


HUMAN RIGHTS AND CONSTITUTIONAL PROVISIONS

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what are human rights?

- ▶ Human Rights is a global term we hear often, but many people can't define.
 - ▶ So the question is what are human rights?
 - ▶ “Rights” are things we are allowed to be, to do or to have, simply by being human.
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HUMAN RIGHTS

- ▶ Human rights can be defined as
- ▶ *“...rights inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. We are all equally entitled to our human rights without discrimination. These rights are all interrelated, interdependent and indivisible.”*
- ▶ *“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.” Universal Declaration.*

Human Rights



HUMAN RIGHTS AND ITS VIOLATION

- ▶ “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.
 - ▶ To violate the most basic human rights; is to deny individuals their fundamental moral entitlements. It is, in a sense, to treat them as if they are less than human and undeserving of respect and dignity.
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Universal Declaration of Human Rights (UDHR) 1948


the World War II & the Holocaust

World War II
1939 - 1945





What is the Universal Declaration of Human Rights?

- ▶ it was proclaimed “a common standard of achievements for all peoples and all nations.”
 - ▶ It sets out fundamental human rights to be universally protected.
 - ▶ It consists of a preamble and
 - ▶ 30 articles.
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30 BASIC HUMAN RIGHTS UNDER UDHR

Article 1 Right to Equality

Article 2 Freedom from Discrimination

Article 3 Right to Life, Liberty, Personal Security

Article 4 Freedom from Slavery

Article 5 Freedom from Torture and Degrading Treatment

Article 6 Right to Recognition as a Person before the Law

Article 7 Right to Equality before the Law

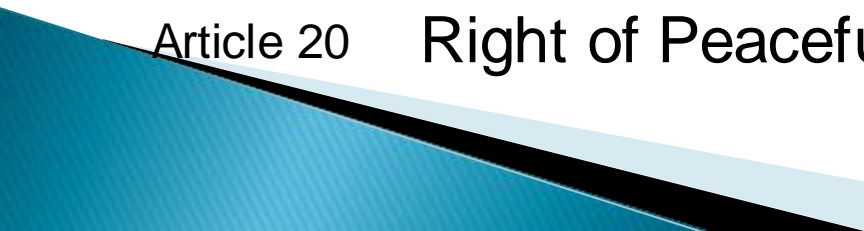
Article 8 Right to Remedy by Competent Tribunal

Article 9 Freedom from Arbitrary Arrest and Exile


Article 10 Right to Fair Public Hearing

Article 11 Right to be Considered Innocent until Proven Guilty

Article 12 Freedom from Interference with Privacy, Family, Home and Correspondence

- Article 13 Right to Free Movement in and out of the Country
 - Article 14 Right to Asylum in other Countries from Persecution
 - Article 15 Right to a Nationality and the Freedom to Change It
 - Article 16 Right to Marriage and Family
 - Article 17 Right to Own Property
 - Article 18 Freedom of Belief and Religion
 - Article 19 Freedom of Opinion and Information
 - Article 20 Right of Peaceful Assembly and Association
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- Article 21 Right to Participate in Government and in Free Elections
- Article 22 Right to Social Security
- Article 23 Right to Desirable Work and to Join Trade Unions
- Article 24 Right to Rest and Leisure
- Article 25 Right to Adequate Living Standard
- Article 26 Right to Education
- Article 27 Right to Participate in the Cultural Life of Community
- Article 28 Right to a Social Order that Articulates this Document
- Article 29 Community Duties Essential to Free and Full Development
- Article 30 Freedom from State or Personal Interference in the above Rights

- ▶ **The International Covenant on Economic Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR).**
 - ▶ **The two Covenants along with the Universal Declaration of Human Rights became the International Bill of Human Rights setting out the civil, cultural, economic, political and social rights that are the birth right of all human beings.**
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ICCPR

- ▶ The International Covenant on Civil and Political Rights (ICCPR) is a multilateral treaty adopted by the United Nations General Assembly on 16 December 1966, and in force from 23 March 1976.
- ▶ **Civil and political rights** are a class of **rights** that protect individuals' freedom from infringement by governments, social organizations, and private individuals, and which ensure one's ability to participate in the **civil and political** life of the society and state without discrimination or repression.

ICESCR


- ▶ **The International Covenant on Economic, Social and Cultural Rights (ICESCR)** is a multilateral treaty adopted by the United Nations General Assembly on 16 December 1966, and in force from 3 January 1976.
- ▶ ICESCR rights are crucial to enable people to live with dignity. This treaty covers important areas of public policy, such as the rights to:
 - ▶ work
 - ▶ fair and just conditions of work
 - ▶ social security
 - ▶ adequate food
 - ▶ clothing and housing
 - ▶ health, and
 - ▶ education.

The Four Freedoms


- ▶ freedom of speech,
 - ▶ freedom of religion,
 - ▶ freedom from want and
 - ▶ freedom from fear
 - ▶ first articulated in 1941 by President Franklin D. Roosevelt in his “four freedoms speech” to the US Congress.
 - ▶ FREEDOM, underpins the International Bill of Human Rights – freedom from fear, freedom of speech, freedom of worship and freedom from want.
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My rights, my freedom always


- ▶ Human Rights are not conferred by anybody, but like natural rights acquired at birth by all irrespective of the place, status, race etc.
- ▶ “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.”
- ▶ Human rights are something which is owing to every human simply because he is human.


- ▶ Human rights are inalienable: you cannot lose these rights any more than you can cease being a human being.
 - ▶ Human rights are indivisible: you cannot be denied a right because it is "less important" or "non-essential."
 - ▶ Human rights are interdependent: all human rights are part of a complementary framework.
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Human Rights under Indian Constitution

- ▶ The seven fundamental rights recognized by the Indian constitution are:
 - ▶ **Right to equality:** Which includes equality before law, prohibition of discrimination on grounds of religion, race, caste, gender or place of birth, and equality of opportunity in matters of employment, abolition of untouchability and abolition of titles.
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- ▶ **Right to freedom:** Which includes freedom of speech and expression, assembly, association or union or cooperatives, movement, residence, and right to practice any profession or occupation (some of these rights are subject to security of the State, friendly relations with foreign countries, public order, decency or morality), right to life and liberty, protection in respect to conviction in offences and protection against arrest and detention in certain cases.
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- ▶ **Right against exploitation:** Which prohibits all forms of forced labour, child labour and traffic of human beings
 - ▶ **Right to freedom of religion:** Which includes freedom of conscience and free profession, practice, and propagation of religion, freedom to manage religious affairs, freedom from certain taxes and freedom from religious instructions in certain educational institutes.
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- ▶ **Cultural and Educational rights:** Preserve the right of any section of citizens to conserve their culture, language or script, and right of minorities to establish and administer educational institutions of their choice.
 - ▶ **Right to constitutional remedies:** Which is present for enforcement of Fundamental Rights.
 - ▶ **Right to education:** It is the latest addition to the fundamental rights
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Constitution of India

- ▶ WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a [SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC] and to secure to all its citizens:
- ▶ JUSTICE social, economic and political;
- ▶ LIBERTY of thought, expression, belief, faith and worship;
- ▶ EQUALITY of status and of opportunity;
- ▶ and to promote among them all
- ▶ FRATERNITY assuring the dignity of the individual and the [unity and integrity of the Nation];
- ▶ IN OUR CONSTITUENT ASSEMBLY this twenty–sixth day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.

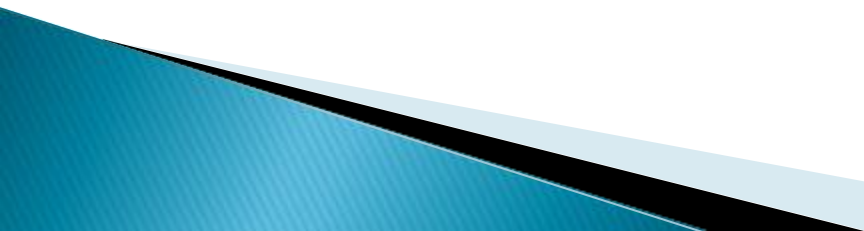
Fundamental Rights

- ▶ Right to Equality

Article 14. Equality before law

14. Equality before law.—The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.


- ▶ **15. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.—(1)** The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.
- ▶ (2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to—
 - ▶ (a) access to shops, public restaurants, hotels and places of public entertainment; or
 - ▶ (b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.

- ▶ **16. Equality of opportunity in matters of public employment.—**(1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.
 - ▶ (2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.
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- ▶ **19. Protection of certain rights regarding freedom of speech, etc.—**(1) All citizens shall have the right—
- ▶ (*a*) to freedom of speech and expression;
- ▶ (*b*) to assemble peaceably and without arms;
- ▶ (*c*) to form associations or unions ¹[co-operative societies];
- ▶ (*d*) to move freely throughout the territory of India;
- ▶ (*e*) to reside and settle in any part of the territory of India; [and]
- ▶ (*f*) [* * *]
- ▶ (*g*) to practise any profession, or to carry on any occupation, trade or business.

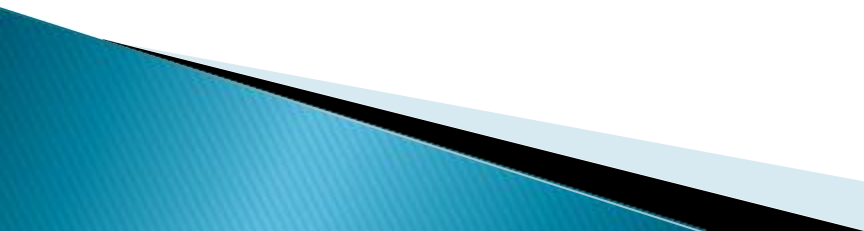
- ▶ The right to have a telephone conversation in the privacy of one's home or office is part of the Right to Life and Personal Liberty enshrined in Article 21 of the Constitution, which cannot be curtailed except according to the procedure established by law.. The Supreme Court asserted that telephone tapping amounts to an invasion of privacy in violation of this core right.
- ▶ The Freedom of Speech and Expression guaranteed by Article 19 of the Constitution includes the right to express one's convictions and opinions freely by word of mouth. When a person is talking on the telephone s/he is exercising this freedom.
- ▶ Article 17 of the International Covenant on Civil and Political Rights, 1966 expressly forbids arbitrary interference with privacy, family, home or correspondence and stipulates that everyone has the right to protection of the law against such intrusions.
- ▶ The Supreme Court affirmed that international law, if it does not conflict with national legislation will be deemed as municipal [domestic/national] law.
- ▶ (PUCL V UNION OF INDIA AND ANOTHER AIR 1997 SC 568)

- ▶ **21 . Protection of life and personal liberty.—**
No person shall be deprived of his life or personal liberty except according to procedure established by law.
- ▶ The right to life includes right to livelihood.
(Delhi Transport Corporation vs D.T.C. Mazdoor Congress AIR 1991 SC101)
- ▶ The Right to Life guaranteed by our Constitution includes the right to live with human dignity (D.K BASU V STATE OF WEST BENGAL AIR 1997 SC 610)

- ▶ **22. Protection against arrest and detention in certain cases.**—(1) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice.
 - ▶ (2) Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate.
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- ▶ the law of arrest is one of balancing individual rights, liberties and privileges on the one hand and individual duties, obligations and responsibilities on the other; of weighing and balancing the rights, liberties of the single individual and those of individuals collectively.

(JOGINDER KUMAR V STATE OF U.P AND OTHERS 1994 SCC 260)

- ▶ Article 23. Prohibition of traffic in human beings and forced labour
 - ▶ Article 24. Prohibition of employment of children in factories, etc
 - ▶ 25. Freedom of conscience and free profession, practice and propagation of religion.—(1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion.
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Dignity



Human dignity demands courage to
defend oneself.

— *Mahatma Gandhi* —

AZ QUOTES

- ▶ In the case of *Bandhua Mukti Morcha V. Union of India* (1984) 3 SCC 161, it is held that Art. 21 guarantees Right to Life, meaning not only animal existence but life with human dignity.
- ▶ This right to **human** dignity has many elements. First and foremost, **human** dignity is the dignity of each **human** being 'as a **human** being'.
- ▶ Another element, which needs to be highlighted, in the context of the present case, is that **human** dignity is infringed if a person's life, physical or mental welfare is harmed.
- ▶ It is in this sense torture, humiliation, forced labour, etc. all infringe on **human** dignity.

Right to Life

- ▶ *Olga Tellis V. Bombay Municipal Corporation* (1985) 3 SCC 545, the Supreme Court held that deprivation of means of livelihood of a person would result in deprivation of his life and therefore, the pavement dwellers, who were sought to be forcibly evicted by Bombay Municipal Corporation, were directed to be so rehabilitated as would allow them to earn their livelihood. The court held:–

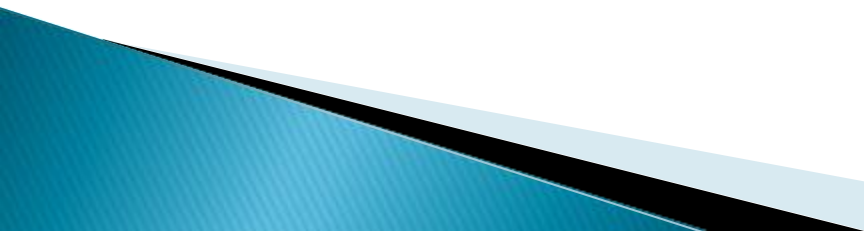
“The sweep of the right to life, conferred by Art 21 is wide and far reaching. Life means something more than mere animal existence.”

Instances of human rights violations

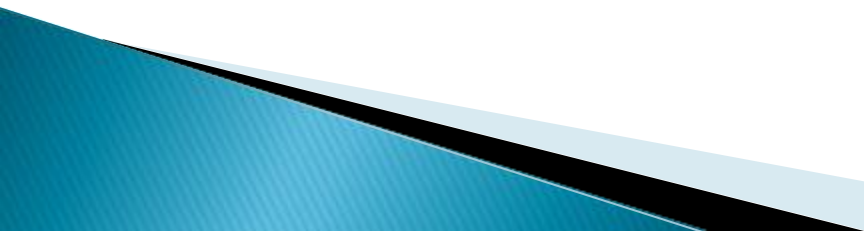
In India


- ▶ Custodial death
- ▶ Fake encounters
- ▶ Cases related to women and children
- ▶ Police excesses
- ▶ Atrocities on Minority and dalit
- ▶ Bonded labour
- ▶ Armed forces/ Para military
- ▶ Almost one-third of the 6,542 complaints made to the Bihar Human Rights Commission (BHRC) in 2015 were related to police, armed forces or jail.

CASES RELATING TO WOMEN AND CHILDREN


- ▶ Female foeticide and infanticide
 - ▶ Child marriage in the name of customs, despite of legal prohibition
 - ▶ Child labour
 - ▶ Sexual assault on children as well as women
 - ▶ Rape
 - ▶ Immoral trafficking
 - ▶ Work place offences
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BONDED LABOUR

- ▶ Debt bondage in India
 - ▶ **Debt bondage in India** was legally abolished in 1976 but it remains prevalent, with weak enforcement of the law by governments.
 - ▶ Bonded labour involves the exploitive interlinking of credit and labour agreements that devolve into slave-like exploitation due to severe power imbalances between the lender and the borrower.
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- ▶ Another form of violation in recent times is religious intolerance.
 - ▶ Extremism and radicalization, often lead to hate crimes and violence.
 - ▶ This has to be addressed through social cohesion and integration programmes.
 - ▶ We need governmental strategies or plans in place to address issues of extremism and radicalization. Intolerance, stigmatization, negative stereotyping and discrimination are to be addressed through public awareness-raising campaigns and educational measures.
 - ▶ We need projects aimed at promoting capacity-building, social cohesion and interfaith dialogue and increase the participation of religious groups and communities
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Human Rights Act 1993

- ▶ Establishment of
 - ▶ National Human Rights Commission
 - ▶ State Human Rights Commission
 - ▶ which ensure the protection of Human Rights.
 - ▶ Human Rights Court
 - ▶ For the purpose of providing speedy trial of offences arising out of violation of human rights
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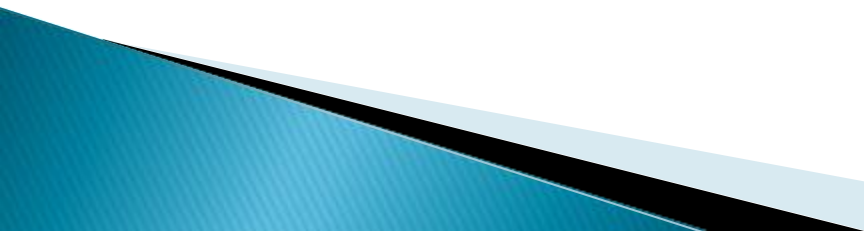
Madras High Court

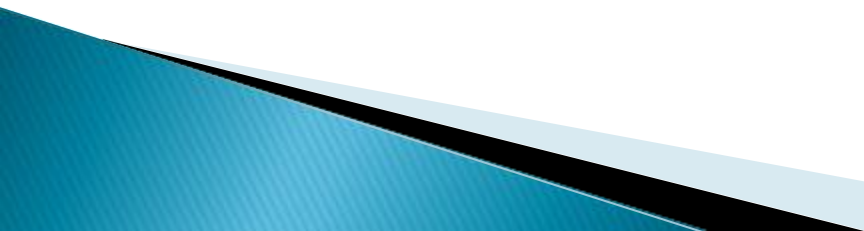
K.Dhamodharan vs R.V.Narbabi

decided on 10 November, 2006

- ▶ The respondent/complainant preferred a complaint before the Court of the Chief Judicial Magistrate, Kumbakonam, which was formerly the Human Rights Court, under Section 2 (d) of the Protection of Human Rights Act r/w Section 200 of the Code of Criminal Procedure.
- ▶ Thereafter, the entire records in the case was sent to the Court of the Principal District Judge, Thanjavur which was notified as the Human Rights Court in the District of Thanjavur.
- ▶ The latter chose to send the entire case records to the Judicial Magistrate No.I, Thanjavur to adhere to the committal proceedings, as the Human Rights Court was not vested with the power to take up the private complaint directly on file without committal proceedings.


- ▶ The sum and substance of the complaint is that the petitioner/accused herein, who was serving as Station House Officer at Thanjavur Town East Police Station, entertained a false complaint given by one Ashokkumar in connection with the introduction of one Sethu Ramachandran by the complainant to the said Ashokkumar and in the guise of such a complaint preferred by Ashokkumar, the complainant was forcibly taken by the accused to the police station on 19.04.2003.
- ▶ The accused and his subordinates tortured the complainant to give a cheque and put his signature in stamp papers. The complainant was not given even food by the accused. The accused tortured and harassed the complainant for eight long hours on 19.04.2003 in order to obtain a cheque and his signature in stamped papers.
- ▶ The accused let off the complainant only in the evening of 19.04.2003 after forcibly obtaining his signature in two stamp papers dated 28.03.2003. The accused violated the fundamental rights of the complainant in keeping him in illegal custody.

- ▶ As the committal proceedings are in progress, the present petition has been filed by the accused seeking quashment of the whole proceedings in P.R.C.No.38 of 2005 on the file of the learned Judicial Magistrate No.I, Thanajavur.
 - ▶ The learned counsel for the petitioner/accused would vehemently submit that any complaint regarding the violation of human rights shall be submitted only before the State Commission constituted under the Protection of Human Rights Act, 1993. No private complaint would lie as against the public servant.
 - ▶ The protection given under the Human Rights Act for the public servant will be in peril, if such a private complaint is entertained by the Judicial Magistrate.
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- ▶ The private complaint filed by the complainant has no sanction of law. He would further contend that the entire gamut of facts and circumstances spoken to by the complainant in the private complaint does not reflect violation of any human rights.
 - ▶ On that score also the complainant cannot prosecute the Inspector of Police, who was just performed his duty on receipt of complaint against the complainant. Therefore, the whole proceedings which culminated in P.R.C.No.38 of 2005 on the file of the learned Judicial Magistrate No.I, Thanjavur may be quashed, he would lastly submit.
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- ▶ Delhi Police has registered a case under sections of criminal intimidation against the Shiv Sagar restaurant in Connaught Place for allegedly misbehaving and threatening a woman, who had gone to the eatery with a group of street children but was denied entry.
- ▶ The fact finding team constituted by the Delhi Government into the incident where some street children were denied service by the Shiv Sagar restaurant in Connaught Place, submitted its report on Wednesday stating that the act violated the Human Rights and Fundamental Rights guaranteed by the Constitution of India.


- ▶ A fact finding inquiry into the incident was conducted by Sub Divisional Magistrate, Chankyapuri after the intervention of Deputy Chief Minister
- ▶ "From the aforementioned facts and circumstances, it is evident that the children were denied food by the restaurant despite the fact that they were ready to pay for the same because they were 'poor and dirty'.
- ▶ This refusal clearly establishes discriminatory behavior of the restaurant management and staff against the children on the socio-economic basis. Such an act violates the Human Rights and Fundamental Rights guaranteed by the Constitution of India, and is against its spirit and essence," the report states.
- ▶ The incident was widely reported on 12th June wherein a lady and few street children were denied entry at Shiv Sagar allegedly on the pretext that they were 'poor and dirty'.

- ▶ The National Human Rights Commission (NHRC) has taken cognizance of a complaint that several people were gathered, forced and threatened to sit for political rallies, in open fields under the scorching sun, for four to five hours without drinking water and other basic facilities leading to injuries and loss of lives, amounting to violation of basic and fundamental human rights.
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- ▶ Gross human rights violation by the police on Thursday , which also happens to be the Human Rights Day , as the State Human Rights Commission (SHRC) has called upon the police top brass not to ignore delinquent behaviour of law enforcers.

A government medical doctor and a few others were thrashed ruthlessly near a restaurant by the local police and the victims were snubbed by the police station when they wanted to press a case against the inspector, and till date no criminal case is filed against the inspector.

Finally when the matter was brought to the NHRC's notice, the district SP, in a report in February 2015, said no action could be taken against the guilty inspector because he was transferred to another


- ▶ Madhya Pradesh Human Rights Commission issued showcause notices to district collector Bhopal, Bhopal municipal corporation, commissioner state's environment department, and principal secretary urban administration and development department after taking cognizance in a case related to Bhanpur landfill site.
 - ▶ Commission has asked the departments to identify residents of Bhanpur landfill area, and make pure drinking water available for them as soon as possible.
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- ▶ Illegal and unauthorized dumping being used mainly by the BMC for municipal solid waste (MSW) and its burning is quite common. This has polluted water within range of about 2km from dumpsite and have affected the health of residents there.
- ▶ National Green Tribunal, central bench, in their last hearing in the case ordered Bhopal Municipal Corporation to restrict power supply to bore wells and hand pumps within 1.5 kilometer of Bhanpur area and also paste the notice on each one of them saying that "Water not fit for drinking due to pollution".
- ▶ According to the report of BMC and PHED, not only the quantity of bacteria found is 2,400 times, but other metals like iron, lead, calcium, magnesium have also been found in higher quantity which can cause cancer and other serious health issues. This is violation of right to life."

Kerala State Human Rights Commission member P Mohandas, here, on Wednesday visited the four Bangladeshi girls, who are staying in Government Mahila Mandir and After Care Home, after being denied permission to return to their homeland.

- ▶ The girls who were brought Kerala by sex trafficking groups have been staying in government homes for nearly eight years. However, they were denied permission to return to their homeland claiming that it would affect a case under investigation in Malappuram.

- ▶ Retired district court judge and member of the Goa Human Rights Commission, suggested that the Protection of Human Rights Act 1993, which administers the State Human Rights Commission, be amended or scrapped.
- ▶ "People have high hopes. The Act is a toothless paper tiger. In fact, it is toothless paper cat. Our recommendations are many times thrown in to the waste basket. We only have the right to advise, recommend and embarrass," suggesting that the Act be amended or scrapped.

- ▶ MR. CHAIRMAN: Motion moved:
 - ▶ “That this House expresses its serious concern over the rising incidents of violation of Human Rights in various parts of the country and urges upon the Government to take effective steps to curb the occurrence of such incidents.”
 - ▶ Therefore, I would request the hon. Member to kindly withdraw the Resolution.
 - ▶ I cannot withdraw the Resolution as in general, human rights, right to decent living and right to livelihood, these rights are being violated.
 - ▶ There is no assurance that the Central Government will have an active and effective role and will also take effective action to curb the incidents of human rights violations.
 - ▶ The motion was negatived.
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Boy in the Ambulance

