</tr>
</tbody>
</table>

Source: Compilation of data in Appendix-IV by the author based on NHRC’s computerized data base
Source: Compilation of data in Appendix-V by the author based on information collected through questionnaire sent to complainants
APPENDIX VI

Published Papers (Attached)


**Paper submitted for publication in IEL.( Under Consideration)**

(4) Shrotria S. “Environmental Justice: Is the National Green Tribunal of India effective?”
Linkage between Environment and Human Rights: Is there a ‘right to Environment’ under International level.

Sudha Shrotria¹

Abstract

Though the ‘right to environment’ is not enshrined in a legally binding international instrument, several international and national texts recognise the connection between environment protection and human rights. Presently there are several international treaties, declarations, statement of principles, resolutions of UN bodies and case rulings by domestic and international courts wherein the environment and human rights have been linked. At the national level, a substantive right to a certain quality of environment has been formally recognized in several national constitutions.

This article presents the initiatives of the world community in recognising a linkage between the environment and human rights. It explores the linkage between the environment and human rights at the international, regional and national level by analysing the legal instruments along with the jurisprudence which has been evolved by the courts. It examines whether a ‘right to environment’ has been established as an international legal norm in the context of human rights or whether existing human rights adequately cover a ‘right to environment’ of a particular quality. It also looks at whether there is a need to recognize an independent right to environment in international law.

Key words: ‘environment’ ‘human rights’, ‘right to environment’

1. Introduction

There is a proximate relationship between man and environment. Man’s total environmental system includes not only the biosphere, but also his interactions with the natural as well as the man-made surroundings. Human rights’ abuses often lead to environmental harm just as environmental

¹ Doctoral Scholar, Centre for Regulatory and Policy Research, TERI University, 10 Institutional Area, Vasant Kunj, New Delhi 110070. E-mail: sudhashrotria@hotmail.com
degradation may result in human rights violations. People harmed by environmental degradation are often the poor and marginalised sections of society, ethnic minorities and indigenous people. Traditional international environmental law that addresses rights and obligations between nation states has little to offer to the individuals harmed by environmental degradation. A rights-based approach to environment protection places people at the centre of concern. It imposes a duty on the state to regulate activities of the governmental as well as the non-governmental sector so as to ensure that the quality of environment is maintained. There has been a growing debate since the last two decades on whether there is a need to add a ‘right to a clean environment’ as a new right to the existing recognized human rights or whether such a right can be adequately derived from the existing human rights and is capable of enforcement at the international, regional and national levels.

Before proceeding with the substantive issue in the article relating to a ‘right to a clean environment’ and the linkage between environment and human rights, it is important to understand the concept of ‘human rights’ and ‘environment’ and how one affects the other.

1.1 Human rights

The Universal Declaration of Human Rights (UDHR) states that “All men are born free in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.” Human Rights are, as per the preamble of the UDHR, ‘a common standard of achievement for all peoples and all nations.’ Human rights are internationally agreed upon minimum standards for treating humans with dignity. They were first expressed as part of international law in the UDHR in 1948.

A human right is in an inalienable right which every human possesses by virtue of being a human. While human rights clearly have a moral basis, they have evolved into legal rights that define the relationship between the governments and the people. Human Rights are universal legal guarantees protecting individuals and groups against actions and omissions that interfere with fundamental freedoms, legitimate

---

entitlements and human dignity. Human Rights Law requires governments and other duty bearers to do certain acts to protect and promote human rights and at the same time refrain from doing certain acts that violate or infringe human rights.

Commonly, human rights are basically understood to mean those inalienable rights that human beings possess by virtue of being human. They are universal and must be respected by all.

The important characteristics of human rights are enumerated below:

- They are universal - the birthright of all human beings.
- They cannot be waived or taken away.
- They are indivisible and interdependent.
- They focus on inherent dignity and equal worth of all human beings.
- They impose obligations of action and omission, particularly on States and State actors.
- They have been internationally guaranteed.
- They are legally protected.
- They protect individuals and to some extent groups.

Human rights are entitlements due to every man, woman, and child because they are human, (Wiseberg, 1996). The premise of International law is that these rights are inherent in the human person. They are not given to people by the State, and the State cannot deprive people of their rights. (Baer, 2001) defines human rights as internationally agreed values, standards or rules regulating the conduct of states towards their own citizens and towards their non-citizens.

The Protection of Human Rights Act, 1993 in India defines human rights as “rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the international covenants and enforceable by courts in India”. The human rights system is not a rigid legal structure.

Though the expression ‘human rights’ is of a recent origin emerging from (post WW II) the UN Charter and other Conventions; the concept is as old as the doctrine of ‘natural rights’ founded on the rudimentary tenets of ‘natural law’. It was asserted that there were certain rights which were superior to rights created by human authorities that had universal application and existed even before the birth of political society. The shortcoming in the theory of natural
rights is that it was merely an ideology without any legal backing. There were no agreed rights and no machinery to enforce them.

The full emergence of international human rights law began with the founding of the United Nations. The UN Charter in its preamble states that ‘its purpose inter-alia is promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion…..’. In 1948 the UNGA adopted the Universal Declaration of Human Rights which was merely a statement of ideals. It was not legally binding nor did it have a mechanism for it to be enforced. Numerous treaties have subsequently codified these rights.

1.2 Classification of Human Rights

‘Human rights literature usually makes a distinction between the three generations of human rights. The civil and political rights often called the ‘first generation rights’ are rights of individuals relating to personal liberties which the States have taken upon themselves as an obligation to respect. The ‘second generation rights’ are the social, economic and cultural rights which require the States to take affirmative action for the realization of these rights. The ‘third generation rights’ are the newly emerging rights which have an element of both – that is- these can be invoked against the State as well as demanded of it. These are ‘group rights’ or collective rights and include the right to environment, right to development, the right to peace and right to one’s own cultural heritage.

The rights included in the International Convention on Civil and Political Rights, 1966 (ICCPR) relate to civil and political liberties. The rights included in the Convention on Economic, Social and Cultural Rights, 1966 (ICESCR) relate to economic, social and cultural rights. Over a period of time it has been realised that all rights are equally important and political and civil rights cannot be fully enjoyed by the people unless their social, economic and cultural rights are realised. In other words, political and civil rights on one hand, and economic, social and cultural rights on the other, must be placed together on an equal footing. So long it is not done; disparity and inequality will continue to operate leading to disturbances, tension, conflicts and violence. For proper human development and

---

global peace, protecting, promoting and respecting both sets of rights is quintessential.

The World Conference on Human Rights held at Vienna in 1993 in its declaration affirmed that Human Rights are “universal, indivisible, inter-dependent and inter-related”. With the adoption of the universal declaration and integration of culture into human rights, an attempt was made at the global level to ensure that human beings everywhere are treated in an equal and fair manner. It was emphasized that while the differences in historical, cultural and religious backgrounds can be kept in mind, the states are duty bound to protect and promote all human rights and fundamental freedoms”.

Most governments now consider human rights to apply universally. At the 2005 World Summit, the UN General Assembly passed a resolution reaffirming as essential to international relations, the common fundamental values, including freedom, equality, solidarity, tolerance, respect for all human rights, respect for nature and shared responsibility.

In the recent years, the human rights dialogue has expanded beyond the role of governments to consider the role of non-state actors such as transnational corporations and international organisations.

1.3 Environment

The term ‘environment’ encompasses not only the physical and biological aspects but several other aspects such as social, economic, political, religious, and cultural. As defined under India’s Environment Protection Act of 1986, the term ‘environment’ includes “water, air and land and the inter-relationship which exists among and between water, air and land, and human beings, other living creatures, plants, micro-organisms and property”. Human beings are not apart from the environment they live in. They have a relationship with the physical and biological aspects of the environment and form components of the entire eco-system. Therefore, just as they have a right to a pollution free environment for their health and well being they also have a responsibility in protecting and improving the quality

---

7 G.A. Res. 60/1, U.N. Doc A/Res/60/1(October, 2005).
of the environment, not only for themselves and the future generations but also for the sustainability of the entire eco-system.

Even though the ‘right to environment’ is not articulated in a legally binding international instrument the linkage between Environment and Human Rights is being increasingly recognized; more specifically at the national and regional levels. Since the deterioration of the environment affects the enjoyment of fundamental human rights especially right to life and right to health; several national, regional and international texts acknowledge the connection between environment protection and human rights.

1.4 Environment linked human rights violations

The international community has become increasingly aware of the relationship between environmental degradation and human right’s abuses. Sachs in 1995, a Worldwatch Research Associate, stated that “the ravages of environmental exploitation are often backed up by brutal human rights violations”. In many countries, communities and individuals suffering from environmental degradation who protest against the damage are systematically victimized and subjected to human rights violations. There are documented cases of human rights abuses inflicted on communities and individuals in various parts of the world that reveal how human rights are swept aside and people protesting against the damage to the environment are victimized and are made to suffer. The report titled “Eco-Justice: Linking Human Rights and the Environment”\(^9\), brings out that poor minorities who already face discrimination in society and who have limited means to protest are the most common victims of environmental and human rights abuses.

According to the report\(^{10}\), the activists who suffer such human rights abuses are mostly those who are engaged in raising wider social issues affecting the health of local communities and their environment. The view expressed by Sachs is that while at the local level, the human rights activists campaigning for social justice and those engaged in wider issues of environmental protection have joined hands to link human rights and environmental protection in their campaigns for environmental justice, this has not happened at the global level. Similar movements are required at the regional and

---


\(^{10}\) ibid
international level so that policy makers all over the world can be influenced to link human rights and environment with a view which ensures that development is environmentally sustainable and that people have a ‘right to a healthy and safe environment’.

Environment related human rights violations have been reported from different parts of the world. Protestors, campaigners and journalists fighting for the cause of environment, raising their voice against the destruction of endangered species, or against deforestation and development projects having a negative impact on local environments have been victimized by the authorities in several ways including loss of life.

As suggested by the Worldwatch study, the best way to guarantee a safe and healthy environment would be to ensure that the human rights of communities are well protected and that the vulnerable and marginalized members of society have access to information so that they can raise their voices freely against the polluters. The polluters would then not be able to dispel their views so easily. They would be compelled to find alternatives to their polluting activities.

2 ‘Environment’ in International Human Rights Law:

International human rights law pre dates international environmental law. A series of international human rights treaties and other instruments have emerged since 1945 conferring a legal form on inherent human rights. International human rights law consists mainly of treaties, customs, declarations, principles and guidelines. The United Nations provided an ideal forum for the development and adoption of international human rights instruments. The principal human rights conventions are –

(1) The Universal Declaration of Human Rights (UDHR), 1948.
(2) The International Covenant on Civil and Political Rights (ICCPR), 1966 along with its two Optional Protocols.
The first step towards codification of international human rights law was the adoption of the Universal Declaration of Human Rights (UDHR) by the United Nations General Assembly, on 10 December 1948. The preamble of the UDHR was adopted, while recognizing the inherent dignity and inalienable rights of all members of the human family proclaimed the Universal Declaration as ‘a common standard of achievement for all peoples and all nations’. Article 1 of the UDHR states that ‘All human beings are born free and equal in dignity and rights’. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood’. While Article 25 acknowledges that ‘Everyone has a right to a standard of living adequate for the health, well-being of himself and his family, including food, clothing, housing, medical care and necessary social services’, it does not make a direct reference to environment. Though UDHR has gained a customary status it can only be inferred from Article 1 and Article 25 that the quality of environment is an essential factor for human health and well-being.

In 1966, two international Covenants supplemented the UDHR. The International Covenant on Civil and Political Rights (ICCPR), its two optional protocols and the International Covenant on Economic, Social and Cultural Rights (ICESCR) are the two principal international agreements which list the rights that the States are under an obligation to follow.

As in UDHR, no direct reference has been made to a right to quality environment in either the ICCPR or ICESR. However, inferences can be drawn in favour of a right to quality environment from provisions contained in Article 6(1) relating to ‘right to life’ and ‘right to human dignity’ in the ICCPR both of which have a bearing on the right to a quality environment essential for ‘right to life’. Similarly, under the ICESCR the ‘right to an adequate standard of living and to continuous improvement of living conditions’ and ‘right to adequate health and well being’ have a bearing on the ‘right to a quality environment.’

Since the principal human rights instruments do not articulate an independent right to environment the ‘right to environment’ can only be a ‘derived right’ from interpretation of the existing civil, political, economic, social and cultural rights.

3 ‘Environment ‘in Regional Human Rights Treaties and Conventions

There are four Regional Human Rights Treaties –
(1) European convention for the protection of Human Rights and Fundamental freedoms, 1959 (ECHR)

---

11 Universal Declaration of Human Rights, 1948
(2) European Social Charter 1961 and European Social Charter (revised) 1996 (ESC)

The European Convention on Human Rights, 1950 (ECHR) guarantees civil and political rights. It does not have a specific environmental right in its catalogue of human rights. Environment protection can thus be dealt with in proceedings of the European Court only indirectly as the subject of a procedural guarantee enshrined in Article 6 or when damage to environment also violates rights guaranteed by the Convention. The Court for example has dealt with protection against environmental nuisance under the right to respect for the home. Such cases were first brought before the European Court in the 1970’s wherein environmental threats were linked to human rights. The European Social Charter (ESC) guarantees social and economic rights. It was adopted in 1961 and revised in 1996. It sets out the rights and freedoms and establishes a supervisory mechanism guaranteeing their respect by the States Parties. There is a general connection between environment protection and Article 11 (the right to protection of health) but the text does not give any individuals any right to require the state to act or refrain from acting. It contains a detailed mandate to establish social rights and obligations. The ESC does not have a binding effect and though it has given rights to Non Governmental Organisations to file complaints, the supervisory machinery is not effective. The Parliamentary Assembly of the Council of Europe12 in its report to the Committee on the Environment, Agriculture and Local and Regional Affairs recommended that an additional protocol to the ECHR be drafted so as to strengthen environmental protection.

The African Charter and the San Salvador Protocol both recognise the direct link between environment and human rights. Article 11 of the San Salvador protocol proclaims that “Everyone shall have the right to live in a healthy environment and to have access to basic public services.” It distinguishes between the right of an individual to ‘live in a healthy environment’ and the positive obligations of the states to protect, preserve and improve the environment. A state’s failure to carry out this obligation can lead to an enforceable right of action.

Article 16 of the African Charter guarantees to every individual the right to enjoy the best attainable state of physical and mental health while Article 24 provides for a more general right adding that “All peoples shall have the right to a general satisfactory environment favourable to their development.” On a petition filed by two NGO’s of Ogoniland, Nigeria the African court discovered that Nigeria violated several of its obligations to respect, protect, promote and fulfill the right to enjoy the 1981 African Charter. These included the right to life (Article 4), right to health (Article 16), the right to property (Article 14), the right of peoples to ‘a general satisfactory environment favourable to their development’ (Article 24). The violations of environmental rights were committed by the Nigerian National Petroleum Development Company in a consortium with Shell Development Corporation. These violations led to environmental degradation, health problems, toxicity of water and destruction of the ecosystem.

4 Human Rights in ‘International Environment Law’

The first major international instrument to link environment and human rights is the Stockholm Declaration of 1972. In preparation for the Conference, the UN Secretary General had recommended that the Preparatory Committee to the Conference should draft a Declaration on the Human Environment in which the rights and obligations of citizens and governments are addressed with regard to the protection of the human environment. The Declaration which was subsequently endorsed at the Conference contained 26 principles of which the first is the most important in terms of linking environment to human rights. It states: “Man has the fundamental right to freedom, equality and adequate conditions of life in an environment of a quality that permits a life of dignity and well being and bears a solemn responsibility to protect and improve the environment for present and future generations.” A significant achievement of the Stockholm Conference, besides facilitating an international awareness of environmental issues and concerns was the creation of United Nations Environment Programme (UNEP). UNEP’s mandate is to address environmental issues at the international level and coordinate with member states to derive a consensus on policy issues.

In 1968, the UN General Assembly adopted a resolution acknowledging the relationship between the environment and development. Important developments took place at the behest of UNEP which linked the fundamental value of environment for survival of human beings and

---

14 Article 1, the Stockholm Declaration, 1972.
included concepts such as Environment Impact Assessment of development projects for sustainable development and obligation on part of authorities to provide information. The UNEP Draft Principles of 1978 paved the way for significant developments in international environmental law and policy. The World Conservation Strategy of 1980 developed by IUCN, the Montevideo Program of 1981 developed by UNEP and the World Charter for Nature, 1982 all provided a linkage between environment, nature and human survival. These led to further developments in international environmental law.

Ten years after Stockholm, the World Commission on Environment and Development, headed by Mrs Gro Harlem Brundtland, the former Prime Minister of Norway, in its report titled ‘Our Common Future’ drew attention of the world community to protect the environment by making a provision in their constitution or enacting special laws. The report stated that many countries had included a ‘right to an adequate environment’ in their national system.\(^{15}\) Though the report did not claim that a right to environment existed under customary international law, it advocated the desirability of articulating such a right. Around the same time, an Expert Group on Environment Law recommended 22 legal principles of which the first principle is about a fundamental right of all human beings to an environment adequate for their health and well being.\(^{16}\)

Though the Rio declaration affirmed several of the principles in the Stockholm Declaration, especially those relating to state responsibility for environmental harm, compensation for harm due to pollution and environmental damage, co-relation between environmental pollution and health, re-enforcement of the polluter pays principle and the precautionary principle, it failed to develop a human right to environment as a substantive right. In pursuit of sustainable development, an Action Plan was adopted in the form of Agenda 21 which covered a wide range of issues such as atmospheric pollution, biodiversity, protection of the marine environment, deforestation, desertification and hazardous substances. The UN Framework Convention on Climate Change and the Convention on Biodiversity were opened for signature at the Conference.

Several other Conventions came about after UNCED. These Conventions were aimed at the world community to prudently manage toxic chemicals and hazardous waste, highly migratory fish stocks, desertification, oil pollution damage and climate change.

---

\(^{15}\) World Commission Report, para 81  
\(^{16}\) WC Report, op.cit.,Annex1-Summary of proposed legal principles for environment protection and sustainable development adopted by WCED experts group on environment law at p339
After Chernobyl, the international community, becoming conscious of the threats from radiation adopted a number of international instruments that addressed the transborder impact of nuclear accidents. Though these instruments do not directly refer to human rights, their aim is clearly to protect the life of people at large from the impact of nuclear and radiological emissions arising out of transborder activities and accidents from across borders.¹⁷

5. Developments by other International Organisations

Meanwhile other International organisations also became active in the field.

At the global level, human rights treaties included the value of the environment in their systems of protection, such as the Convention on the Rights of the Child and ILO Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries. Article 4 of the ILO Convention 169 provides that special measures be adopted for safeguarding the environment and for participation of indigenous communities in formulation of national and regional development plans that may affect them. In particular Article 7(3) provides that:

“Governments shall take measures in co-operation with the peoples concerned, to protect and preserve the environment of the territories they inhabit.’

However, the UN Convention on the Rights of the Child¹⁸ provided more significantly in Article 24(2)(c), the impact of, dangers and risk associated with environmental pollution and called for adequate measures through provision of nutritious foods, clean drinking water, education and information on hygiene and sanitation to all sections of society.

Several significant Regional Environmental developments also took place, the notable amongst them being the ‘1990 Ministerial Declaration on environmentally sound and sustainable development in Asia and the Pacific’¹⁹ adopted in Bangkok, Thailand. In the European region, in 1989 the European Charter on Environment and Health was adopted linking health and well being with a clean and harmonious environment. In 1998, the Convention on Access to Information, Public Participation in decision making and Access to Environmental Justice in Environmental Matters (Aarhus Convention) was adopted. The Aarhus Convention links

---

¹⁷ 1986 Convention on Early Notification of a Nuclear Accident and the 1986 Convention on Assistance in the Case of a nuclear Accident or radiological Emergency.
¹⁹ A/CONF.151/PC/38
environmental rights and human rights by referring to the right of every person “to live in an environment adequate to his or her health and well being”. It establishes procedural rights with respect to the environment.

On March 6, 1990 the Commission on Human Rights adopted resolution 1990/41, entitled "Human rights and the environment", in which it underscored the link between the preservation of the environment and the promotion of human rights and welcomed the decision of the Sub-Commission to have a note prepared for its forty-second session on methods by which a study on the problems of the environment and its relation to human rights could be made.

Debates within the Sub-Commission and the Commission inter-alia focused on the close link between the environment and human rights. Some human rights violations are allegedly the causes of or factors in environmental degradation; moreover, deterioration of the environment affects the enjoyment of human rights (life, health, work, information, participation, self-determination, the right to development, to peace and security etc);

A Special Rapporteur on human rights and the environment appointed by the UN, submitted several reports to the Sub-Commission on the Promotion and Protection of Human Rights (formerly Sub Commission on Prevention of Discrimination and Protection of Minorities). The 1994 Draft Declaration of Principles on Human Rights and the Environment, appended to the report of the UN Special Rapporteur on human rights and the environment is considered the first most comprehensive international statement on environmental rights. It declares that all people have the right to a secure, healthy and ecologically sound environment. The Draft Declaration is in four parts covering the general principles in the first part, defining a series of substantive rights including human right to protecting the environment in the second part; procedural rights in the third part and duties of both individuals and states, obligations of the governments to disseminate information and facilitate public participation in the fourth part. The report analysed the legal foundations of the right to environment, the impact of environmental degradation on vulnerable groups and on enjoyment of fundamental rights and other aspects of the relationship between human rights and environment. In submitting the Draft Declaration of draft principles on human rights and the environment the Special Rapporteur expressed the hope that the draft will help the UN to adopt …a set of norms consolidating the right to a satisfactory environment. Built on rights found in both national and international law, the Special Rapporteur asserted through her draft principles that a right to a satisfactory environment existed in international human rights law. The states practice however does not support this assertion in customary international law.
Recognition of the right is gradually finding its way into environment treaty law. Article 1 of the 1998 UN/ECE Aarhus Convention on Access to Information, Public participation in Decision making and access to Justice in Environmental matters specifically makes the treaty’s prime objective as “the protection of the right of every person of present and future generation to live in an environment adequate to his or her health and well being”.

At the national level, since 1992, most states have formally recognized the right to a healthy environment in their Constitutions. More than 100 Constitutions throughout the world guarantee a right to a clean and healthy environment, impose a duty on states to prevent environmental harm or mention the protection of the environment or natural resources.

In January 2002, the Office of the High Commissioner for Human Rights and the United Nations Environment Programme held a seminar of experts to take stock of the developments since the Stockholm Conference and with a view to assessing the progress made since Rio and Agenda 21 in protecting and promoting human rights in relation to environmental issues. Amongst the notable conclusions of the seminar two are reproduced below-

‘Respect for human rights is broadly accepted as a pre-condition for sustainable development, that environmental protection constitutes a pre-condition for the effective enjoyment of human rights protection, and that human rights and the environment are interdependent and inter-related. These features are now broadly reflected in national and international practices and developments’. Further, the experts noted the broad recognition that ‘poverty is at the centre of a number of human rights violations and is at the same time a major obstacle in achieving sustainable development and environmental protection.’

Thus international efforts in recognition of a linkage between environment and human rights have no doubt been made over a long period of time and though the linkage is largely accepted in principle, nothing much has been done to translate the linkage into a legally binding international treaty. Human rights instruments and environment related instruments which directly or indirectly include a linkage between environment and human rights, the article further explores how environment is included as an integral part of the recognized human rights system and articulated by the international, regional and the national Courts.

---

6. Decisions of Courts and Tribunals at the International, regional and national level

The International Court of Justice in the Nuclear Weapons Advisory Opinion case confirmed the international customary law regarding the principle that states have an obligation not to cause or allow environmental harm outside their borders stating:

‘The Court also recognises that the environment is not an abstraction but represents the living space, the quality of life and the very health of human beings, including the generations unborn. The existence of the general obligation of states to ensure that the activities within their jurisdiction and control respect the environment of other states or of areas beyond the national control is now a part of the corpus of international law relating to the environment.’

The Court confirmed this ruling in the Gabacikovo-Nagymaros Case stating -

“It is primarily in the last two decades that the safeguarding of ecological balance has come to be considered an ‘essential interest’ of all the states.”

The European Commission on Human Rights and the European Court of Human Rights have considered cases in which environmental threats have been linked to human rights. The European Court of Human Rights referred to Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms relating to right to privacy, home and property in three cases regarding excessive noise pollution from the airport resulting in intolerable stress and violative of the petitioners right to privacy. The significance of these cases was that the Court and the Commission allowed individuals to bring claims for violation of environmental rights under the Convention which does not have any provision regarding ‘human rights to environment’. In another case, the European Court held that the degradation of the environment may affect the individual’s well being so as to deprive the individual of enjoyment of private and family life under Article 8(1) and awarded compensatory damages. In a 1998 case relating

---

21 Advisory opinion on the legality of the threat or Use of Nuclear weapons (July 8, 1996), UN Doc.A/51/218, 35 I.L.M. 809 (1996)
to environmental risks of living close to a chemical factory the Court held that the state had failed to provide the applicant with access to environmental information and had therefore violated an obligation under the Convention to ensure respect for family life.

Though the European Convention may not directly require the states to protect the environment but the court’s decisions do require them to protect anyone whose rights are or may be seriously affected by environmental nuisances. Practical measures include law enforcement. The case law points that the court has used the balancing factor without giving priority to human rights over environmental rights or environment rights as against the right of the states to pursue economic development.

In 1985, in a case before the Inter-American Commission on Human Rights, Yanomani Indians alleged that Brazil had violated their right to life, liberty and personal security since it did not take adequate measures to protect the safety and health of indigenous communities. The highway construction and the concessions granted for exploiting the natural resources caused environmental damage that resulted in loss of life and cultural identity. It brought in new comers to the Yanomani lands. These new populations brought with them diseases which devastated the indigenous population that resulted in the loss of life and cultural identity of the Yanomani. The Commission found that Brazil had violated their right as claimed.

In many developing countries courts have applied a rights based approach to environment protection. In South Asian countries notably, India, Pakistan and Bangladesh several cases have been brought as public interest issues before the higher courts. The cases have ranged from mining, forestry, biodiversity to air, water and land pollution, development projects and hazardous wastes.

In Costa Rica, the Supreme Court affirmed the right to ‘a healthy environment.’ In a case before the Phillipines Supreme Court, the court, on the basis of a Constitutional ‘right of the people to a balanced and healthful ecology,’ cancelled a number of unsustainable logging licenses.’ The Philippines Supreme Court ruled in favour of the petitioners who were minors and brought a class suit with environmental damage claims on behalf of themselves and generations yet unborn invoking the right to a balanced and healthful ecology. They associated this right with the twin concept of intergenerational responsibility and intergenerational justice and called for cancellation of all existing timber licenses. They claimed that excessive deforestation had led to a host of environmental tragedies such as drought,

flooding, water shortages, massive erosion, salinisation of water table and the disappearance of indigenous Filipino culture.

In cases of environmental degradation the national courts have often invoked fundamental human rights embodied in the respective Constitution such as right to life, right to health, right to self determination, right to food, right to shelter. Many national courts have recognised that the ‘right to life’ guaranteed as a fundamental right under the Constitution includes a right to a clean and healthy environment. The Indian judiciary is an outstanding example of innovatively interpreting the existing human rights in the form of constitutional rights such as right to life to include the right to live in a healthy environment; a pollution free environment; an environment which is ecologically balanced. Similarly, while invoking ‘right to health’ for environment protection, the view expressed by the courts is that environmental pollution, poor sanitation and hazardous and toxic wastes directly impact ‘the right to health’.

7. Critical Analysis

As is evident from the analysis of the preceding sections, many human rights tribunals and experts have taken the approach that environment protection is a pre-requisite for enjoyment of human rights. A right to environment has been included as a substantive right in regional conventions and many national constitutions while several international environmental agreements have incorporated procedural rights. In Europe, the right to privacy and family life has been used to counter noise and industrial pollution. The right to freedom of expression has been used to support the right to information on environmental matters.

Existing human rights instruments though enable a derivation of a right to environment or a re-interpretation to include a right to environment do not however, provide for an explicit human right to environment articulated in legal terms. The linkage has been explored by several scholars and literature supports the view that while a right to environment exists as a legal force at the national level in many countries and to some extent at the regional level, there is no legally binding treaty or convention at the international level which recognises the ‘right to environment’ as a fundamental human right capable of enforcement.

Significant developments in Environmental law have included principles such as polluter pays, the precautionary principle and intergenerational equity which are broadly practiced by states and supported by judicial decisions. There is no consensus amongst states on how the right should be articulated. There is no precise internationally accepted definition of a right
to environment. While there is an international concern for the protection of environment which has been expressed in the form of principles, declarations, treaties, and conventions there is no consensually accepted right to environment.

In terms of rights universally accepted in the context of ICCPR and ICESCR, in a number of jurisdictions a right to a pollution free water, freedom from air pollution, disposal of toxic and hazardous wastes have been interpreted as positive obligations on the State to act to remedy threats under right to life. However, there are limitations to using the rights under ICCPR and ICESCR. Using the ‘right to life’ provision in ICCPR to adjudicate in environmental matters brings about the difficulty of proving cause and effect. Moreover, it cannot be used to pre-empt a potential risk to the environment as cause of action arises only when the harm has actually taken place. Under ICESCR, as the economic, social and cultural rights are subject to progressive realisation in light of resources, the usefulness of applying these rights in the environment field is limited as it is not likely that states will give over-riding priority to environment if resources are limited.

While environmental provisions are increasingly finding a place in international and national laws, they are not sufficient to provide full environmental protection or full enjoyment of fundamental human rights. While procedural rights have been included in an international treaty, in the form of providing for participation in decision making, right to information and access to justice, these provisions can be regarded as a means aimed towards fulfillment of a human right to an environment of quality, but by no means are these provisions adequate to ensure that the basic human right to an environment of quality is preserved, protected and promoted. In practice the procedures are mostly used in the framework of development projects and urban habitations and tend to reflect mainly the concerns about the quality of life of people whose lives may not even be directly threatened by their physical environment. Often people at the grass root level are unable to discern the nuances and organise themselves to articulate their views against a particular activity. Public hearings are often manipulated by those in power, leaving the poor and the vulnerable to bear the brunt of the consequences of environmental degradation. Even where they are able to articulate their concerns they are bribed or victimized into silence.

Many fundamental human rights such as right to life, right to health can be fully realised only in an environment of quality. Courts have held that air and water pollution, poor sanitation, toxic and hazardous wastes leading to environmental degradation impact the ‘right to health.’ Similarly, courts have held that a ‘right to life’ includes ‘a right to a clean and healthy
environment in which to live that life’. The Supreme Court of India has interpreted the ‘right to life,’ guaranteed as a fundamental right by Article 21 of the Constitution of India to include a ‘right to a wholesome environment’. An approach based on protecting the quality of the environment as a basic and fundamental human right, will be useful in molding public policies in such a way as to ensure protection of the resources and the ecological processes on which all life depends. The argument against having an independent right to environment articulated at the international level is that the established rights are adequate to provide protection and to ensure a right to environment so that there is no need to proliferate new rights. It is also argued that human rights are codified in treaties ratified by governments and governments can be held accountable and that the human rights courts and monitoring bodies are well equipped to enforce a right to environment within the rubric of existing human rights to meet the ends of environmental justice. This has been largely followed by the European Court of Human Rights where the Court has weighed the rights of the individual as against the rights of the public at large while addressing environmental issues under the European Convention. If a right to environment is considered a foundational right, unless articulated as an independent right, the overriding priority that environment deserves may be lost in the competing interest of other human rights.

Internationally, the divergent concerns and priorities of the developed and the developing countries are largely responsible for a lack of consensus on formulating a right to environment. But in an interdependent world it should be realised that environmental problems are no longer confined to a country’s borders and the world community should address these issues and find solutions in a collective manner at the global level. There is a need to have a right to environment independent of other rights, articulated in a legally binding international Convention with built in provisions for monitoring and supervision of state obligations that the states agree to undertake as per the Convention. The right while creating obligations for the state should impose requirements on individuals, businesses and communities to respect the rights. For surveillance of state obligations, the pattern of existing international mechanisms in the realm of human rights could be followed to create a similar mechanism to monitor compliance and violation of international legal rules relating to environment protection.

8. Conclusion

As a ‘right to environment’ can be regarded as a basic fundamental right on which all other rights depend, a substantive ‘right to environment’ is an imperative for the world community to articulate at the international level. No doubt, recognition of ‘a right to environment’ is an enabler for
maintaining the quality life of human beings but it should protect the entire eco-system and bio-diversity for its inherent worth. As creating new international mechanisms for environmental protection and effecting a right to environment will require the political will of states and participation in global efforts to put in place an international convention, regional bodies and NGO’s such as IUCN active in elaborating international legislation and in drafting and disseminating programs of action can assist in advocacy and eventual drafting of a convention. The National Institutions for the Protection and Promotion of Human Rights (NI’s) can also impress upon their governments the importance of articulating a substantive right to environment at the international level. As environmental rights are proliferating at the national level and there is ample jurisprudential basis the time is ripe and states may be more open to respond to a call for articulating a substantive right to environment in the form of an international convention.
Good Governance and Environment Protection: The Role Played by the Judiciary in India

Sudha Shrotria*

This article analyses the role played by the judiciary in India towards ensuring good governance in matters pertaining to environment protection. The democratic set-up in India is based on the theory of separation of powers between the legislature, the executive and the judiciary, with each having its own constitutional responsibility. The issue of environment protection started receiving the attention of the Government after the Stockholm Conference of 1972. However, it suffered from a policy deficit and lacunae in the law. This article discusses how in the event of inaction or inadequate action by the Government and the legislature, the higher judiciary stepped in to lay down the principles of environmental jurisprudence in the country, thereby enlarging its role in social policy issues on the basis of good governance. Through its various judgements, the Apex Court, that is, the Supreme Court, intervened to uphold the fundamental rights and democratic principles enshrined in the Constitution. The judiciary has innovatively and creatively interpreted the existing provisions in the legal system, more specifically in Article 21 relating to ‘Right to Life’, so as to develop the law in the context of environment protection. By relaxing the rule of standing, the judiciary has enabled ordinary citizens to petition the Court. The mechanism of Public Interest Litigation (PIL) has made the courts respond pro-actively to the needs of the people and to address issues of large-scale violations of civil, political, economic, social and cultural rights. This article highlights the cases in which it responded to social and environmental policy issues, which are otherwise areas that predominantly lie within the ambit of the executive and the legislature, as a measure of good governance.

Keywords: Good governance, Environment protection, Role of judiciary.

INTRODUCTION
As per the United Nation’s Commission on Human Rights (UNCHR),¹ the key attributes of good governance include transparency, responsibility, accountability, participation and responsiveness to the needs of the people. Good governance thus implies upholding the rule of law, fighting corruption, enforcing laws fairly, and creating an environment that is conducive to the enjoyment of human rights and promotes growth and sustainable human development. (Sabharwal, 2006). According to the UN Economic and Social Commission for Asia and the Pacific (UNESCAP),² good governance is participatory, consensus-oriented, accountable, transparent, responsive, effective and efficient, equitable and inclusive, and follows the rule of law. It assures

¹ Doctoral Scholar, TERI University, New Delhi and Senior Manager (Programme and Administration), Institute for Human Development, New Delhi, E-mail: sudhashrotria@hotmail.com
that corruption is minimized, that the view of the minorities is taken into account, and that the voice of the most vulnerable in society is heard in decision-making. The quality of governance largely depends upon the indulgence shown by the subjects (Sabharwal, 2006). Good governance refers to the process of decision-making and the process by which decisions are implemented (or not implemented) (Rao, 2008).

Good governance is based on democratic principles and processes. It entails “effective participation in public policy-making, the prevalence of the rule of law and an independent judiciary, besides a system of institutional checks and balances through the separation of powers and effective oversight agencies (Sabharwal, 2006). The subject of good governance, according to some scholars (Munshi, 2009), has been in discussion because of the importance accorded to it by international organisations, including the World Bank and the International Monetary Fund (IMF).

For achieving good governance, all sectors under a democratic political system have to contribute for the good of society. The public sector institutions have to be efficient, transparent and fully accountable to the people. Good governance ensures that public interest is preserved, information is readily accessible and that civil society participates meaningfully in decision and policy-making. Good governance also requires a careful management of the country’s resources so as to ensure that the basic economic and social needs of the people are met. It is difficult to create accountable and transparent institutions that are vital for good governance unless the basic human rights are protected.

A truly democratic government guarantees both civil and political rights as well as social, economic and cultural rights to its people.

The Supreme Court of India, the highest judicial body in the country, has, as a measure of good governance, stepped in to uphold the Constitutional guarantees to rule in several matters of public interest including environment protection. Justice Chandrachud is of the view that the judiciary is being called upon to decide on institutional and social issues as those in the executive who are required to take decisions are simply not making those decisions (Chandrachud, 2010). Neglect by other institutions of their own duties compels the courts to take ‘law into their own hands’ (Shourie, 2001). For the first time in the 1980s and 1990s, due to the active involvement of the Supreme Court, an extensive jurisprudence on environment was developed. In the absence of a well-defined government policy and lacunae in the laws, the Court evolved several principles such as ‘the polluter must pay to remedy the damage caused’, absolute liability of hazardous installations, precautionary and preventive measures to be taken wherever there is a possibility of serious or irreversible damage even if scientific uncertainty exists, compensation for the environmental damage caused, and the establishment of ‘green’ benches. These principles were subsequently incorporated in Government policy and now govern the subsequent laws passed by Parliament and enforced by the executive.

The constitutional right guaranteed under Article 21 of the Constitution, that is, the ‘Right to Life’, was extended by the Court to recognize the ‘Right to a Clean and
Healthy Environment’ as an essential element of the ‘Right to Live with Dignity’, as guaranteed by Article 21 of the Constitution. The courts are empowered to grant financial compensation as a remedy for infringement of the ‘Right to Life’. Two decades later, the Government passed the National Green Tribunals Act, incorporating the ‘Right to Life’ provision.

In the early 1980s, when environmental issues were not given the priority they deserved, several issues that came up before the Supreme Court for consideration were attributable to the inaction or inadequate action by the Government. The Supreme Court was being called upon to decide on a large number of issues of democratic governance, which were actually in the domain of other constitutional bodies (that is, the executive and the legislature), but on which decisions were not being made. When Parliament failed to conduct its legislative business to enact appropriate laws, and there was inaction on the part of the executive to implement laws, a large part of what the Court was doing was upholding the fundamental rights of the people to ensure that the basic human rights were preserved. The Court thus stepped into these areas because of a deficit of democratic governance in the country.

Through its various judgements, the Supreme Court has responded positively to the aspirations of the people and intervened to uphold the constitutional and democratic principles enshrined in the Constitution. The judiciary has innovatively and creatively interpreted the provisions in the legal system to protect fundamental rights and directed the Government to set up an institutional mechanism for monitoring and reporting the compliance of its directions and for developing the law in the context of environment protection. The judiciary can also be credited for adopting a progressive approach by relaxing the rule of ‘standing’ before the Court and applying international principles to permit ordinary citizens to petition the Court in matters of public interest. The mechanism of Public Interest Litigation (PIL) has also made the higher judiciary respond pro-actively to the needs of the people while addressing issues of large-scale violations of civil, political, economic, social and cultural rights (Balakrishnan, 2008).

THE INDIAN DEMOCRATIC STRUCTURE

India was founded as a democratic welfare State, which allows equal opportunity to all, irrespective of caste, creed, colour, or sex, and stipulates the prevention of any other form of discrimination. The concept of rule of law is entrenched into the Indian polity. Parliamentary democracy was chosen as the form of Government in India, in which the State power is divided amongst the three chief organs, namely the legislature, the executive and the judiciary. India also incorporated a number of basic human rights as Fundamental Rights guaranteed under Part III of the Constitution. In addition, on the basis of the Universal Declaration of Human Rights, it incorporated alongside, in Part IV of the Constitution, certain ‘Directive Principles of State Policy’, or principles that would be fundamental for ensuring the ‘good governance’ of this country.

The purpose of the Fundamental Rights, on the one hand, and the Directive Principles, on the other, is complementary. In order to ensure that the promises made by
the Constitution would not merely remain on paper, the Constitution-makers provided for an independent judiciary. The judiciary in India, therefore, enjoys a very significant position since it has been made the guardian and custodian of the Constitution. It acts as a watchdog against the violation of Fundamental Rights guaranteed under the Constitution, and against discrimination, the abuse of State power, or arbitrariness, among other things.

The Indian Constitution provides for a uniform single hierarchical judicial system in the country. The Supreme Court, which came into existence on 28 January 1950, is vested with the final judicial authority in the country. It is the final interpreter of the Constitution. Below the Supreme Court are the High Courts for each state, and then there are subordinate courts at the district level. The violation of Fundamental Rights, tedious court proceedings, exploitation of and discrimination against the marginalized sections of society, and inadequate or poor implementation of laws have all contributed to judicial activism, and brought it to the forefront, especially in matters of social policy, public resource management and environment protection, which predominantly lie within the domain of the Parliament and the Executive.

THE POWERS OF THE JUDICIARY

Ideally, judicial power would mean the power of adjudicating disputes in accordance with the prescribed rules and regulations. The Constitution of India has bestowed the Supreme Court with certain judicial powers so that the judiciary can act as the guardian of the Constitution of India. Judicial power enjoyed by the Supreme Court could be classified as: original jurisdiction under Article 32 wherein it has the power to issue writs; exclusive original jurisdiction under Article 131, wherein it has the power to resolve disputes between two or more governments; and appellate jurisdiction under Articles 132-134 and Article 136. As regards Article 143, the Supreme Court has advisory jurisdiction, whereunder when called for, it gives advice to the President on questions of law or fact. It has the power to review any law passed by the legislature. This power of review covers all legislative, executive and administrative actions.

The powers stated above have enabled the judiciary to creatively interpret and innovate ways of addressing social justice issues within the ambit of the Constitution. Much of its role and character has undergone a change in favour of a more broad and progressive outlook, thereby giving this role an aura of judicial activism. It is, however, such judicial activism that has enabled the judiciary to interpret the law in favour of issues relating to the environment and human rights.

The Constitution of India guarantees and secures for all its people, justice—social, economic and political; equality of status and of opportunity before the law; freedom of thought, expression, belief, faith, worship, vocation, association and action, subject to law and public morality... As mentioned above, human rights were included in the Constitution of India in two substantive parts. The civil and political rights were included in Part III of the Constitution as Fundamental Rights, which were justiciable,
Role of the Judiciary in Environment Protection in India

while the social, economic and cultural rights were set forth in Part IV on the Directive Principles of State Policy, and were non-justiciable.

**CONSTITUTIONAL PROVISIONS RELATING TO THE ‘ENVIRONMENT’**

The Constitution of India casts an obligation on the State as well as the citizens to protect and improve the environment. The Constitution, as it stood on 26 January 1950, did not have any direct reference to environmental protection.

After the Stockholm Declaration of 1972, several amendments were made to the Constitution. Article 48-A, which was inserted in Part IV of the Constitution, deals with the Directive Principles of State Policy (42nd Amendment) Act, 1976. It relates to the protection and improvement of the environment and the safeguarding of forests and wildlife. It stipulates that “the State shall endeavour to protect and improve the environment and to safeguard the forests and the wildlife of the country”. The same Amendment Act of 1976 added Article 51-A as Part IV of the Constitution of India, relating to Fundamental Duties. Article 51-A (g) deals with the fundamental duty of every citizen “to protect and improve the natural environment including forests, lakes, rivers, and wildlife and to have compassion for living creatures”.

For the purpose of taking effective and meaningful steps, under the same 42nd Amendment, ‘forests and wildlife’ were placed in the concurrent list as entries 17-A and 17-B.

The provision in Article 51-A is in line with Article 29(1) of the Universal Declaration of Human Rights, which provides that “Everyone has duties to the Community in which alone the free and full development of his personality is possible.”

The scope of Article 51-A (g) was discussed by the Rajasthan High Court in *L.K. Koolwal vs. State of Rajasthan.*3 The Rajasthan High Court was moved in this case by Shri L.K. Koolwal under Article 226 (writ jurisdiction), highlighting that the municipality had failed to discharge its ‘primary duty’, resulting in an acute sanitation problem in Jaipur, which was hazardous to the lives of the citizens of Jaipur. The Court explained the true scope of Article 51-A as follows:

“We can call Article 51-A ordinarily as the duty of the citizens, but in fact it is the right of the citizens as it creates the right in favour of citizens to move the court to see the State performs the duties faithfully and the obligatory and primary duties are performed in accordance with the law of the land. Omissions or commissions are brought to the notice of the Court by the citizens and thus, Article 51-A gives right to the citizens to move the court for the enforcement of the duty cast on State instrumentalities, agencies, departments, local bodies and statutory authorities created under the particular law of the State.”

The Court also pointed out that: “… right and duty co-exists; there cannot be any right without any duty and there cannot be any duty without any right”. Insanitation leads to slow poisoning and adversely affects the life of the citizens and hence it falls within the purview of Article 21 (Right to Life) of the Constitution of India. Therefore,
every citizen is duty-bound to ensure that the rights which he has acquired under the Constitution as a citizen are fulfilled.

THE STATUS OF DIRECTIVE PRINCIPLES IN THE CONSTITUTION

The Constitutional provisions are the bedrock of the legislative measures for protecting the environment. Part IV of the Constitution deals with the Directive Principles of State Policy. Although not justiciable in a court of law, the Directive Principles form the fundamental feature and the conscience of the Constitution. The Directive Principles are fundamental in the governance of the country and the Constitution specifies that it shall be the duty of the State to apply these principles in making laws. The non-enforceable nature of the Directive Principles does not prevent the judiciary from declaring any law which violates the Directive Principles as unconstitutional. The Courts have often relied on the construction and interpretation based on the Directive Principles when pronouncing judgements. The Supreme Court, in *ABSK Sangh vs. Union of India*, held that Fundamental Rights should be interpreted in the light of Directive Principles and that the latter should, whenever and wherever possible, be read into the former. In India, in view of the judicial pronouncements, the Directive Principles now stand elevated to the level of inalienable Fundamental Rights.

In the case of *Shri Sachidanand Pandey vs. State of West Bengal*, the Supreme Court pointed out that whenever a problem of ecology is brought before the court, the court is bound to bear in mind Articles 48-A and 51-A (g) of the Constitution. In certain cases, the court can take affirmative action, commanding the other organs of the State, namely, the executive and the legislature, to comply with the statutory obligation of protecting and improving the environment. In *T. Damodar Rao vs. SO Municipal Corporation, Hyderabad*, the Court pointed out that in view of Articles 48-A and 51-A (g), protection of the environment is not only the duty of every citizen but is also the ‘obligation’ of the State and all other State organs including the courts.

The Directive Principles represent the socio-economic goals, which the nation is expected to progressively realize. It obligates the three wings of the Constitution, viz. the executive, the legislature and the judiciary, to implement these principles. Thus, as stated above, through the amendment of the Constitution in 1976, vide Articles 48-A and 51-A (g), and the inclusion of environment protection under the Directive Principles in the Constitution, specific responsibilities were assigned to the State and the citizens in this regard.

LAYING DOWN OF PRINCIPLES OF ENVIRONMENTAL JURISPRUDENCE BY THE SUPREME COURT AS A PROTECTOR OF CONSTITUTIONAL RIGHTS

In today’s world, the deleterious effects of industrialization and urbanization on the environment are grossly apparent. The over-exploitation of natural resources and disturbances in ecological balance have all contributed to the deterioration of the environment. Amongst the many factors responsible for the deterioration in the quality of the environment are those relating to good governance. The Parliament,
the executive, the judiciary and civil society, all have an important role to play in this sphere. The implementation of a system of checks and balances facilitates good governance. While the enactment of effective environmental laws by the Parliament is necessary to protect and maintain the environment, the implementation of policy and laws is the responsibility of the executive. The cases discussed below show that when there is a policy deficit and lacunae in the laws, when the executive and the legislature neglect their respective roles for delivering good governance, the judiciary, as a protector of constitutional rights, has to step in to decide in favour of the ‘Right to a Safe and Healthy Environment’ as both a Fundamental Right and a human right, thus laying down new principles of law and jurisprudence in the environment sector.

In *Sachidanand Pandey vs. State of West Bengal*, the Court’s direction prevented the building of a high-rise hotel, which would have obstructed the course of the flight of seasonal birds flocking to the lake opposite the proposed hotel. The Court observed that:

> “Whenever a problem of ecology is brought before the Court, the Court is bound to bear in mind Article 48A of the Constitution…and Article 51-A (g)... When the Court is called upon to give effect to the Directive Principles and the Fundamental duty, the Court is not to shrug its shoulders and say that priorities are a matter of policy and so it is a matter for [the] policy-making authority. The least that the Court can do is to examine whether appropriate considerations are borne in mind and irrelevancies excluded. In appropriate cases, the Court may go further but how much further must depend on the circumstances of the case. The Court may always give necessary directions.”

In the *Goa Foundation* case, the Court observed that in cases involving a conflict between ecological protection and development activity, it was the duty of the courts to strike a balance between the two.

The first significant judgement passed by the Court in the matter of sanitation, health and environment, wherein the Court gave directions to the municipalities, the state administration and statutory bodies was the *Ratlam Municipality* case. In this case, the residents raised the issue of the stench emanating from open drains and public excretions by residents of the nearby slum, under Section 133 of the Criminal Procedure Code (CrPC) before the Sub-divisional Magistrate. The Court accepted the use of Section 133 of CrPC for the removal of public nuisance. It held that a responsible municipal council could not run away from its principal duty by pleading financial liability. A similar view was held in the case of *L.K. Koolwal vs. State of Rajasthan*, regarding the prevalence of an acute sanitation problem in Jaipur wherein the petitioner asked the Court to issue directions to the State to perform its obligatory duties. While directing that the municipality had a statutory duty to remove the dirt, and filth from the city within a period of six months from the date of the judgement, the Court observed that the maintenance of health, and preservation of sanitation and environment falls within the purview of Article 21 of the Constitution. The Court argued that the health risks posed by the lack of sanitation and the resultant pollution adversely affect the life of citizens, and would amount to slow poisoning. This would, in turn, reduce the life of
the citizens because of the hazards that would be created if not checked. In _B.L. Badhwa vs. Union of India_, a case which came up before the Court for the non-performance of statutory duty by the municipal authorities regarding the collection, removal and disposal of garbage and other wastes in the city of Delhi, the Court held that the authorities entrusted with the work of pollution control have been totally remiss in the discharge of their duties under the law and that they cannot absolve themselves of their duties on the pretext of financial and other limitations like the inefficiency of staff members. The Court issued directions to the Delhi administration urging it to perform its duties. In order to ensure that the improvements would actually take place, it also directed the Central Pollution Control Board (CPCB), a statutory body, to organise a comprehensive inspection of the follow-up steps that were being taken every two months and to report the results to the Supreme Court.

One of the most important issues that the Court took up in the 1980s pertained to the pollution of the river Ganga as a result of the discharge of waste from the industries located along its banks. The matter came up before the Court in the form of a petition by M.C. Mehta, an environmental crusader. The Court issued several directions to the Central and state governments, the municipalities and polluting industries. It directed the Nagar Mahapalikas and local bodies that were primarily responsible for the cleanliness in the areas under their jurisdiction and the protection of their environments. Orders were given for the towns and cities located on the banks of the river to put up sewage treatment plants and to industries for setting up effluent treatment plants. The Court observed that under the Water (Prevention and Control of Pollution) Act 1974, the Boards had been established for the prevention and control of water pollution. Although the Parliament and the state legislature had enacted laws imposing duties on the Central and State Boards, and municipal authorities, for the prevention and control of water pollution, no adequate action had been taken pursuant to the provision. There was failure on their part to obey the statutory duty for several years, which resulted in making the pollution in the river so acute. The Court directed the High Courts not to ordinarily grant stays in prosecutions launched by the Pollution Control Boards against the polluting industries and stated that even where such stays have been granted in extraordinary cases, the High Courts should dispose them within two months of the date of institution of the case.

Referring to Article 51-A (g) regarding the fundamental duties under the Constitution, the Court stated that it was the duty of the Central Government to direct all educational institutions throughout India to teach lessons in school for at least one hour per week relating to the protection of the natural environment, including forests, rivers and wildlife, and to distribute textbooks on the subject free of cost to educational institutions.

In the matter of _Rural Litigation and Entitlement Kendra vs. State of UP_ regarding the adverse effects of limestone quarrying on the ecology and environment, the Court called upon the citizens to fulfil their social obligations as a fundamental duty enshrined in the Constitution:
“Preservation of the environment and keeping the ecological balance unaffected is a task which not only Governments but also every citizen must undertake. It is a social obligation and let us remind every Indian citizen that it is his fundamental duty as enshrined in Art 51-A (g) of the Constitution.”

In the Oleum Gas Leak Case,13 which related to the leakage of gas from a chemical industry in Delhi, the Court laid down the principle of absolute liability of hazardous/inherently dangerous industries. It held that: “...an Enterprise which is engaged in a hazardous or inherently dangerous industry which poses a potential threat to the health and safety of persons working in the factory and residing in surrounding areas, owes an absolute and non-delegable duty to the community to ensure that no harm results to anyone on account of hazardous or inherently dangerous nature of activity which it has undertaken—the enterprise must be absolutely liable to compensate for such harm and it should be no answer to the enterprise to say that it had taken all reasonable care and that the harm occurred without any negligence on its part...”

Interpreting the provision under Article 21 relating to the ‘Right to Life’, the Court considered the question of noise pollution and its prevention in the case Noise Pollution vs. In Re,14 stating that freedom from noise pollution was a part of the ‘Right to Life’ guaranteed by Article 21, which extends far beyond mere survival or existence and includes the right of persons to live with human dignity and all aspects of life that make the life of a person meaningful, complete and worth living.

In the matter of atmospheric pollution due to the emission of gases by motor vehicles in Delhi,15 the Court directed the state government of Delhi to protect the people from vehicular pollution and to change over the entire fleet of buses to compressed natural gas (CNG) to protect the health of the people pursuant to the ‘Right to Life’ guaranteed by Article 21 of the Constitution. The Court ruled that it was the duty of the Government to ensure that the air was not contaminated by vehicular pollution. The right to clean air stemmed from Article 21, which referred to the ‘Right to Life’.

In the case of damage to the Taj Mahal from air pollutants from the Mathura Refinery,16 the Court directed the creation of a Taj trapezium to regulate activities in relation to air pollution. The Court asked the Government to take steps to undertake clean-up operations for restoring the whiteness of the marble of the Taj.

The Court also applied the principle of ‘the polluter must pay’ to restore the damage caused, in the case of pollution by the leaching of H-Acid and sludge produced by Silver Chemicals in Bichhri, a village near Udaipur, Rajasthan,17 thereby causing long-lasting damage to the soil, to underground water, to human beings, to cattle and to the village economy. In this case, the Court held that the company was absolutely liable for the environmental degradation caused by it. The company was thus directed to pay for the pollution it had caused and to undo the environmental damage and wrong caused by its industrial activity.

Applying the same principle in the M.C. Mehta vs. Kamal Nath’s case,18 wherein a motel was constructed on the banks of the river Beas, resulting in interference in the
natural flow of the water, the Court held that the state government, by granting the lease, had breached the Doctrine of Public Trust. The Court quashed the prior approval given by the Government of India for the construction of the motel and applied the ‘polluter pays principle’, thus directing the public company to compensate for the cost of restitution of the environment and ecology of the area. The Court referred to the Doctrine of Public Trust and stated that the latter also extends to natural resources such as rivers, forests, seashores, and the air, among other things, for the purpose of protecting the ecosystem.

Again, keeping in mind Articles 48-A and 51-A (g) of the Constitution, in the matter of fishing in reservoirs within the National Park in the state of Madhya Pradesh, the Court held that if there is a shrinkage of forest area, the Government must take steps to prevent any destruction or damage to environment, the flora and fauna, and wildlife under the Wildlife Protection Act.

In the case of coastal states allowing big businesses to develop prawn farms on a large scale in violation of the Environment Protection Act (EPA), 1986, and non-implementation of the Coastal Regulation Zone (CRZ) notification, the Court directed the Government of India to set up an authority under the EPA, 1986 and stipulated that the authority so constituted shall implement the precautionary and ‘polluter pays principle’. The Court appointed the National Environmental Engineering Research Institute (NEERI) to visit the coastal states of Andhra Pradesh and Tamil Nadu, and submit its report. It also directed that the workers engaged in shrimp culture at the prawn farms should be retrenched and that compensation should be paid to them.

CRITICAL ANALYSIS

The above judgements of the Supreme Court of India show the wide range of cases relating to the environment that have come up before the Court. These were either in the form of original writ petitions under Article 32, appeals under Article 136 against the judgements of the High Courts rendered in writ petitions filed under Article 226, or by way of Public Interest Litigation (PIL). Often, it was a public-spirited member of the civil society who approached the courts to step in to exercise their constitutional mandate, to direct the Government to act and fulfil its obligations, and to enforce laws for arresting the most blatant violations of the law, even in mundane matters such as the removal of garbage. The courts have, therefore, not hesitated to direct the authorities concerned to abide by the laws relating to the environment, be it a Central ministry, a state government or a local body. The courts, in some cases, even had to stress that feasible and viable technologies were available to clean up the damage caused to the environment due to such violations. While monitoring its own directions, the court concerned had to often rely on the government machinery itself or statutory bodies such as the Central and State Pollution Control Boards. In certain cases, the court concerned found that members of the executive, who were, in fact, responsible for enforcing the law, were themselves flouting the orders in collusion with the violators. The implementation of the directions and the pace at which the
principles were incorporated into the policy and legislative framework has, however, been extremely slow. Where directions are not complied with in a time-bound manner, courts must ensure that those who do not comply are punished (Shourie, 2001).

The Supreme Court has kept most of the cases active to prevent the executive from becoming lax or ignoring the compliance directions, and has asked the authorities to submit reports periodically, that is, every four months, every two months, or even every month, on the matters being investigated. Often, however, even though the reports are submitted routinely to the Court, whether they are actually being studied regularly and whether their recommendations are being implemented are matters of doubt.

Although the problem of implementation still remains, the most significant development in matters relating to the environment is the creative interpretation given by the Supreme Court of India for including a ‘Right to a Clean and Healthy Environment’ within the ambit of the ‘Right to Life,’ a fundamental right under Article 21 of the Constitution of India.

The Supreme Court has been criticized for expanding the domain of rights. It is argued that in doing so, its aim has been to expand its formal jurisdiction rather than achieving real objectives (Mehta, 2010). An issue raised by experts in respect of judicial activism is whether the courts have been interfering too much in the functioning of the executive and whether it can be a substitute for executive efficiency (Lal, 2004). The various questions being asked in this regard are: Are the courts competent enough to meddle in areas that do not lie within the purview of their judicial competence. Are the right kind of people available in the judiciary to take decisions pertaining to the role of the executive and are they efficient enough to take on new cases when they are already burdened with a large backlog of cases? Without permanent independent statutory panels of environmental scientists to advise the higher judiciary, are its members competent and consistent in their approach? Members of the higher judiciary do not make on-the-spot inspections nor do they receive oral evidence to see for themselves the facts as they exist on the ground (Law Commission of India, 2003). While these questions are, no doubt, pertinent, the fact remains that the impetus for environment protection in the country has come from the judiciary, forcing the Government and the legislature to incorporate the principles laid down by the judiciary into a policy and legislative framework. This has also alerted the policy-makers to bear in mind the fact that the policies they formulate must stand the test of fairness, justice and legality before the courts.

CONCLUSION

Through its judicial initiatives and pronouncements, the judiciary in India has contributed immensely to the development of environmental jurisprudence in the country. By reducing the costs and risks associated with environmental litigation, it has also relaxed and removed procedural constraints to facilitate Public Interest Litigation (PIL). Through its pronouncements in matters concerning PILs, the judiciary has
pulled up the environmental authorities for inaction and prompted the executive and the legislature to act as per their mandates. Further, it has promoted the constitutional right to a healthy environment and creatively used both comparative jurisprudence and international environmental principles to circumvent statutory deficiencies. Thus, the judiciary in India has undoubtedly played a pioneering role in generating public awareness and political will in matters of environmental protection.

NOTES
5. AIR 1987 SC 1109.
11. B.L. Wadhera vs. Union of India, AIR 1996 SC 2969.

REFERENCES


Enforcing Environmental Rights as Human Rights and Fundamental Rights: The Relevance of the National Human Rights Commission of India in Environment Protection

Sudha Shrotria*

Abstract
This article traces the various developments at the national and international level leading to the emergence of the ‘right to a safe and healthy environment’ as an integral part of the internationally recognized human rights and fundamental rights, more specifically, the ‘right to life’. It brings out the jurisprudence evolved by the judiciary and the relevance of the National Human Rights Institutions in promotion and protection of the ‘right to a safe and healthy environment’ within the national system. It analyses the role played by the National Human Rights Commission (NHRC) of India in handling environmental issues from a human rights perspective. The article brings out that NHRC enjoys an advantageous position over judicial institutions as it can engage in advocacy and raise awareness about the environment and human rights issues with all stakeholders, professionals, schools, and universities. It can persuade the Government to ensure that a range of procedural rights, such as the right of people to access information and to participate in the decision-making process, are carried out not as a mere formality but

* Advocate, Supreme Court of India and Delhi High Court, New Delhi–110001
E-mail: sudhashrotria@gmail.com
effectively so that the affected persons can exercise their ‘right to a safe and healthy environment’.

Keywords: Human rights, Environmental rights, Fundamental rights, NHRC

Introduction
Since the last two decades there has been a growing consciousness regarding the relationship between a safe and healthy environment and the enjoyment of human rights. The global debate centres around aspects, such as the ‘right to a safe and clean environment’ as a prerequisite for the enjoyment of human rights; the fulfilment of certain human rights, such as access to information, full participation in decision-making, and access to justice in environmental matters; and the need to add the ‘right to a safe and clean environment’ as a new right to the existing rubric of internationally recognized human rights.

Human Rights
A human right has been defined as a universal moral right, that is, something which every human being is entitled to because one is human (Donnelly 1985, Cranston 1973, Wiseberg 1996). Human rights are internationally agreed upon minimum standards for treating humans with dignity (UNHR 2006). Human rights are universal legal guarantees which protect individuals and groups against actions and omissions that interfere with fundamental freedoms, entitlements, and human dignity. Human rights law obliges governments and other duty-bearers to do certain things to protect and promote human rights while, at the same time, refraining from doing certain things that violate human rights.

The concept of international human rights law actually emerged with the founding of the United Nations (UN). The preamble of the United Nations (UN Charter 1945) ‘reaffirms faith in the fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of all nations large and small.’ In Article 1, it commits itself to promote and encourage respect for human rights and for fundamental freedoms for all without distinction to race, sex, language, or religion. In 1948, the UN General Assembly adopted the Universal Declaration of Human Rights (UDHR 1948), which was primarily a statement of ideals. Article 1 of UDHR states, “All human beings are born free in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.” Although the
Enforcing Environmental Rights as Human Rights and Fundamental Rights: The Relevance of the National Human Rights Commission of India in Environment Protection

International Journal of Regulation and Governance 13(2): 61–84

UDHR was neither legally binding nor did it entail any machinery for its enforcement, it nevertheless paved the way for subsequent treaties that drew upon its provisions and codified these rights under international law. The human rights system does not comprise a rigid legal structure. The norms inherent in it can be expanded to incorporate all issues that endanger the attainment of a full and decent life.

Most governments now consider human rights to apply universally. The most common classification of human rights at the international level are Civil and Political Rights (CPR), also known as the ‘first generation rights’, and the Economic, Social, and Cultural Rights (ESCR), also known as the ‘second generation rights’. The CPR are the rights of individuals relating to personal liberties, such as the ‘right to life’, which the States have taken upon themselves to respect. ESCR are the rights for which the States are required to take affirmative action for achieving their progressive realization. The newly emerging ‘third generation rights’ called the ‘solidarity’ or ‘collective’ rights include the right to a clean environment and the right to development. Third generation rights are amongst the most debated rights as there is no political or legal consensus on them. At the World Conference on Human Rights held in Vienna in 1993, it was affirmed that human rights are ‘universal, indivisible, interdependent, and inter-related (Vienna Declaration 1993). An attempt was made at the global level to ensure that ‘all human rights are for all.’

Among the UN member countries, 162 have ratified the ICESCR, while 168 have ratified the ICCPR. There are nine core human rights treaties (Box 1) and more than 80 per cent of the members have ratified four or more conventions. Monitoring bodies have been established within each of these treaties under the UN system to monitor the implementation of the treaty provisions by the States’ parties. Some treaties have also been supplemented by Optional Protocols dealing with specific concerns.

The following is an enlistment of the core human rights treaties along with the respective years of their enactment, and the number of parties that are signatories to each of these treaties:

At the national level, the States, which are party to the international conventions on human rights, have set up national institutions within the respective countries to protect and promote human rights. These institutions also participate in discourses on human rights and cooperate with each other at the international level.
Box 1: Core Human Rights Treaties

5. Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (1984, 155 parties).

Source: UN Treaty Collection

The Protection of Human Rights Act (PHRA) of India was enacted in 1993 for ensuring the ‘better protection of human rights in the country’. It facilitated the setting up of a National Human Rights Commission at the Central level and the State Human Rights Commissions at the state level. The PHRA defines human rights as ‘rights relating to life, liberty, equality, and dignity of the individual guaranteed by the Constitution or embodied in the international covenants and enforceable by courts in India’. In 2006, the provision was amended\(^1\) to include ‘such other Covenant or Convention adopted by the General Assembly of the United Nations as the Central government may, by notification, specify.’

Even though human rights signify minimum standards for treating humans with dignity, the manner in which different countries implement and enforce them varies. Despite the last century being described as a century of human rights, “rightless and suffering people still remain” (Baxi 2006). In recent years, the human rights dialogue has expanded beyond the role of governments and have also included the role of non-state actors, such as Transnational Corporations (TNCs) and international organizations including

\(^1\) Act 43 of 2006.
development financial institutions such as the World Bank (WRI 2010). Human Rights conditionalities are attached to development assistance and it is now common for donor states to demand that the recipient states must respect the fundamental human rights (Thiis 1996).

**Environmental Rights**

The quality of life and well-being of human beings depend on the quality of the environment they live in. Access to clean drinking water, sanitation, food, energy resources, and pollution free air—all are essential for human beings to live a life with dignity. Conservation and improvement of the environment quality is a way to satisfy human rights (Merrills 1996).

Environmental problems are not local but global, which is why actions and impacts have to be considered internationally to avoid displacing problems from one area to another by actions, such as releasing pollution that crosses boundaries, moving polluting industries to another location, or using more than an equitable share of the earth’s resources. The UN Human Development Report of 2011 (UNHDR 2011) emphasizes the right of human beings to a healthy environment, the importance of integrating social equity into environmental policies, and the critical importance of public participation and official accountability.

There is no precise definition of the term ‘Environmental Rights’. One interpretation is that environmental rights are the rights of the elements of environment *per se*, i.e., rights of animals and nature itself, and that these rights are independent of human beings. This approach recognizes the physical and biological environment as an end in itself; it is not any means to human survival. This definition would, however, not fit into the general concept of human rights because the rights-holders would not be human beings.

The other interpretation of ‘environmental rights’ signifies the human-oriented approach wherein environmental rights are understood as the rights of human beings to an environment that is healthy and safe. Such a right is human-oriented and it casts a duty on the Government to regulate the activities of both—the Government and the non-government sector, to ensure that the quality of the environment is maintained to ensure the health and safety of human beings.

Deterioration in the environment adversely affects the enjoyment of fundamental human rights among humans, especially the right to life and the right to health. Even though the ‘right to
environment’ is not articulated in a legally binding international instrument, the linkage between the environment and human rights is being increasingly recognized at the national and regional levels. Several countries have recognized the ‘right to a clean and safe environment’ at the national and regional levels (WCED 1987). Several international texts also acknowledge the connection between environment protection and human rights.

At the international level, a number of treaties, declarations, and decisions of international and regional courts, resolutions, and statement of principles exist that deal with the relationship between environment and human rights. The UDHR 1948, a non-binding document containing 30 articles, has gained the status of customary international law. However, it does not make any direct reference to ‘environment’. It can only be inferred from Articles 1, 3, and 25 that the quality of the environment is an essential factor for safeguarding human health and well-being. Article 28 of the UDHR states that everyone is entitled to “a social and international order in which the rights and freedoms set forth in the Declaration can be fully realized”. According to Glazebrook (2008), this order can be seen as encompassing the ‘environment’.

In 1966, two international covenants—The International Covenant on Civil and Political Rights (ICCPR 1966) with its two optional protocols and the International Covenant on Economic, Social, and Cultural Rights (ICESCR 1966)—supplemented the UDHR. These two principal international agreements listed the human rights that the States are required to uphold. In the UDHR, though there is no explicit right to quality of environment in the ICCPR, inferences can be drawn in favour of ‘quality environment’ from the provisions contained in Article 6(1), relating to the ‘right to life’ and ‘right to human dignity’, both of which have a bearing on the ‘right to a quality environment’ as being essential for the ‘right to life.’

Article 7(b) of the ICESCR, which provides for safe and healthy working conditions and Article 11, which provides for continuous improvement in living conditions, can be inferred to have a bearing on the quality of the environment. The same inference can also be drawn from Article 12 of the ICESCR, which contains the ‘right to health’ and states that the steps to be taken by the State Parties to achieve full realization of the right to an attainable standard of physical and mental health shall include those necessary for the improvement of all aspects of environmental and industrial hygiene.

At the global level, the two human rights treaties, which have directly included the value of the environment in their systems
of protection, are the UN Convention on the Rights of the Child (CRC 1989) and the ILO Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries (ILO 1989). Article 24(2)(c) of CRC, 1989 calls for appropriate measures to combat disease and malnutrition through the provision of adequate quantities of nutritious foods and clean drinking water, while taking into consideration the dangers and risks of environmental pollution. It further contains the provision of information and education for all segments of society on the issues of hygiene and environmental sanitation.

The ILO Convention 169, while recognizing the link between indigenous peoples and their environment, calls for the adoption of special measures for safeguarding the environment (Article 4) and for participation in decision-making at the national and regional levels in the development plans that may affect indigenous peoples. In particular, Article 7(3) of the Convention provides that “Governments shall take measures in co-operation with the peoples concerned, to protect and preserve the environment of the territories they inhabit.”

Although a draft linking environment and human rights was recommended in 1994 (Ksentini 1994) to the Human Rights Commission, there is no normative instrument on environment rights. Since the principal human rights instruments do not articulate an independent right to environment, the ‘right to environment’ can only be a ‘derived right’ from the interpretation of the existing civil, political, social, economic, and cultural rights. Churchill (1996) refers to the norms that indirectly allow environmental protection as derivative rights.

**Fundamental Rights**

The Constitution of India guarantees its people justice—social, economic and political; equality of status and of opportunity before the law; freedom of thought, expression, belief, faith, worship, vocation, association, and action, subject to law and public morality.... Human rights were included in the Constitution of India in two substantive parts. The civil and political rights were included in Part III of the Constitution as Fundamental Rights, which were justiciable and the social, economic, and cultural rights were set forth in Part IV as the Directive Principles of State Policy, which were non-justiciable.

The democratic setup in India is based on the theory of separation of powers between the legislature, the executive, and the judiciary,
each having its own constitutional responsibility. Environment protection started receiving attention of the Government after the Stockholm Conference of 1972. However, it suffered from policy deficit and lacunae in the law. In the event of inaction by the Government and in the absence of relevant enactments by the legislature, the higher judiciary took upon itself to set the principles of environmental jurisprudence in the country. The Court ruled that a ‘right to a clean and healthy environment’ was within the meaning of Article 21 of the Fundamental Rights under the Constitution of India relating to ‘right to life’.

Through its various judgements the Supreme Court responded positively to the aspirations of the people and intervened to uphold the Constitution and democratic principles enshrined in the Constitution. The judiciary has innovatively and creatively interpreted the existing provisions in the legal system to develop a law in the context of environment protection. The judiciary can also be credited for adopting a progressive approach by relaxing the rule of ‘standing’ before the court and permitting ordinary citizens to petition the court. The violation of Fundamental Rights, tedious court proceedings, exploitation of and discrimination against the marginalized sections of society, and inadequate or poor implementation of laws have all contributed to judicial activism, and brought it to the forefront, especially in matters of social policy, public resource management, and environment protection, which predominantly lie within the domain of Parliament and the Executive (Divan and Rosencranz 2001).

Constitutional Provisions Relating to Environment

The Constitution of India casts an obligation on the state as well as on the citizens to protect and improve the environment. Article 48A, which was inserted in Part IV of the Constitution, deals with the Directive Principles of State Policy (42nd Amendment Act 1976). It relates to the protection and improvement of environment and safeguarding forests and wildlife. It stipulates that, “the State shall endeavour to protect and improve the environment and to safeguard the forests and the wildlife of the country”. The same Amendment Act of 1976 added Article 51A as Part IV of the Constitution of India relating to Fundamental Duties. Article 51A (g) deals with the fundamental duty of every citizen “to protect and improve the natural environment including forests, lakes, rivers, and wildlife and to have compassion for living creatures”. For the purpose of taking effective and meaningful steps, ‘forests and wildlife’ were placed in the concurrent list as entries 17A and 17B.
Although not justiciable in a Court of law, the Directive Principles form the fundamental feature and the conscience of the Constitution. The Directive Principles are fundamental in the governance of the country and the Constitution specifies that it shall be the duty of the State to apply these principles in making laws. The courts have often relied on the construction and interpretation based on the Directive Principles when pronouncing judgments. The Supreme Court, in *ABSK Sangh v Union of India*, held that Fundamental Rights should be interpreted in the light of Directive Principles and the latter should be read into the former.

In the case of *Shri Sachidanand Pandey v State of West Bengal*, the Supreme Court pointed out that whenever a problem of ecology is brought before the court, the court is bound to bear in mind Articles 48A and 51A (g) of the Constitution. In certain cases, the Court can take affirmative action commanding the other functioning bodies of the State namely, the executive and the legislature to comply with the statutory obligation of protecting and improving the environment. In *T Damodar Rao v SO Muncipal Corporation, Hyderabad*, the Court pointed out that in view of Articles 48A and 51A (g), protection of the environment is not only the duty of every citizen, but it is also the ‘obligation’ of the State and all other State bodies including the Courts. In view of the judicial pronouncements, the Directive Principles stand complementary to the Fundamental Rights (Divan and Rosencranz 2001).

Although the problem of implementation still exists, the most significant development in matters relating to environment is the creative interpretation given by the Supreme Court of India for including a ‘Right to a clean and healthy environment’ within the ambit of ‘Right to life,’ a fundamental right under Article 21 of the Constitution of India. In the case of *Subhash Kumar v State of Bihar*, the Court ruled that ‘right to life’, mentioned in Article 21 of the Constitution of India, includes right to have free and pollution free water and air. Similarly, in the matter of vehicular pollution in Delhi, the Court directed the Delhi government, on the basis of ‘right to life’, that the buses in Delhi should be converted to Compressed Natural Gas (CNG) to protect the people from pollution. In *Noise Pollution v In Re*, the court ruled that freedom from noise pollution

---

2 AIR 1981 SC 209
3 AIR 1987 SC 1109
4 AIR 1987 AP 171
5 Subhash Kumar v State of Bihar AIR (991) SC 420 PIL
6 M C Mehta v Union of India 1998 (6) SCC 60 and 1998 (9) SCC 589
7 Noise Pollution v In Re (2005) 5 SCC 733
was part of ‘Right to life’ guaranteed by Article 21. During the last three decades, in deciding the environmental cases, the Supreme Court and the High Courts in India have held that the ‘right to life’ implies ‘the right to live in a pollution free environment’. The State should therefore, recognize that every person has the right to lead an adequate standard of living and have a continuous improvement in their living conditions.

While the right to environment has been recognized by the Indian courts and can be enforced under the powers of the Constitution, it is impossible for a vast majority of the population who suffer from the ill-effects of environmental degradation and struggle to live a dignified life, to approach the higher judiciary for enforcement of their right. Besides, there is a general lack of awareness that such a right exists. The state is duty-bound to protect the environment by enacting appropriate laws and to prevent environmental degradation to ensure a dignified life to its entire people.

**Legal, Institutional, and Enforcement Mechanism for Environmental Protection**

The major environmental laws in India that have been enacted by the Parliament are:

- The Biodiversity Act, 2002.

The Ministry of Environment and Forests (MoEF) is the nodal ministry at the Central level. It is responsible for policy formulation, planning, promoting, and coordinating environmental programmes. A number of enforcement agencies assist the MoEF in the execution of its assigned responsibilities. Its executive responsibilities for the prevention and control of industrial pollution are primarily discharged by the Central Pollution Control Board (CPCB), which is a statutory authority functioning under the administrative control of the MoEF. It was constituted in September 1974 for implementing the provisions of the Water (Prevention and Control of Pollution)
Act, 1974. Subsequently, with the enactment of the Air (Prevention and Control of Pollution) Act, 1981, the same Board was entrusted with the responsibility of enforcing the Air (Prevention and Control of Pollution) Act, 1981. Similar Pollution Control Boards have also been set up in the states. The Departments of Environment at the State level are the chief coordinating bodies for environmental matters. The CPCB and the State Pollution Control Boards (SPCBs) operate from their regional offices at the state level. These are the local regulating offices for environmental management.

With the enactment of the Environment (Protection) Act (EPA 1986), which is an umbrella legislation, giving wide powers to the Central Government, the overall responsibility for ‘environmental protection and improvement’ lies with the Central Government. The Central Government exercises its powers under the Environment (Protection) Act through the MoEF. Enforcement institutions have been enlisted for overseeing implementation of the various regulations notified under the Act. Further, in several areas of environmental concern, such as vehicular pollution control, the MoEF has no decisive role to play as this regulation is implemented by a separate Ministry through the Motor Vehicles Act.

The Pollution Control Boards are expected to function as autonomous bodies, but in reality they cannot function in such a manner due to various reasons, including staff constraints and their dependence on the Government for budgetary support. Additional responsibilities are thrust upon the Pollution Control Boards without creation of commensurate manpower resources.

Although environmental policies and institutions have been set up to arrest or mitigate the adverse environmental impacts of economic activities and development pressures, a key reason for the continued environmental degradation in India is the inadequate implementation and enforcement of environmental policies and laws. The weak enforcement and implementation of policy and laws by the institutions makes the general public highly vulnerable to the effects of pollution, inequitable access to resources, and to the cumulative and adverse effects of unplanned and tardy development. It is in this context that matters often reach the Supreme Court by way of Public Interest Litigation (PIL). Although the judiciary in India has played an active role in issuing directives to the Government in matters of governance and pronouncing judgments on environment issues, it is the duty of the Government to effectively monitor and implement laws to protect the citizens from the effects of pollution and environmental degradation.
The Supreme Court of India addressed the issue of speedy justice in its two major judgments\(^8\) by referring to the need for the establishment of environmental courts with experts as part of the judicial process, followed by the recommendations of the Law Commission of India. In pursuance thereof, the National Green Tribunal (NGT 2010) was set up as an alternate forum to deliver speedy and inexpensive justice. It started functioning from July 2011 with its principal bench located at New Delhi and circuit benches at Chennai, Bhopal, Pune, and Kolkata. It has a wide civil jurisdiction (original and appellate) where a ‘substantial’ question relating to environment is involved (including enforcement of any legal right relating to environment) and is enjoined to follow internationally recognized environmental principles, such as sustainable development, precautionary principle, and polluter pay principle while issuing an order, decision, or award. More importantly it specifically recognizes in its preamble, the commitment made by India at the international conferences (Stockholm 1972, Rio 1992) and incorporates the judicial pronouncement of the ‘right to healthy environment’ as part of the ‘right to life’ given in Article 21. The NGT is empowered to provide relief and compensation to the victims of pollution and order restitution of property and environment damage. Appeals against the orders of the NGT lie with the Supreme Court of India. The nature of cases before the NGT inter-alia relate to environmental clearances for development projects including dams, hydro-electric projects, thermal power plants, steel plants, mining, coastal zone regulations, issues concerning pollution, and imposition of environmental fines.

The NGT 2010, however, has a drawback that it restricts the jurisdiction only to matters involving ‘substantial’ questions relating to environment, arising out of the implementation of the legislations specified in Schedule I\(^9\). It includes instances where the gravity of the damage to the environment or property is substantial, where the damage to public health is broadly measurable, and where

---

\(^{8}\) MC Mehta v Union of India (1986) 2 SCC 176 at 202
Indian Council of Enviro-Legal Action v UOI SC (1996) 3 SCC 212 at 252

the community at large is affected or is likely to be affected by environmental consequences, but it excludes individuals or groups of individuals.

**The National Human Rights Institutions and Environment Protection**

In 1960, through a resolution, the United Nations Economic & Social Council (ECOSOC) recognized the distinctive role of the national institutions to protect and promote human rights, and invited the Governments to encourage the formation and continuation of NHRIs in their respective countries. Three decades of efforts made by the UN culminated in the adoption of ‘Paris Principles’\(^\text{10}\) in 1992, which, though not legally binding international rules, gained legitimacy (Burdekin 2007) after they were endorsed by the World Conference on Human Rights, Vienna, 1993 (Vienna Declaration 1993).

The minimum standards for NHRIs—the ‘Paris Principles’—recommended that the States should establish independent institutions to promote human rights, advise Governments on human rights protection, review human rights legislations, prepare human rights reports, and receive and investigate public complaints with regard to any violations of human rights. The ‘Paris Principles’ provide guidance on the formation of NHRIs and also on the functions and principles that they must follow to be able to function effectively. The promotional, educational, and advisory functions of national institutions are very important, as these contribute towards the prevention of human rights abuses in the long term. NHRIs should assist in the formulation of educational programmes and in human rights research, and take part in their implementation in schools, universities, and amongst professionals (UN Manual 1995).

The central and strategic role that NHRIs can play in the protection of human rights at the national level is largely recognized. Their role is seen as a ‘complementary mechanism’ to that of the Government, judiciary, and other institutions within the States involved in promoting and protecting human rights standards (Sripati 2001).

Although the primary responsibility for the promotion and protection of human rights lies with the Government, the NHRIs constitute an important mechanism for ensuring the accountability

\(^{10}\) UN Commission on Human Rights: Resolution 1992/54.
of both the Government and civil society for the maintenance of human rights in society. The NHRIs have a crucial role to play in promoting and ensuring the indivisibility and interdependence of all human rights. The experiences of the NHRIs throughout the world have been out in a volume to demonstrate the functioning of the various institutions. (Burdekin 2000). The Danish Centre for Human Rights (Kjaerum 2003) looked into the role of the NHRIs in implementing human rights at the national level and the difficulties they face. Their role in bridging the gap between local communities and the international treaty bodies has been emphasized.

In 2007, Asia Pacific Forum (APF) of NHRI referred the issue of ‘environment and human rights’ to the Advisory Council of Jurists (ACJ). The ACJ made several recommendations including, the application of the existing human rights for addressing environmental concerns and in the absence of an existing right, the value of elaborating a human right vis-à-vis an environment of a particular quality. In its final report (ACJ 2007) it inter alia urged the NHRIs to take proactive and innovative measures for promoting the protection of the environment and advocate the adoption and implementation of a specific right with regard to the environment. Though NHRIs do not typically have the power to make binding decisions, they can still play a valuable role in human rights protection and oversight of administrative behaviour (Linda 2000).

In the Indian context, the Supreme Court has a close working relationship with the National Human Rights Commission. The Supreme Court in Paramjit Kaur v State of Punjab11 clarified that in cases referred to the NHRC by the Supreme Court, the Commission was acting sui generis and as an extended arm of the Supreme Court. The commission was not fettered by any limitation of the Protection of Human Rights Act. The Supreme Court observed that the NHRC headed by a former Chief Justice of India is a unique expert body in itself. The Chairman of the Commission, in his capacity as a Judge of the Supreme Court and also as Chief Justice of India and so also two of its other members who have held high judicial offices as Chief Justices of the High Courts, and have throughout their tenure expounded and enforced Fundamental Rights are in their own way experts in the field. In deciding matters referred by the Supreme Court, NHRC is given a free hand and is not circumscribed by any conditions. Therefore, the jurisdiction exercised by the NHRC in these matters is not covered by enactment or law.

---

11 (1999) 2 SC 131
National Human Rights Commission of India

The Protection of Human Rights Act (PHRA), 1993 was passed by the Indian Parliament for ensuring better protection of human rights in the country.

The National Human Rights Commission of India (referred to as the Commission or NHRC) was set up on October 12, 1993 with its headquarters at New Delhi. Although there is a provision for establishing offices at other places in the country, no such offices have been set up by the Commission. However, the Commission does have its sittings and public hearings in different parts of the country. Special rapporteurs on a regional basis are appointed to report on human rights violations in the region and for dealing with various thematic issues, such as bonded labour, child labour, and disability. Under the same statute, which empowers the states to set up a similar body in the state, 23 states\(^{12}\) have set up their respective State Human Rights Commissions. NHRC is a recommendatory/advisory body with no mechanism for enforceability of its recommendations.

The NHRC India, has been accredited with ‘A’ status\(^{13}\) by the International Coordinating Committee of National Human Rights Institutions (ICC), indicating that it is in conformity with the Paris Principles of plurality, operational, and fiscal independence and transparency. NHRC India has speaking rights and has seating at Human Rights Treaty bodies and other UN organs.

Functions of the Commission

The functions of the Commission are outlined under Section 12 of the PHR Act, 1993. These can be broadly categorized as:

- Inquiry into complaints or \textit{suo motu} cognizance of violation of human rights;
- Monitoring of human rights safeguards;

\(^{12}\) The states are Andhra Pradesh, Assam, Bihar, Chattisgarh, Gujarat, Goa, Haryana Himachal Pradesh, Jammu and Kashmir, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Manipur, Odisha, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh, Uttarakhand, West Bengal, and Sikkim. (Source: nhrc.nic.in) (Accessed on 12/05/2014).

\(^{13}\) The International Coordinating Committee (ICC) of NHRI co-ordinates the relationship between NHRI and the United Nations Human Rights’ System. It is a unique non-UN body whose internal accreditation system is based on compliance with the 1993 Paris Principles grants access to UN Committees. It evaluates the level of independent functioning of the NHRI. Those NHRIs that are in full compliance with Paris Principles are accredited by the ICC with ‘A’ status. They have speaking rights and have seating at the Human Rights Treaty bodies and other UN organs. Those NHRIs that are not fully compliant with Paris Principles are given a ‘B’ status and those institutions that are non-compliant with Paris Principles are given ‘C’ status, which implies that they can only participate as Observers.
Making recommendations to the Government;
Advocacy and promotion of human rights; and
Extending cooperation to NGOs.

The Promotional Role of NHRC in Environment Protection

In a review of the principal activities of the Commission since its inception in respect of matters identified by the Commission as areas of core concern in the protection of human rights (Dayal 2002), the achievements of the Commission were mainly in respect of civil and political rights, such as terrorism and insurgency, prisons, custodial deaths, and detention. During the succeeding years, however, the economic, social, and cultural rights were also given prominence. Believing that all rights are inter-related and interdependent in the area of social and economic issues, the Commission, besides entertaining individual complaints, addressed issues, such as allegations of starvation deaths in Odisha, eradication of bonded labour and child labour, rights of persons with mental illness, rights of dalits, trafficking of women and children, maternal anaemia, rehabilitation of persons displaced by mega projects, human rights in situations of natural disasters, and environmental and health issues such as eradication of manual scavenging, flurosis due to pollution, silicosis due to stone crushing industry, mining and quarrying, waste management, and supply of safe drinking water.

In 2007, the NHRC set up a National Task Force and undertook a major co-ordinating role with regard to a national programme for the eradication of silicosis, which affects lakhs of workers in India who encounter high-risk exposures particularly from construction and mining industry. The NHRC actively engages with the NGOs in the field, holds public hearings on a regional basis, and identifies key generic issues which need to be dealt in a co-ordinated manner for bringing systemic reforms and policy changes by the government.

As part of the fulfilment of its role of disseminating information and creating awareness about human rights aspects, the Commission organizes workshops and training camps throughout the country to sensitize officials involved. It also conducts an internship programme with a view to spread human rights awareness among university students. It has contributed to the introduction of human rights courses in universities, schools, and brought out publications on several rights-based issues including the environment. The dossier

titled ‘Environment and Human Rights’ (Kothari and Patel 2006) is one of the nine books in the series published by NHRC that were developed as reference material for human rights education in Indian Universities. The NHRC undertakes research studies in collaboration with universities, technical institutions, and NGOs. Its research programmes are geared towards structuring steps that need to be taken at ground level.

**The Environmental Complaint Handling Mechanism of NHRC**

One of the primary functions of the NHRC is to receive complaints and initiate investigations into the violation of human rights by public servants. Human rights violations in India stem as much from the abuse of power by public servants as from the dereliction of their public duties. The NHRC has the power to inquire into a human rights violation on the basis of a complaint received by it or it can take *suo motu* cognizance of a violation of human rights and issue a notice to the concerned authority seeking a report in the matter. Stating that damage/pollution of the environment amounts to violation of human rights, NHRC took *suo motu* cognizance of the pollution of the river Ganga in Varanasi and issued a notice to the Secretary, Ministry of Environment and Forests, Government of India. Similarly, in the matter of allegations of illegal sand mining in coastal areas, taking *suo motu* cognizance, it sent a notice to the Government of Kerala.

The procedure for processing complaints has been prescribed in the National Human Rights Commission (Procedure) Regulations, 1994. These regulations were amended by the National Human Rights Commission (Procedure) Amendment Regulations, 1997. Under Rule 2(c), a complaint has been defined as:

“...all petitions/communications received in the Commission from a victim or any other person on his behalf, in person, by post, by telegram, by fax, or by any other means whatsoever, alleging violation or abetment thereof or negligence in the prevention by a public servant, of all or any of the human rights as defined in Section 2(d) of the Act.”

Complaints may be made to the Commission in any language. No fee is chargeable from the complainants. The Commission, as per Sections 36 (1) and 36 (2) of the PHR Act, 1993, has no jurisdiction over any matter that is pending before a State Commission or any other Commission duly constituted under any law and in respect
of an act that may have taken place more than a year preceding the date on which the act is alleged to have been committed. Except for the aforesaid two conditions, the Act does not specify the category of complaints that are inadmissible. Under Section 10(2) of the PHR Act, 1993, the Commission is empowered to lay down its own procedure through regulations. The Commission has prescribed its procedure under the 1994 Regulations (amended in 1997). Under Regulation 9, the complaints that are not admissible and liable to be dismissed in limini have been listed. Except the provisions laid down under Section 36 of the Act, the remaining 12 categories prescribed under regulation 9 do not fall within the purview of the delegated powers of the Commission. These, however, have not been challenged so far.

During the preliminary stage, the Commission passes one of the following orders:
- Rejects the complaint
- Dismisses with directions/transmits to the concerned authority with directions to take appropriate actions
- Transfers to the concerned State Human Rights Commission
- Issues notice to:
  - The Director General Investigation (DGI) to collect facts
  - The DGI to investigate
  - The concerned authority to send a report (within 3–7 days in urgent cases and 4 weeks in other cases)
- In case of urgency, the Commission directs that the facts should be transmitted and the relevant information should be collected on telephone. A copy of the notice is endorsed and sent to the complainant as well.

Once all these reports have been received and the Commission is satisfied that there is no violation of human rights, it closes the case. In case the Commission finds a violation of human rights, it exercises the option of recommending all or any of the following:
- Awarding of damages
- Awarding of compensation

15 Illegible; Vague, anonymous or pseudonymous; Trivial or frivolous, Barred under Section 36(1) of the Act; Barred under Section 36(2) of the Act; An allegation that is not against any public servant; Related to civil dispute, such as property rights, contractual obligations, and the like; Related to service matters; Related to labour/industrial disputes; Pertaining to allegations that do not signify any specific violation of human rights; Related to a matter that is sub-judice before a court or a tribunal; Concerned with a matter that is covered by a judicial verdict/decision of the Commission; Only a copy of the complaint addressed to some other authority (with a copy endorsed to the Commission); Pertaining to a matter which is outside the purview of the Commission on any other grounds.

16 As per Act 43 of 2006, Section 10 (with effect from 23-11-2006).
Prosecution of a public servant, conduction of a departmental inquiry, or initiation of administrative action. Although the Commission is a recommendatory body, the balance is in favour of compliance with its recommendations, as under Section 18 (b) of the Act, the NHRC can approach the Supreme Court or High Court for orders.

The Environmental Issues Raised in the Complaints and the action taken by NHRC

During the five-year period (2002–2007), the Commission received a total of 1,218 complaints relating to environmental issues. The environmental complaints received by the NHRC are categorized under a coding system namely, Miscellaneous (900), Ecological disturbances (901), Environmental pollution (902), Misuse of scientific and technological development (903), and Pollution affecting surroundings (904). Almost 70 per cent of the cases were either dismissed in limine or disposed with directions. Only one-third of the total number of cases were taken up by the NHRC for consideration. The average disposal rate was 1–2 years in 36 per cent of the cases and 2–3 years in 25 per cent of the cases. Only 8 per cent of the cases were disposed of within six months. In the subsequent five year period 2008–2013, the NHRC received 1,520 complaints and disposed 1,475 cases. Showing significant improvement, the disposal rate in 97 per cent cases was less than a year.

A case-wise analysis of the NHRC data\textsuperscript{17} revealed that a wide range of environmental issues that impacted the human rights are brought before the Commission. These are:

- Major Industries, such as paper, sugar, cement, distillery, tanneries, mining, thermal power, nuclear power, atomic power, and insecticides causing water, air and noise pollution, radiation, radioactive waste, and hazardous and toxic gases.
- Small-scale units, such as dal mill, saw mill, spray paint, poultry, plastic, stone quarries, stone crushing, bhattis, bidi manufacturing units, diesel pumps, skin and bone removal from animals, mini rice mill, masala crushing mill, generators, and unauthorized factories leading to noise, air, water, smoke and odour pollution.
- Domestic waste leading to land degradation.
- Garbage dumps leading to ground water pollution and location of garbage treatment plant.

\textsuperscript{17} CMS-NHRC database
• Discharge of untreated sewage into rivers leading to water pollution.
• Contamination of drinking water and non-availability of potable water.
• Accumulation of waste water in villages, which acts as a breeding ground for disease vectors.
• Slaughter house causing water, odour, and land pollution.
• Development projects leading to displacement of people, land encroachment or acquisition of tribal lands affecting land and human rights of indigenous populations.
• Safety of workers in power plants: Risks endangering life at work place.
• Disposal of bio-medical waste by hospitals.

(Source: Compilation by the author from NHRC’s CMS database)

NHRC does not have a written guiding policy to deal with the environment-related cases. The major shortcoming in the environment complaint handling system is that the NHRC does not have the technical expertise in environmental matters and relies on reports from the authorities who are themselves accountable for the violations. These authorities do not often respond within the time frame. By disclosing the identity and seeking reports from the very authorities that are to be blamed for the problem, the complainants are put to risk, and some of them actually became victims of revenge. There is also laxity in follow-ups by the officials concerned. Consequently, the timeline given in a notice looses its significance.

NHRC receives environment-related complaints from different parts of the country, the largest number being from the states of Uttar Pradesh and Delhi. Even after the establishment of the NGT, the NHRC received 300 environment-related complaints during 2010–2011, 396 during 2011–2012, and 291 during 2012–2013. Subsequent to the amendment of the PHR Act in 2006, NHRC acquired the power to transfer the state specific complaints to the respective State Human Rights Commissions (SHRCs). During the period 2008–2013, almost 6–12 per cent of the total complaints received by the Commission were transferred to the SHRCs except in 2011–2012, when 25 per cent of the complaints were transferred to the SHRCs. At the state level, the SHRCs are in a better position to address the complaint as compared to the NHRC.
The Human Rights Impacted due to Environmental Degradation

The human rights impacted due to environmental degradation invariably relates to the right to life, right to water, right to the highest attainable standard of physical and mental health, right to adequate housing, right to respect for private and family life, and the rights of internally displaced people. These rights are protected both in the international covenants as well as within the national legal system by the Constitution and jurisprudence evolved by the Supreme Court regarding environmental matters.

As according to the environmental jurisprudence evolved by the higher judiciary in India, the ‘right to a clean and healthy environment’ forms part of the ‘right to life’, establishment of the NHRC in 1993 fostered a lot of expectation that a body headed by an ex-Chief Justice of India would be able to apply the principles laid down by the Supreme Court and take cognizance of environmental violations for providing quick relief to the victims of pollution and environmental degradation. While a great deal happened on paper, the ground reality was somewhat different. Many complainants lamented that NHRC was just a ‘paper tiger’.

The NHRC, however, claims that even though it is a recommendatory body, a majority of its recommendations are implemented as it can approach the courts to get its orders implemented.

Conclusion

The Government does not take the NHRC seriously as a number of its recommendations remain unimplemented. On policy issues, the NHRC should advocate and interact with the NGOs and members of the civil society so that it can exert collective pressure on the Government to act. In other matters, such as the award of compensation or action against a Government official, it should not hesitate to seek the court’s intervention.

While the government needs to address several areas to make the NHRC more effective, the most important is to empower the Commission sufficiently to make its decisions immediately enforceable. If such an action is taken, the Commission would not waste time in going through court procedures to enforce its decisions. Further, the Commission should also be equipped with powers to impose penalties on officials who furnish false reports.

Despite the NGT 2010, the NHRC will continue to be regarded by ordinary citizens as an institution that they can approach for seeking
justice, in view of its accessibility, affordability, and uncomplicated approach, especially with those sections of society that are weak and marginalized.

In the matter of complaints however, the Commission should not merely rely on the report of the local authorities or government departments, but carry out its own investigation. While the concerned authority may be given an opportunity to explain its position, the commission should not disclose the identity of the complainant. Once the complaint is admitted, it should be investigated independently through NHRC’s Investigation Team. As the investigating officers are mainly from the police, with respect to an environmental complaint, an independent environmental expert should be co-opted in the investigation process.

The role of the NHRC should be complementary to that of the courts. Even if the complaints refer to cases pending before courts, the NHRC should assess the ancillary issues relating to human rights instead of merely dismissing the cases in limini and should, on merits, even assist the complainant in airing contentious issues before the court or seek to intervene in the matter by itself becoming a party.

As NHRC India enjoys international recognition of conformity with the Paris Principles, it has the power to exercise its mandate of advocacy both within the international and the national system for establishing a legal obligation to enforce the ‘right to a safe and healthy environment’. It can convince policy-makers to translate this into a statutory obligation, as the jurisprudence in this direction has already been laid down by the Supreme Court of India, and a provision to this effect has been incorporated in the National Green Tribunal Act, 2010. However, despite the establishment of the National Green Tribunal for effective and expeditious disposal of environmental cases, enforcement of legal rights relating to environment, and giving relief and compensation for damages to persons and property, the relevance of NHRC in environment protection will continue to have force as it enjoys an advantageous position in view of its mandate related to advocacy and raising awareness of environment and human rights issues among all stakeholders, professionals, schools, and universities. The NHRC can persuade the Government to ensure that a range of procedural rights, such as the right to access information and to participate in the decision-making process are carried out not as a mere formality but effectively so that the affected persons can exercise their ‘right to a safe and healthy environment’.
References


ICESCR. 1966. International Covenant on Economic, Social, and Cultural Rights. Available at www2.ohchr.org/English/bodies/cescr/


ENVIRONMENTAL JUSTICE: IS THE NATIONAL GREEN TRIBUNAL OF INDIA EFFECTIVE?
- Sudha Shrotria

Abstract
This article discusses the role of India’s National Green Tribunal (NGT) which was established on 18 October 2010 as a dedicated environmental court under the National Green Tribunal Act, 2010 and became fully operational with effect from 4 July 2011. The NGT was constituted as a multidisciplinary body with the necessary expertise for effective and speedy disposal of cases relating to environment protection, forest conservation and enforcement of legal rights relating to environment protection. The article brings out the jurisdiction, powers and functions of the Tribunal for effecting environmental justice, the significant cases adjudicated by it in the four years of its existence, the principles applied, the accessibility and value addition to environmental jurisprudence through innovative application of law and the objectivity demonstrated by the Tribunal in balancing the protection of the environment and sustainable development. The Tribunal, with its specific mandate constitutes an important step in the access to justice on matters concerning the environment

Key words – National Green Tribunal, Environmental Case adjudication, Access to Environmental Justice