

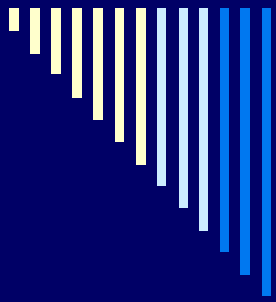

HUMAN RIGHTS IN INDIA: LAWS & PRACTICE

By

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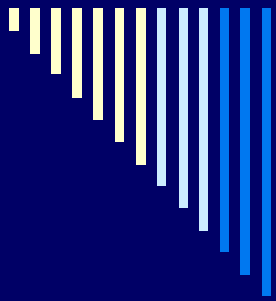
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Introduction

- Enjoyment of the basic human rights are the entitlement of every citizen, and their protection an obligation of every civilised state. They are inherent in and essential to the structure of society.
 - *Simpson v. Attorney General* [1994 NZLR 667], Court of Appeal, New Zealand
- Human rights of citizens are non-negotiable and non-derogable. No compromise with violations of the same is permissible in any civilized society. These rights recognize the essential worth of a human being and acknowledge the dignity inhering in all human beings, irrespective of their race, sex or economical level of living.
 - **National Human Rights Commission**



- ❑ Protection of human rights is a primary objective of every democratic State.
 - ❑ Human Rights as a promise of a better world.
 - ❑ Rampant violations of Human Rights in various forms.
 - ❑ Common questions-
 - What are the human rights?
 - What is mechanism to protect our human rights?
 - Are human rights, in fact, available to all without any discrimination?
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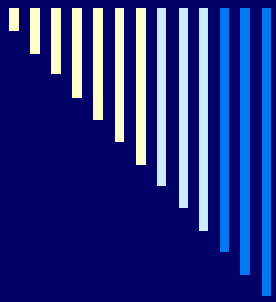
What are Human Rights?

- Section 2 (1)(d) *Protection of Human Rights Act, 1993*: Human rights means-
 - the 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*.
 - Broader concept of constitutional rights.
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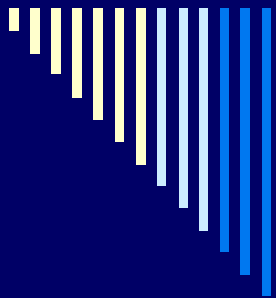


Features of Human Rights

- ❑ Available to all only due to member of human family.
 - ❑ Enable us to develop our qualities and satisfy our needs as human beings.
 - ❑ Protect our lives and our physical/ psychological integrity.
 - ❑ Based on **inherent dignity** of human beings.
 - ❑ Inherent (every human being has them by virtue of his/her humanity), equal (without distinction) and inalienable (cannot be taken or given away).
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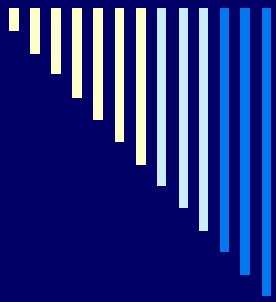


- HRs necessitate providing such environment where all round development of every individual may take place.
- All rights & entitlements to be provided by State to live a dignified life like a human being.
- Laws relating to Human Rights-
 - Protection of Human Rights Act, 1993
 - Assam Human Rights Commission (Procedure) Regulations, 2001



Institutional Framework

	National Human Rights Commission	U.P. Human Rights Commission
Established by	Central Govt.	State Government (optional)
Composition	Chairperson 4 Members 4 Ex-officio Member	Chairperson 2 Members
Appointed by	President of India	Governor
Tenure	5years or 70 years whichever is earlier	5years or 70 years whichever is earlier



HR Courts

- To be specified (**optional**) by State Government
- For each District a *Court of Session* to be a Human Rights Court
- To try the offences arising out of violation of human rights
- For speedy trial of above cases



Jurisdiction of HR Commission

- Violation or abetment of violation of Human Rights
 - Negligence in the prevention of such violation by a public servant
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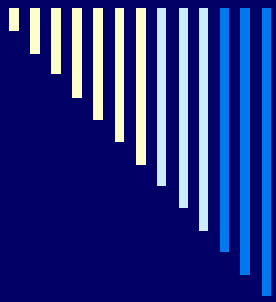
Violation of HR- What to do?

- Cognizance by Commission- *Suo motu/complaint*
 - Filing of complaint to NHRC through-
 - Post (in prescribed format)
 - Fax (91-11-23382911/ 23382734)
 - e-mail (covdnhrc@nic.in)
 - Online
(<http://164.100.51.57/HRComplaint/pub/NewHRComplaint.aspx>)
 - Mobile Number 9810298900
 - Without any fee/charge
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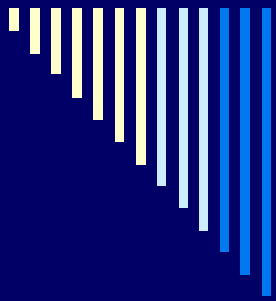


Requirements of complaint

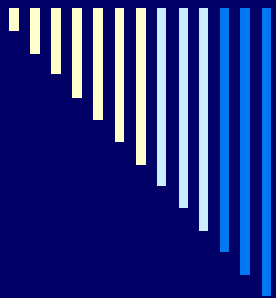
- By the victim or any other person on his behalf
 - In English/Assamese/Hindi or any language included in the Eighth Schedule of the Constitution
 - Documents, if any enclosed -be legible and clear
 - Mentioning-
 - Details of victim: Name, age, sex, religion/caste
 - State and District to which the incident relates
 - Incident date
-



- But, following are not treated as complaint-
 - **Illegible** (unreadable)
 - Vague, anonymous or pseudonymous
 - **Trivial or frivolous** in nature
 - The matters which are **pending** before a SHRC or any other Commission
 - Any matter after the **expiry of one year** from the date on which the act constituting violation of human rights is alleged to have been committed
 - Allegation is not against any **public servant**
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- The issue raised relates to **civil dispute**, such as property rights, contractual obligations, etc.
- The issue raised relates to **service matters**
- The issue raised relates to **labour/industrial disputes**
- Allegations **do not make out** any specific violation of human rights
- The matter is **sub-judice** before a Court/ Tribunal
- The matter is covered by **judicial verdict/decision of the Commission.**



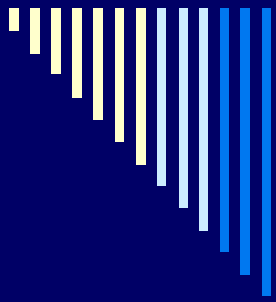
Complaint by Post

- In prescribed format preferably
- Containing details of-
 - Complainant
 - Incident
 - Victim
 - Nature of matter
 - Prayer

Address

National Human Rights Commission
Manav Adhikar Bhawan
Block-C, GPO Complex, INA,
New Delhi – 110023

U.P. Human Rights Commission
TC-34 V-1, Vibhuti Khand,
Gomti Nagar, Lucknow



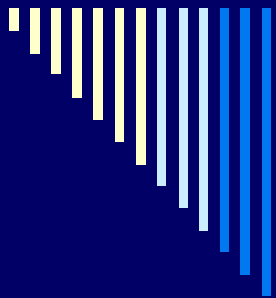
Online complaint filing

- <http://nhrc.nic.in/>
- Click on complaints section (on top)
- New web link-
<http://164.100.51.57/HRComplaint/pub/NewHRComplaint.aspx>
- Status of a Complaint Filed may be searched at-
<http://nhrc.nic.in/advSrcCases.asp>



After receiving complaint

- Assigning case number and file number
 - Entry of complaint in computer
 - Mailing of acknowledgement
 - Filing of complaint may result in-
 - **Dismissal**, if do not fall within the purview of the Commission-information to complainant
 - **Call for information** or report from concerned Govt./organisation
 - no response- proceed to inquire into the complaint on its own
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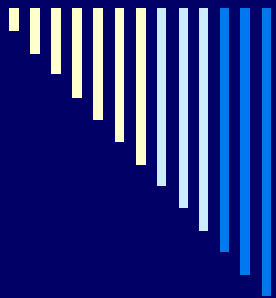


- **Received response** and Commission is satisfied that-
 - no further inquiry is required or
 - required action has been initiated or
 - taken by the concerned Government or authority,
- It may not proceed with the complaint and inform the complainant accordingly
- If considers necessary, may initiate an inquiry
- During inquiry, the immediate interim relief by Govt. may recommend
- Violation of HR/negligence in the prevention of violation of human rights or abetment by a public servant is found, may recommend-
 - payment of **compensation** or damages
 - **initiate proceedings** for prosecution/suitable action



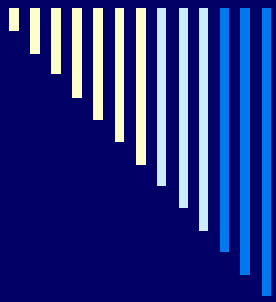
Human Rights violations by armed forces

- *Suo motu* or on a petition
 - Seek report from Central Govt.
 - After receipt of report-
 - Close the matter, if there is nothing substantial
 - Make recommendation to Central Govt. for action to be taken
 - Within 3 months, Govt. informs the NHRC of action taken
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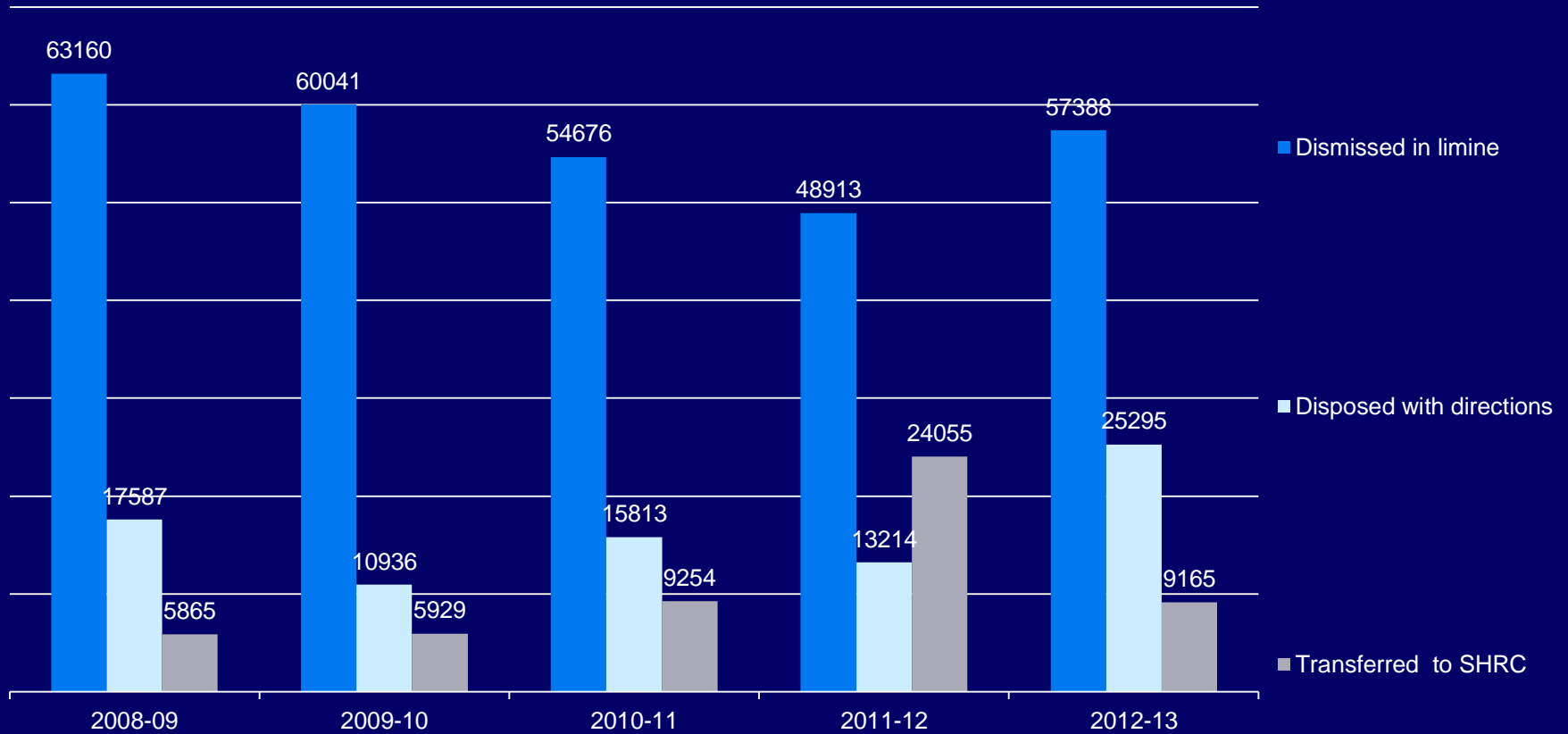
Implementation of Commission's order

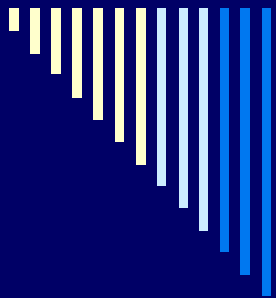
- HRCs are recommendatory body
- Orders of HRCs, having utmost importance, are taken seriously by Governments as the annual report submitted by HRCs to Government are laid before each House of Parliament or the State Legislature respectively along with-
 - a memorandum of action taken or
 - proposed to be taken on the recommendations of the Commission and
 - the reasons for non-acceptance of the recommendations, if any



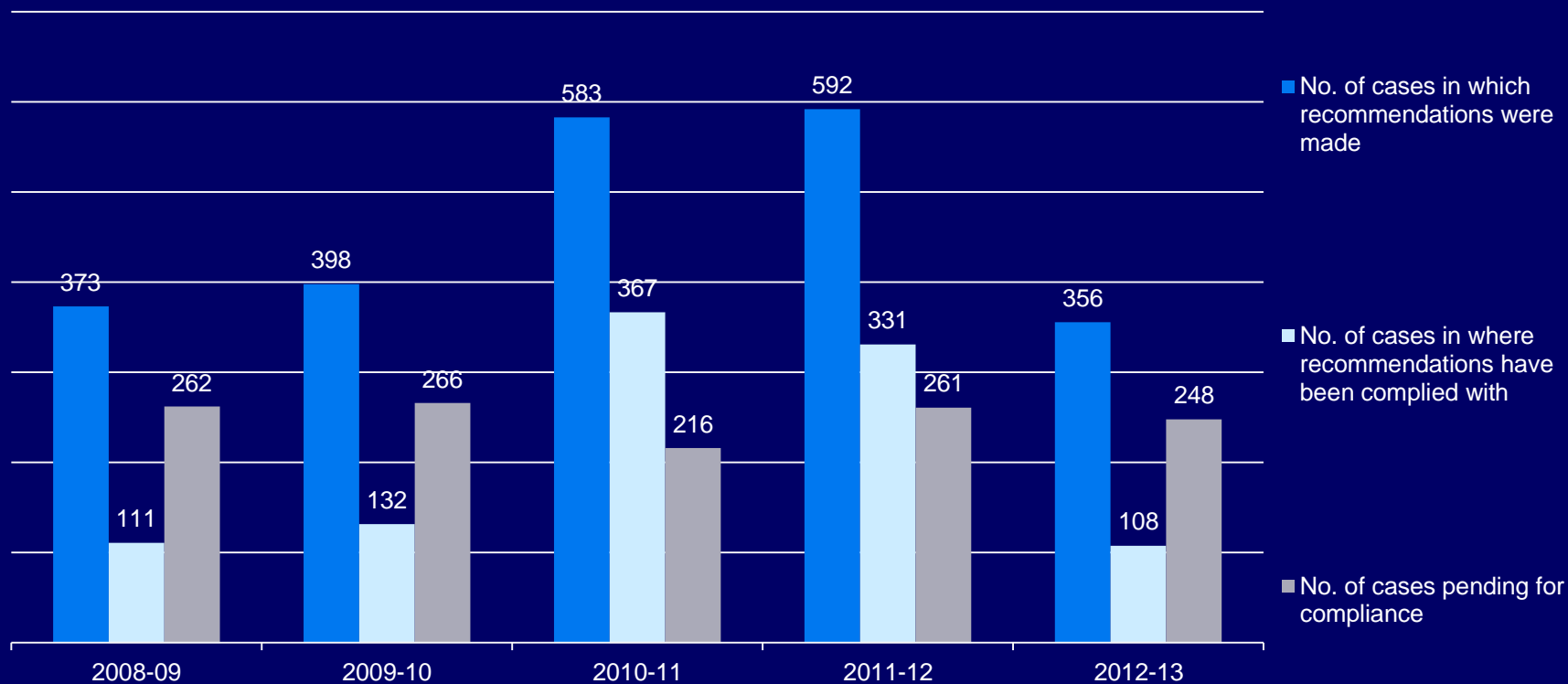
Functioning of NHRC

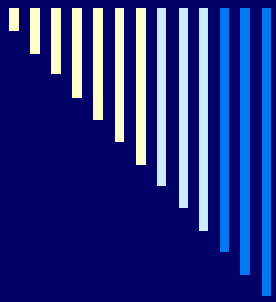
Disposal of cases





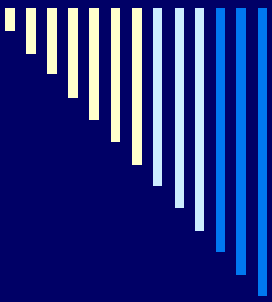
Monetary Relief Action





Concluding Observations

- Human Rights- fashionable term- developed misconception about Human Rights as source of all types of benefits
- Human Rights for humans only- who understand the value of humanity
- HRCs have played proactive role to protect the Human Rights
- HRCs should be empowered to enforce their orders also



THANK YOU
