

**ROLE OF ASSAM HUMAN RIGHTS COMMISSION IN PROMOTION
AND PROTECTION OF HUMAN RIGHTS-A CRITICAL STUDY**

**A thesis submitted in part fulfilment of the requirements for the degree of
Doctor of Philosophy in Law**

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ABSTRACT

This study aims to figure out the promotion and protection of human rights by Assam Human Rights Commission in the state of Assam. The researcher wants to focus on the role played by the Commission for the promotion and protection of human rights in Assam. The Present study analyzes the working of the Assam Human Rights Commission regarding its efficiency in raising public awareness for promotion and protection of human rights, its mechanism, social response, disposal of human rights violation cases, awards, and recommendations. How far the commissions remain successful and what are its shortcomings are the core issues of this research paper. creating a culture of protection and promotion of human rights throughout the state is a primary objective of the commission. The commission can spread human rights literacy, inquire about the complaints filed before it, visit the jail to monitor its condition, undertake and promote research in the field of human rights, Assam Human Rights Commission should play an effective and accountable role in the promotion and protection of human rights which can save the state from violation of human rights.

The General Assembly of the United Nations adopted the Universal Declaration of Human Rights on 10th December 1948. The Government of India enacted, ‘The Protection of Human Rights Act’ in 1993. Assam Human Rights Commission was established on 19th March 1996 under section 21 of the Protection of Human Rights Act 1993.

While dealing with the human rights violation case, Assam Human Rights Commission skillfully carrying out the duties assigned by the Protection of Human Rights Act 1993, cases forwarded by the National Human Rights Commission as well as per the Assam Human Rights Commission (Procedure) Regulation 2001 as amended on 2014.

The researcher, during the investigation, found that the officers of other state human rights commissions and representation of different organizations speak high about the functioning of the Assam Human Rights Commission. The commission also remains successful in

building public awareness arranging awareness programme in the different districts of Assam.`

The Assam Human Rights Commission has been rendering valuable service to the state of Assam in curbing human rights violations.

Unlike court, the function of the commission is very simple transparent, and speedy. One can file a complaint without paying any court fees and without strict proof of the Evidence Act.

The commission has forwarded its recommendations to the government of Assam either for granting immediate interim relief or for initiating departmental proceedings to the erring persons or authorities.

The Assam Human Rights Commission, at present overburdened with human rights violation cases, jail visits and hospital visits, conducting seminars, bench sitting, observation of human rights day and organize human rights awareness programmes.

It is observed that, before the amendment of the Human Rights Act 2019, due to the non-availability of retired chief justice the post of the chairperson of AHRC remains vacant from 2016 to 2nd May/2018.

Police and other government department are the main violators of human rights in the state of Assam. It is the responsibility of the state to ensure that human rights are not violated either through an overt act or through abetment or negligence. It is a clear and emerging principle of human rights jurisprudence that the state is responsible not only for the acts of its agents but also for the acts of non-state players acting within its jurisdiction. The state is, in addition, responsible for any inaction that may be caused or facilitate the violation of human rights.

This study reveals that the Assam Human rights Commission played its effective role quite efficiently and has always upheld the basic principles of human rights by promoting, protecting, and implementing human rights. The commission has investigated several cases

involving serious human rights violations recommendations are submitted to the government of Assam suggesting measures to curb such human rights violations. However, the work of the commission is yet to go a long way for satisfactory heights. Hence some valuable suggestions are forwarded by the researcher to ensure the efficacy and efficiency of the Assam Human Rights Commission. It is expected that suggestions forwarded by the researcher will strengthen the workings of AHRC so that people can live with dignity and honour in society.

Keywords- Human Rights, Promotion and Protection, NHRC, AHRC, Violation, Social response, Effective, Curb, Implementation, Execution, Researcher.



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CERTIFICATE OF THE SUPERVISOR

This is to Certify that, the thesis titled “Role of Assam Human Rights Commission in Promotion and Protection of Human Rights- A Critical study”. Submitted to National Law University and Judicial Academy, Assam in part fulfillment for the award of the degree of Doctor of Philosophy in Law is a record of research work carried out by Mr. Abdul Kuddus under my supervision and guidance.

All help received by him from various sources has been duly acknowledged. No part of this thesis has been submitted elsewhere for the award of any other degree.

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Almighty is omnipotence, he knows everything, without his knowledge and permission nothing is possible in this world. He has created the whole world without any name of any country and his whole earth is not demarcated, almighty is the sole owner of the earth. But we the people have divided his earth into hundred divisions and demarcated as we like. I do hereby acknowledge with my holy heart the pure blessings of Almighty “Allah” and his Prophet (PBUH).

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ABBREVIATIONS

AHRC=Assam Human Rights Commission.

AI= Amnesty International.

AIR= All India Reporter.

AFSPA=Arms Forces Special Power Act.

AMCH=Assam Medical College& Hospital.

APWD=Assam Public Works Department.

CMLJ= Civil and Military Law Journal.

CESCR= Committee on Economic, Social, and Cultural Rights.

CCL= Child in conflict with the law.

CNCP=Child in Need of Care and Protection.

CEDAW= Conference on the Elimination of All Forms of Discrimination against Women.

CRC= Committee on the Rights of the Child.

DFN- Declared Foreign National.

ECOSOC=Economic and Social Council.

FR= Fundamental Rights.

FIR=First Information Report.

FT= Foreigner's Tribunal.

GMCH=Guwahati Medical College & Hospital.

HRC= Human Rights Commission.

Infra=Bellow or see later.

ICC=International Criminal Court.

ICCPR=Internal Covenant on Civil and Political Rights.

ICHR= International Covenants of Human Rights.

Ibid=Ibidem; in the same place of work but different place.

Id=idem; the same footnote.

i.e.=That is.

ICJ= International Court of Justice.

IJIL= Indian Journal of International Law.

ILR= Indian Law Report.

ICESCR= International Covenant on Economic, Social, and Cultural Rights.

IAY- Indira Awas yojana

IO = Investigating officer.

IHR=International Human Rights.

JMFC= Judicial Magistrate First Class

NGO= Non-Government Organization

NHRC- National Human Rights Commission

NGO= Non-Government Organization.

OHCHR=Office of the United Nations High Commissioner for Human Rights.

PHRA—Protection of Human Rights Act 1993.

PGDHR=Post Graduates Diploma in Human Rights.

PUCL= Peoples Union for Civil Rights.

PIL=Public Interest Litigation.

PWD=Public Works Department.

RTI=Right to Information.

SHRC=State Human Rights Commission.

Supra=Mentioned earlier or above. (Used to refer to text already cited)

TMCH=Tezpur Medical College Hospital.

UTPs= Under Trial Prisoners.

UDHR= Universal Declaration of Human Rights.

UNHRC= United Nations Human Rights Council.

UNCHR=United Nations Commission on Human Rights.

UN=United Nations.

UNESCO=United Nations Educational Scientific and Cultural Organization.

WP (C) = Writ Petition (Civil)

TABLE OF CASES

A.D.M. Jabalpur v. Shukla A.I.R 1976.S.C 1207.

Ajoy Hasia v. Khalid Mujib A.I.R 1981 S.C 487.

A.K. Gopalan v.State of Madras A.I.R 1950 S.C 27.

Anwar v. State of Jammu and Kashmir. A. I. R 1971 S.C 337.

Birma v. the State of Rajasthan. A.I. R 1951 (Rajasthan) 127.

Chairman Railway Board and others v. Chandrima Das A.I.R 2000(1) SC 280

Deoraj Khatri vs. State of Bihar A.I.R 1981 SC 928.

D.K Basu v. State of West Bengal A.I.R 1997 S.C 610

Francis Coralie Mullin V. The Administrator Union Territory of Delhi A.I.R 1981 S.C. 746.

Golak Nath v. State of Punjab A.I.R 1967 SC 1643.

Hans Muller of Nurenburg v. Superintendent presidency Jail Calcutta
A.I.R 1955 S.C 367.

Hussainara Khaton V. Home Secretary, Bihar A.I.R 1979.

J.P Unnikrishnan and others v. The State of Andhra Pradesh .A.I.R1993SC645

Jolly George Varghese v. Bank of Cochin A.I.R 1980 SC470-474

Keshavananda Bharati v. State of Kerela A.I.R 1973 SC 1461

Kharak Singh v. State of Uttar Pradesh A.I.R 1963 S.C 1295.

Louse De Raedt v. Union of India SCC 1991,3, 5549

Maneka Gandhi v. Union of India A.I.R 1978 S.C 597.

National Human Rights Commission v. State of Arunachal Pradesh and another, (1966) 1
SCC 742.

Paramanda Kataria v. Union of India A.I.R 1989(4) S.C 286

Rudal Shah v. State of Bihar A.I.R 1983 S.C.1986.

State of Arunachal Pradesh v. Khudiram Chakma 1994, 3, S.C.C.554.

Sheela Barse v. The State of Maharashtra A.I.R1983SC 1514.

State of West Bengal v. Subodh Gopal Bose A.I.R.1954 SC 92

Shiv Kumar Sarma and others v. Union of India A.I.R 1968 Delhi 65

Sathwant Singh Sawhney v. D.Ramnathan, Assistant Passport Officer, New Delhi. A.I.R 1950 SC 2713.

Sheela Barse v. The State of Maharashtra A.I.R 1983 SC1514

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CHAPTER – 1
INTRODUCTION

CHAPTER-1

1.1. INTRODUCTION

All the rights without which one cannot live as human beings are generally be understood as human rights. The Rights of every human being should be protected and respected without considering religion, caste, sex, and place of birth. Theories, rules, guideline constitutional provisions, and directions given by Honourable Supreme Court and High Courts and their ground reality should not be different. The concept of human rights has acquired a prominent place in the contemporary legal and political debate today.¹

The roots for the protection and promotion of rights may be traced as far back as in the Babylonian laws.²

All of us belong to one family, i.e., mankind. Every member of our family has the same fundamental and equal rights. Each of us is entitled to have these rights respected and each of us has a responsibility to protect these rights for all others. Differences of religion, caste, race, sex, language colour, and place of birth do not change these rights, everyone regardless of who they are and what they do and think is born with human rights.³

Human rights are moral claims which are inalienable and inherent in all human individuals by under of their humanity alone. India being the motherland of many cultures and civilizations is a great and old champion of the struggle to preserve, protect and promote human rights. Saints the Bhakti movement championed the cause of dawn trodden. The Writings of Kabir, Ravidas, and Sikh Gurus focus on the promotion of human rights especially those of the lower and weaker sections of the society.⁴

¹Prof (Dr.) J.S Patil, *Jurisprudence of Human Rights*, 2 NLUALPR 11, 2016.

²H.O. AGARWAL, HUMAN RIGHTS, 9 (13th ed. 2011).

³ K.V. RAVIKUMAR, PROMOTION AND PROTECTION OF HUMAN RIGHTS , 1(1st ed. 2011)

⁴ O.P. CHOUHAN AND LALIT DADWAL, HUMAN RIGHTS PROMOTION AND PROTECTION, 6 (1st ed. 2004).

Law which was structured on the philosophy of Dharma in ancient India did not have much scope for religious discrimination.⁵

According to the Upanishad, Dharma is the foundation of the whole universe, through which one can drive away evil.⁶ Righteousness has been described as the essence of Dharma in the Bhagavad-Gita.

Ancient India was not indifferent about human rights jurisprudence. In Rig Veda, there is a reference to what we call today –the civil liberties of Tana (body), Skridhi (dwelling house), Jibasi (life). Vedas Ramayana and Mahabharata all the holy epics show the deep commitment and faith towards justice. Equality and respect for human dignity are the main insisting features of all the four Vedas.⁷

The present-day Human Rights movement is the result of horrifying and traumatic world war 2nd. The Charter of the United Nations Organization was adopted in 1945. This was followed by the promulgation on 10th December 1948 about the Universal Declaration of Human Rights by the UNO General Assembly.

Article 15 (2) of the constitution of India which is a command to promote and protect human rights states as-- “No citizen shall on grounds only of religion, race, cast, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition about concerning --

Access to shop public restaurants, hotels, and places of public entertainment or

The use of wells, tanks, bathing Ghats, roads, and places of public resort maintained wholly or partly out of the state funds or dedicated to the use of the general public.⁸

Ground research revealed that discrimination in the name of religion, race, cast, place of birth becomes the main weapons of human rights violation, Nontolerance is another

⁵DHIRENDRA K. SRIVASTAVA, RELIGIOUS FREEDOM IN INDIA, 25 (1st ed. 1982).

⁶A.S. ALTEKAR, STATE AND GOVERNMENT IN ANCIENT INDIA, 51 (2nd ed. 1985).

⁷ CHOUHAN & DADWAL. Supra note 4 at 5

⁸INDIA CONST. art.15, cl. 2.

element that also contributes much more in violation of human rights that brings unrest and enmity an anti-thesis of human rights.

Human Rights are those minimal rights that are available to every human being without discrimination of language, religion, sex, caste, nationality, and social and economic conditions in the society. The values of dignity and equality of all members of the human race, like many other basic principles what we today call human rights.⁹

Promotion & Protection of human rights is the sine-qua-non for the survival of humanity. Huge numbers of legislations from the International level to the national level shall be valueless if there will be no mechanism for promotion and protection of Human Rights. Promotion & Protection of human rights is the prime duty of every state authority.

The concept of human rights is based on the assumption that human being is born equal in dignity and rights. It is as old as the original doctrine of natural right founded on Natural Law. The expression of human rights is of a recent origin and has emerged after the Second World War.

Human rights are those fundamental inherent rights without which one cannot live as a human being and protection and promotion of human rights are two active pillars to save from violation of human rights.

Human rights are some important rights that every human being possesses by under being a human. Gandhi's techniques and practices fully reflect the fundamentals of human rights. The evils were racialism, imperialism, communalism, and untouchability. Fight against injustice, tyranny, and oppression. The spirit of human rights in Gandhian thinking and values is not restricted merely to the uses of the term human rights.¹⁰

All over the world, the Promotion and protection of human rights have been one of the main objectives of the UN and its member nations, while violation of human rights has

⁹S.C. SINGHAL, HUMAN RIGHTS, 1 (4th ed. 2014).

¹⁰ RACHNA SARMA , PROTECTION AND PROMOTION OF HUMAN RIGHTS (EDITED BY-SHASHI K. SARMA, PARAMJIT JASWAL & DEVINDER SINGH) 342 (1st ed. 2010)

been the main cause of concern of this world body, human rights commission, judiciary, and civil society. The 21st century 'Human Rights' had occupied the most important place in every major socio-political decision/discussion of human civilization.

For the last 73 years (since the UDHR, 1948) the issue has been the focused area of human civilization. Although in respect of promotion and protection of human rights, a huge number of treaties have come into existence but at the same time violation of human rights by the state and non-state entities is an open secret. Slowly, but gradually a consensus is emerging across the world for the protection of human rights, but at the same time violation of human rights is still a big issue and it is taking a different dimension throughout the world.

The cases of human rights violations are more peculiar in third-world countries including India. Promotion and protection of human rights is a distant reality, despite all the constitutional and legal provisions and promises, the governments are unable to protect even the constitutional and legal rights. Hence it is high time that academia should not only involve in active discussion regarding the theme of the issue but should also come out with some concrete suggestions for ameliorating a lot of common human beings. Now it is high time to have a fresh look and analyze the functioning and role of the various bodies of the state like police, human rights commissions, and their adaptability. The state machinery should review its activities and try to find out whether it has succeeded in public awareness and culture of human rights among the various organs of the state which are responsible for the promotion and protection of human rights.¹¹

The urge for the protection and promotion of human rights emanated out of the gross violations preceding and during the two world wars of the century. The protection of human rights was one of the aims of the allies in the Second World War and it was translated into the reality that only international protection and promotion of human rights could achieve international peace and progress.¹²

¹¹ K.V. RAVIKUMAR, PROMOTION AND PROTECTION OF HUMAN RIGHTS . 9-37 (1st ed. 2011).

¹² Id at 50

Assam Human Rights Commission has been working for the promotion and protection of human rights in the state of Assam Since 1996. The object of this present research work is to highlight the workings of the Assam Human Rights Commission in the promotion and protection of human rights and to analyze its success and failure, finding out its weakness by focusing light on the grey area.

1.2. Meaning and definition of Human Rights –

Human rights refer to the rights of every person to live a dignified life without facing any discrimination bases on religion, gender, caste, race, or country.

In a general sense, human rights denote the rights of human beings. However, in a more specific sense, human rights constitute those very rights that one has precisely because of being a human being. Moreover the usage of the term “Human Rights” also reveals their source i.e. Humanity, Nature, being a person or human being.¹³

Human Rights are the natural-born rights for every human being universally. These are those basic standards without which people cannot live a dignified life.¹⁴The evolution of the concept of ‘Natural Rights’ claimed to be inherent, inalienable, immutable, whether justifiable or non-justifiable, positive or negative, against the state or any other authorities.

The important rights of all human beings related to freedom, equality, and dignity and which are conducive to their social, physical, moral, and spiritual welfare are human rights.¹⁵

Three generations have passed in the journey on the road of human rights. The first-generation of human rights as developed in the 17th and 18th centuries were civil and political rights. The second generations of human rights were an economic, social, and cultural right which includes rights to education, food, and medical care. Third generations of human rights are Collective rights which refer to a fraternity or universal brotherhood.

¹³ H.O.AGARWAL, INTERNATIONAL LAW AND HUMAN RIGHTS 706-707 (15st ed. 2008).

¹⁴Ravikumar, supre note 3 at 9.

¹⁵ U. CHANDRA, HUMAN RIGHTS 1-3(6th ed.2005)

According to Subhash C. Kashyap, human rights are those “fundamental rights to which every man inhabiting any part of the world should be deemed entitled under having been born a human being.”

Human rights are those minimal things without which it is impossible to develop one’s capabilities and to have life as a human being- that is human rights are moral entitlements possessed only by persons.¹⁶

Cranston asserts human rights by definition is universal moral rights, something which all people, everywhere at all times, ought to have, something of which no one may be deprived without grave affront to justice, something which is owing to every human being simply because one is human.

In some relevant sense, human rights are those moral rights whose moral grounds and generating factors are the same.¹⁷

“Human rights are opportunities guaranteed by the state to its citizens to enjoy the societal benefits and values existing in the given society” –Vladimir Kudrygutse¹⁸

Freedom, justice, peace, and order in the society ensure the promotion and protection of human rights with equality, dignity, and respect for each person.¹⁹

Human rights are sometimes called fundamental rights or basic rights or natural rights. As fundamental rights, they are those which must not be taken away by any legislation or an act of government and which are often set out in a constitution. As natural rights, they are seen as belonging to men and women by their very nature. They can also be termed as “Common Rights” for they are rights which all men and women in the world should share,

¹⁶ MAYA HERTIG RANDALL, RESEARCH HANDBOOK ON HUMAN RIGHTS AND HUMANITARIAN LAW ,(ROBERT KOLB AND GLORIA GAGGIOLI,EDWARD ELGAR) 3-7 (1st ed. 1970).

¹⁷ Id at 9

¹⁸ BHANWAR LAL HARSH, HUMAN RIGHTS LAW IN INDIA ,2 (1st ed, 2008)

¹⁹ Id

just as the common law in England, for example, was the body of rules and customs which, unlike local custom, governed the whole country.²⁰

Being a member of the human family, man has the right to be treated as human, also reveals their sources humanity, nature, being a person or human beings.²¹

Louis Henkin, a professor, and western scholar defined human rights as “claims asserted and recognized as of rights against society as represented by governments and its official.”

Rights which are 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 are Human Rights.²²

The core principles of human rights are to establish equality, justice, and peace in the world. Without discriminating geographical separation, religion, caste, sex, black and white, rich and poor.

According to Manu’s thinking, As the earth supports all living beings king of a country should protect and support all subjects without any discrimination.²³

“ In the happiness of the subjects’, says Kautilya, “ lies his happiness, in their welfare his welfare, whatever pleases himself he shall not consider as good, whatever pleases the subjects he shall consider as good.”²⁴

Promotion and protection are two holy words which is the most important accountability of the state.

1.3. Promotion and Protection of Human Rights:-The term ‘promotion of human rights means the setting of international standards of human rights, education, and dissemination.

²⁰ O.P CHAUHAN & LALIT DADWAL, HUMAN RIGHTS PROMOTION AND PROTECTION, 2 (1st ed. 2004)

²¹ Id.

²²The Protection of Human Rights Act, 1993.Section 2(d), (Act 10 of 1994).

²³ KAUTILYA, THE ARTHASHASTRA,70-78(R.N.RANGARAJAN,PENGUIN BOOKS,1992)

²⁴ Id.

Human rights and its promotion and protection under the U.N charter rests in the General Assembly, on the Economic and Social Council, and its subsidiary body.- Human Rights Council. The General Assembly by adopting treaties has set a standard and socializes into those standards. Holding conferences and seminars to spread the world about human rights values founds in these international documents are also included in the promotion of human rights.²⁵

Protection of human rights means implementation and enforcement action among all agencies of the United Nation. Only the Security Council and International Court of Justice can engage in enforcement action. Only they have the competency to pass a binding resolution or issue a binding judgment. Enforcement is thus the authoritative application of human rights. When a UN agency approves a resolution calling on a specific state to take specific human rights activities, it is considered to be general political pressure on the target and thus an effort to protect and not just promotion.

The Promotion and protection of human rights remain a sole issue in the constitution of India. Article 16 of our constitution reads as – “Equality of opportunity in matters of public employment.”²⁶

Assam Human Rights Commission was formed on 19th March 1996 since its inception the Commission has been working for the promotion and protection of human rights in the state of Assam to establish rule of law and justice.

1.4. Statement of the problem.

After completing Two Years Post Graduates Diploma in Human Rights (PGDHR) from the Indian Institute of Human Rights New Delhi, the investigator’s keen interest is to contribute something substantial about human rights. As the state of Assam has a human rights commission, researcher after conducting preliminary investigation decided that Assam Human Rights Commission warranted an immediate inquiry and research for

²⁵ Agarwal, Supra Note 2 at 24.

²⁶ . INDIA CONST, art. 16.

examining, evaluating, and understanding the proper functioning of the Commission as per “The Protection of Human Rights Act” 1993 and Assam Human Rights Commission (Procedure) Regulations 2001 (Amendments) 2014.

Under section 21 of the Protection of Human Rights Act 1993, Assam Human Rights Commission was established on 19th March 1996. But the commission has not been working so efficiently as per the requirement and expectations of the people. And another problem is that the commission has no executory powers, so it seems that nobody fears the Commission, and repetition of human rights violations is going on.

Chronology and history of human rights violations in the state of Assam such as –police excess, mob lynching, witch hunting, custodial death, illegal detention of foreigners, human death in a manhole, medical negligence, etc. inspire the researcher to undertake this research work. This study analyzes the working procedure in respect of AHRC. Hence, the researcher has selected the instant study which is titled “Role of Assam Human Rights Commission in promotion and Protection of Human rights – A critical study “

1.5. Objective of the study.

The following objectives have been identified for the present study-

- a). To study the human rights provisions of human rights documents.
- b). To study the provisions of human rights in the Indian constitution.
- c). To study the origin, development, role, functions, and activities of The Assam Human Rights Commission
- d). To critically analyze the responses of the victims of human rights violations.
- e). To evaluate the efficacy and weakness of the Commission and to propose some effective suggestions.

1.6. RESEARCH QUESTIONS –

The researcher while undertaking this research work considered the following questions which are prepared as follows-

1. Whether the role of the commission in the promotion and protection of human rights, is effective?
2. Whether Assam Human Rights Commission is an efficient body for the protection of human rights violations in the state of Assam?
3. What are the measures taken by the Commission for the protection of human rights?
4. How the Commission has been workings for the protection and promotion of human rights?
5. How does the commission remain successful in curbing human rights violations in the state of Assam?
6. What are the activities performed by the Commission in regards to public awareness of human rights?
7. Whether the investigation cell of the commission is adequate and efficient to meet the requirements of prompt investigation to find out the outcome?
8. Whether victims of human rights violations are satisfied by the working of the commission?
9. whether erring person or authorities of human rights violation punished as per provision of law?
10. Whether the commission disposed of the human rights violation cases within the required time?

11. Whether the recommendation forwarded by the commission has complied with the competent authority?

12. Whether due to lack of executive power the commission seems to be a weak institution?

1.7. Hypothesis.

The hypothesis for the present investigation formulated by the researcher is-

“The role of Assam Human Rights Commission in dealing with the promotion and protection of human rights in the state of Assam is effective.”

1.8. Methodology of the study.

In the present investigation, the investigator has adopted the doctrinal, empirical, Case study method and analytical method.

The researcher has adopted both qualitative and quantitative methods in the present research.

During the collection of data in respect of activities of the Assam Human Rights Commission, the researcher has carried out extensive empirical research for various case studies in the office of the Assam Human Rights Commission.

The researcher also applied the interview method interacting with the Hon’ble Chairperson T.Veiphei, Retired Chief Justice, of Tripura High Court at the office of the Assam Human Rights Commission on 29/10/2019.

The observation and questionnaire method is also adopted by the researcher for this study. A schedule consists of a form containing a series of questions that were asked by the researcher to the Deputy Secretary, Assam Human Rights Commission, and collected on 28/08/2020.

As a source of the present research, the researcher has also relied on Acts, Regulations, Statutes, decided case laws of the Supreme Court of India, leading judgment, and reports.

The sources of materials comprise various books, annual reports, and Newsletters of Assam Human Rights Commission, journals. Newspapers, periodicals, and websites.

In this study, the focus has been given to the functional aspect of the Assam Human Rights Commission. An attempt is made to examine, analysis and inquire about several human rights violation cases taken up by the commission for this present study.

International instruments, relevant case law, literature of eminent personalities, governmental and non-governmental organization's documents, and internet sources are also taken into consideration. An empirical, as well as a doctrinal method, has been employed to substantiate the hypothesis.

For the unique footnoting style, the researcher adopted 'The Harvard Bluebook 19th edition' in the whole thesis.

1.9. Sources of the study.

The present research work has two sources-- one is primary another is secondary.

Primary sources

- a). The Universal Declaration of Human Rights.
- b). The International covenant on Civil and Political Rights.
- c). The International Covenant on Economic Social and Cultural Rights.
- d). The constitution of India.
- e). The protection of the Human Rights Act 1993.
- f). Newsletters and Annual Reports of The Assam Human Rights Commission.
- g) Assam Human Rights Commission (Procedure) Regulations.2014.

Secondary sources.

- a). Publication of the United Nations And the UNESCO.
- b). Reports of Newspapers and journals.
- c). Published works on Human Rights.

1.10. Significance of the study.

Human rights violation is a heinous crime against society and humanity, which is one of the worrying problems of civilization. Human rights violations have been taking place continuously in a systematic manner by different stakeholders. Human rights are violated in case of arbitrary arrest, illegal detention, booking people in a false case, illegal raiding, fake encounter, Mob lynching, communal violence killing of innocent people and burn dawn of place of worship, police harassment in the name of religion, criminal conspiracy against any community to refrain them from employment and development, the communal speech of the political leader, depriving of the deserving candidates from service considering his religion, caste, place of birth and false presumption about citizenship, etc.

Today we need a strong society based on the fundamental principles of all acceptances of human rights. Therefore promotion and protection of human rights is the sine qua non for the proper development of the human personality. Hence this study has special significance.²⁷

The Assam Human Rights Commission has investigated many human rights violation cases including Inhuman and degrading torture by police, custodial death, custodial rape, police violence against civilians, atrocities against vulnerable sections of the society. And environmental pollution-related cases.

A new horizon started on 19th March 1996 with the establishment of the Assam Human Rights Commission under the provision of The Human Rights act 1993. To date, none have

²⁷ K.V. RAVIKUMAR, PROMOTION AND PROTECTION OF HUMAN RIGHT, 4-5 (1st ed. 2011).

been undertaken studies in the present title. Hence this present research work bears special significance.

1.11. Scope and limitation of the study.

The scope of this present study is to critically study the Role of the Assam Human Rights Commission in the promotion and protection of Human rights in the state of Assam which is an exhaustive study. Though the focus will be given to the entire workings of the Assam Human Rights Commission, This research study shall cover the period from 2012 to 2019 in particular. The researcher examines the responses received from different stakeholders of human rights protection and victims of human rights violations. The study also examines the activities of the Assam Human Rights Commission. The researcher evaluates the performance of the Assam Human Rights Commission.

The researcher has taken into consideration the issues of human rights, their concept, and evolution from a global perspective. The researcher wanted to include information about Assam Human Rights Commission and human rights in its extensive form. Human rights awareness program, observation of human rights day, and visiting of observation home and jail which are included in the workings of Assam Human Rights Commission are also the major scope of this study.

The present research work is marked by certain limitations.

The present study is limited to only Assam Human Rights Commission, it does not include activities of the National Human Rights Commission and does not make any comparative study of Assam Human Rights Commission with other state human rights commissions. Best upon the convenience the researcher adopted the particular period from 2012 to 2019 for the present study.

1.12. Literature review

In this section, with a motto for examining the different thinking as adopted by the thinker, scholars, and human rights experts an attempt is made to review the literature. Only the relevant pieces of literature are briefly presented as follows-

Books, Acts, Regulations, and other materials-

Protection and Promotion of Human Rights in India is a book edited by Prof. Shashi K. Sharma, Prof. Paramjit S. Jaswal, and Dr. Devinder Singh. (Published by, Central Law Publication, Allahabad, 1st ed. 2012). In this book author Dr. Balram K. Gupta in his topics 'The Changing Universe of Human Rights', discussed that human rights are as old as humanity, from Manu Smiriti to Magna Carta, the French revolution to the American Declaration of Independence, and from the Universal Declaration of Human rights to The Protection of Human Rights Act, all are a journey of human rights. In this book authors Amit Kumar Kashyap and Nishant Gehlot in their topics 'Violation Against Women, Human Right, Labour Law and Punitive Perspectives' categorized human rights violations as –physical violations, psychological hostility, financial cruelty, sexual violence, spiritual exploitation, and sexual harassment in the workplace. Author Dr. Gita Joshi in her topics 'Human Rights and Terrorism- an Overview', discussed that security of the individual is a basic human right and protection of individuals is accordingly a fundamental obligation of Government. It is also discussed that the promotion and protection of human rights for all and the rule of law is essential to all components of the strategy, recognizing that effective counter-terrorism, measures, and the promotion of human rights are not conflicting goals, but complementary and mutually reinforcing. In the topics 'Human Rights Development and the role of Judiciary' author, Sangeeta Taak discussed that human rights include civil and political rights, such as the right to life and liberty, freedom of expression, equality before the law, social-cultural and economic right, the right to work and right to education. Author Manpreet Kaur in his topic 'Right to Information The basic Human Right' pointed out that the right to information makes human rights more meaningful. The investigator finds this book very helpful and relevant in this present research.

Dr. S.C. Singhal in his book **Human Rights**, (Published by, Lakshmi Narain Agarwal, Agra, 4th ed. 2014-15) has discussed the human rights of 1st generation- civil and political rights, The human rights of 2nd generation- Economic, social and cultural rights and The human rights of 3rd generation- collective rights, fraternity, and brotherhood. The author has given stress upon 1st, 2nd, 3rd generation human rights and also mentioned the establishment of the National Human Rights Commission and its powers and functions. Historical development of human rights in India and UDHR are also discussed by the author. It deals with the concept of human rights and human rights and UNO. Some landmark development in the concept of human rights such as –Magna Carta 1215, the American Declaration of Independence 1776, The French Declaration 1789, The Bolshevik Revolution in Russia 1917, which helps the researcher to gather relevant information on the research area.

Indian Institute of Human Rights initiates Study material of 2 years Post Graduate Degree in Human rights, **ABC of Human Rights** (Green Gate, A-50, Paryavaran Complex, South of Saket, Maidamgarhi Marg, New Delhi, 110030) discussed UDHR 1948 article 1-30 and Declaration of the Rights of the Child 1959, it also deals with what protection is there for individuals and groups who work to secure the promotion and respect of human rights. But investigator has not found a protection Mechanism. The author also discussed human rights thinking, human rights teaching, and human rights literacy. The material helps the researcher in the present research.

O.P. Chouhan and Lalit Dadwal in their book **Human Rights promotion and protection**. (Published by, Anmol Publication Pvt. Ltd, New Delhi, 2004), discussed State Human Rights Commission its establishment, powers, and functions of the State Human Rights Commission which is related to the present research work. The authors also stated that India is a vast and pluralistic country the redress of grievances must be swift and near to home, the state-level commission would accord quicker access to a decentralized complaint redressal mechanism and would also help aggrieved parties. It is further discussed that the state should promote and protect human rights and redress grievances, thus much time energy and money can be saved and better services rendered if state-level Human Rights

Commission is established, to keep a constant vigil on actions that led to violation of human rights related to any of the enumerated in List II and List III of the seventh schedule of the constitution. The book enables the researcher to analyze the role of AHRC.

The researcher reviewed, **The protection of Human Rights Act 1993** (Act No. 10 1994), In the introductory part of this act it is stated that every individual must have some rights against the state or other public authority by his being a human member of the human family and such rights are called human rights.

This act discussed the constitution of The NHRC, appointment of chairman and other members, term of the office, function, and powers of the commission, etc. Constitution of the State Human Rights Commission is discussed U/S 21 of this Act. Chapter VI of this act discussed Human Rights Court and the Special public prosecutor. Another important piece of information disclosed in Chapter- V of this act is section 29, which reads as “the provision of sections 9, 10, 12, 13, 14, 15, 16, 17, and 18, shall apply to a state commission with some modifications”. The act proves it’s all in one material and the act helps the researcher to gather full information on the research area.

Dr. K.V. Ravi Kumar in his book **Promotion and Protection of Human Rights**. (Published by, Kanishka Publishers, Distributors, New Delhi, 2011), the author stated in the introduction of the book that, all of us belong to one family, i.e, mankind. ‘All human rights for all, and the whole world is one family are the concept which has depended on the expanded meaning of human rights. Contents 2- of this book “The evolution of human rights in India” (Page 9-45) discussed the origin and evolution of the concept of human rights, the global scenario of human rights such as English American and French experience of human rights. The author in contents No. 4, topics-“The Supreme Court of India and the Protection of human rights” (Page-83-161) discusses writ jurisdiction of the Supreme Court of India and different High Courts of India wherein through different decided cases of human rights violation endeavors to uphold promotion and protection of human rights for mankind. conclusion suggestion and a recommendation forwarded by the author are relevant. The book is of great help for conducting the present research work.

Dr. H.O. Agarwal in his book, **Human Rights**, (Published by, Central Law Publications, Allahabad, 13th ed. 2011) discussed in the heading of “Sub-Commission on Promotion and Protection of Human Rights” that under the authority of ECOSOC Resolution 9(11) of June 21, 1946, The sub-commission on the protection of minority was established to make studies and recommendations to the commission concerning the prevention and discrimination against racial, religious and linguistic minorities, the name of sub-commission was changed to sub-commission on the Promotion and Protection of Human Rights on 27th July 1999 by a decision of the Economic and Social Council. The Subcommission studies discrimination in education, discrimination in employment and occupation, discrimination in the matter of religious rights and practices, discrimination in the matter of political rights, discrimination on equality in the administration of justice, and also racial discrimination in the social, political, economic and cultural sphere. The author also stated that all mandates, mechanisms, functions, and responsibilities of the sub-commission were assumed as of 19th June 2006 by the Human Rights Council. It is also discussed that the General Assembly on 20th December 1993 created the post of UN High Commissioner for Human Rights to promote and protect the effective enjoyment of all civil, political social, and cultural rights. The book also narrated that the 1st International Conference on Human Rights was held in Tehran (Iran) from April 22 to May 13, 1968, and the 2nd world conference on Human rights was held in Vienna from 14th June to 25th June 1993. The book helps the researcher in the present research to collect relevant information for the research area.

Promotion and protection of Human Rights and prevention of its violation is a Study material of 2 years Post Graduate Degree in Human rights (Published by Indian Institute of Human Rights, Green Gate, A-50, Paryavaran Complex, South of Saket, Maidamgarhi Marg, New Delhi, 110030) the book discussed the promotion of human right globally. It is mentioned in the book on Page -1 that about 70 human rights treaties and declarations have been negotiated under the guardianship of UNO to promote human rights. On page No.100 human rights offenses are categories as Genocide, Official racism, large-scale official terrorism, Totalitarian governance, deliberate refusal to satisfy basic human needs, Ecocide

and War Crime. In this book, the author discussed all human rights violations which are generally violated by state authority and other stockholders. Promotion of human rights discussed from page No-7-28 and protection of human rights discusses from page No-29 - 42. The study materials help the investigator to proceed with the research topics.

The investigator also reviewed **Assam Human Rights Commission (Procedure) Regulation, 2001** Amendment, 2014. This regulation book in the Bible for Assam Human Right Commission, wherein it is stated that in the exercise of the power conferred by the subsection (2) of section 10 read with section 29 of the Protection of Human Rights Act 1993, the Assam Human Rights Commission hereby makes the regulations. The regulation briefly discussed the procedure of dealing with complaints. The regulation also interpreted matters like Headquarters of the Commission, Venue of meeting and sitting, Investigation team, cause list, recording of orders notice, summon and procedure for his working are discussed.

The Assam Human Rights Commission (Procedure) Regulation -2001, Amended 2014 helps the researcher to prepare chapter No-III of the research work.

Dr. H. O. Agarwal in his book, **International Law and Human Rights**, (Published by, central Law Publication, Allahabad, 15th ed, 2008) systematically discussed the evolution of human rights at the international level. (Part II of the book, Chapter 55-65, Page 707-942), the author throws light on them, the International covenant on human rights, the International covenant on the inhuman act, vulnerable groups. The author also discussed the state human rights commission evaluating the that for million wanting people no human rights commission howsoever effective it might be can provide food, shelter, clothing, education and health facilities, it is the utmost duty of the Government to provide the basic human rights which are essential for the protection of human rights and promotion of human dignity. The author further fees it is necessary that the state human rights commission is required to encourage the private sector to promote human rights by the print and electronic media. The strong will and determination of the commission will certainly

move human rights a great success. This book is of great help to the researcher to develop the extensive idea.

Human Rights is a book written by Dr. Abidur Rahman (Published by, Ashok Publication Panbazar, Guwahati,2016) the author on pages 252-260 discussed Assam Human Rights Commission (AHRC). The author narrated that The Governor of Assam applying the power conferred U/S 21 (1) of the PHRA 1993, vide notification No. PLA.362/94/51 dated March 19, 1996, constituted a body known as Assam Human Rights Commission. The writer of this book also discussed the composition, appointment, term of office, venue of the meeting, power relating to inquiries, and annual and special reports. On page No. 257 the author described the working and role of the AHRC which is very informative for the investigator.

Dr. U, Chand in his book, **Human Rights** (Published by, Allahabad Law Agency Publication, 6th ed.2005) Stated in Chapter I (Page 1- 23) the origin and development of human rights with American and French revolution and three categories of human rights. Chapter II (Page 25-54) discusses United Nations and Human Rights the Universal wherein treaty monitoring bodies such as Committee on the Elimination of Racial Discrimination, Human Rights Committee, Committee against Torture, and Committee on Economic, Social, and Cultural Rights are also included. Chapter III (Page 55-181) emphasizes the right to life, liberty, and security of persons, abolition of slavery and compulsory labour, right to own property, freedom of opinion, association and to take part in the Government are main issues. Chapter IV (Page-182-213) covers all social and economic rights such as the right to work, right to education, right to health, and right to food, shelter, and culture. Chapter V (Page 214-265) contains the human rights of vulnerable groups including women, children, the disabled, the aged, and minorities. The rights of tribal and indigenous people are also in discussion. Chapter VI of this book (Page 267-308) is on enforcement of human rights and composition powers and functions of the NHRC of India. Constitution of state human rights commission and protection of action taken in good faith covers the discussion. Chapter VII (Page 309-341) the author pointed out the origin and development of international humanitarian law, this law uses in an abnormal situation causes by

international armed conflict or internal armed conflict, it has no application in the situations like internal disturbance, riots, and other violations. Chapter VIII (Page 242-363) is all about refugee law.

Law Relating to Protection of Human Rights is a book written by Dr. Awasthi & Kataria (Published by, Orient Publishing Company, New Delhi, 2nd ed. 2005 Reprint 2011). The book contains pages 1-1631, it includes XLII chapters and 37 appendixes. Chapter I discussed in detail the history of human rights, UDHR, Protection of Human Rights Act 1993, protection of life and personal liberty along with other important human rights agendas. Chapter II emphasis on Interpretation of statutes. Chapter III is about law terms and phrases and their uses in human rights. Chapter IV through light on human rights and disability. Chapter V discussed human rights and juvenile reformatory institutions. Chapter VI is an endeavor to discuss the crime against women and human rights Chapter VII focuses on the philosophy and object of reservation for scheduled caste. Chapter VIII is about Gender equality and human rights which advocates equal pay for equal work and equal protection. Chapter IX deals with a systematic discussion about air and water pollution and human rights. Chapter X is about terrorism, compensation to the victim, Chapter XI describes the communal riot and human rights. Chapter XII deals with human rights and journalism, In this chapter, the author describes the procedure and necessity of filing complaints about the publication of defamatory articles esteemed in Chapter XIII. Human rights and child prostitution and human rights and child exploitation are discussed in Chapters XIV & XV of the book. Chapter XVI is about Human rights and the right to speech and expression. In this chapter, the author also emphasizes protection in respect of conviction for offense and protection in respect of certain rights regarding freedom of speech. Chapter XVII, XVIII & XIX deals with Human rights and education, human rights and democracy, and human rights and advocacy. Chapter XX this book thoroughly discussed the freedom of religion and freedom to manage religious affairs. Chapter XXI stated about the voting human rights of prisoners in this chapter the author also elaborated about the prisoners to stand as a candidate to contest the election. Chapter XXII is about the role of the police vis-a-vis the Universal Declaration of Human Rights. The author stated

that police as law enforcement agencies should be accountable to the people. Human rights and the right of the hawkers to carry on their business are discussed in Chapter XXIII. The author in Chapter XXIV emphasizes the role of criminal courts and human rights, wherein crime against women, custody of children, family court, maintenance, and facilities to witnesses are in focus. Chapter XXV is on consumer protection issues wherein consumer redressal forum and its functions are elaborated. Chapter XXVI underlines the torture in police lock-up and death of accused in police custody due to 3rd-degree torture. The author also stated police harassment, illegal handcuffing, and its preventive measures. Chapter XXVII is on the human rights of prisoners in jail, writer tries to narrate the constitutional rights of prisoners, duties of the officers of prisoners, and the need for prison reformation. Chapter XXVIII pointed out the role of the judiciary and promotion and protection of human rights. The author stated that the spirit of justice is judicial activism. Chapter XXIX and Chapter XXX are an endeavor to focus on child marriage and child labour about human rights. In this chapter, it is pointed out that punishment for the male adult above and below twenty-one year marrying a child. Chapter XXXI defines the meaning of bonded labour and also pointed out the prohibition of trafficking of human beings and bonded labour. Chapter XXXII discussed the right to health and access to medical treatment for every human being. The author also focuses on medical malpractice, wrong diagnosis, and wrong treatment. Chapter XXXIII emphasis on inter-caste and inter-religious marriage and the protection of human rights. Chapter XXXIV is about the right to conceive and the birthright. The author examines that child in the womb of the mother is equal to a person in existence and children are supremely important assets. Chapter XXXV describes the universality of human rights and the universal acceptability of human rights. Chapter XXXVI is a summary of human rights elementary and intellectual property rights. The writer in Chapter XXXVII stated right to move freely with the indication that fundamental right of foreigner confined to article 21 only but does not includes right to reside and settle in the country. Chapter XXXVIII is about human rights and the right to life. The right to live with human dignity, right to privacy, right to shelter and hygienic conditions in work are some important issues of this chapter. Human rights and pre-censorship are the contents of Chapter XXXIX. The author in chapter XL stated about the compensation for doing various

negligence under sections 32 and 226 of the constitution of India. Public Interest Litigation its object, maintainability, and locus-standy are the core issues of chapter XLI. The last chapter XLII is about the rights of bail and human rights. The author discussed the grounds of anticipatory bail, cancellation of bail, and rejection of bail. Importance of plea of alibi in case of bail matter and condition of bail. The book proves oasis literature for the investigator in the present research work.

National Human rights Commission of India, Formation, Functioning, and the prospect is a book written by Arun Dey (Published by, Khama Publisher, New Delhi, 2nd ed. 2004) the writer in chapter I discussed the historical background, meaning, and definitions of human rights. The also through light on the Indian perspective of human rights and Indian constitution and human rights. In Chapter II establishment, structure, and status of NHRCis elaborated. The role, object, and achievements are narrated in Chapter III. The author in chapter IV (Page 508-511) discussed State Human Rights Commission and Human Rights Courts. The author stated in the book that the majority population of our country live in a rural area they are poor and illiterate so their rights are violated by the petty politician, landlord, money lender. Caste conflict, communal riots, dowry death, and social violence are also in society. The writer also discussed the army excess, custodial rape, and death, atrocities by police, degrading treatment upon prisoners.

Research Handbook on Human Rights and Humanitarian Law is a book edited by Robert Kolb and Gloria Gaggioli (Published by, Edward Elgar Publishing Limited, Cheltenham, UK,2013). In this book, author Maya Hertig Randal,¹ discussed that according to the traditional view, first-generation rights are negative rights, protecting life, bodily integrity, and individual freedom against state interference, freedom of speech, and freedom of belief. Second-generation rights are positive rights or welfare rights, they impose on the state the duty to provide for people's basic needs, freedom from war. Third-generation rights are group rights such as the right to development, clean environment, freedom from fear, self-determination, etc. In chapter 15 the author stated that the system of protection of human rights set forth therein shall apply at any time, in any place, and any situation due either to material disasters or riots and national or international armed conflicts. Part IV of

the book discussed the monitoring mechanism of human rights. All the chapters of this book help the researcher in writing the second chapter of this research work.

Human Rights in India, an analytical perspective is a book edited by R. N. Prasad (Published by Kanishka Publishers, Distributors, New Delhi, First published, 2011). The book contains 24 Articles. He authors in article No-16, “protection of Human Rights and Judiciary” underlines some important decided cases of the Supreme Court of India. In this book, the author on page no-304-311 discussed that promulgation of the Armed Forces Special power Act 1958 in some areas of Mizoram brought rampant violation of human rights of Mizos even looting of properties, forceful burning of houses by security forces, rape, and deplorable activities become common in Mizoram. The army did whatever they feel necessary. Harsh measures were taken in counter-insurgency to subdue Mizo National Volunteers. The author (C. Lalhmanmawia) of his contribution “Mizo National Front Insurgency, Counter Insurgency Measures and Human Rights” has narrated that in many instances villagers were forced to move out of their old dwellings at gunpoint as soon as the people left the place the army personnel ransacked the houses keep the valuables for themselves and then burn them down. It is also revealed that during the insurgency period 2116 innocent people died, more than 30000 houses were burnt to ashes.

Dr. Bhanwar Lal Harsh in his book, **Human Rights Law in India, Protection and Implementation of the Human Rights Act, 1993** (Published by, Regal Publication, New Delhi, 2008) discussed state mechanism and the State Human rights Commission in 8 (eight) different chapters. Chapter 1 (Page No- 1-19) contains the concept of human rights, Constitutional ethos, and human rights, the author highlighted socio-economic rights. Chapter II emphasis on growth and development of human rights followed by human rights from the Indian perspective and the genesis of protection of human rights. Chapter III is on the National Human Rights Commission its structure, functions, and powers. The author emphasizes the promotion of human rights literacy and awareness. Chapter IV is about State Human Rights Commission, the author discussed some activities of the Rajasthan Human Rights Commission. Chapter V (page 141-176) underlines the judicial response to human rights jurisprudence. The author also highlighted some landmark judicial decisions

on human rights issues in this chapter. Chapter VI is on Fundamental rights vis –a vis human rights. The vision and reality of the constitutional promise are also narrated in this chapter. Chapter VII of this book emphasis on NGOs and their impact on state politics with relation to human rights. In concluding chapter No.VIII, the author narrated the experience explained in the whole book.

The five Appendices included by the author are the UDHR 1948, PHR Act 1993, NHRC 1994, Human rights provision in the Indian constitution, and Indian laws relating to human rights. The book is of great help to the research work as it tries to cover almost all aspects of promotion and protection of human rights with activities of the state human rights commission.

1.13. CHAPTERISATION.

The thesis entitled “Role of Assam Human Rights Commission in Promotion and Protection of Human Rights – a critical study” is scheduled into six chapters.

Chapter-I Introduction

The first chapter covers the Introduction to the research topics and also defines the importance of human rights with the promotion and protection of human rights followed by, Statement of the problem, objectives of the study, Research questions, Hypothesis, Research Methodology. Sources of study, the significance of the study, Literature review, and Chapterization.

Chapter-II Human Rights- the concept and its Evolution.

The second chapter entitled as above is an endeavor to focus human rights history in the global context. This chapter focuses also on the international instruments in respect of promotion and protection of human rights and inhuman acts such as genocide, apartheid, forced labour, racial discrimination. Human rights in the Indian context also discussed in this chapter,

Chapter-III. The Assam Human Rights Commission-Composition, Categories of Cases, Chairpersons, Members and Administrative and Logistic Support.

This chapter addressed composition of the Assam Human Rights Commission, History of AHRC. It is also devoted to the procedure for dealing with the complaint, procedure of filling complaint, categories of cases registered in Assam Human Rights Commission, Cases which cannot be taken up by the commission, lists of the chairman and members of the commission.

Chapter- IV Activities of Assam Human Rights Commission. (2012-2019)

This chapter is an attempt to throw light on the role of the Assam Human Rights Commission in the promotion and protection of human rights. This chapter also deals with the activities and working of the Assam Human Rights Commission, some important notable cases also discussed in this chapter. Further attempts were also made to asserts the problem faced by Assam Human Rights Commission.

Chapter-V Performance evaluation of Assam Human Rights Commission.

Chapter-V of the thesis deals with the performance evaluation of AHRC. This is an endeavor for evaluation of workings of the Assam Human Rights Commission. The chapter also through light on the cases taken up by the commission since its inception. Recommendations forwarded by the Commission for promotion and protection of Human rights in the state of Assam to the competent authority are also discussed.

Chapter-VI Findings, conclusion, and suggestions

The sixth chapter deals with the research findings at the same time answer to the research objectives and hypothesis. The researcher forwarded some materialistic suggestions which will help to increase the efficacy of the Assam Human Rights Commission. The researcher in this chapter evaluates and scrutinizes the entire study.

CHAPTER – II

HUMAN RIGHTS –THE CONCEPT

AND ITS EVOLUTION

CHAPTER-II

2.1. INTRODUCTION

The history of international concern for human rights marked a turning point after world war II. From 25th April to 26th June 1945 San Francisco Conference has held wherein the charter of the UN had emerged as a mark of freedom for all without any distinction.²⁸

The concept of human rights as basic rights for a primary good is advocated for the enjoyment of all other rights. which is connected with elementary rights and fundamental rights²⁹

The preamble of the Universal Declaration of Human Rights of 1948,(UDHR), reaffirm the faith in human rights which should be protected by the rule.

Almost at all the stages, there have been human rights documents may it be religious or philosophical that are included in the variety of concepts of human rights.³⁰

As a moral right, International Human Rights are generally viewed as a basic entitlement that belongs to every person by the sole fact of being human. Based on a common albeit contested, classification, they comprise civil and political rights (called first-generation rights), social, economic, and cultural rights, (called second-generation rights), and solitary rights, (called third-generation rights).³¹

2.2. HISTORICAL FOUNDATION OF HUMAN RIGHTS.

About 4000 years ago, as perHammurabi's codes (Babylonian king, 'Hammurabi') issued a set of laws to his peoples which includes -fair wages, protection of property, and required charges to be proved at trial.

²⁸ CHAUHAN & DADWAL supra note 20 at, 20-21

²⁹ SANJAY GUPTA,HUMAN RIGHTS IN INDIA- AN ANALYTICAL PERSPECTIVE 7 (edited by R.N. PRASHAD. 2011)

³⁰ ABIDUR ROHMAN ,HUMAN RIGHTS, 31 (1st ed 2016).

³¹ S.C SINGHAL,HUMAN RIGHTS ,20-23 (4th ed.2014-15)

The Assyrian Laws, the Hittite laws, and the Dharma of the Vedic period in India also devised human rights by which one was respected by another.³² Natural Rights was duly recognized by few Greek and Roman philosophers. Plato (427-348 BC) was one of the earliest thinkers to advocate a universal standard of ethical conduct.³³ Human rights were secured by the Romans by the “Jus Civile” of the Roman law.³⁴ Public awareness about human rights and the development of international law in respect of human rights increases recognition by the governments with their accountability to protect the human rights of the citizens.

2.2.1. THE MAGNA CARTA AND OTHER DEVELOPMENT OF HUMAN RIGHTS

A contract between the English King John and the Barons who were dissatisfied with the taxes being levied by the monarch. But although this agreement guaranteed rights for a freeman, not to be arrested, or detained in the person, or deprived of his freehold, or outlawed, or banished, or in any way molested, unless, by the lawful judgment of his peers and the law of the land, this guarantee was simply a right to trial by jury granted exclusively to property-owning men is the Magna Carta in the year 1215.

Like Magna Carta, the Bill of rights was a political settlement between a parliament and the king (who had abused the rights of protestants), to vindicate ancient rights and liberties.³⁵ In the provision of ‘The English Bill of Rights’ 1689, Parliament declared that no excessive fine be imposed. That the subjects which are Protestants may have arms for their defense suitable to their condition and as allowed by the law.

Human rights in the ‘American Declaration of Independence’ 1776 incorporates that, men are created equal, as created by their creator with certain rights which includes rights to life, rights to liberty and pursuit of happiness.”

³²ROHMAN supra note 30 at

³³ Agarwal, Supra Note 2 at 9.

³⁴ .Id.

³⁵ .Id

Proclamation of the French Declaration of Rights of Men and the Citizen, 1789 reaffirm that ‘Men are born and remain free and equal in rights.’ The aim of every political association is the preservation of the natural and inalienable rights of men; these rights are liberty, property, security, and resistance to oppression.’ New states adopted these revolutionary Declarations as guiding principles for the promotion and protection of human rights.³⁶

Human rights per se were not a subject of international law before the UN charter. Certain rights were guaranteed to certain minority groups –racial, ethnic, and religious by way of special treaties in Albania, Finland, and Poland. To preserve international peace and security, The League of Nations was established in 1919, Recognition of minority’s rights through treaties, development of international worker’s rights and work on the abolition of slavery were the three important developments that took place under the League of Nations.³⁷

Several conferences and declarations were held which are Moscow Declaration 1943, Tehran Declaration, 1943, Dumbarton Oaks Conference, 1944, and San Francisco Conference,1945, before the formation of the United Nations as an international organization in 1945.

In clear terms, United Nations Organization which was established in 1945 is the starting point for the emergence of human rights internationally. The purpose of UNO is “to achieve international cooperation in promotion and protection of human rights”

2.2.2. The Universal Declaration of Human Rights (UDHR,1948)

The UDHR was adopted on 10th December 1948 for promotion and protection of human rights per haves first-time pronouncement by the UNO.

‘Atlantic Charter’ in 1941 is the idea for the promotion and protection of human rights and also the fundamental freedoms for all human beings. The Charter of the United Nations was

³⁶ SINGHAL supra note 9 at 11-15

³⁷.Patil, supra note 1.

adopted in San Francisco on 25th June 1945. Which was the first documentary that used of the expression human rights.

The General Assembly of the United Nations decided to prepare an international Bill on Human Rights to achieve the goal of promotion and protection of human rights. The Economic and Social Council was requested by the General Assembly on January 29, 1946, to get a report on the study conducted by the Commission on Human Rights.³⁸

The Commission as determined by its terms of reference prepared recommendations and reports on the following items.³⁹

1. International Bill of Rights.
2. Declarations and conventions at the international level on civil liberties, the status of women, etc.
3. Discrimination on grounds of race, sex, language, or religion is to be prevented.
4. Minority protection.
5. Matters related to human rights.

The Commission began work in January 1947, under the Chairmanship of Franklin D. Roosevelt. In its first session, the Commission on Human Rights established a sub-commission for the Prevention of Discrimination and Protection of Minorities. The Commission in the same session appointed a committee known as the Drafting Committee for the preparation of the draft of an international Bill of Rights.

Rights related to life, liberty, equality, dignity security, and Freedom from slavery or servitude, Prohibition against torture, inhuman or degrading treatment or punishment

³⁸ United Nations General Assembly Resolution 7(1), January 29, 1946.

³⁹ G.S. BAJWA, HUMAN RIGHTS IN INDIA IMPLEMENTATION AND VIOLATION, 7, (1st ed. 1995).

provides in the international covenant on civil and political rights with the right to participate in the Government of his country.⁴⁰ And many more.

Right to social security, Right to education, Right to work and free choice of employment, Right to rest and leisure, Right to a standard of living adequate for the health of himself and of his family, Right to participate in cultural life, Right to good social and international order is the Economic and Social Rights.⁴¹

Two Optional Protocols on Civil and Political Rights were also adopted by UNO. The Optional Protocol I to the International Covenant on Civil and Political Rights, 1966 came into force on March 23, 1976, which establishes the procedure for dealing with communications of individuals claiming to be victims of violations of any of the rights set out in the covenant. It supplements the measures of implementation by providing for the machinery to handle complaints from individuals. It also provides state parties with the option to recognize the additional competence of the Human Rights Committee in receiving and examining communications from individuals. It allows individuals or groups who have exhausted local remedies to petition the committee directly about violations.

Optional Protocol II to the International Covenant on Civil and Political Rights aiming at the abolition of the Death Penalty in 1989 came into force on July 11, 1991.

It disallows reservation, except reservations concerning the applications of the death penalty in times of war for most crimes of military nature. Many countries including the USA were criticized by human activists for not abolishing the death penalty,

The International Bill of Human Rights is a collective term applied to five major international instruments.⁴²

A subsidiary body of the General Assembly “The United Nations Human Rights Council” 2005 is created to replace the United Nations Commission on Human Rights. The council

⁴⁰ Id

⁴¹ Id

⁴² Agarwal, Supra Note 2 at.55

has a mandate to investigate violations of Human Rights. Security Council is the final authority for the interpretation of the United Nations Charter. The United Nations Human Rights Council ranks below the Security Council. When human rights violations occur the UN Human Rights Council may request the Security Council to take action which may be direct action with sanctions, but Security Council may refer the case to the International Criminal Court (ICC).⁴³

2. 3. Inhuman Act and International Conventions.

2.3.1. Apartheid

The word “Apartheid” is an African term, it means separation or segregation. It is an official name given by South Africa to its racial policy. The very purpose of apartheid is to perpetuate the dominations of the country by its white minority dominating the majority of people of Africa. United Nations condemned ‘Apartheid’ as ‘a crime against humanity in 1966. The Suppression and Punishment of the Crime of Apartheid were concluded on 30th November 1973⁴⁴ by an international covenant.

The crime of apartheid is defined under Article II, which states that the crime of apartheid shall include similar policy and practice of racial segregation and discrimination as practiced in South Africa shall apply to the following inhuman acts-(a) denial to a member or members of a racial group or groups of the right to life and liberty of a person. (i) By murder of members of a racial group or groups. (ii) By inflicting upon the members of a racial group serious bodily or mental harm, by the infringement of their freedom or dignity, or by subjecting them to torture or cruel, inhuman, or degrading treatment or punishment. (iii) By arbitrary arrest and illegal imprisonment of the members of a racial group or groups. (b) Deliberate imposition on a racial group or groups of living conditions calculated to cause its or their physical destruction in whole or in part. (c) Any legislative and other

⁴³ .United Nations Human Rights Council ,available at <http://en.wikipedia.org>.visited April 26, 2020. (Visited on 26/11/2020 at 740am)

⁴⁴United Nations General Assembly Resolution, 3068(XXVIII). November 30 1973.

measures calculated to prevent a racial group or groups from participating in the political, social, economic, and cultural life of the country and the deliberate creation of conditions preventing the full development of such a group or groups. (d) Any measures including legislative measures designed to divide the population along racial lines, the prohibition of mixed marriage among members of various racial groups, the expropriation of landed property belonging to a group or groups thereof. (e) Exploitation of the labour of members of a racial group in particular by submitting them to forced labour. (f) Prosecution of organizations and persons by depriving them of fundamental rights and freedoms because they oppose apartheid.⁴⁵

2.3.2. Apartheid in sports.

International Declaration against Apartheid in Sports was adopted by the General Assembly on 14th December 1977. On 10th December 1985, The General Assembly adopted the International Convention against Apartheid in sports on 10th December 1985.⁴⁶ The convention comes into force on April 2, 1988. The state parties shall undertake all appropriate means to eliminate the practice of apartheid in all its forms from sports.⁴⁷ They shall not permit sports contract with a country practicing apartheid.⁴⁸ Consisting of fifteen members a commission Against Apartheid in Sports of high moral character and committed to the struggle against apartheid shall be appointed.⁴⁹ State parties shall deny visas and /or entry to representatives of sports bodies, teams, and individual sportsmen representing a country practicing apartheid.

2.3.3. Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

Torture is a common inhuman activity in the world. Torture in the form of isolation, falanga (blows to the soles of the feet), electric shocks, suffocation (for instance, victim's heads forced into a water-filled with excrements), pulling out teeth, burning by cigarettes or

⁴⁵.Id.

⁴⁶.General Assembly Resolution 40/65, dated December 10.1985.

⁴⁷.The International convention against apartheid in Sports.Article -2

⁴⁸.The International convention against apartheid in Sports.Article -3

⁴⁹The International convention against apartheid in Sports.Article -11

red-hot iron bars, mutilation (nails pulled off or parts of body amputated), sexual torture, mock execution, letting detained torture each other, pharmacological torture. On 10th December 1975, the General Assembly adopted a declaration on the protection of all persons from belonging subjected to torture and other cruel, Inhuman, or degrading treatment or punishment.

The Convention against Torture and Other Cruel or Inhuman or Degrading Treatment was adopted by the General Assembly on 10th December 1984. Committee Against Torture (CAT) was established in 1987 with ten experts of high moral standing.

2.3.4. Slavery and Slave Trade

Slavery and slave trade is another inhuman act for humanity. Slave trade is all acts involved in the capture, acquisition, or disposal of a person with the intent to reduce him to slavery, all acts involved in the acquisition of a slave to sell or exchange him, all acts of disposal by sale or exchange of a slave acquired to be sold or exchanged, and in general, every act of trade or transport in slaves.⁵⁰

The International Slavery Convention was adopted on 21st September 1926 under the auspices of the League of Nations.

2.3.5. Forced or compulsory Labour

Forced or compulsory labour is an open violation of human rights. A study conducted by the International Labour Organization in 2001 titled “stopping forced labour” reveals that the growth of forced labour worldwide is deeply disturbing. The entire world needs to re-examine its conscience and instigate action to abolish forced labour and the often terrible living and working conditions that accompany it.⁵¹

⁵⁰.Id .

⁵¹ Id

2.3.6. Traffic in Persons and Prostitution.

Convention for the Suppression of the Traffic on Persons and the Exploitation of Women was concluded on 2nd December 1949 to curb traffic on the person, under the auspices of the United Nations.⁵²

The convention following Article 24 came into force on July 25th, 1951. The convention had 74 state parties. The parties agree to encourage through their public or private educational, health, social, and other related services, measures for the prevention of prostitution and the rehabilitation and social adjustment of the victims of prostitution.⁵³

2.3.7. Elimination of Racial Discrimination.

Racial discrimination means any discrimination, exclusion, restriction, or preference based on race, colour, descent or nation or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment, or exercise, on an equal footing of human rights and fundamental freedoms in the political, economic, social-cultural or any other field of public life.⁵⁴

To make the provisions on racial discrimination binding on the States known as the International Convention for the Elimination of all Forms of Racial Discrimination, a convention was adopted on 21st December 1965 by the General Assembly.⁵⁵

2.3.8. Elimination of Discrimination against Women.

To deal with women's issues, the Commission on the Status of Women was established in 1946. The declaration on the Elimination of Discrimination against Women was adopted on 7th November 1967 by the General Assembly on 7th November 1967 adopted to implement the principles outlined in the 46 Declaration.

⁵². United Nations General Assembly Resolution 317(IV), Dec 2. 1949.

⁵³ Id.

⁵⁴ .Id

⁵⁵ United Nations General Assembly Resolution 2106(XX), December 21.1965.

General Assembly on 18th December 1979 adopted a Convention on the Elimination of all Forms of Discrimination against Women.⁵⁶

2.3.9. Rights of the Child

Special care and assistance are entitled in the period of childhood as Article 25 paragraph 2 stipulated by the Universal Declaration of Human Rights. The above principle along with other principles of the Universal Declaration concerning the child was incorporated in the Declaration of the Rights of the Child adopted by the General Assembly. General Assembly adopted the Convention on the Rights of the Child on 20th November, 1989.⁵⁷ which came into force on 2nd September 1990.

2.3.10. Right of the Persons Belonging to National or Ethnic, Religious and Linguistic Minorities

Article 27 of the Covenant on Civil and Political Rights provided that persons belonging to ethnic, religious, and linguistic minorities shall not be denied the right to enjoy their own culture, to profess and practice their religion, or to use their language.

Declaration on the Rights of Persons belonging to National or Ethnic, Religious or Linguistic Minorities was adopted on 18th December 1992 by the General Assembly.⁵⁸

One of the main purposes of the United Nations is to achieve international cooperation in solving problems of economic, social, cultural, and humanitarian character with promoting and encouraging respect for human rights.⁵⁹

2.4. HUMAN RIGHTS IN THE INDIAN CONTEXT.

It is realized that unbroken continuity between the most modern and the most ancient phases of Hindu thought extending over three thousand years.”⁶⁰ Since time immemorial

⁵⁶ United Nations General Assembly Resolution 34/180 December 18, 1979.

⁵⁷ . United Nations General Assembly Resolution 44/25, November 20, 1989.

⁵⁸ . United Nations General Assembly Resolution 47/135, December 18, 1992..

⁵⁹ CHANDRA supra note 15 at 25.

rights of man have been the concern of all civilizations. The concept of rights is essential for the survival and personal development of all human beings.⁶¹

According to Mahatma Gandhi, “I do not want to think in terms of the whole world. My patriotism includes the good of mankind in general. Therefore my service to India includes the services of humanity”.

About five thousand years ago, ancient Indian philosophers and thinkers expounded the theory of moral law intending to establish harmonious social order which was free from miseries, conflict, and exploitation.⁶²

According to the philosophy of Dharma in ancient India, there was no scope for religious discrimination. Advancement of all creatures and restraining creatures from injuring one another is the teaching of Mahabharata.⁶³ Asoka and Akbar cannot be excluded from the genealogy of human rights.⁶⁴

The central concept is Dharma, the functional focus of which is social order. The message is “Dharma” as the supreme value, which binds kings and citizens, men and Women. Human rights gain meaning only when there is an independent judiciary to enforce rights. Here, the Dharmasastras are clear and categorical.⁶⁵

Dharma was the human jurisprudence. The main aim of Dharma is to establish social order. Which is almost free from conflicts and exploitation. Such a law of “Dharma” was a model for the universal legal order.⁶⁶

There are many references in the Vedas, which throw light on the existence of human rights in ancient India. The Vedas proclaim liberty of body (Tan), dwelling house (Skridhi), and

⁶⁰ AMARTYA SEN, THE IDEA OF JUSTICE, 355 (2010, Penguin Books)

⁶¹ ARUN ROY, NATIONAL HUMAN RIGHTS COMMISSION OF INDIA 27. (2nd ed 2004).

⁶² S.N DHYANI, FUNDAMENTALS OF JURISPRUDENCE-THE INDIAN PERSPECTIVE, 79 (1992)

⁶³ DHIRENDRA K. SRIVASTAVA, RELIGIOUS FREEDOM IN INDIA. 25 (1983).

⁶⁴ YOGESH K. TYAGI. THIRD WORLD RESPONSE TO HUMAN RIGHTS, Vol.21, No.1, IJIL, 120-121 (1981).

⁶⁵ .V.R KRISHNA IYER. THE DIALECTICS AND DYNAMICS OF HUMAN RIGHTS IN INDIA. YESTERDAY TODAY AND TOMORROW. TAGORE LAW LECTURES. 115 .1999.

⁶⁶ DHYANI supra note 62

life (Jibase). In 1367 B.C. Bahmani and Vijayanagar Kings are stated to have agreed to the humane treatment of prisoners of war and the sparing of lives of the enemy's unarmed subjects.⁶⁷

Because Indians believed in the principle, "Vashudhaiva-kutumbakam"⁶⁸ (The whole world is a family and everybody is relative of each other).

The King was given the power only to enforce the law. Dharmasastras also laid down the laws governing the conduct of the King himself (Rajadharnia).⁶⁹

Legal literature of the Hindu period owes much to the distinguished lawgivers of the times as well as to the two epics and the Arthashastra (Kautilya) and Sukranitisara. The happiness of the subject lies the happiness of the King and what is beneficial to the subjects is his benefit."⁷⁰ as stated in the Kautilya's Arthashastra.

Various kinds of legal measures have been taken in India towards the promotion and protection of human rights, from which constitutional and statutory are two broad categories.⁷¹

Swaraj's constitution was prepared by the Indian National Congress in 1927 which paved the way guaranteeing every one of the citizens, basic human rights like freedom of expression, inviolability of one's own house, right to property, and equality before the law.

2.4.1. Human Rights and the Indian Constitution

On 26th January 1950, the Constitution of India came into force with 395 Articles 12 chapters, and 8 Schedules

⁶⁷ PARAMJIT S JASWAL AND NISHTHA JASWAL, HUMAN RIGHTS AND THE LAW, 5 (1st ed. 1995).

⁶⁸ Z.A. NIZAMI AND DEVIKA PAUL, HUMAN RIGHTS IN THE THIRD WORLD COUNTRIES, 107 (1994).

⁶⁹ RAMA JOIS, LEGAL AND CONSTITUTIONAL HISTORY OF INDIA, 13-17 (1st ed. 1984).

⁷⁰ KAUTILYA, THE ARTHASHASTRA, 70-71 (L.N RANGARAJAN, PENGUIN BOOKS) 1993

⁷¹ CHOUHAN AND DADWAL, supra note 20 at 47

India is regarded as the second-most populous country after China and the world's largest democracy. To protect individual rights framer of the constitution embodied several provisions such as – Preamble, Fundamental Rights, Directive Principles of State Policy, and Fundamental Duties. For the promotion and protection of human rights, the constitution of India is the best document. The preamble is the mirror of our constitution to understand the objective of the constitution. Justice, liberty, equality, and fraternity are some core words used in the preamble for protecting human rights.

Fundamental rights stated in Part-III of our constitution (Article-14-35) are the 'Natural Rights' or 'Human Rights'.

Directive Principles of State Policies (DPSP) are narrated in Part-IV of our constitution(Article-36-51). Though Directive Principles of State policies are related to socio-economic, Gandhian and principles for international peace and security, S.C. Kashyap perfectly remarked “ The two parts of the constitution- the Fundamental Rights and Directive Principles of State Policy- between them covered almost the entire field of the Universal Declaration of Human Rights”.

2.4.2. A BRIEF HISTORY OF THE NHRC

The national human rights institution and its requirements were first discussed by the Economic and social council (ECOSOC) in 1946. The commission is designated to hear and investigate an individual charge of human rights violations. It is also empowered to act for the promotion and protection of human rights. Matters of campaigning among the public, their function and purpose as well as about various issues in the field of human rights Can also be done by the activities of the national human rights commission.⁷²

When the freedom struggle was going on against the British tyranny people starts whispering about the establishment of a human rights commission in India. The first human rights organization in the country was, Civil liberties Union formed in 1930 by Jawaharlal

⁷²CHRISTOPHE JAFFRELOT, RELIGION, CASTE AND POLITICS IN INDIA, 377 (2010).

Nehru. The main object of this organization was to collect human rights violation cases. In 1947, The Madras Civil Liberties organization was formed.

The Andhra Pradesh Civil Liberties Committee was formed in the year 1974. The main task of both the organization was to highlight the growing repressing and exploitation in the countryside and played a crucial role in confronting and exposing the coercive action of the state.⁷³

During the emergency period (1975-77) nationwide demand for the establishment of the Human Rights Commission further widened. The Peoples Union for Civil Liberties and Democratic rights was formed with the active initiative of Jaya Prakash Narayan in 1975.

During the post-emergency period, many human rights organizations were formed such as Citizens for Democracy in Delhi, Free legal aid committee in Bihar. The committee for the protection of Democracy in Bombay. The J &K people's movement for Human Rights, Civil Liberties, and human rights Organization Manipur, in this way demand for the setting of a National Human Rights Commission was under pressure from all corners of the country.

In 1983, the Minority Commission of India had recommended setting up a National Integration cum Human Rights commission and urge the government to make a constitutional provision for it. P.N Bhagwati the then chief justice of India in 1985, had suggested for establishment of a National Human Rights Commission.⁷⁴

The provision of the Protection of Human Rights Act 1993 provided for the establishment of a commission at the Centre known as the National Human Rights Commission,

The president of India promulgated the Protection Of Human Rights Ordinance 1993, under Article 123 of the constitution of India, on 28th September 1993 to provide for the constitution of the National Human Rights Commission, National Human Rights Commission come into effect on 12th October 1993. The Government of India did realize

⁷³ZENAB BANU, POLITICS OF COMMUNALISM, 93 (1989).

⁷⁴STEVEN WILKINSON, RELIGIOUS POLITICS AND COMMUNAL VIOLENCE, 181 (2005).

the need for the establishment of an independent body for the promotion and protection of human rights. The government of India reflects its commitment by establishing NHRC for the effective implementation of human rights provided under the national and international instruments.

2.4.3. NEEDS OF THE NHRC.

The reports of the Law Commission of India, National police commission, public opinion, and demands of different always proposed for setting up a Human Rights Commission. As the judicial process of India is very slow and overburdened with the huge number of pending cases. Criticism against India by the world community to uphold India's image setting of the human rights commission was very much necessary.

India has been severely criticized for several years by- International Red Cross Society, Amnesty International, Asia watch, for alleged violations of human rights such as - Rape, torture, inhuman and degrading treatment of prisoners, terrorism and communal violence, custodial death, wrongful confinement, police brutalities, etc particularly by the military and Para-military forces particularly in Punjab, Kashmir, Assam, Manipur, Andhra Pradesh and throughout the country in general for which Govt. of India was under pressure for setting up a human rights commission.

The growing demand for protection and promotion of human rights nationally and internationally also creates a situation for the establishment of a Human rights commission.

The formation of human rights commissions in the countries like- America, England, Sweden Norway, France Switzerland also inspires for realizing our Govt. For establishing one national human rights commission to remain to save from international criticism of human rights violators.

During the violence, riots wherein people loosed their life, their liberty, equality, and dignity were denied or snatched away all such violations of the above-mentioned human rights are cases of human rights violation. Under section 3 of The Protection of Human

Rights Act-1993 provision is made for the constitution of a National Human Rights Commission.⁷⁵

Section 12(c) of the protection of human Rights Act 1993 empowers the NHRC to visit any jail or other institution prior intimation to the State Government, to mainly monitor prison or custodial jurisprudence. The commission can make recommendations to the State Government based on such visits. After visiting many jails the commission found pathetic conditions prevail in jail in which prisoners are forced to live. It is not due to a lack of ideas but due to the apathy and lack of priority accorded to prison conditions and the rights of prisoners and under trials. Action to improve prison conditions in India has already been started by studying all prevailing reports related to prisons⁷⁶.

The NHRC has created its website on which it posts its Human Rights Newsletters and one can see the progress and status of one's complaint online.

According to the NHRC, "the provision of an investigation mechanism of its own in the commission gives it the advantage if not being required to rely on the state machinery for inquiring into complaints of violation of human rights when the allegation of violation is against the state machinery itself."⁷⁷

The Suo Motu powers of the commission to initiate Suo Motu inquiries are an important aspect of its protective functions that can be fully utilized. This is particularly relevant in those situations, which involve individuals or groups belonging to the marginalized sections of the society who do not have the financial or social resources to lodge individual complaints.

⁷⁵ .The protection of Human Rights Act- 1993 (Act 10 of 1994)

⁷⁶ .Report of the All India Jail Manual Committee of 1957-59;the Report of the All India Committee on Jail Reforms 1980-83 Chaired by the Justice A.N. Mullah (popularly known as Mullah committee Report);The Report of the National Expert Committee on Women Prisoners of 1987 chaired by Justice V.R Krishna Iyer; the Report of the group of Officers on prison Administration chaired by Sri R.K Kapur in 1987, in addition to this the commission remains mindful the need for the country to abide by the United Nations Standard Minimum Rules for the Treatment of prisoners of 1957.

⁷⁷ .NHRC, Human Rights Newsletter,(New Delhi, September 2000)

In a meeting of the state police chiefs convened by the National Human Rights Commission, the Chairperson, Justice J, S Varma pointed out that on average, the commission received about 100 complaints a day alleging police excess. He also highlighted the erratic performance of states in regards to the various guidelines issued by the National Human Rights Commission and remarked that this trend eroded the credibility of the police force and diminished the dignity of the nation.⁷⁸

2.4.4. India and the Universal Declaration.

Several fundamental rights guaranteed to the individuals in Part III of the Constitution of India are similar to the provisions of the UDHR. India as one of the signatory state to the UDHR has fulfilled the aspiration of the people of India.

⁷⁸ .”NHRC Reviews Human Rights Situation in states. Meeting with all DGs &IGs , Human Rights Newsletter, Vol. 7 No. 9, Sept. 2000 at 1-2.

Table No.-1 Civil and Political Rights in the Universal Declaration of Human Rights and the Indian Constitution.

No	Name of Rights	Universal Declaration	Indian Constitution
1.	Equality before law	Article 7	Article 14
2	Prohibition of discrimination	Article 7	Article 15(1)
3.	Equality of opportunity	Article 21(2)	Article 16(1)
4.	Freedom of speech and expression	Article 19	Article 19 (1) (a)
5.	Freedom of peaceful assembly	Article 20(1)	Article 19 (1) (b)
6.	Right to form association or Unions	Article 23 (4)	Article 19 (1) (c)
7.	Freedom of movement within the border	Article 13(1)	Article 19 (1) (d)
8.	Protection in respect of conviction for an offense	Article 11(2)	Article 20 (1)
9.	Protection of life and personnel liberty	Article 3	Article 21
10.	Protection of slavery and forced labour	Article 4	Article 23
11.	Freedom of conscience and religion	Article 18	Article 25 (1)
12.	Remedy for enforcement of rights	Article 8	Article 32
13.	Right against arbitrary arrest and detention	Article 9	Article 22
14	Right to social security	Article 22	Article 29(1)

Table No. -2: Economic, Social and Cultural Rights in the Universal Declaration of Human Rights and the Indian Constitution.

Sl.NO	Universal Declaration of Human Rights	Article in the Universal Declaration	Article in the Indian Constitution
1.	Right to work in just and favorable conditions	Article 23(1)	Article 41
2.	Right to equal pay for equal work.	Article 23(2)	Article 39(d)
3.	Right to education	Article 26(1)	Article 21(A),41,45 &51A(K)
4.	Right to just and favourable remuneration	Article 23(3)	Article 43
5.	Right to rest and leisure	Article 24	Article 43
6.	Right of everyone to a standard of living adequate for him and his family	Article 25(1)	Article 39(a) & Article 47
7.	Right to a proper social order	Article 28	Article 38

2.4.5. Human Rights and the Supreme Court of India.

A court, not only decided the disputes of the litigants but also frames the guidelines and directions. Every conscious citizen of the country must congratulate the learned judges of the apex court on the yeoman citizen, tortures by the instrumentality of the state. Courts of the country have played a prominent role in framing rules and guidelines directing the competent authorities upholding the human rights of citizens.⁷⁹

⁷⁹ SANGEETA TAAK, PROTECTION AND PROMOTION OF HUMAN RIGHTS IN INDIA, 323 (EDITED BY –SHASHI K. SHARMA, PARAMJIT S. JASWAL AND DEVINDER SINGH, (1st ed.2010)

In the case of “**Citizens for Democracy through its President v. State of Assam and others**”⁸⁰. A landmark judgment was delivered by the court. Kuldeep Nayar, Journalist and Statesman was the president of “Citizens for Democracy”. He wrote a letter dated 22nd December 1994 to one of the judges of the Supreme Court of India narrating his experience. He wrote, “A few days ago when I was in Guwahati, I went to see a patient at the Government Hospital. To my horror, I found seven trial accused. A detainee was put in the room, handcuffed to their bed. This even though the room in which they were locked had bars and was locked. Outside a posse of police, men stood with guns on their shoulders. After talking to the detainees, I found that they had to pay for the medicine from their pocket. I fail to understand how the Government of Assam could do all despite various court orders. I drew the attention of the Chief Minister through a letter. I got no reply. May I approach you to intervene? The letter was treated by the Court as a petition under Article 32 of the constitution of India and notice was issued to the State of Assam through its Chief Secretary, Home Secretary, and Health Secretary defending the Government. On reading the affidavit, the learned judge observed that “ the detainee lodge inside the ward of the Guwahati Medical College Hospital the seven detainees were handcuffed and on top of the toed with a long rope to contain their movement. There is no material whatsoever in the two affidavits filed on behalf of the Government of Assam to concluded that the detainee was likely to jump or break out of the custody. The reasons for the detainee under fetters are that they are hardcore ULFA activists and earlier during 1991-94 as many as 51 detainees escaped from custody which included 13 terrorists were escaped and/or were rescued from different and seven of them were escaped from GMCH. This court has temporarily held that the relevant consideration for putting a prisoner in fetters are detector, antecedents, and propensities”.

⁸⁰ Citizens for Democracy through its president v, State of Assam AIR 1996 SC 2193

Supreme Court of India observed that the UDHR may not be a legally binding instrument but it shows how India at the time of adopting the constitution understood the nature of human rights.- **Keshavananda Bharati v. the State of Kerala**,⁸¹

In **Jolly George Varghese v. Bank of Cochin**.⁸² It was held by the Supreme Court of India that, violation of Article 21, to cast a person in prison because of his poverty and consequent inability to meet his contractual liability.

In the case of **Chairman Railway Board and others v. Chandrima Das**⁸³, Noncitizens also have a right to live in this country. Fundamental rights are available to all the persons of this country and those who are not citizens of this country and who come here as tourists or in any other capacity as the Supreme Court of India observed. Article 14 which guarantees Equality before the law and equal protection of laws within the territory of India applies to a person who would also include both the citizens of this country and non-citizens as per article 14 of the constitution of India.

In the present case, the Railway employees gang-raped a Bangladeshi national Mrs. Khatoon in a room of the Howrah railway station at a yatri niwas in West Bengal. Compensation of a sum of rupees 10 (Ten) lakhs was allowed by the Calcutta High Court to her for having been gang-raped.

The Supreme Court held that as a national of another country, could not be subjected to a treatment, below the dignity, nor could she be subjected to physical violence by the Government employees.

In **ADM Jabalpur v. Shukla**⁸⁴, observed by justice Beg that the object of making certain general aspects of rights fundamental is to guarantee them against the illegal invasion of these rights by executive, legislative, or judicial organ of the State.

⁸¹Keshavananda Bharati v. State of Kerala, A.I.R 1973 S.C.1461 (India)

⁸²Jolly George Varghese v. Bank of Cochin. A.I.R.1980 S.C.470 (India)

⁸³Id.

⁸⁴ADM Jabalpur v. Shukla .A.I.R. 1976 S.C 1207 9(India).

In **Golak Nath v. State of Punjab**⁸⁵ Chief Justice Subba Rao had rightly observed, “Fundamental rights are the modern name for what has been traditionally known as natural rights”. The Supreme Court of India recognizes these fundamental rights as ‘Natural Rights’ or ‘Human Rights’.

In **Keshavananda Bharati v. the State of Kerala**,⁸⁶ While referring to the fundamental rights contained in Part III of the Constitution chief justice S.M. Sikri observed that, I am unable to hold these provisions to show that rights are not natural or inalienable rights. India was a party to the Universal Declaration of Rights and that Declaration describes some fundamental rights as inalienable.

In **State of West Bengal v. Subodh Gopal Bose**⁸⁷ the Chief Justice Patanjali Shastri referred to fundamental rights as those great and basic rights, which are recognized and guaranteed as the natural rights which are inherent in the status of a citizen of a free country.

Fundamental rights mentioned in Article 19, which contains the right to “basic freedoms”, are available only to the citizens of the country as observed in **Hans Muller of Nuremburg v. Superintendent Presidency Jail Calcutta**⁸⁸ ‘was as laid down in the judgment that Article 19 applies only to citizens.

It was held that non-citizens could not claim fundamental rights provided under Article 19. as observed in **Anwar v. State of Jammu and Kashmir**⁸⁹

In **Birma v. the State of Rajasthan**,⁹⁰ it was held that “treaties which are part of international law do not form part of the Law of the land unless explicitly made so by the legislative authority.”

⁸⁵Golak Nath v. State of Punjab A.I.R 1967 S.C 1643 (India).

⁸⁶Supra Note at 81

⁸⁷State of West Bengal v. Subodh Gopal Bose A.I.R 1954 S.C 92 (India).

⁸⁸Hans Muller of Nuremburg v. Superintendent Presidency Jail Calcutta A.I.R 1955 S.C 367 (India).

⁸⁹Anwar v. State of Jammu and Kashmir A.I.R 1971 S.C 337 (India).

⁹⁰Birma v. State of Rajasthan .A.I.R 1951 S.C Rajasthan 127 (India).

Delhi High Court held that in India, treaties do not have the force of law, and consequently, obligations arising therefrom will not be enforceable in municipal courts unless backed by legislation as per **Shiv Kumar Sharma and others v. Union of India**⁹¹

“The expression ‘personal liberty’ as stated in article 21 is of the widest meaning and it covers a variety of rights, which go to constitute the personal liberty of man and some of them have been raised to the status of distinct fundamental rights and given additional protection under Article 19. As per Justice Bhagwati observed in **Maneka Gandhi v. Union of India**.⁹²

The right to go abroad is part of an individual’s liberty within the meaning of Article 21 observed in **Sathwant Singh Sawhney v. D. Ramanathan, Assistant Passport Officer, New Delhi**⁹³

Under Article 21, guaranteed by the constitution of India domiciliary visits is an infringement of the right to privacy and are violative of the citizen’s fundamental rights of personal liberty which is observed in **Kharak Singh v. State of Uttar Pradesh**.⁹⁴

In **Louse De Raeidt v. Union of India**, it is held that even foreigners are entitled to the protection of Article 21 of the constitution of India.⁹⁵

“Procedure established by law” only meant that a procedure had to be set by law enacted by a Legislature. This phrase was deliberately used in Article 21 in preference to the American “Due Process” clause which is observed by the Supreme Court in the case **A.K. Gopalan v. the State of Madras**⁹⁶

⁹¹Shiv Kumar Sharma and others v. Union of India A.I.R 1968 S.C Delhi 65 (India).

⁹²Maneka Gandhi v. Union of India A.I.R 1978 S.C 597(India).

⁹³Sathwant Singh Sawhney v. D. Ramanathan, Assistant Passport Officer, New Delh A.I.R 19767S.C Delhi 1836 (India).

⁹⁴In Kharak Singh v. State of Uttar Pradesh A.I.R 1963 S.C 1295 (India).

⁹⁵Louse De Raedt v. Union of India,SCC 1991,3 5549(India).

⁹⁶A.K. Gopalan v. State of Madras A.I.R 1950 S.C 27(India).

It has been held by the Supreme Court in **Hussainara Khatoon v Home Secretary, Bihar** case⁹⁷ that though the speedy trial is not in the fundamental right, which deals with the 'right to life and liberty.it would fall foul of Article 21. A speedy trial means a reasonably expeditious trial, which is an integral and essential part of the fundamental right to life and liberty.

The matter of Police brutality in the Bhagalpur Blinding case crossed its limit wherein 80 suspected criminals were brutally blinded during Police investigation, The Supreme Court condemned it as a barbaric act and a crime against mankind- **Deoraj Khatri v. State of Bihar** case⁹⁸

The Supreme Court was confronted with the custodial violence against women and it laid down certain guidelines against torture and ill-treatment of women in Police custody and jails in the case of **Sheela Barse vs. The State of Maharashtra** case,⁹⁹The Supreme Court has also read into Article 21 a right to monetary compensation for deprivations of the right to life and liberty suffered at the hands of the State.

Supreme Court held that the emergence of the right to compensation has nullified one of the reservations made by India in its instrument of accession to the human rights covenants, which state that the Indian law did not recognize such a right in the events of right deprivation. Observed in **Rudal Shah v. State of Bihar** case.¹⁰⁰

In Jeeja Gosh v. Union of India,¹⁰¹it was held by the Supreme Court that empowerment of the people through human development is the aim of human rights, human rights have a linkage to human development, and respect for human rights is the root for human development.

⁹⁷Hussainara Khatoon v Home Secretary, Bihar case A.I.R.1979 SC 1360 (India).

⁹⁸Deoraj Khatri v. State of Bihar case A.I.R 1981 S.C 928(India).

⁹⁹Sheela Barse v. The State of Maharashtra case A.I.R 1983 S.C 1514(India).

¹⁰⁰Rudal Shah v. State of Bihar, A.I.R 1983 S.C 1986(India).

¹⁰¹ Jeeja Gosh v.Union of India AIR 2016 SCC 760 para 39.(India).

The Supreme court of India held in **J.P Unnikrishnan and others v. The State of Andhra Pradesh**¹⁰² that until he completes the age of fourteen years. every citizen of this country has the right to free education.

The supreme court of India declared that it has a special responsibility, to enlarge the range and meaning of the fundamental rights and to advance the human rights jurisprudence. in the case **Ajay Hasia v. Khalid Mujib**¹⁰³

Life could not be restricted to mere animal existence, or physical survival as held in the **Francis Coralie Mullin v. the Administrator, union territory of Delhi**¹⁰⁴ The right to life means the right to live with dignity and all that goes with it- the necessities of life such as adequate nutrition, clothing, shelter and facilities for reading, writing and expressing oneself.

The right to life and liberty under Article 21 also encompasses the right of the workers to health and medical aid as per the Supreme court in the case **Paramananda Kataria v. Union of India.**¹⁰⁵

D.K. Basu v. State of West Bengal,¹⁰⁶ the Supreme court issued perfect guidelines for arrest and detention by the interrogatory agencies. Wherein it is mentioned that police shall carry accurate, visible and clear identification with name and designation of the police personnel shall prepare a memo wherein at the time of arrest with at least one witness, arrestee shall be entitled to have one friend or relatives, notification about the arrest, medical examination of the arrestee, permission to meet a lawyer which addressed the protection of human rights of an arrestee.

As the Supreme court declared that “We are a country govern by the Rule of Law. Our constitution confers certain rights on every human being and certain other rights on citizens. Every person is entitled to equality before the law and equal protection of the law.

¹⁰²J.P Unnikrishnan and others v.The State of Andhra Pradesh A.I.R 1993 S.C 645(India).

¹⁰³A Ajay Hasia v. Khalid Mujib.I.R 1981 S.C 487(India).

¹⁰⁴ Francis coralie Mullin v. the Administrator ,union territory of Delhi A.I.R 1981 S.C 746(India).

¹⁰⁵ Paramananda Kataria v. Union of India A.I.R 1989(4) S.C 286(India).

¹⁰⁶D.K. Basu v. State of West Bengal A.I.R 1997 S.C 610. (India).

So also no person can be deprived of his life or personal liberty except according to procedure established by law. Thus the state is bound to protect the life and liberty of every human being, be he a citizen or otherwise....”

The constitution guarantees to all citizens within the jurisdiction of the Republic (including terrorists) the right to life, the right to equality before the law, and equal protection of laws.

State of Arunachal Pradesh v. Khudiram Chakma¹⁰⁷

A country should govern not by man but by the Rule of Law. Our constitution confers contains rights of every human being and certain other rights of citizens. Every person is entitled to equality before the law and equal protection of the law. So also, no person can be deprived of his life and personal liberty except according to the procedure established by law. Thus the state is bound to protect the life and liberty of every human being, be he a citizen or otherwise”. **National Human Rights Commission v. State of Arunachal Pradesh and another**¹⁰⁸

2.4.6. Conclusion

All the proclamations, provisions, and golden guiding principles of Magna Carta, 1215, Bill of Rights, 1689, American Declaration of Independence, 1776, The French Declaration of the Rights of Men and the Citizens, 1789, and the Universal Declaration Of Human Rights, 1948 are some oasis steps for the promotion and protection of human rights.

Part III of the Indian Constitution may be characterized as the 'Magna Carta' of India. The Human Rights Commission in India plays a significant role in the promotion and protection of human rights. The document which is rich in human rights jurisprudence is Indian Constitution. This is an elaborate charter on human rights ever framed by any State in the world. . The Indian judiciaries have now become the courts of the poor and the struggling masses.

¹⁰⁷ .State of Arunachal Pradesh v. Khudiram Chakma (1994) 3 SCC 554.

¹⁰⁸ ., National Human Rights Commission v. State of Arunachal Pradesh and another, (1966) 1 SCC 742.

CHAPTER-III

THE ASSAM HUMAN RIGHTS COMMISSION, COMPOSITION, CATEGORIES OF CASES,CHAIRPERSONS,. MEMBERS AND ADMINISTRATIVE AND LOGISTIC SUPPORT

CHAPTER-III

3. I. INTRODUCTION-

The primary condition of good governance is to ensure the promotion and protection of human rights. No person should be deprived of his life and personal liberty, except according to the procedure established by law¹⁰⁹ is the constitutional mandate of human rights. Section 21 and Chapter-V of The Protection of Human Rights Acts, 1993 is the provision for constituting State Human rights Commission and under this chapter.¹¹⁰

The government of India was under continuous pressure both from inside and outside the country to establish NHRCs as well as SHRC for the protection and promotion of human rights. Section 21 to 29 in chapter V, deals with the constitution of the state Human rights Commission, the appointment of chairman and members of the state commission, Resignation and removal of the chairperson or a member of the state commission. officers and other staff of the state commission, Annual and special reports, etc.

Assam Human Rights Commission is the third State human rights commission in the country to be constituted under the Protection of Human Rights Act 1993. The commission has been earnestly trying its level best to undertake and execute the functions set out under section 12 of the Act.¹¹¹

3.2. HISTORY OF ASSAM HUMAN RIGHTS COMMISSION.

One of the main purposes of enacting the PHR Act 1993, is for the constitution of SHRC for the states. Without such an independent body people of Assam has been suffering from insecurity as violators have no fear of prosecution. Human rights violations through police and army excess like illegal arrest, illegal detention, inhuman torture always remained a risks factor for life, liberty, equality, and justice.

¹⁰⁹INDIA CONSTITUTION 1950. art 21

¹¹⁰ The Protection of Human Rights Act 1993 (Act 10 Of 1994),Sec 21

¹¹¹ Consolidated Annual Report of the Assam Human rights Commission, at 1, 2012-2013 & 2013-2014.

Before the establishment of the commission many human rights violation cases remain in darkness. In a fake encounter, On 22nd February 1994 Five persons were brutally killed by the army personnel of 18 Punjab Regiment at Dibru –Saikhowa National Park, victim was picked up from Talap and the Dangori region of Tinsukia district. The victims were Probin Sanowal, Prodip Dutta, Akhil Sanowal, Debijit Biswas, and Bhoben Moran. Honourable Guwahati High court passed an order for CBI inquiry of the incident CBI submits a report and High court passed an order for Court Marshall. After long 24 years later on 13th October /2018 Army Court pronounced judgment declaring life imprisonment of all seven army personnel involved in the fake encounter.¹¹²

But, after the establishment of the commission, Cases related to the violation of human rights both Suo Motu and instituted by the petitioner were inquired by the directions of the commission and disposed of the same as per provision of law. Recommendations for monetary compensation and departmental proceedings are also forwarded to the erring authorities to tackle the requirement and fix the accountability.

The Government of Assam, In exercise of the powers conferred under section 21(1) of the protection of Human Rights Act 1993(No 10 of 1994), Governor of Assam, vide Notification No PLA.36294/51 dated March 19, 1996, constituted a body to be known as Assam State Human Rights Commission to exercise the powers conferred upon it and to perform the functions assigned to a state commission under chapter V of the said Act. The Assam State Human Rights Commission is comprised of a Chairperson and two members.

The Protection of Human Rights Act 1993, contains the provision for the constitution of the State Human Rights Commission.¹¹³ in chapter V.

The Governor of Assam appointed Hon'ble Mr. Justice Surendra Nath Bhargava (26-03-1996 to 31-07-2000) as the first chairperson of Assam Human Rights Commission with

¹¹²Pranin Kalita & Rajat Pandit, Three officers four soldiers sentenced to life for 1994 fake encounter in Assam, The Times of India) Oct 15, 2018 at 1 (visited on 14/04/2021 at 12 noon),<https://timesofindia.indiatimes.com/india/assam-fake-encounters-maj-gen-among-7-given-life-sentence-by-army-court/articleshow/66206571.cms>.

¹¹³The Protection of Human Rights Act 1993 (Act 10 of 1994) sec 21 cl 1

two members respectively Tarun Chandra Das (01-04-1996 to 02-02-1997) and Paramanda Kalita (01-05-1996 to 31-03-2001)

From the date of declaration of the Universal Declaration of Human Rights (10th December 1948) till the enactment of The Protection of Human Rights Act-1993, 45 years gap which had to wait by the people of India for The establishment of The National Human Rights Commission. And during that period there was no other system to deal with the protection and promotion of human rights.

Formation of The Assam Human Rights Commission, three years later than The National Human Rights Commission in 1996 and after forty-nine years of our independence and after seventeen years of Assam movement people of Assam has lost many possibilities and potentials. But, better late than never. After the formation of the Assam Human rights Commission under the chairmanship of Justice Surendra Nath Bhargava, who has faced many challenges to deal with the matters of setting up the commission for future course of action. Without having its campus, the office started in a rented house. From 1947 to 1996 a habit and tradition of the non-existence of any human rights commission make a huge vacuum in Assam. Assam movement for determination and deportation of the foreigners started in the year 1979 and continues up to 1985. Hundreds of human rights violation issues elapsed without proceedings of any independent body like the State Human Rights Commission and violators were not brought to the table of trial to deliver justice to the victim.

3.3. Composition of the Assam Human Rights Commission:-

The Protection of Human Rights Act 1993 (Amendment) 2019, provides in section 21 of the act for the Setting up of the State Human Rights Commission -

- a) Chairman, who has been a chief justice or a Judge of High Court.
- b) One member, who is or has been a Judge of a High Court or District Judge in that state with a minimum of seven years of experience as a district judge.

- c) One member is to be appointed from among persons having knowledge of or practical experience in matters relating to human rights.

There shall be a secretary who shall be the Chief Executive Officer of the state commission, and shall exercise all such powers and discharge such functions of the state commission as it may be delegated to him.¹¹⁴

Appointment: As per section 22 of the act the Chairman and other members of the commission shall be appointed by the Governor on the recommendation of a committee consisting of the –

- a) Chief Minister (The Chairman)
- b) Three members (i) Speaker of Legislative Assembly (ii) Member in charge of the Department of Home in the state.
- c) The Leader of the opposition.

The term of office of the chairperson and members of the state commission is three years or until the age of seventy years whichever earlier. And shall be eligible for re-appointment. The chairperson or the members of the commission after their retirement are not eligible for holding any office of profits either in the central or state Government.

Terms and conditions of the service along with the salaries and allowances payable to the members of the state commission shall be such as may be prescribed by the state government. Provided that neither the salary and allowance nor the other terms and conditions of service of the members shall be varied to his disadvantage after his appointment.

¹¹⁴ Supra Note 111, at 14

3.4. CASES THAT CANNOT TAKE UP BY THE AHRC—

- a) In regards to events that happened more than one year before the making of complaints, that is, barred u/s-36(2) of the Act.
- b) Matters are covered by judicial verdict or decision of the commission.
- c) Which are vague, anonymous, or pseudonymous.
- d) Which are frivolous.
- e) Those which are outside the purview of the commission.
- f) Barred u/s-36(1) of the Act.
- g) Illegible.
- h) The allegation is not against any public servant.
- i) The issue raised relates to civil disputes such as property rights, contractual obligations, and the like,
- j) The issue raised relates to service matter not touching the human rights violation or abetment thereto, or negligence in the prevention of such violation.
- k) The issue raised relates to labour /industrial disputes.
- l) The matter is sub-Judice before a court/tribunal.¹¹⁵

3.5. Categories of cases registered in the Assam Human Rights Commission –

- * Custodial death in Jail
- * Custodial death in Police Custody,
- * Custodial Torture,
- * Custodial Rape,
- * Death in Police Encounters.
- * Rape,

¹¹⁵ Assam Human Rights Commission (procedure) (Amendment) Regulation, sec 3-4,2014

- * Illegal Detention/arrest, Police Excess, and negligence,
- * Jail conditions,
- * Violation of the rights of prisoners,
- * Violation by Health & Family Welfare Deptt.
- * Sexual Harassment at Workplace,
- * Violation of the Rights of the Child,
- * Complaint against Education Dept.
- * Violation of the Legal rights of physically challenged,
- * Mysterious Death,
- * Mysterious disappearance,
- * Abduction,
- * Violation by Public Health Engineering Dept.
- * Electrocution,
- * Pension,
- * Cases of Pollution,
- * Condition of inmates in relief camps set up during natural calamities,
- * Violation of the rights to religion,
- * Erosion of River and resultant Treat to life.
- * Ragging in Educational Institution,
- * Hill cutting and treat to live,
- * Negligence by Forest Department.
- * Unlawful eviction by Public authorities,¹¹⁶

¹¹⁶. www.ahrc.gov.in visited on 01/04/2020 at 10 pm

3.6. CHAIRPERSON OF ASSAM HUMAN RIGHTS COMMISSION WITH THEIR SERVICE TENURE SINCE -1996.

1. Justice-Surendra Nath Bhargava- 26-03-1996 to 31-07-2000.
2. Justice- Rajkumar Manidsana Singh-21-03-2001 to 02-04-2002,
3. Justice- Sailendra Nath phukan – 16-08-2002 to 31-03-2007.
4. Justice- Sujit Barman Roy- 07-04-2007 to 01-06-2011.
5. Dr, Justice Aftab Hussain Saikia -01_02-2011 to 30-11-2016. (Vacant since-01-12-2016 till-01-05-2018)
6. Justice T. Vaipheh----2nd May/2018-till date.

3.7. MEMBERS OF ASSAM HUMAN RIGHTS COMMISSION WITH THEIR SERVICE TENURE SINCE -1996.

1. Justice Tarun Chandra Das-01-04-1996 to 02-02-1997.
2. Paramananda Kolita-01-05-1996 to 31-03-2001.
3. Sheikh Chand Mohammed- 29-03-1996 to 28-02-2001.
4. Abdul Mozid 10-08-2001 to 31-03-2005.
5. Prof. Kumud Nath Sarma 05-05-2001 to 31-11-2001.
6. Dr. Hiren Nath Kolita 10-08-2001 to 15-12-2003.
7. Biren Sutia 29-05-2007 to 31-01-2011.
8. Sarat Mohanta 31-06-2003 to 30-04-2007.
9. Joyti Prashad Chaliha 18-02-2008 to 17-02-2013.
10. Tarun Phukan 16-02-2011 to 15-12-2016.
11. Naba Kumar Bora(judicial). 10-03-2017-
12. Debo Kuman Saikia.18-04-2018-

3.8. ADMINISTRATIVE AND LOGISTIC SUPPORT

The Government of Assam in the political (A) Department, have supported the commission by sanctioning the following posts----

NAME OF THE POST	NO. OF THE POST
Undersecretary-----	1 (one)
Superintendent-----	1 (one)
Stenographer Gr I-----	2(two)
Stenographer Gr-II-----	2(two)
Senior Administrative Assistant-----	1 (one)
Junior Administrative Assistant-----	3 (three)
Computer Operator -----	1 (one)
Typist-----	1 (one)
Driver -----	3 (three)
Grade IV-----	6(six) ¹¹⁷

3.9. CONCLUSION

The Assam Human Rights Commission was established in the state with a motto so that the promotion and protection of human rights can be carried out in perfection. The Assam Human Rights Commission began functioning in the year of 1996 and has done a commendable job in the state of Assam. It has left no stone unturned in instilling a deep awareness of human rights among the general public through human rights awareness programme. Hopefully, the functioning of the commission will go a long way in fulfilling the agendas of The protection of Human Rights Act 1993.

¹¹⁷ Annual Report of the Assam Human Rights Commission,5 ,2015-2016

CHAPTER- IV

ACTIVITIES CARRIED OUT BY

ASSAM HUMAN RIGHTS

COMMISSION DURING 2012- 2019

CHAPTER-IV

4.1. Introduction-

For promotion and protection of human rights, the State should establish 'Rule of Law' and follow 'due processes of law' which is Sine qua non for administration. But failure on the part of the state to do so may alienate some sections of the people to help the human rights violators. Citizens from different walks of life will disapprove and condemn the stakeholders of the human rights protection mechanism for employing 'terrorism as a tool'.¹¹⁸

Human rights may be violated by the state and its agencies. Lack of adequate training and education among security personnel, lack of transparency and accountability, lack of scientific investigation, due to deficit information, and high stress for overburdened duties may be considered as some of the factors for human rights violation. Particularly at the time of opening fire in a crowded area to control law and order situation, during cordon and search operation, during encounters, during interrogation, and detention. Assam Human Rights Commission carried out different types of activities including the observation of human rights day, awareness camps on human rights, jail visits, and adjudication of cases related to the human rights violation.

4.2. ACTIVITIES CARRIED OUT BY ASSAM HUMAN RIGHTS COMMISSION DURING 2012- 2013 & 2013-2014

Awareness camps (2012-2013)

The protection of Human Rights Act 1993, as amended in 2006 and 2019 provides under section 12(h), the commission shall spread human rights literacy among various sections of the society and promote awareness of the safeguards available for the protection of the rights through publications, the media, seminars, and other available means.

¹¹⁸.Supra note 29 at 155-156.

Assam Human Rights Commission has been striving to spread awareness among the various sections of the society in all districts of Assam and has been organizing basic training programmes which are attended by the personnel of the district administration, district judiciary, members of the bar association, police personnel, academicians, members of Panchayat institutions, non-governmental organizations, etc. of the district.

Assam Human Rights Commission has been receiving the minimum budgetary amount from the government of Assam and as there is the provision of the National Human Rights Commission for providing financial support for organizing awareness programmes on human rights, The AHRC has been receiving regular sponsorship for organizing such programmes.

During the period of review, six such day basic programmes on Human rights were organized during the year 2012 with the sponsorship of the National Human Rights Commission. The overall instructions for the organization of these programmes were provided by the chairperson, Assam Human Rights Commission and in coordination with the respective district administrations coordinated the same. Details are as follows-

Table No. 3

Sl. No	Place/District	Date.
1.	Rangia of Kamrup district	11 April/2012
2.	Margherita of Tinsukia district	26 April/2012
3.	Moran of Dibrugarh district.	27 April/2012
4.	Puranigudam of Nagaon district	06 November 2012
5.	Jagiroad of Morigaon district	07 November 2012
6.	Baihata chariali of Kamrup district	09 November. ¹¹⁹

¹¹⁹Consolidated Annual Report of the Assam Human Rights Commission, 7-8, 2012-2013, 2013-2014.

Observation of World Human Rights day, 2012.

The Assam Human Rights Commission celebrated the occasion of World Human Rights Day On 10th December 2012, with the students of law colleges, police personnel, and non-government organizations on the premises of the Assam Human Rights Commission.

Human rights day which is observed across the world on 10th December every year presents an opportunity to celebrate human rights, highlight a specific issue, and advocate for the full enjoyment of all human rights by everyone everywhere. The date was chosen to honor the United Nations General Assembly's adoption and proclamation on 10th December 1948 of the Universal Declaration of Human Rights. It is celebrated around the globe heralding the message that "All human beings are born with equal and inalienable rights and fundamental freedoms".¹²⁰

Observation of International women's Day 2013.

The Assam Human Rights Commission observed International women's day on the 8th March 2013. Speaking on the occasion, Justice (Dr) Aftab Hussain Saikia Hon'ble Chairperson, Assam Human Rights Commission, encourage the role of the students in promoting awareness on the right of women. Every year since 1900. International women's Day which was originally called international working women's Day has been observing. Women empowerment in the matter of political and social struggle which brought out and examined in a hopeful manner.

Assam Human Rights Commission's foundation day celebration, 2013.

On 19th March 2013, The Assam Human Rights Commission celebrates its foundation day at the Sangeetacharya Lakhiram Borua Sadan of the Assam Sahitya Sabha at Guwahati. Hon'ble Justice D.N Choudhury, former judge Guwahati High Court, and Chairman, Assam Police accountability commission graced the occasion as the chief guest.

¹²⁰Consolidated Annual Report of the Assam Human Rights Commission, 10-11, 2012-2013, 2013-2014

Observation of World Environment Day 2013.

World environment day is celebrated on 05-06-2013 in the office premise of the Assam Human Rights Commission by holding a meeting to mark the occasion which was presided over by Hon'ble chairperson. In his speech extensively dwelt upon the varied aspects citing examples that menacingly pollute the entire social environment and the indispensable need for arousing mass awareness of the people in neutralizing such polluting factors.¹²¹

Celebration of Human Rights day 2013.

In collaboration with the Bishnu Ram Medhi (BRM) Government Law College, The Assam Human Rights Commission celebrates human rights day at Panjabari, Guwahati.

The hon'ble chairperson was the chief guest while Dr. Bimal Krishna Bhattacharya, principal, BRM government Law College presided over the meeting. Hon'ble chairperson in his speech told that "It is not only necessary for a person to know his or her rights but also his duties towards his fellow beings and the society as a whole, a citizen must live with dignity, and at the same time utilize his caliber to prove himself as an asset of the society and not a liability"

Presiding over the meeting Dr.Bimal Krishna Bhattacharya principal of BRM Government law college, summed up and thanked the Assam human rights Commission for celebrating world human rights Day.

Inspection of Nalbari Jail. (22-08-2013)

A high-level team of the Assam Human rights Commission consisting of Shree Tarun Phookan. Hon'ble member AHRC, Shree Deba Kumar Nath Secretary AHRC led by Hon'ble chairperson Dr. Justice A. H. Saikia made a sudden visit to Nalbari District Jail on 22nd August 2013, during the visit the team discussed various issues of the jail with the jail authority and put forward suggestions for effective functioning of the jail. The team inspected the rooms of the jail meant for the males and the females and their living

¹²¹Consolidated Annual Report of the Assam Human Rights Commission, 11-12, 2012-2013, 2013-2014.

conditions including arrangements for sleeping, cooking health, and sanitation. During the interaction, the prisoners serving life imprisonment expressed their feeling regarding the views of the Hon'ble Supreme Court of India on life imprisonment that a life convict cannot claim to have the right to be released after spending 14 years in jail. The prisoner requests the commission to take necessary action to bring the feeling of the life prisoners before the Hon'ble Supreme court of India and review the order so that the life prisoners can get a scope to lead their life after being reformed and served their family as well as the society. Undertrial prisoner also expressed their feelings about the long duration of time for disposal of their trial for which they have to remain in the prison and lose a precious period of their life. The team asked the jail authority for taking up the grievances of the prisoners and take necessary steps for their redressal.¹²²

Inspection of Observation Home at Lichubari, Jorhat on 29-08-2012

Under the provision of section 12(c) of Protection of Human Rights Act, 1993 as amended by Protection of Human Rights (Amendment)Act 2006, Sri J.P Chaliha, Member, Assam Human Rights Commission(AHRC) visited the observation home, Lichubari, Jorhat on 29th August 2012.

District-wise inmates between the age group of 12 to 16 years were 3 from Jorhat district, 3 from Golaghat district, and 2 from Nagaon district.

District-wise inmates between the age group of 16 to 18 years are 1 each from Jorhat and Golaghat district and 2 from Nagaon district.

District-wise inmates between the age group of 16 to 18 years are 1 each from Jorhat Golaghat and Nagaon district.

There was 1 inmate in the special Home and 2 inmates needing care and protection. Besides the facilities and amenities for providing basic education to the inmates of the Home, there

¹²² Consolidated Annual Report of the Assam Human Rights Commission, 15 2012-2013, 2013-2014.

is also training facilities for training in arts and craft of manually produced earthen and wooden items like dolls and other household decorative items.

Honourable member found the management of the inmates of the Observation Home very satisfactory and well managed for which the principal and other staff members of the observation Home deserves appreciation. Few recommendations are forwarded to the Government of Assam, through the Commissioner, Social Welfare Department, Government of Assam for further improvement of the Observation Home.¹²³

Inspection of Central Jail, Guwahati. (On 01-02-2014)

On 1st February 2014, a team of the Assam Human Rights Commission comprising, Honorable chairman, One member, accompanied by the secretary in charge of the Assam Human Rights Commission visited the central Jail, Guwahati, for the study of the living conditions of the inmates in pursuance of the provisions under section 12(c) in chapter III of the Protection of Human Rights Act 1993 as amended in 2006.

The commission inspected the jail premises including some of the barracks, housing the detainees both under trial prisoners (UTP) and convicts, the jail hospital, the kitchen the dining hall, and the library and interacted with a good number of the inmates including some of the indoor patients in presence of the Jailor, some assistant jailor, warden, and security personnel. The jail population on the day of the inspection was 925 out of which 884 were male and 41 female prisoners. The total number of under-trial prisoners was 714 convicts 210 and others Following recommendations were made to the Government of Assam—

(a) Dietary improvement with nutritious food.

(b) Hygienic improvement of the kitchen.

¹²³Consolidated Annual Report of the Assam Human Rights Commission, 18, 2012-2013, 2013-2014.

- (c) Improvement of the medical infrastructure by providing some more beds., at least one more doctor, two more nurses, and one ambulance vehicle equipped with essential health devices including an Oxygen gas cylinder.
- (d) Enforcement and strengthening of the internal security administration by deploying a sufficient number of jail officials (Assistant Jailor) warden and security personnel.
- (e) Supply of a requisite number of Television sets, wall clocks, chairs, Tables Daily Newspaper, and plying materials for the use and enjoyment of the inmates.
- (f) Strengthening of the legal Aid clinic by increasing the periodicity of the sitting and counseling in the clinic.

NOTABLE CASES

AHRC CASE NO-7275/2010:

It is a case of custodial death of one Putul Saikia, a life convict of the Sivasagar District jail, who expired at the AMCH, Dibrugarh. Cognizance of the case was taken on intimation of Superintendent District Jail, Sivasagar, received by National Human Rights Commission, New Delhi, and later on, forwarded for disposal to the Assam Human Rights Commission. The commission issued notice to the DC, Sivasagar for submitting relevant reports regarding the death of the convict. After receiving the reports the commission again issued notice to the DC to collect the chemical analysis report and the histo- pathological report for holding final opinion regarding the cause of the deceased convict. But such reports were not produced by the DC on the ground of non-collection of the viscera by the police. The chemical reports could not be prepared by the Medical Department. Thus the cause of the death could not be ascertained for want of a chemical analysis report. The Magisterial inquiry report also failed to provide the probable cause of death of the deceased. The commission decided to close the case on -02-04-2012.¹²⁴

¹²⁴ AHRC news Letter vol.1 no.2 &3 April-June & July - September 2012 p.5

AHRC CASE NO- 82/3/10-11.

Commission registered a complaint filed by one Sri. S.L Acharjee, Retired Deputy Manager (Finance & accounts)ONGC (L), Sivasagar that the Sivasagar Municipal Board has been unscientifically burning disposing of the solid waste materials and the garbage by the side of Dwarika River. The commission took cognizance of the case and issued notice to the DC Siva Sagar for causing inquiry with the help of an expert in pollution control and environment activities and submits a report. The individual report was submitted by the District Magistrate, Sivasagar, and the chairman Municipal board, Sivsagar. Since the allegation of the complainant has been sub- judice in the Writ petition. i.e. WP© No- 721/2007 which is earlier also in a point of time, the commission is not inclined to proceed any further.¹²⁵

AHRC CASE NO- 13/1/10-11.

This is a complaint against police inaction, in which the complainant, one Smti. Sabitri Das, the wife of Sri Monoranjan Das, Tuklai Panbari under Paracharkuchi Ps in the district of Barpeta, alleged that inter alia, on 17-10-2010 three persons as named in the FIR tried to assault her with the Dao at her house for which she lodged an FIR with the Patacharkuchi PS, but the police took nonaction upon her complaint.

The commission took cognizance of the complaint and issued notice to the SP Barpeta for an inquiry and report thereon. Accordingly, the ASP (HQ) Barpeta, conducted the inquiry which was forwarded to the commission by the SP, vide his letter date-23-01-2011.

The enquiring ASP during his inquiry found SI Retneswar Sarmah did not submit his inquiry report to the O/C Patacherkuchi PS and the latter did not register the case of the complainant which goes in clear counter to the plea restored to respectively by the two police officers reported upon, i.e S.I Binod Barman and SI Ratneswar Sarm. S.I Retnswar Sarmah supports SI Binod Barman by stating that the former received the said FIR of the complainant in absence of the letter at the police station on 17-10-2010. The inquiry officer

¹²⁵ .Id at.6

stated that during his inquiry the O/C Patachatkuchi S.I Mohesh Hazarika produced the FIR received by the then O/C Patacharkuchi PS. S.I Binod Barman, on 17-10-2010 from Smti Sabitri Das. He has further stated that, in the course of his report

That he had examined during his inquiry S.I Ratneswar Sarmah of Patacharkuchi P.S who had stated that on 17-10-2010 he was posted at Patacharkuchi Ps and the then O/C Patacharkuchi Ps received an FIR from Smti Sabitri Das of village Tuplai (Panbari) and the O/C Pathacharkuchi Ps endorsed the FIR to SI Ratneswar Sarmah for an inquiry following which Sri Sarmah visited the PO on 18-10-2010 and had met the parties of the case.

When the enquiring ASP is assertive of the very fact that SI. Binod sarma happened to be the O/C of Patacharkuchi P.S on a relevant day (17-10-2010)and he had endorsed the said FIR in favour of S.I Ratneswar sarma for causing an inquiry and to submit the report,

We are not in a position to rely on the versions of S.I Binod Sarman and S.I Ratneswar Sarmah to thwart the said assertion of the enquiring ASP both these police officers facing the inquiry and are according reported upon at the conclusion thereof as aforesaid appear to have misinterpreted the legal provisions laid down under section 155 Cr PC relating to the handling of the non-cognizable case by an officer of a police station to mislead this commission on the said provision of the law to avoid and evade the feasible liability that might be imposed upon them for their whatever inaction and legal lapses caused by them respectively in not registering the FIR of the complainant and also in proceeding a non-cognizable case as per section 155of the said code.

The mandatory legal postulation under section 155 (1) CrPC is that when a piece of information regarding the commission of a non –cognizable case (offense)is received by an officer in charge (O/C) of a PS, he shall enter or cause to be entered, the substance of the information in a book to be kept by such officer and refer the information to the Magistrate. section 155(2) provides that police officer shall investigate a non –cognizable case without the order of a Magistrate having the power to try such or commit the case for trial and any police officer receiving such an order may exercise the power of an O/C relating to the investigation of a cognizable case baring, that of the power to arrest without warrant.

Consequent upon the foregoing deliberation the commission has been constrained to find and hold that both the police officers deserve appropriate disciplinary proceedings to be drawn for awarding suitable penal actions respectively against them by the authority concern.

Accordingly, the commission recommended that the Director-General of Police, Assam (DGP) will initiate or cause to be initiated necessary departmental proceeding for taking suitable penal actions respectively against the said 2(two) erring police officers i.e. S.I (UB)of police Sri Binod Barman, O/C Patacharkuchi police station, Barpeta and S.I (UB) of the police station, Sri Ratneswar Sarmah, O/C- Sarthebari PS. Barpeta, Assam.¹²⁶

AHRC CASE NO-143/9/11-12.

The commission registered a complaint dated 31-05-2011 receiving from Sri Chandra Nath Majumdar, who retired on 28-02-2010 as a special officer to the commissioner and secretary to the Government of Assam personnel (A)Department and issued notice to cause an inquiry into the complaint. The Deputy Secretary of the Government of Assam, personal (A) Department vide his letter no.AAJ.137/84/297 dated 2nd August submitted his report. The report denied the allegation of the complainant and stated that there has been some delay in sorting out the case because of the non-fulfillment of certain formalities by the complainant himself. The commission after carefully perusing the original complaint of the complainant, the report from personnel (A) Department and comments of the complainant therein, it is crystal clear that there has been some delay in forwarding the pension papers to the Accountant General, Assam for some of the irregularities and lapses on the part of the complainant himself. Hence, the commission in its judgment dated 23-05-2012 held that the complainant's allegations are not acceptable to the commission.¹²⁷

¹²⁶ .Id pp. 7-8

¹²⁷ Id.p.6

AHRC CASE NO-238/24/11-12:

In this case, the complainant herein is one Sri Ajay Hazarika who complain against the inactions on the part of the Public Works Department (PWD). As many as three precious lives have been lost due to the unguarded and uncovered drain beside the Zoo Road Tiniali, the latest being one Bijoy Mohan Das. The commission took cognizance of the case and issued notice to responsible departments, namely APWD and Guwahati Municipal Corporation (GMC) to conduct an inquiry. The reports sent by the APWD claim that the department had done all its duties and further it blamed the deceased for negligence while the report sends by the GMC blamed the APWD of negligence. Both the reports establish the case of inappropriate actions by both the department, which time and again has resulted in the death of the people which is a violation of their human rights under article 21 of the constitution of India. So with the reference to the circumstances, this commission recommends the Government of Assam pays compensation of Rs-10,00000/- to the kin of the deceased within 3 months. Further, this commission states that the Government is at liberty to realize the compensatory amount from the said two departments.¹²⁸

AHRC CASE NO-18/5/11-12-AF.

The commission had registered a case on the complaint of some media persons who were allegedly assaulted by a group of doctors of the Assam Medical College and Hospital (AMCH) on the night of 28-09-2011. These media persons had taken permission from the superintendent of AMCH to collect a report regarding the death of one Nissar Ahmed who was earlier injured in an attack by miscreants. The allegation was that these media persons were attacked with sticks, hockey sticks, rods, and other sharp weapons by a group of doctors assembled there.

On the direction of the Assam Human Rights Commission, the Chief Secretary, Assam, got the matter inquired by a one-man inquiry commission in the commissioner, Upper Assam Division, Jorhat. The inquiry identified the situation and the lapses leading to the incident

¹²⁸.AHRC News letter. Jan-March, April-Jun

of assault on media persons by a group of doctors. It also suggested measures to be taken to prevent the recurrence of such incidents as follows-

1. Arrangement of adequate security in the campus, particularly in the casualty ward. The police outpost at Borbari should be strengthened immediately by placing an adequate number of men and materials. The medical college authority should be instructed to arrange on its own, security personnel from licensed private security agencies in consultation with the District police.
2. Installation of collapsible gates at appropriate entry and exit points to be manned by security personnel.
3. The number of attendants accompanying the patients should be restricted.
4. A public relations officer should be immediately appointed by the Medical College Authority, to interact with the media persons.
5. CCTV to be installed particularly in the casual ward and the maternity ward.
6. All emergency drugs should be made available free of cost inside the casual ward. In case of non-availability of rare drug /device, an internal arrangement may be made to obtain it from a general medical store.
7. Suitable facilities like a portable x-ray machine, CT scanner should be made available in the casual ward.
8. A notice board should be installed outside the casual ward to display the name of the Doctors and other medical staff doing emergency duty at a particular time.
9. A facility for transferring all serious patients to other wards of the Medical College through casualty is introduced in addition to the corridor used by all general people.

The Assam Human Rights Commission considered and accepted the above findings recorded in the inquiry report.

The commission recommended to the commissioner and secretary, to the Govt. of Assam Health Department to take measures so recorded by the commissioner Upper Assam Division, Jorhat, in his inquiry report at the earliest possible date.

AHRC CASE NO.568/14/12-13.

The case arose out of a complaint petition filed by one Smti Jurimoni Bordoloi wife of Shri Durga Prasad Bardoloi of Koliabor Tiniali under Koliabor police station in Nagaon district alleging violation of human rights of said Durga Prasad Bordoloi by way of keeping him under handcuff while being under treatment both at Kanaklata Civil Hospital, Tezpur and the GMCH, Guwahati for a couple of days after being arrested on 12-11-2012 at Tezpur in connection of Tezpur PS case No. 1219/2011. As per the complaint, Durga Prasad Bordoloi was produced on 13-11-2012 after his arrest as aforesaid on the previous day before the CMJ Tezpur, but on consideration of his illness, the court remanded him in the judicial custody making a direction to the jail Doctor to provide necessary medical treatment at the local civil hospital, if necessary. Accordingly, Sri Bordoloi was sent to the Kanaklata Civil Hospital Tezpur, for his treatment thereafter he was referred to the GMCH by that Hospital authority on 15-11-2012 for his further treatment.

Being prima –facie a case of clear violation of human rights as guaranteed under article 21 of the constitution of India a single bench of the commission passed an order directing the inspector, Investigation cell of the commission to personally inspect and verify the allegation of handcuffing. The inspector visited the ward MMU-IV of GMCH where said Durga Prasad Bordoloi was then reportedly undergoing treatment in the said state in Bed No- 316 and submitted his report enclosing two photographs taken by him on the spot during his verification and inspection of the fact situation.

The commission directed the Director-General of police, Assam to cause the removal of handcuffing of the accused and issued notice to cause an inquiry by a responsible officer does not below the rank of Deputy Superintendent of police as to why and under what circumstances the accused Durga Prasad Bordoloi had been put under handcuffing in flagrant violation of human rights as well as directions and guidelines set by the Hon'ble Supreme court. The inquiry report stated that the reserve officer, Tezpur police Reserve S.I Brozen Hazarika deputed two havildars along with handcuff without any direction either from court concern or superior police officer to put the accused under handcuff. Further, the

accused was put under handcuff during the period from 16-11-2012 to 29-11-2012 by the escorting party of Tezpur police. Moreover, the SM city police Sri Dharendra Changmai issued a handcuff in the name of UBC 1690 Biren Deka with a written order.

Accordingly, the police party detailed by the city police tied up the accused with the handcuff while in the GMCH. The inquiry also revealed that both Sri Brozen Hazarika and Sri Dhiren Changmai admitted that they did not know clearly regarding the guidelines of handcuffing as issued by the Hon'ble supreme court of India and had violated the guidelines of the supreme court of India without any malafide intention and the handcuff had been issued by them ignorantly and inadvertently.

Assam Human Rights Commission had recommended in the interim relief to the victim Sri Durga Prasad Bordoloi by way of compensation of a sum of Rs- 1(one) lac within 60 days from the date of receiving of this order vide its order dated 05th Sept/2013.

On a meticulous consideration of the fact and circumstances of the case a division bench directed to show cause notices to those two police officers each as to why recommendation should not be made by the commission for taking administrative /legal actions by the appropriate authority concerned in the government of Assam respectively against them.¹²⁹

AHRC CASE NO-369/24/12-13

On 10-04-2012 one unfortunate and fatal incident took place on the F.C Road at Uzan Bazar, Guwahati with a teenage girl named Sagarika Bora falling into an open manhole of the footpath sustaining serious injuries and meeting with her tragic end of life as a result thereof. An inquiry was conducted by the commissioner and secretary of Guwahati Development Department in pursuance of the order dated 19-04-2012 passed by the Assam Human Rights Commission.

Meticulous considering the findings, the commission directed the executive engineer to show cause. The Government of Assam granted Rs-1(one) lakh in favour of kin of the deceased. But the commission found the amount to be too paltry and meager on the

¹²⁹Consolidated Annual Report of the Assam Human Rights Commission,22-23, 2012-2013, 2013-2014.

backdrop of the loss of a precious life. Therefore the commission in its order dated 05-03-2013 considered that the Government of Assam should reasonably compensate the family by paying further monetary damages which are put taking into view all relevant aspects at Rs- 5,00000/ (five lakh) only. Such an amount may be realized partly or entirely from the employees of Guwahati city.PWD (Roads) division No-1 Guwahati who is (are) found and adjudged to be departmentally responsible for the fatal incident.¹³⁰

AHRC Case No. 435/25/12-13:-

UDALGURI, ASSAM

The Assam Human Rights Commission took cognizance of a complaint petition regarding the suffering of the residents in the Indo – Bhutan areas of Udalguri District due to non – supply / inadequate supply of potable water. The residents prayed for issuing orders by the Commission to the PHE Department, Government of Assam to repair the inoperative water supply system in the area. Taking cognizance of the case the Commission issued notice to the Commissioner and Secretary to the Government of Assam, PHE, to cause an inquiry into the complaint. The report submitted by the Chief Engineer, PHE, and the comments of the complaints convinced that scarcity of drinking water in the locality is mainly due to the peculiar geophysical condition of the locality characterized by thick Lear of underground boulders and that the Public Health Engineering Department is making every effort to improve the water supply situation in the locality.

Considering the facts, the Commission, on 26 Dec. 2012, recommended the PHE Department Government of Assam through its Commissioner and Secretary, to expedite implementation of the schemes to improve water supply in the locality.¹³¹

AHRC Case No. 977/9/13-14:-

Guwahati, Assam

Sri Aditya Lahkar and Sir Pranjal Kumar Sarma, respectively the Secretary-General and a Member of the MASS (Manab Adhikar Sangram Samiti) Assam, Guwahati, vide their joint

¹³⁰Consolidated Annual Report of the Assam Human Rights Commission,24-26, 2012-2013, 2013-2014.

¹³¹Assam Human Rights Commission News Letter, Oct - Dec, 2012, at 4.

complaint dated 26-02-2014, have accused the Government of Assam in the Home Ministry, in general, and the District Administration of Kamrup (Metro) including, especially the Police Authority of the District, in particular, of Sheer negligence and inaction since they allegedly failed to take timely action and prevent the tragic death of one Pranab Boro, reportedly an activist of the KMSS (Krishak Mukti Sangram Samiti) Assam, on 24-02-2014 at about 10 A.M. in front of the Assam State Secretariat, Dispur, Guwahati, who resorted to self-immolation after setting himself on fire allegedly in protest against the apathy of the State Government in allotting land to the landless persons concerned who have since been fighting therefor. Since the matter in the complaint involves public interest and apparently, there is no authorization made on behalf of the family of the victim to file the present complaint before this Commission, it has been decided to take up the case Suo-Moto by the Commission. In the Commission's order dated 26-02-2014 notice was issued to the Chief Secretary, Government of Assam, to cause an inclusive e inquiry to be conducted into the said allegations immediately and submit the report thereof before this Commission within 30 (Thirty) days of receipt of the notice.¹³²

AHRC CASE NO-834/0/13-14.

Assam Human Rights Commission takes cognizance of declaring wrong merit list of successful students wherein non-inclusion of few meritorious eligible students is badly criticized by some of the daily newspapers. The commission took suo motu cognizance of the case and ordered for an inquiry to be conducted within one month by a high-level expert committee to be constituted by the chief secretary, Government of Assam relating to the circumstances leading to the declaration of result made by the Board of Secondary Education Assam. (SEBA), elevating the successful examinee of the H.S.L.C Examination of 2013. and one examinee of the high Madrassa examination of 2013 on the re-examination of the concerning answer script in the said examination. SEBA was found involved in the lapses. After considering the loss and injury the students caused to those four students for not being able to pursue their higher education in time, the commission recommended interim compensation to the Government of Assam through its chief

¹³²Assam Human Rights Commission News Letter Jan - Mar, 2014 at 4.

secretary to award Rs- 2,00000 (Two lakhs) only to each of those four students namely- Sri Sashanka Sekhar Saikia of Holy Name School, Sibsagar, Sri Adriz Aagnik, of Don Bosco Higher Secondary School, Mongaldai, Smti Enisha Choudary of Asom Jatiya Vidyalaya, Noonmati. Guwahati and Ariful Amin Ansari of Rakhaldubi High Madrassa Goal Para.

AHRC case No- 1255/9/14-15

Kamrup (M), Guwahati.

On 12-03-2015 one Sri Arun Kumar Neog along with 7 others filed a complaint alleging violation of their human rights seeking redressal from sound pollution. The complainant stated in their complaint that, in the cultural center named Srimanta Sankar Kristi Kendra situated in By Lane No- 5, Mothunagar, Down Town, Dispur, since 2013 has made the life of the neighboring residents miserable due to continuous use of big cymbal (bhoortaal) a Big Drum (Doba). The allegation also added that the loudspeakers are used daily for one and half hours both in the morning and evening. While on Wednesday and Thursday of the week the high volume loudspeaker. On for one and half hours (7.30 A.M to 9.30 A.M) in the morning and from (5.30 PM to 9 PM) in the afternoon respectively.

The complainant stated in their complaint that they have approached the managing committee of the cultural center, Kamrup Matro district administration, pollution control board of Assam, and Guwahati city police commission rate. But all the authorities did not pay heed to the complaint. As the complaint involved the violation of human rights the commission issue notice to the District Magistrate, Kamrup Metropolitan District to enquire about the matter and submit a report. A divisional bench of Assam Human Rights Commission comprising, Justice (Dr) Aftab Hussain Saikia and Shree Tarun Phookan, Hon'ble Member, recommended the district administration of Kamrup on – 05/01/2016 to carry out.

- (i). A joint verification with local police, circle officer, and the Members of the Pollution Control Board to be made to check and verify the sound level as alleged.

(ii). The Namghar committee members are to be asked to remove the loudspeakers if they had not been done to date and/or to take permission for using loudspeakers during functions.¹³³

DISTRICT-WISE REGISTERED, DISPOSED OF, AND PENDING CASES AND INTIMATION RELATING TO CUSTODIAL DEATHS WITH AHRC FOR THE YEAR-2012-2013.

Table No. 4

Sl No.	District	No. of cases Registered	No of cases disposed of (fresh)	No of cases pending (fresh)	No of cases related to CD
1.	Baksa	4	1	3	0
2.	Barpeta	12	9	3	3
3.	Bongaigaon	5	4	1	0
4.	Cachar	20	15	5	4
5.	Chirang	2	2	0	0
6.	Darrang	6	5	1	0
7.	Dhemaji	10	9	1	4
8.	Dhubri	12	8	4	1
9.	Dibrugarh	18	15	3	4
10.	Goalpara	16	11	5	12
11.	Golaghat	5	4	1	4
12.	Hailakandi	8	5	3	0
13.	Jorhat	14	10	4	3
14.	Kamrup	72	62	10	6
15.	Karbi-Anglong	10	7	3	5
16.	Karimganj	7	3	4	0
17.	Kokrajhar	11	7	4	2
18.	Lakhimpur	5	5	0	3
19.	Morigaon	9	6	3	0
20.	Nagaon	20	15	5	0
21.	Nalbari	12	9	3	2
22.	N.C Hills	4	4	0	2
23.	Sivasagar	10	5	5	2
24.	Sonitpur	12	11	1	4
25.	Tinsukia	12	7	5	7
26.	Udalguri	3	1	2	0
27.	Outside the state	4	4	0	0
	TOTAL	323	244	79	68 ¹³⁴

¹³³ Annual Report of Assam Human Rights Commission, 52, 2015-, 2016

¹³⁴ Consolidated Annual Report of Assam Human Rights Commission at 33, 2012-2013

STATEMENT OF CASES REGISTERED DISTRICT-WISE, DISPOSED OF, PENDING CASES AND INTIMATION RELATING TO CUSTODIAL DEATHS WITH AHRC FOR THE YEAR-2013-2014.

Table No. 5

Sl No.	District	No. of cases Registered	No of cases disposed of (fresh)	No of cases pending (fresh)	No of cases related to CD
1.	Baksa	6	3	3	0
2.	Barpeta	7	5	2	4
3.	Bongaigaon	3	2	1	1
4.	Cachar	18	12	5	1
5.	Chirang	1	0	1	0
6.	Darrang	18	10	8	0
7.	Dhemaji	4	3	1	1
8.	Dhubri	4	4	0	1
9.	Dibrugarh	9	7	2	1
10.	Goalpara	6	4	2	1
11.	Golaghat	11	7	4	0
12.	Hailakandi	7	5	2	0
13.	Jorhat	14	11	3	1
14.	Kamrup	83	54	29	1
15.	Karbi-Anglong	6	4	2	1
16.	Karimganj	12	6	6	2
17.	Kokrajhar	3	2	1	0
18.	Lakhimpur	6	4	2	2
19.	Morigaon	10	5	5	2
20.	Nagaon	42	21	21	2
21.	Nalbari	6	5	1	0
22.	N.C Hills	1	1	0	0
23.	Sivasagar	11	9	2	1
24.	Sonitpur	28	25	3	3
25.	Tinsukia	8	7	1	3
26.	Udalguri	2	0	2	2
27.	Outside the state	6	3	3	0
	TOTAL	332	219	113	30¹³⁵

¹³⁵ Id at 34

STATEMENT SHOWING THE NUMBER OF CASES DISPOSED OF MONTH-WISE
BY THE ASSAM HUMAN RIGHTS COMMISSION DURING THE YEAR: 2012-2013

Table No. 6

Sl.NO.	Month	Number of cases disposed of
1.	April 2012	43
2.	May 2012	19
3.	June 2012	28
4.	July 2012	25
5.	August 2012	13
6.	September 2012	23
7.	October 2012	15
8.	November 2012	10
9.	December 2012	20
10.	January 2013	29
11	February 2013	35
12.	March 2013	13
	TOTAL=	273 ¹³⁶

¹³⁶ Id at 35

STATEMENT SHOWING THE NUMBER OF CASES DISPOSED OF MONTH-WISE
BY THE ASSAM HUMAN RIGHTS COMMISSION DURING THE YEAR: 2013-2014

Table No. 7

Sl.NO.	Month	Number of cases disposed of
1.	April 2013	26
2.	May 2013	62
3.	June 2013	35
4.	July 2013	27
5.	August 2013	33
6.	September 2013	42
7.	October 2013	20
8.	November 2013	36
9.	December 2013	26
10.	January 2014	60
11	February 2014	47
12.	March 2014	12
	TOTAL=	426 ¹³⁷

¹³⁷ Id at 36

4.3.ACTIVITIES CARRIED OUT BY THE ASSAM HUMAN RIGHTS COMMISSION DURING 2014-2015.

Inspection of Golaghat District jail.

On 01-09-2014 to study the living conditions of the inmates Assam Human Rights Commission inspected the Golaghat district Jail. The district jail is spread over an area of 74 Bighas, 3 kathas and 12 lessas of land which was found to be neat and well maintained. On inspection, 142 inmates were found to be lodged more than the prescribed capacity of 248 inmates. There were a total number of 390 inmates including 369 males and 21 females against the registered capacity for accommodation of a total number of 248 inmates including 215 males and 33 females. There was a doctor on temporary deputation, one pharmacist, and one nurse. Two inmates are suffering from TB. Members of the Assam Human Rights Commission interact with the inmates'.In general, inmates were found to be satisfactory. The following recommendations were made-¹³⁸

1. Posting of a permanent medical officer with at least one more nurse.
2. Installation f a water treatment plant with a deep well and
3. Provision for LPG for cooking purposes.

Inspection of District jail, North Lakhimpur.

On 9th March 2015, a member of the Assam Human rights Commission visited the district jail North Lakhimpur to know the living conditions of the inmates. Lakhimpur jail is situated over an area of four Bighas of land located centrally at North Lakhimpur Town. The jail possesses some 72 Bighas of land at Hanh-Chora village which is cultivated, engaging labours from amongst selected prisoners. These prisoners are paid daily wages of Rs- 55-each. On the day of the visit, there were 242 prisoners including 227 males and 15 females present in the jail against the registered capacity of 187 male and 15 female persons. There were thus 40 male inmates over the said permissible limit of the capacity.

¹³⁸ Annual Report Assam Human Rights Commission, 11, 2014-2015.

Several inmates complained of not getting their leave. Hence the jail superintendent was asked for ensuring that no leave application is left unattended unnecessarily for long so that no such applicant for leave is needlessly distressed in that regard.¹³⁹

ASSAM HUMAN RIGHTS COMMISSION OBSERVED WORLD HUMAN RIGHTS DAY, 2014.

Along with the rest of the world, Assam Human Rights Commission in collaboration with the Dakhin Kamrup College, Mirza on 10th December 2014, observed world human rights day. The commission adopted the theme “Human Rights Education”. The meeting was held in the conference hall of the D.K College which was presided over by Dr. Ramesh Chandra Kalita, principal Dakhin Kamrup College, Mirza, and Kamrup. The meeting was addressed by Honourable chairperson as chief guests. The meeting was also addressed by Shree Tarun Phukan, Member AHRC, Smti Juri Deka Thakur, secretary, AHRC Sree Basudev Das, ADC, Kamrup, Smti Indrani Baruah, SP Kamrup, as the guests of honour Sri N. C Gosh, SP investigation cell, AHRC. Prof. J.C Das, Prof. Indira Saikia, Prof. D. Goswami, and prof. D.Dutta.¹⁴⁰

AWARENESS AND TRAINING PROGRAMMES

To protect and promote human rights, it is of utmost necessity to make people aware of the safeguards available for the protection of their rights, with this view, over and above the functions of a human rights commission to protect and promote the human rights of the citizens, Section 12 (h) of the Protection of Human Rights Act, 1993, as amended in 2006. provided for the spread of human rights literacy among various sections of the society and promote awareness. Assam Human rights Commission had been accommodating internships to students from various streams. Considering the flow of the students for internship, The commission felt the need to streamline the process and therefore adopted the Assam Human Rights Internship programme guidelines, 2014. Assam Human Rights

¹³⁹ Annual Report, Assam Human Rights Commission, 12, 2014-2015.

¹⁴⁰ Annual Report, Assam Human Rights Commission, 14, 2014-2015.

Commission by its notification No. AHRC131/2014/8 dated 23 Dec 2014 adopted a modified logo replacing the traditional one of Xorai and Gammocha¹⁴¹.

NOTABLE CASES.

AHRC CASE NO.1171/0/14-15.

The commission took Suo-Motu cognizance of a news report appearing in the local English and vernacular dailies, regarding an accident of the ASTC night passenger bus on 26-10-2014 at around 1.30 AM at Uluwoni near Kaliabhomora Bridge on the Brahmaputra in Nagaon district when the bus coming to Guwahati from North Lakhimpur. The commission issued notice to the Chief Secretary Government of Assam but it is reported that the Government had already ordered for an inquiry to be conducted departmentally with the announcement of ex-gratia to the next of the kin of each of those killed and free treatment to the others who sustained injuries.

But the commission received an allegation of shortage of emergency medical services with inadequate medical personnel, medicines, bandages kinds of cotton, and even fuel of on-duty Ambulance vehicles. It is also reported that for want of fuel the injured could not be carried from Kaliabor to Nagaon and then to GMCH.

The commission in the interim directed to ensure proper steps are immediately to make the essential medical services available at all the Hospitals and Health centers in the state.

AHRC CASE NO.774/14.

Assam Human Rights Commission registered a case on the complaint of one Smti Bhabani Sarma alleging that she was called by the police of Hojai P.S in connection with Hojai P.S case No-121/2013, but police illegally detained her in the police station from 13-05-2013 to 15-05-2013. She also alleged in the latter mentioned case that police took a huge amount of money from her, then produced it before the court of SDJM.

¹⁴¹ Annual Report, Assam Human Rights Commission, 18, 2014-2015.

The commission took cognizance of the case and issued notice to the S.P Nagaon for enquiry and report. On 27-07-2013 S.P submitted his report. It appears from the observation and the findings of the S.P that, the I/O of the Hojai PS case No 120/2013 S.I Santanu Rou as well as the I/O of the Hojai PS case No 121/2013, S.I Nripen Saikia, had their negligence in handling and dealing with the said cases respectively for which they are liable to be served with the notice to show cause for the reported negligence. The commission was constrained to order for issuing notice to show cause.

The commission considered the replies submitted by the two S. I by S.I Santanu Roy and S.I Nripen Saikia and also perused the report submitted by the S.P Nagaon which is submitted against them. Hence the commission recommended to the appropriate authority to initiate departmental disciplinary proceedings against the two police officers.

AHRC CASE NO.1170/10/14-15.

One Mr. Abdur Rohman Choudhury, an advocate of Karimganj filed a petition on behalf of a Bangladeshi National Abdul Hakim Who has been languishing in the Karimganj District Jail even after serving the sentence as a foreigner passed by CMJ Karimganj. The person was arrested by Badarpur police on 10-01-2014 who entered into Indian territory illegally. The CMJ by judgment and order dated 18-03-2014 declared Abdul Hakim as Foreign National of Bangladesh and sentence him to undergo 3 (Three) months simple imprisonment and pay a fine of Rs. 500 (Five) hundred in default to 10(Ten) days simple imprisonment section 14 of the Foreigners act along with direction to the concerned authority that the period undergone as UTP shall be set off from quantum of sentences. It was further directed by the CMJ that after serving the sentence the concerned authority shall take steps for sending the Bangladeshi National to a detention camp for his early push back.¹⁴²

The commission in its order dated 10-02-2015 recommended to the SP (Border), Assam to take appropriate and immediate steps to deport the Bangladeshi National Namely Abdul Hakim being detained in Karimganj Central Jail.

¹⁴² .News Letter, Assam Human Rights Commission ,Jan-Mar 2015 .p.4

The commission on examining the reports, documents, and legal provisions in deporting foreign nationals, it was found that the Government of Assam did not initiate the process of deportation before 03 months of completion of the said sentences, Abdul Hakim was released on 08-04-2014 but later on detained in Silchar Jail premises instead of any appropriate place outside the jail premises being a Detention camp.

The commission observed that the uncertain detention of Abdul Hakim amounts to a violation of article 21 of the constitution of India and he is entitled to immediate deportation.

AHRC CASE NO.1231/9/14-15.

The commission took Suo-motu cognizance of a news report appearing on 01-02-2015 in several newspapers including Amar Asom, Dainik Janambhoomi, the Sentinel, the Sunday times, etc, The news was about the alleged police atrocities on a lady Journalist Smti. Mridushmita Bhuyan of Guwahati based Satellite T, V channel i.e. DY 365 and its video journalist and cameramen who went on about 12.15 P.M. on 31-01-2015 to the premises of Latasil Police Station near the Guwahati High Court after taking permission on duty there to take some video-footage relating to the alleged pathetic conditions of the police Barracks inside the campus as also of giving some of the police quarters on rent to some civilians,

The journalist and the cameramen were assaulted by the O/C named Chidananda Bora and one police sub-inspector of police named Samsuddin Ahmed belonging to Paltanbazar P.S. The two police officers along with some tenants belonging to the campus allegedly attempt to kill the two Media person besides damaging the video camera of the said camera person and dragging the lady journalist by her hair. The lady journalist filed an FIR which was registered as Latasil P.S case No 40/15 u/s-427/232/354(B)/307/34 IPC. On the other hand, S.I Samsuddin Ahmed also filed a counter FIR charging the two Journalists with trespassing upon the said premises.

The commission issued notice to the Chief Secretary, Government of Assam to cause an effective inquiry to be conducted not below the rank of a Commissioner and Secretary and submit a report thereof before the commission.

It was reported that the police commissioner later removed the two police officers and had closed at the police reserve following mass protest raised against the said police atrocities.¹⁴³

AHRC CASE NO.1258/14/14-15.

The present complaint against the Tinichukia Gaon Panchayat authority for depriving of the complainant being a beneficiary of the Indira Awas Yojna in the fund allocation to which she is entitled under the said scheme has been given away to another person of her name and accordingly, her identity card (Target No-367) of the development block concerned is being used by some other person resulting in her deprivation of the kind under the IAY scheme as alleged by the complainant Smti. Rajia Khatun daughter of late Abdul Mozid under Juria PS in the district of Nagaon, Assam.

AHRC took cognizance of the case and issued notice to president Tinichukia Gaon Panchayat and directed them to submit a report before the commission within 2(two) weeks of receipt of this notice. According to reports was submitted by the concerned president.

Commission on close perusal of the materials available on the record including the report submitted by the concerned authority of Gaon Panchayat and the comments so submitted by the complainant holds that Though Gaon Panchayat concerned was interested to give benefit to the complainant but due to technical difficulty she was deprived of getting the benefit of grant of IAY house.

Because of the above, the commission recommended to the president, Tinichukia Gaon Panchayat, Juria in the district of Nagaon, Assam to arrange for allotment of IAY house in

¹⁴³. Id

favour of the complainant at an earliest possible date preferably within 3 (three) months from the date of receipt of this recommendation.

AHRC CASE NO.1116/14/14-15.

A Blind woman Smti Khirabha Patwary, an Assistant Teacher at the Sreemanta Sankar Mission Blind School, Berhampur in Nagaon district had approached this commission, vide her petition dated 07-08-2014, for taking necessary action towards regularization of her said post in that school provincialized w,e,f, 01-01-1995 with the salary of the complainant not having been paid since 30-08-1995, i.e., the date of joining in the said post.

AHRC took cognizance of the case and issued notice to the Director, Elementary Education, Guwahati, to submit a report on the said complaint. On 16-10-2014 the Director submitted the report informing that the complainant was appointed at the said school at a consolidated pay of Rs. 125.00 only with effect from the date of joining, but the services of only two teachers of that school have been provincialized as per the rules and norms in consideration of seniority of their services.

The complainant submitted her comments and made a prayer that taking into consideration her tenure of the service she should be appointed on a contractual basis with a fixed salary.

The commission feels that Rs. 125.00 in a month is too meager an amount to be thought of while taking into consideration the minimum expenditure for the survival of a person in these hard days of the human standard of living and in that light it is deemed to be just and fit to make a recommendation to the Government of Assam in the department of Education to arrange at the earliest possible opportunity for enhancing the said monthly remuneration of Rs 125.00 to a reasonable amount being commensurate with the minimum living needs of the complainant at her present status pending the regularization of her services in the post.¹⁴⁴

¹⁴⁴.Id at

AHRC CASE NO.1147/14/14-15.

The petition was filed by one Musst. Phatarun Begum of Nagaon that her minor daughter about 16 years, Ms. Suhana Begum was kidnapped on 25-08.2014 by one Ishadur Rohman, under Murajhar Police station in the district of Nagaon who was helped by other four persons namely, Md.Alam, Ainullah, Moshina Begum, and Taslima Begum daughter of Baharuddin. But the main accused Ishadur Rohman took her daughter to Mumbai on 25-08-2014 by Kamrup Express Train from Hojai railway station at 5. A.M. The complainant lodged an FIR before the Choudhury Baser Police station but due to interference of some influential persons of the area who are relatives of the accused, police remain silent.¹⁴⁵

The helpless complainant is apprehending that her daughter might have been sold out in Mumbai or somewhere else for illegal purposes. The complainant also alleged that she had come to know that the kidnapper and his father were initially tortured upon her daughter. Considering the seriousness and gravity of the matter and since the Assam Human Rights Commission is only a recommendatory body without having any enforceability and execution power under the act, the commission decided to approach the Gauhati High Court under section 18(b) of the Act for issuance of such directions/orders or Writ including Writ like Habeas Corpus and Mandamus and/or any other appropriate writ or writs as the High Court may deem necessary direction the concerned Government pieces of machinery and the individual persons as named herein under—

- (1) The State of Assam, represented by Commissioner & Secretary, Home Department, Government of Assam.
- (2) The Director-General of Police, Assam.
- (3) Superintendent of Police, Nagaon.
- (4) Officer –in charge of Murajhar Police Station.
- (5)Ishadur Rohman (6)Jalaluddin, father of Ishadul Islam (7) Md, Alom son of Ijul Haque
- (8) Ainullah, son of Mufiz Ali (9) Moshina Begum daughter of Alaur Rohman (10)Taslima

¹⁴⁵.Newsletter, Assam Human Rights Commission, Jan- Mar, 2015 p.3

Begum daughter of Bahruddin to recover the victim girl. Ms. Suhana Begum and produce her to her mother Musst. Phatarun Begum and also to initiate appropriate criminal proceedings against all the persons in serial No- 5- 10.

AHRC CASE NO.1208/3/14-15.

Assam Human Rights Commission registered a Suo Motu case No- 1208/3/14-15, taking into consideration the news items appearing in the local newspapers including Asomiya Pratidin, Dainik Agradoot, and the Sentinel dated 16-12-2014 regarding the death of two babies after their vaccination on 13-12-2014 at Gorubandha Primary School, Koliabor, in Darrang.

The news items reported that 2 (two) ANMs of the District Health Department administered the second dose of the vaccine (DPT) to some babies as a result of which one Kushan son of one Pradip Paul and one Mrinal, son of one Tapan Deka of Garubandha village, Koliagaon, who started vomiting showing some abnormal behaviors immediately after their vaccination had to be taken to the Kolaigaon State Dispensary on 15-12-2014 at about noon where doctor declared Kushan as dead. Although Mrinal was admitted to the Mangaldoi Civil Hospital he too was declared dead. Further 8 (eight) other babies who were also vaccinated had to be admitted to Malgaldai Civil Hospital for developing some difficulties.¹⁴⁶

The commission directed to issue notice to the District Magistrate, Darrang to cause a proper inquiry into the circumstances leading to the death of said two babies and the illness develops in some such vaccinated babies and submit the report thereof before this commission within 30 days from the date of receiving of this notice.

AHRC CASE NO.1014/9/14-15.

On 01-04-214 one Akbor Ali Thakuria of Chandrapur Bagichha, Kamrup filed this complaint against the forest beast officer, Narangi, for not taking legal action against the

¹⁴⁶.Newsletter, Assam Human Rights Commission,Oct-Dec2014,p,5

truck bearing registration No As-01D-1627 as the said forest official complained after the truck fatally hit the motorcycle bearing registration No- AS-01AK-8357 whereon son and daughter of the complaint respectively named Jeherul Islam and Anjuna Thakuria were traveling at Amingaon under Panikhaiti Outpost at around 6.30 P.M on 07-03-2014 as a result of which Jeherul Islam died on the spot and Anjuna Thakuria sustained serious injuries who has been undergoing treatment in the ICU of the GNRC Hospital, Guwahati in a precarious condition.¹⁴⁷

The complainant also alleged that the said forest officer has been illegally indulging in allowing some trucks for carrying sands from the bank of the Brahmaputra at Panikhaiti in defiance of the prohibition given by the Hon'ble Guwahati High Court and without taking any permission for transportation of sand from the DC Kamrup (M). The complainant further alleged that due to such a truck laden with sands along the Narengi- Chandrapur Road illegally day and night several accidents had already taken place resulting in the death of many a person and injuries caused to some others. Due to such illegal activities performed by the forest officer. Hence the complainant filed this case against the forest officer.

Assam Human Rights Commission took cognizance of the case and issued notice to the District Magistrate, Kamrup (M) to cause an inquiry and submit a report within 30 days of receipt of the notice.

AHRC CASE NO.1141/21/14-15.

The present complainant who has approached this commission is one Smti Bela Rani Rad, wife of late Subhash Chandra Das of Paikan under Hailakandi P.S in Hailakandi being the mother of the life convict one Sri Sambhu Das @Bijoy Das being detained in Hailakandi jail in pursuance of the sentence of his life imprisonment imposed by the learned Session Judge, Hailakandi on 07-03-2005.

¹⁴⁷ .Id at P.6

The complainant stated that his son is a serious heart patient detained in the Central Jail after transfer from Hailakandi jail in the course of his better treatment the GMCH for his heart disease, can be treated for saving his life at the AIIMS(All India Institute of Medical Science), New Delhi¹⁴⁸

The complainant also narrated about the seriousness of the disease of her said son leading to his heart operation being requested to be done for which he had to be shifted from Silcher Medical College to Hayat Hospital, Guwahati, and then to GMCH in the Cardiology Department of which he was under treatment for about 22 days. Before his release doctor referred him to the AIIMS, New Delhi for his heart operation. But it is alleged that, since after his release on 28-08-2014 from the GMCH nothing has been done, instead he had again been admitted to the GMCH.

The commission took the cognizance of the allegation leveled by the complainant and issued a notice with a copy of the complainant to the Commissioner and Secretary, Government of Assam, Department of Health, to submit a report within 15 days of receipt of the notice and also to intimate the commission as to what steps if any has been taken in the meantime on the part of the Government to transfer the said son of the complainant, if he has been referred from the cardiology department of the GMCH to the AIIMS, New Delhi, for performing his heart operation

AHRC CASE No. 334/16/11-12

Tezpur, Sonitpur

Assam Human Rights Commission took Suo Motu cognizance of a news item published in “The Assam Tribune, and the “Amar Asom” regarding the death of one Rajesh Upadhyaya a practicing advocate of Tezpur Bar Association out of an accident fall in an open drain maintained by the Tezpur Municipal Board, Sonitpur District. A division bench of Justice (Dr) Aftab Hussain Saikia and Shree Tarun Phookan passed an order to the chief engineer PWD (Roads), Guwahati, and the chairman, Municipal Board, Tezpur was called

¹⁴⁸.Id at p 6

upon to inquire into the matter. Both the parties submitted their respective report but finding the reports contradictory, the commission directed the matter to be enquired through the district magistrate, Sonitpur. The magisterial reports revealed that the chairman of the Tezpur Municipal Board and the contractor who executed the construction work of the drain in question could not produce any evidence during the inquiry to show that the site of the construction of the drain in which the said advocate had a fatal fall was properly barricaded. The chairman also fails as to why adequately reasonable monetary compensation should not be paid by the Tezpur Municipal Board.

The Assam Human Rights Commission after considering the fact recommended to the director, Municipal administration department, Assam for paying compensation Rs- 5,00000/ (Five lakh) only next to the kin of deceased advocate, Rajesh Upadhayaya of Tezpur Bar Association. The director was given liberty to recover the compensatory quantum of money from the Tezpur Municipal Board represented by its chairman¹⁴⁹.

AHRC CASE NO.803/25/13-14:

One Sri Sailen Kumar Sharma president, Human Rights Forum, Tangla Udalguri District filed a complaint who prayed for issuing direction to the appropriate authority of Bodoland Territorial Council, Kokrajhar district so that the water scheme of the Tangla town is immediately restored. The commission issued direction to the District Magistrate, Udalguri to get the matter inquired and a report submitted before the commission. The report stated that two water supply schemes installed in 1985 were handed over to the Tangla Town committee in 1991 by the PHE division but the power supply was snapped in October 2012 due to non-clearance of outstanding energy dues amounting to more than Rs- 36.00 Lakhs to the ASEB. The commission observed that the supply of safe drinking water to every citizen of the Town committee is a fundamental right to the life of the citizens which the Town committee should make available to them. The alleged fund crunch on the part of the town committee should not impede the process of regular supply of safe drinking water to

¹⁴⁹ Assam Human Rights Commission News Letter, Apr- June, July – Sept, 2014 at 3-4.

the citizens under the town commission. The commission had therefore recommended the Government of Assam through its Director, Municipal administration Assam, Guwahati to do the needful at the earliest possible opportunity towards restoring and continuing with the safe drinking water supply to the citizens under the Tangla Town committee.

AHRC CASE NO- 770/8/13-14

DIPHU, KARBI-ANGLONG

Assam Human Rights Commission took Suo-Moto cognizance of an incident published and broadcast in the various print and electronic media of Assam reporting the tragic murder of a student, namely – Jhankar Saikia at Diphu in the district of Karbi- Anglong, Assam. Jhankar Saikia aged about 20 years, son of Hiren Saikia (an Advocate of Diphu Court.) was mercilessly assaulted along with his father in the evening of 25/06/2013 at Diphu Bazar by several auto-rickshaw drivers and their associates following an altercation between the boy and the drivers over the payment of fare amounting Rs- 10/- Only. The assault was so barbaric and grievous that the boy succumbed on-01/07/2018.

The whole incident took place in the presence of police personnel belonging to the Diphu police station. In the incident, ASI-Ramesh Nath, Havildar – Harun Bora Home Guard- Abhimanyu Das were present at the place of occurrence but fail to protect the boy and his father from the said assaulting of the aggressor. Instead of protection, two police personnel facilitated the brutal attack by taking the boy out of a vehicle where he was put by the police after recovering from the attackers and then handing him over to the auto drivers under their demand to be beaten up again.

Assam Human Rights Commission promptly issued notice to the commissioner and secretary to the Government of Assam, Home department for inquiry about the incident, and during the pendency of the case the commission considered to grant interim relief by way of compensation to the next of the kin of the deceased, several Rs- 3,00,000/ (Three lakh)

Assam Human Rights Commission received communication regarding the payment of the amount to the next of kin.

The National Human Rights Commission of India had also taken cognizance of the same case vide NHRC case No—23/3/9//013-PCD. Since the matter is sub-judice before The National Human Rights Commission, The Assam Human Rights Commission under section 36(1) of the Protection of Human Rights Act 1993 close the case.¹⁵⁰

On 28/02/2020 District and Session Judge, Diphu pronounced the judgment of the Jhanker Shaikia murder case wherein against 12 accused life imprisonment is sentenced out of 19 accused.¹⁵¹

ASSAM HUMAN RIGHTS COMMISSION INTERNSHIP PROGRAMME GUIDELINES, 2014.

To spread Human Rights Literacy and promote awareness in terms of section 12 (h) of the Protection of Human Rights Act 1993, Assam Human Rights Commission has categorically been ordained with a view to disseminating awareness among eligible students about the need for protection and promotion of Human Rights. The commission has been regularly conducting summer and winter Internship programmes during the last many years since its inception on 19th March 1996. Following are the guidelines governing the Internship programme of the commission-

1. These guidelines shall be called Assam Human Rights Commission Internship Programme guidelines, 2014.
2. This shall come into force w.e.f 1st August 2014.
3. Eligibility for Internship in the Assam Human Rights Commission.
 - (a) Student of 4th and 5th year pursuing 5 year Integrated Law course, (B.A, LLB, etc.)
 - (b) Students of the 3rd year pursuing 3 year LLB course.

¹⁵⁰ Assam Human Rights Commission News Letter, Apr- June, July – Sept, 2014 at 4-5.

(c) Students of L.L.M course.

(d) Students pursuing Post Graduates Degree in Human Rights, Post Graduates Diploma in Human Rights, Post Graduates students of Political science, Sociology, Social Work, criminology, Public administration, Rural Development, History, Economics, Commerce, Anthropology, International Relations and any of the discipline of Social sciences would be considered with preference to students pursuing their final year.

(e) Students mentioned in sub-clause (a) to (d) shall be only regular students of UGC recognized Universities.

4. Every student eligible for the Internship programme will have to register his/her name by submitting an application in the prescribed format, enclosing requisite certificate(s)/documents issued by the concerned institution where he/she is studying. An amount of Rs-250/in cash as a registration fee shall have to be deposited along with the application.

5. The Internship shall be Four week's duration. It will be of two sessions during the year, one in the summer during May, June, and July and the other in the winter during November, December, and January.

6. An intern must attend the programme punctually during the office hours of the commission maintaining strict discipline and decorum.

7. An intern may be required to attend an interaction programme with the commission.

8. On completion of the Internship program, every intern shall submit a project report containing at least 20 pages with 20 lines on each page reflecting his/her grasp on the subject.

9. The project report on its submission shall be subjected to the scrutiny of the commission.

10. On being satisfied with the project report, a Certificate of Internship will be issued based on the following criteria:

(a) Attendance

(b) Punctuality

(c) Discipline and

(d) Participation in class during the session.¹⁵²

STATEMENT OF CASES DISPOSED OF DURING THE YEAR 2014-2015.

Table No. 8

SL.NO.	Case No.	On complaint or Suo Moto	District	Date of decision
1	334/16/11-12	Suo Moto	Sonitpur	15/05/2014
2	684/7/13-14	Complaint	Jorhat	20/05/2014
3	775/26/1314	Complaint	Baksa	20/05/2014
4	803/25/13-14	Complaint	Udalguri	18/06/2014
5	695/14/13-14 796/14/13-14 894/14/13-14	Suo motu & complaint	Nagaon	17/09/2014
6	823/9/13-14	Suo motu	Kamrup	10/07/2014
7	4675/2003	Suo motu	Kamrup	15/07/2014
8	402/9/13-14	Suo motu	Kamrup	22/07/2014
9	563/9/12-13	Suo motu	Kamrup	05/08/2014
10	1030/16/14-15	Suo motu	Sonitpur	12/08/2014
11	565/14/12-13	Suo motu	Nagaon	17/09/2014
12	744/14/13-14	Complaint	Nagaon	16/10/2014
13	598//12-13	Complaint	Jorhat	21/10/2014
14	983/9/13-14	Suo motu	Kamrup	15/12/2014
15	1170/10/14-15	Complaint	Karimganj	10/2/2015
16	112/0/14-15	Suo motu	Assam	16/02/2015 ¹⁵³

¹⁵² Assam Human Rights Commission Annual report, 29-30, 2014-2015.

¹⁵³ Annual Report, Assam Human Rights Commission, 34 2014-2015.

4.4. ACTIVITIES CARRIED OUT BY THE ASSAM HUMAN RIGHTS COMMISSION DURING 2015-2016.

AWARENESS AND TRAINING PROGRAMMES

To protect and promote human rights, it is of utmost necessity to make people aware of the safeguards available for the protection of their rights. The Assam Human Rights Commission had been proposing the National Human Rights Commission, New Delhi for sponsoring one-day basic human rights training programmes. With the support of the National Human Rights Commission, the Assam Human Rights Commission had organized such programmes in various districts of Assam. During the year of review, The Assam Human Rights Commission carried out such training programmes from its fund at Damer in Kamrup district and at Dhubri besides holding programmes to commemorate the International Women's Day, 2016.¹⁵⁴

REPORT ON THE VISIT TO THE STATE HOME FOR WOMEN AT JALUKBARI, GUWAHATI-14, ON 17-11-2015.

A team of the Assam Human Rights Commission visited state Home for Woman comprising (i) Destitute Home (ii) Observation Home (iii) Children Home (iv) Transit Home including the state Home for the woman on 17-11-2015 and inspection and examination had found the following –

(a) Home Administration staff strength:

(i) State home for women- Superintendent with eight others (one post is vacant)

(ii) Destitute Home: five (two vacant)

(iii) Training cum production center: Twenty-one (five vacant)

(b) Inmate population

(i) Destitute Home -17

¹⁵⁴ Annual Report, Assam Human Rights Commission, 13, 2015-2016.

(ii) State Home -18

(iii) Observation Home –3

(iv) Children Home -57

(v) Transit Home -21

RECOMMENDATIONS:

The Assam Human Rights Commission has been of the view that the following suggestions being recommendations can be made to the Government for taking necessary actions accordingly in no time.

1. Number of bathrooms and latrines needs to be increased adequately from the existing 5 (five) bathrooms and 5 (five) latrines meant for the children.
2. All the rooms need cleaning and whitewashing.
3. Sufficient numbers of water purifiers need to be installed. Only one non-functioning Aqua guard was found to be installed there.
4. Existing problem of acute water supply needs to be addressed as almost all the tube-wells were found tube non-functional.
5. Hot water Geyser needs to be installed in the bathrooms.
6. Regular clean and pure water supply needs to be provided.
7. Sufficient bed sheets need to be provided as most of the beds were found without bedsheets and bed covers.
8. A landline telephone is urgently needed and hence it should be immediately installed.
9. Sufficient numbers of T.V sets be installed in the respective rooms.¹⁵⁵

¹⁵⁵Id at. 17.

ASSAM HUMAN RIGHTS COMMISSION HOLDS AN AWARENESS PROGRAMME AT DAMPUR IN KAMRUP DISTRICT.

On 19th November 2015, the commission held a camp in Dampur area of Kamrup district. The camp was held in the auditorium of the Dampur H.S school, where the members of the Gaon Panchayat, councilors local people, students attended the day-long programme . Hon'ble chairperson justice (Dr) A.H Saikia, Member Shree Tarun Phukan, and Secretary Sree S. Thiek represented the commission. Shree S. Thiek ACS secretary of the commission welcomed the gathering. Shree Tarun Phukan, Honble member of AHRC spoke about the history of human rights. He touched upon the rights to life, the fundamental rights, and the directive principles of state policy enshrined in the constitution of India, he also elaborated on the functioning of the State Human rights Commission citing examples of the decisions of the AHRC made from time to time. Justice (Dr) Aftab Hussain Saikia, Hon'ble Chairperson of the AHRC led a very healthy and active interaction session with the participants. The participants placed their grievances and queries which were replied to by both the Hon'ble Chairperson and member. The Hon,ble chairperson went on to elaborate Article 21 and fundamental rights.¹⁵⁶

THE ASSAM HUMAN RIGHTS COMMISSION OBSERVED WORLD HUMAN RIGHTS DAY, 2015 IN BARAK VALLEY AT SILCHAR, and ASSAM.

This year's theme was "Our Rights, Our Freedom- Always". The Assam Human Rights Commission India's commitment towards the International community to adopt the declarations on human rights has been observing World Human Rights Day since its inception in 1996. This year the AHRC decided to observe the day in Barak valley. Assam at Silchar in Cachar district which included the other two districts of Hailakandi and Karimganj of the valley. To generate more awareness among common people and also to sensitize the public in general a run was organized on the morning of 10th Dec/2015 from the District Sports Association Ground at Silchar under the banner of AHRC. The 3 km run which started at 08:00 hrs. in the morning was flagged off by Justice (Dr) Aftab Hussain

¹⁵⁶ . Annual Reports, Assam Human Rights Commission, at 19, 205-2016.

Saikia, Hon'ble Chairperson, AHRC in the presence of Secretary AHRC, D.C, and ADC Cachar. The one-day awareness programme on Human Rights started at 10.30 am in the auditorium of the District library, Cachar. In addition to the Chairman, secretary, and member of the AHRC some resource persons were also delivered their valuable speeches there.¹⁵⁷

AHRC ORGANIZES ONE DAY BASIC PROGRAMME AT DHUBRI ON AWARENESS OF HUMAN RIGHTS.

In collaboration with Dhubri District Administration and District Legal Service Authority, Dhubri, The Assam Human Rights Commission organized a one-day awareness program at Dhubri Zila Parishad Hall, Dhubri on 10-02-2016. Justice (Dr) A.H Saikia Hon'ble Chairperson Assam Human Rights Commission graced the awareness programme as chief guest while Shree Tarun Phookan was the guest of Honour, the programme was presided by the D.C Dhubri, Representatives of District administration, NGO, Bar association, Legal Service authority, academician, senior citizens personnel of para-military force, BSF, CRPF, Army, etc. Secretary Legal Service Authority, Dhubri welcomed the gathering. Justice (Dr) Aftab Hussain Saikia, Hon'ble Chairperson, Assam Human Rights Commission in his valuable speech as a chief guest told about international covenant relating to human rights. Prominent lawyer and president of Dhubri Bar Association Mr.A.K Fazlul Hoque, commandant 48 CRPF, Biplob Sharma, Resource person Iramoni Borah, lawyer N.I Choudhury, delivered their valuable lecture and take part in the interaction.¹⁵⁸

NOTABLE CASES.

AHRC CASE NO.1039/7/14-15

The commission had registered a case on receipt of 2(two) e-mail complaints, one from the Asian Human Rights Commission –Urgent Appeal Programme and another from one

¹⁵⁷ Id at 21-22.

¹⁵⁸ Annual Report, Assam Human Rights Commission, at 24-25, 12015-2016.

Siddhi Bahadur Ranjitkar of Nepal about the one and same subject, i.e. alleged police brutality on one Sri Bhaben Gogoi at Jorhat. On 06-04-2014 at around 6.30 P.M. The O/C Chinnamora Police Station Jorhat Mayuri Gogoi and his accompanying police personnel near ONGC gate were severely assaulted by the rifle butts upon said Bhaben Gogoi aged about 25 years S/O- Gunaram Gogoi of Barbheti Kerani Gaon. During medical diagnosis, it is found that his one of his leg is broken requiring surgery. On 23-04-2014 at Jorhat Medical College victim's right leg was amputated and on 26-04-2014 FIR was lodged against said O/C, the case was registered as Chinnamora Police station case No- 641/2014 u/s- 326/34 IPC. The commission issued notice to the D.M Jorhat for causing inquiry. Show cause notice was also sent to the O/c and he had submitted replies on -01-12-2014. The commission had perused and considered meticulously the show cause replies and the inquiry reports submitted by the D.M. and pronounced the judgment on 13-04-2015, it was accordingly recommended that- (i). The Director-General of Police, Assam would immediately cause appropriate disciplinary action against the police sub-inspector, the then i/c Chinnamora police Out post-Jorhat, Sri Mayurjit Gogoi and (ii) Rs- 2,00,000/(Two Lakhs) be paid to said Sri Bhaben Gogoi being compensation by the Government of Assam in the Department of Home within 3 (three) months which could be recovered from the erring police officer Sri Mayurjit Gogoi.¹⁵⁹

AHRC CASE NO-378/4/12-13.

Medertary, Dhubri.

Negligence of Inland Water Transport Department, Assam.

Assam's worst boat tragedy occurred on- 30/04/2012. Wherein a double-decker ferry carrying more than 380 passengers being on the way from Dhubri to Medertaty under Fokirganj police station. Sank in the mighty Brahmaputra after being caught in the severe storm midstream and having gone through the newspaper reports in most of the newspapers from Assam. mainly Assam Tribune dated 2nd May/2012 with the caption, "Most vessels

¹⁵⁹Id at. 30-36.

plying in the Brahmaputra flout norms” as well as the editorial “Medertary tragedy” The Assam Human Rights Commission proposes to take Suo-Motu cognizance of the entire issue about the security and safety of the passengers ferrying in the boat run by the lessees without caring the security and safety of the passengers and without having life jacket and fitness of the boat in the mighty Brahmaputra under inland water department, Govt. of Assam.

In respect of the tragic accident, The Assam Human Rights Commission issued notices to the chief secretary, Government of Assam, and the commissioner and secretary, Inland water transport Department, Government of Assam to cause separate inquiries into the boat tragedy and to inform the commission if there is any foolproof guideline/norms to ensure safety and security of the boat /ferry travelers and also about the condition of ferries and boats used in ferrying travelers across the mighty Brahmaputra and its various tributaries and are the ferries and boats are equipped with life-saving equipment, life belts inadequate measures and if any then what are the measures to supervise the safety and security measure. Also, inform the measures to prevent overcrowding in the boat and ferries. Hence the commission recommended to the Government of Assam through its chief secretary forwarding a copy of the entire inquiry report for due and timely compliance.¹⁶⁰

ARHC Case No., 1602/9/15-16:- Kamrup (Urban)

Hazardous gas leaking incident.

A division bench of the Assam Human Rights Commission, on 24-02-2016 issued notice to the Chief Secretary, Assam, calling upon him to cause an inclusive inquiry to be conducted into the incident of leakage of some toxic gas through the concerning technological as well as administrative authorities and submit the report thereof before this commission within 30 (Thirty) days of receipt of the Notice.

The Commission took Suo Motu cognizance of a news item which appeared in several local news dailies regarding a Mysterious Gas Leakage of some toxic gas affecting a large

¹⁶⁰Id at.37-40.

number of the residents of Navagraha, Silpukhuti, Chandmari, and Kharghuli of the metropolis of Guwahati on Friday night and thereafter resulting in nausea and vomiting amongst some of the affected people besides the reported death of an elderly woman. An accusation had been made against the Guwahati Refinery for being responsible for the release of the said gas which could have triggered a catastrophe like that of the Bhopal Gas Tragedy. It was expected that the best of the technologies be used by the concerned authorities to prevent any further leakage of such obnoxious substances to avert and evade any possible disaster being detrimental and deleterious of life and property.

STATEMENT OF CASES DISPOSED OF WITH RECOMMENDATIONS DURING THE YEAR 2015-2016.

Table No. 9

Sl. No	Case No	On complaint or Suo Moto	District	Date of decision
1	1039/7/14-15	Suo moto	Jorhat	13-04-2015
2	1116/14/14-15	Complaint	Nagaon	19/05/2015
3	378/4/12-13	Suo Moto	Dhubri	01/06/2015
4	1014/9/14-15	Complaint	Kamrup	22-06-2015
5	1141/21/14-15	Complaint	Hailakandi	10-09-2015
6	679/24/15-16	Complaint	Kamrup	09-11-2015
7	1/-26/11-12	Complaint	Baksa	09-11-2015
8	1258/14/14-15	Complaint	Nagaon ¹⁶¹	18-11-2015
9	1255/9/14-15 linked with 1322/9/15-16	Suo Moto	Kamrup	05-01-2016

¹⁶¹ Annual Report , Assam Human Rights Commission at 57, 2015-2016

4.5. ACTIVITIES CARRIED OUT BY THE ASSAM HUMAN RIGHTS COMMISSION DURING 2016- 2017.

INSPECTION OF DETENTION CENTRE IN GOAL PARA DISTRICT JAIL

On 11-05-2016, The Assam Human Rights Commission comprising its Hon'ble chairperson, the Member (Judicial), the Secretary and staff visited the Detention center housed within the Goal Para District Jail, Goal Para and on its inspection and examination, the following were found—

1. **Hospital**-The Jail Hospital has been taking care of the inmates of the detention center. It contains 10 beds. Neither any Nurse nor any ward boy was appointed in the Hospital. No Oxygen cylinder is available.
2. **Telephone**-The Detention camp is not having an ISD telephone facility thereby deprived of keeping a contact with their relatives. ISD facilities are provided so that the detainee can talk with their relations in the corresponding foreign countries if it is not prohibited by the Rules prescribed therefor.
3. **Kitchen**- The kitchen was found to be clean and hygienic and well maintained. The meals were provided as per the Jail manual.
4. **Jail population**- The Jail was found to be overcrowded with 514 inmates in 4 (four) Barracks with a registered capacity of the Jail is 370. Out of the 514 inmates 199 are Declared Foreign Nationals (DFN) and the rest being 315 are Jail inmates. There is no Detention center as required under the law. 199 DFN are accommodated in three Barracks. Each Barrack with a capacity of 27 people. So with a total of 81 capacity 3 Barracks, all 199 detainees of DFN are herded in.¹⁶²

The commission while interacting with the inmates they revealed a shocking and sordid story about their woes and miseries, it was learned that some of them were in a detention camp after serving the prescribed sentence after conviction under the Foreigners Act 1946. It was pathetic to know that some of the inmates were in detention camp pending their inquiry by the respective foreigners' tribunal as regards their nationality. It was also

¹⁶²Consolidated Annual Report of Assam Human Rights Commission, 15-16, 2016-2017.

revealed that some of the inmates were claiming to be Indian National but their documents to prove their nationality are yet under the scrutiny of the respective Tribunal.

Some admitted Bangladeshi nationals narrated that, they are in the detention camp without the knowledge of the family members in Bangladesh. Even they could not contact with the family members being in a foreign country. They also submitted that on many occasions they had requested the Jail authority to make a contract with the family members but authorities informed that no such facility was available for those detainees to avail international call and accordingly they were not permitted. The commission was shocked and stunned to hear the claim and demand made by the DFNs that “ if there is no provision to send them back to Bangladesh, let them be killed by the authority concerned as they are ready to die instead of being rotten in the Detention camp with uncertainty and without hope.”¹⁶³

Comments---

The commission after inspection passed its opinion that there is a gross violation of Human rights, The commission also quoted the meaning of human rights u/s- 2(d) of the protection of Human Rights as under- “ 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 the courts in India”. It is admitted that there is no Detention center established by the Government as required under the law. The commission also comments that for the sake of convenience, it would be pertinent and necessary to discuss the relevant legal provisions about the deportation of Bangladesh/Foreign National after completion of jail term. The commission requested to ensure that this process is initiated at least 3 months before completion of the sentence of the foreigner so that the travel document of the foreigner is made available by the Embassy/High Commissioner concern before he/she completes the sentence, which would facilitate his/her deportation immediately after he/she has completed the sentence.

¹⁶³Consolidated Annual Report of Assam Human Rights Commission, 24, 2016-2017.

RECOMMENDATIONS-

The Assam Human Rights Commission is constrained to recommend to the Government of Assam by its chief secretary, Assam as follows-

(i) Immediate and urgent steps be taken for the establishment of a separate and independent detention Centre for the detention of foreigners who are awaiting deportation to their respective countries.

(ii) Separate budget is allotted for the maintenance of the detainee in the detention center.

3. Immediate steps are taken to not to keep the DFNs with the regular and general inmates of the jail and arrangements should be made to keep them separately in separate barracks so long there is no independent provision for detention center outside the jail.

(iii) ISD call facility be immediately provided in the existing Detention center within the district jail to enable the detainee to contact with their family members in their respective countries

(iv) The Government of Assam will move to the appropriate authority for immediate deportation /pushback of those detainees in the detention center.

(v) The process for deportation be initiated at least 3 (three) months before the completion of the sentence was imposed by the competent court of law so that the travel document of the foreigner is made available by the embassy/High commissioner concerned well before he/she has completed the sentence, which would facilitate his/her deportation immediately after he/she has completed the sentence in terms of clause 3 of the consolidated instructions notified by the Government of India as quoted above.

(vi). The detainee in the detention center be given proper care and counseling to tide over their depression/ frustration arising out of uncertain and indefinite future facing their deportation and this regard, the Government shall take necessary steps to involve the District Legal Service authority, Goal Para to do the needful.¹⁶⁴

¹⁶⁴ . Assam Human Rights Commission consolidated Annual report, 26-27, 2016-2018.

INSPECTION OF THE DETENTION CENTRE IN DIBRUGARH DISTRICT JAIL.

On, 30-09-2016 Assam Human Rights Commission visited the detention center housed within the Dibrugarh District jail. And its inspection and examination following were found-

The detention center, as inspected, depicts a picture of gross violation of human rights. It is found that no detention center is established by the state government as required under the law. The detention center was found to be within the Jail premises of the district jail, Dibrugarh.

The Foreigners Act -1946 and Foreigners order 1948 do not have any procedure for the deportation of a declared foreigner. The power for deporting a foreigner including a Bangladeshi is governed by the consolidated Instructions issued by the Ministry of Home Affairs (Foreign Division). Governments of India, New Delhi vide notification No-25022/19/2014 dated -24/04/2014.¹⁶⁵

A detention center should never be established inside the Jail since the relevant Government of India notification No- 25022/19/2014-F.1. dated 24-4-2014 contains inter-alia, it is clear in the 6th clause that the declared foreigners awaiting their deportation due to non –confirmation of nationality/non-issue of the requisite travel documents by the country concerned should be kept at an appropriate place outside the jail premises with restricted movements pending their deportation. But during inspection AHRC found a horrifying report that despite such provisions the Declared Foreign National (DFN) were kept inside the jail for whom the Government of Assam had reportedly made no provision for their proper accommodation, diet, and health care facilities, and the detainee had therefore been languishing inside the jail itself under amazing deprivation of the living facilities.¹⁶⁶

Assam Human Rights Commission on inspection found which is more shocking that DFNs were found to be kept along with the other inmates of the jail (convict and UTPs). The DFNs so long as they are in India, are entitled to their fundamental rights including life,

¹⁶⁵ Assam Human Rights Commission consolidated Annual report, 30, 2016-2018.

¹⁶⁶ Assam Human Rights Commission consolidated Annual report, 34, 2016-2018.

liberty, equality, and dignity guaranteed by Article 21 of the constitution of India. But they appear to be have been deprived of their such rights for being kept inside the jail along with their inmates with poor and insufficient facilities for human living ¹⁶⁷

RECOMMENDATIONS

1. Immediate and urgent step is to be taken for the establishment of separate and independent Detention centers for the detention of foreigners who are awaiting deportation to their respective countries.
2. Separate budget is allotted for the maintenance of the detainee in the detention center.
3. Immediate steps are taken to not to keep the DFNs with the regular and general inmates of the jail and arrangements should be made to keep them separately in separate barracks so long there is no independent provision for detention center outside the jail.
4. ISD call facility be immediately provided in the existing Detention center within the district jail to enable the detainee to contact with their family members in their respective countries
5. The Government of Assam will move to the appropriate authority for immediate deportation /pushback of those detainees from the detention center.
6. The process for deportation be initiated at least 3 (three) months before the completion of the sentence was imposed by the competent court of law so that the travel document of the foreigner is made available by the embassy/High commissioner concerned well before he/she has completed the sentence, which would facilitate his/her deportation immediately after he/she has completed the sentence in terms of clause 3 of the consolidated instructions notified by the Government of India as quoted above.
7. The detainees in the detention center be given proper care and counseling to tide over their depression/ frustration arising out of uncertain and indefinite future facing their

¹⁶⁷Consolidated Annual Report, Assam Human Rights Commission 35, 2016-2018.

deportation and in this regard, the Government shall take necessary steps to involve the District Legal Service authority, of the district.¹⁶⁸

STATEMENT OF CASES FOR THE PERIOD 1ST APRIL, 2016 TO 31ST DECEMBER, 2016.

Table No. 10.

SL.NO	DISTRICT	NO. OF CASES REGISTERED
1	Baksa	04
2	Barpeta	11
3	Biswanath	01
4	Bongaigaon	02
5	Cachar	09
6	Charaideo	01
7	Chirang	01
8	Darrang	15
9	Dhemaji	00
10	Dhubri	06
11	Dibrugarh	08
12	Dima Hasao	02
13	Goal Para	05
14	Golaghat	10
15	Halaikandi	12
16	Hojai	07
17	Jorhat	05
18	Kamrup	41
19	Kamrup (Metropolitan)	06
20	Karbi Anglong	12
21	Korimganj	09
22	Kokrajhar	05
23	Lakhimpur	04
24	Majuli	00
25	Morigaon	04
26	Nagaon	28
27	Nalbari	04
28	Sivasagar	06
29	Sonitpur	14
30	SouthSalmara- Mankachar	00
31	Tinsukia	09
32	Udalguri	03
33	West Karbi Anglong	00
34	Others	07
	TOTAL=	251¹⁶⁹

¹⁶⁸ .Assam Human Rights Commission, consolidated Annual Reports, 35-36,2016-2018.

¹⁶⁹Consolidated Annual Report, Assam Human Rights Commission at 7-8 2016-2018.

STATEMENT OF CASES FOR THE PERIOD 1ST JANUARY, 2017 TO 31ST DECEMBER, 2017.

Table No. 11

SL.NO	DISTRICT	NO. OF CASES REGISTERED
1	Baksa	02
2	Barpeta	15
3	Biswanath	02
4	Bongaigaon	05
5	Cachar	28
6	Charaideo	00
7	Chirang	05
8	Darrang	10
9	Dhemaji	06
10	Dhubri	05
11	Dibrugarh	08
12	Dima Hasao	01
13	Goal Para	08
14	Golaghat	09
15	Halaikandi	10
16	Hojai	14
17	Jorhat	13
18	Kamrup	71
19	Kamrup Metropolitan	04
20	Karbi Anglong	08
21	Korimganj	11
22	Kokrajhar	11
23	Lakhimpur	04
24	Majuli	03
25	Morigaon	01
26	Nagaon	20
27	Nalbari	06
28	Sivasagar	06
29	Sonitpur	13
30	South Salmara- Mankachar	00
31	Tinsukia	08
32	Udalguri	01
33	West Karbi Anglong	00
34	Others	03
	TOTAL=	311 ¹⁷⁰

¹⁷⁰ Id at 9-10

4.6. ACTIVITIES OF ASSAM HUMAN RIGHTS COMMISSION DURING THE YEAR-2017-2018.

AWARENESS PROGRAMMES

The Assam Human rights Commission has been organizing awareness programmes regularly in different districts of the state of Assam for spreading awareness among the people regarding their human rights. The programmes are held in the interior areas of the district, like in the circle and sub-divisions, representatives of the District Bar Association, District Judiciary, and the professors of the colleges in the concerned district are invited as research persons to speak on various topics and the related provisions of law.¹⁷¹The Assam Human Rights Commission organized awareness programmes at the following place—

Table No. 12

Sl. No.	Date	Place
1.	27/10/2017	Haflong in Dima Hasao district
2.	18/11/2017	Diphu in Karbi Anglong District
3.	27/11/2017	Majuli District Headquarter
4.	23/02/2018	Rangia in Kamrup district ¹⁷²

Resource persons to speak on the awareness programmers were –representatives of the District bar association, district Judiciary, Professors/Associate professors/Assistant professors.¹⁷³

¹⁷¹. Assam Human Rights Commission consolidated Annual Report, 52, 2016-2018.

¹⁷² Id at 53

¹⁷³ . Assam Human Rights Commission consolidated Annual Report, 54, 2016-2018.

WORLD HUMAN RIGHTS DAY.

The World Human rights day, 2017 was observed by the Assam Human Rights Commission at Nagaon in collaboration with the Nagaon District Administration. The function was presided by the Deputy Commissioner, Nagaon, wherein one member of the AHRC was present as the chief guest. The District and Session judge and the Superintendent of police of the district attended the function as guest of honour.¹⁷⁴ The function was attended by the representatives of the Panchayat, police personnel, and people from various sectors. The World Human Rights Day in the year 2018 was observed in the premises of the Assam Human Rights Commission.¹⁷⁵

NOTABLE CASES.

AHRC CASE NO. 1868/6/16 dated 08/08/2018.

Torture by police

The case was filed against a SI of police regarding assaulting after arrest. Complainant Jomer Uddin Ahmed under Mornoi police station in the district of Goal Para alleged that IC Dubapara OP assaulted him badly after his arrest in connection with Mornoi PS case no. 176/2016 on 04/10/2016.¹⁷⁶

The commission issued notice to the superintendent of police, Goal Para with a copy of the complaint to cause inquiry and submit a report thereof, in response to the notice S.P, submitted the inquiry report on-07/02/2017.¹⁷⁷

The Assam Human Rights Commission comprises (The Full Bench) of Hon'ble Justice T. Vaiphei, chairperson, Sri N.K Bora, and Sri D.K. Saikia, Hon'ble Members, perused the inquiry report, comments thereon, and the relevant order passed by the JMFC in connection with Mornoi P.S case no- 176/2016. Combine reading of the inquiry report and order passed by the JMFC revealed that the complainant alleged before the JMFC about the

¹⁷⁴ Assam Human Rights Commission consolidated Annual Report, 55, 2016-2018.

¹⁷⁵ Id at 56

¹⁷⁶ Assam Human Rights Commission consolidated Report, 59, 2016-2018.

¹⁷⁷ Assam Human Rights Commission consolidated Report, 60, 2016-2018.

torture in police custody when he was produced before him who in return, directed the Jail Superintendent, Goal Para, to provide medical treatment to the complainant and also directed the IO to show cause for the alleged torture and personal appearance before the court with a show-cause reply. The Jail doctor, after examining the complainant referred him to Civil Hospital; Goalpara. The report of the jail doctor revealed that the complainant was admitted to jail as accused in Mornoi P.S no- 176/2016 and on examination, he found that the complainant was suffering from assaulting injury, i.e., bruises over the left shoulder, right arm. Swelling of left thigh, bruises over right buttock, pain in both feet and he prescribed medication. The JMFC vide order dated 20-10-2016 warned the IO and send a copy of the order to the S.P. Goal Para.

The materials available on the record revealed that this is a clear case of violation of human rights; the commission recommended that the erring police personal, i.e. SI Jahan Uddin Sheikh, who is responsible for violation of human rights, is to be booked under departmental proceeding. The Commission recommended that the authority concerned initiate proceedings against the above-named officer.¹⁷⁸

AHRC CASE NO. 1478/22/15-16 dated 20.09.2018.

A news item was published in the local daily “Asomiya Protidin” in its issue dated 10-10-2015. In the news, it is alleged, imposition of corporal punishment on 07 (seven) constables by the principal of Police Training College, Dergaon.¹⁷⁹

Assam Human Rights Commission took Suo Motu cognizance of this case. The commission issued a notice to the commissioner and secretary, Home and political department, to cause an inquiry through some high ranking civil officers of the Government of Assam and submit the report before the commission.

The state Government promptly acted upon the said order of the commission and appointed Sri Mukul Gogoi, (IAS), Commissioner Upper Assam Division, and Sri R. P Meena IPS, Inspector General of Police (ER), Assam, Jorhat to conduct the inquiry. The inquiry report

¹⁷⁸ *Id*

¹⁷⁹ *Id*

reveals some adverse findings corroborating the allegations. Hence the commission thought that there is a prima- facie material of violations of human rights violation of those police constables and a full-fledged departmental inquiry against the concerned official is necessary to be called for so that such type of violations does not repeat in future.¹⁸⁰ Joint Secretary to the Government of Assam, Home and Political department by his communication dated 17-09-2018 forwarded the action taken report based on the inquiry report submitted in connection with the allegation of imposition of corporal punishment upon 07(seven) constables of Police Training college, Dergaon, Assam, by Pradip Pujari IPS (principal of the Police Training College).

It is revealed in the communication dated 09-08-2018 issued by the Secy., Home (A) Department to the secretary. Political (A) department that the Government initiated a departmental proceeding against Sri Pradip Pujari IPS(Principal) and Deepak Kumar, IPS, IGP(L&O) and the IO Sri Randeep Bora, APS, Asstt. IGP (Trg). The commission perused the statement of Articles of charges framed against them. The commission accepted the Action Taken Report and disposed of the case.¹⁸¹

AHRC CASE NO. 2042/24/17-18 dated 21-11-2018.

In the instant complaint filed on 2-06-2017, the complainant Jahanra Begum W/O- Shahazada Khan R/O - Mirza Kochpara under Palashbari police station in the district of Kamrup (Rural) has stated that Foreigners Tribunal No- 3, Kamrup Amingaon, declared her husband as a foreigner in FT case NO -17/2000 by judgment and order dated 04-02-2017, The complainant stated alleged that her husband produced evidence both documentary as well as oral in support of his claim to be a citizen of India and in response to the said judgment and order her husband was detained on 04-02-2017 and he has been detaining in Goalpara Jail cum Detention Camp. The complainant further stated that the condition of the Detention camp is unhygienic and pitiable, as a result of the complainant's husband is deteriorating.

¹⁸⁰ Assam Human Rights Commission Consolidated Annual Report, 61, 2016-2018.

¹⁸¹ . Id

Assam Human Rights Commission is not an appellate authority of the Foreigners Tribunal, Assam so the commission holds that declaration of complainant's husband as a foreigner by a Foreigners tribunal relates to a proceeding of a tribunal and the impugned judgment and order may be challenged by way of appeal to the appropriate authority. The commission has no jurisdiction to entertain the complaint against the findings of a tribunal as an appellate forum, so that part of the complaint is not entertainable by the commission and hence, dismissed.

As regards remaining part of the complaint regarding the unhygienic and pitiable condition of the detention camp, the commission took cognizance of the case and issued notice to the District and Session Judge, Goal Para to visit and inspect Goalpara Detention Camp and submit in this regard of the condition of the camps.

After visiting the Detention Camp, District and Session Judge submitted his report, wherein it is revealed that- Eight numbers declared foreigners are in the hospital for treatment and one was at TB ward inside the jail hospital, The health conditions of 37(thirty-seven) numbers declared foreigners were found bad who was suffering from psychiatric problems. The report also reveals that 13 (thirteen) declared foreigner nationals were suffering from mental ailments.¹⁸² The individuals declared as foreigners are kept inside prisons along with convicts and UTPs. The District and Session Judge in his report has further observed that a clear demarcation of the detention center/camp and separation of the detention center from Goalpara Jail is urgently required.

The reports further reveal that the quality of food particularly Daal vegetables is not satisfactory. The kitchen is not hygienic. Due to overcrowding of the jail inmates in the Goalpara District Jail, the space used for accommodating the declared foreign nationals is limited.

The commission perused the report and felt that the conditions of the detainees of the detention camp inside the detention camp are infected pitiable and lamentable. The commission observed that it is high time that the Assam Government and Government of

¹⁸² Assam Human Rights Commission Consolidated annual Report, at 67, 2016-2018.

India should take concrete measures to address the inhuman conditions of the detention camp remembering the constitutional right to life and personal liberty available to all persons, including foreigners.

As such the commission felt that proper infrastructure and adequate funding by the Government is required to improve the conditions of the detention camp/center with a clear distinction between a jail and a detention camp. Human rights cannot be denied to an individual on the grounds of his nationality, religion, gender, language, caste, colour, etc. The commission recommended the Government of Assam through then Chief Secretary, Government of Assam, to take initiative in the right earnest to improve the conditions of the detention camps to ameliorate the laminable conditions of the detention center/camps,¹⁸³

AHRC CASE NO. 2028/17/17-18 dated 03/10/2018.

This complaint was originally filed before the National Human Rights Commission on- 08-04-2017 by the complainant Santam Saha of Nehru Road, Doomdooma of Tinsukia district of Assam. NHRC transferred the complaint to the AHRC as the matter and grievance are subject to the state of Assam. The allegation is that when the complainant along with his two friends was watching a cricket match outside of a pan shop on 01-4-2017 around 9.05 P.M. all of them were forcefully taken to the Doomdooma police station by the officer in charge Moni Mohan Koach and was threatened of apprehending on a false charge of taking drugs.¹⁸⁴ It is also alleged that the mobile phone of all of them was taken away and then call their parents who were also misbehaved O/C took their signature forcefully on some blank papers and around 11.45 P.M the complainant and his friend were allowed to go.

Assam Human Rights Commission took cognizance of the case and directed the Superintendent of Police, Tinsukia to cause an inquiry and submit the report within 1(one) months from the date of receiving of the notice. According to the S.P. submitted a report wherein it is stated that in the evening of 01/08/2017, while the O/C Doomdooma P.S. along with his staff and APR personnel was on patrolling duty at Doomdooma P.S. area,

¹⁸³.Id at 66

¹⁸⁴Id.at.69.

information was received by them that some youths, wearing black apparels were seen roaming suspiciously. They found that three youths wearing black apparel were roaming suspiciously near the shop of one Rahul Saha in Grand i10 vehicle bearing Registration No-AS-23-N-6422, hence they were taken to the P.S. vide GDE No-17 dated 01-04-2017.

On inquiry it is that the 3(three) youths were Dipak Parik S/O- Lt Parsuram Parik of kaliapani, Rohit Jaiswal S/O- Sabon Jaiswal of old A.T Road, and Santham Saha S/O- Dipok Shaha of Nehru Road all are under Doomdooma P.S. in the district of Tinsukia. S.P also stated that one prominent person and social worker Bimal Agarwal was informed in this regard and in presence of him all youths were handed over to their guardians. It is also reported by the S.P, Tinsukia that those youths were taken to the police station for the sake of safety and to prevent the commission of the crime.¹⁸⁵

Assam Human rights Commission after perusing the report submitted by the S.P. Tinsukia thought that the action taken by the O/C Doomdooma P.S. is not acceptable as per law and the action of the police officer was viewed very seriously by the commission since it violates the human rights guaranteed by the constitution of India. The commission noted that “Freedom of movement guaranteed by clause (d) of Article 19(1) is in addition to personal liberty guaranteed under article 21. Order of extermination and interment violate rights unless they fall within the permissible restriction. While judicial decisions confine to this article to physical movement, the intangible aspect of freedom may receive protection under article 21 says that “No person shall be deprived of his life or personal liberty except according to procedure established by law.”¹⁸⁶

The Assam Human Rights Commission, viewing the matter seriously directed the Superintendent of Police Tinsukia to draw up departmental proceedings against the Officer in charge of Doomdooma police station.

¹⁸⁵Consolidated Annual Report Assam Human Right Commission, at 69.2016-2018.

¹⁸⁶INDIA CONST. art. 21.

AHRC CASE NO. 1957/16/17-18 dated 29/11/2018.

The complainant Sri Dhiren Bora in this complaint stated that his niece, Sharmistha Bora died during treatment at Dispur Hospital on 26-03-2017. On 22-03-2017 Sharmistha Bora was admitted to TMCH before her expected date of delivery doctor performed a cesarean and a male baby was delivered but within two hours she had to operate again and on 23-03-2017 her condition started deteriorating in the evening doctor referred her to GMCH, but the attendant of the patient admitted her into Dispur Hospital on 23-03-2017 around 9.30, where she died on 26-03-2017.¹⁸⁷

After taking cognizance of the case the commission issued notice to the Commissioner and Secretary, Health and Family Welfare Department Dispur, Guwahati to cause an inquiry to be conducted by a senior officer. According to the notice, Health and Family Welfare Department forwarded the inquiry report on 29-07-2017, submitted by OSD, Director of Medical Education, Assam (Dr. B.P. Chakravarty).

A perusal of the inquiry report reveals that the deceased was suffering from puerperal sepsis with shock with Disseminated Intravascular coagulation with acute kidney injury and severe metabolic acidosis, jaundice was noticed and liver function test, platelet count, and serum creatinine were advised. The emergency visiting surgeon was informed and advised to shift the patient to labour room. Another post-operation note on 22-03-2017 at 7.05 P.M. showed bleeding from the operative incision. A tight bandage and skin stitch were given and bleeding was stopped. On 23-03-2017 at 10 am the patient was conscious with normal pulse and BP, but at 3.30 P.M the patient was having abdomen pain and breathing difficulty she was sent to ICU, the patient was discharged from TMHC at 4.45 P.M. and referred to GMCH, there is no evidence of medical negligence on the part of the doctor of TMHC in the pre-operative, operative and immediate post-operative period.

From the communication and opinion of the senior Gynaecologists, the Assam Human Rights Commission concluded that the death of Sarmistha Bora was not due to the violation of human rights.¹⁸⁸

¹⁸⁷ Consolidated Annual Reports of Assam Human Rights Commission at 71 2016-2018 .

STATEMENT OF THE REGISTERED CASES FOR THE PERIOD OF 1ST JANUARY
2018 TO 31ST DECEMBER 2018.¹⁸⁹

Table No. 13.

SL NO	DISTRICT	NO.OF CASES REGISTERED.
1.	Baksa	03
2.	Barpeta	09
3.	Biswanath Chariali	01
4.	Bongaigaon	00
5.	Cachar	28
6.	Charaideo	00
7.	Chirang	01
8.	Darrang	07
9.	Dhemaji	04
10.	Dhubri	06
11.	Dibrugarh	10
12.	Dima Hasao	01
13.	Goalpara	09
14.	Golaghat	12
15.	Hailakandi	14
16.	Hojai	08
17.	Jorhat	08
18.	Kamrup	65
19.	Kamrup(Metro)	07
20.	Karbi Anglong	09
21.	Karimganj	15
22.	Kokrajhar	05
23.	Lakhimpur	07
24.	Majuli	00
25.	Morigaon	06
26.	Nagaon	21
27.	Nalbari	08
28.	Sibsagar	06
29.	Sonitpur	09
30.	South Salmara- Mankachar	02
31.	Tisukia	03
32.	Udalguri	01
33.	West Karbi Anglong	00
34.	Others.	05
		Total= 290

¹⁸⁸ Id at 74

¹⁸⁹ Consolidated Annual Report Assam Human Right Commission, at 10-11. 2016-2018.

STATEMENT OF THE CASES DISPOSED OF FOR THE PERIOD OF 1ST JANUARY 2018 TO 31ST DECEMBER 2018¹⁹⁰.

Table No. 14

SL NO	MONTH	NO OF CASES DISPOSED OF
1	January	07
2	February	07
3	March	07
4	April	06
5	May	22
6	June	24
7	July	59
8	August	81
9	September	43
10	October	42
11	November	47
12	December	00
		Total= 345

4.7.ACTIVITIES CARRIED OUT BY THE ASSAM HUMAN RIGHTS COMMISSION DURING THE PERIOD 01 JANUARY, 2019 TO 31 DECEMBER, 2019

The Assam Human Rights Commission, an autonomous body, was established in the year 1996 as per section 21 of the Protection of Human Rights Act (PHRA), 1993 as amended in 2019.

Composition of the AHRC during the period of the report

During the period of the report, i.e. 1st January 2019 to 31st December 2019, Hon'ble Mr. Justice Tinlianthang Vaiphei, former Chief Justice of Tripura High Court, who joined as the Chairperson of the AHRC, continued to be the Chairperson of the AHRC.

Shri Naba Kamal Bora, who joined as a Member on 10th March 2017 continued to be a Member (Judicial) of the Commission.

Shri Deva Kumar Saikia, former Additional Advocate General, Assam joined as a Member on 18th April 2018 also continued to be a Member (Non-Judicial) of the Commission.¹⁹¹

¹⁹⁰ Id at 13

¹⁹¹ Assam Human Rights Commission. Annual Report at 2 (2019)

The Deputy Secretary of the Commission, Shri Mukut Chandra Malakar discharged his duties as the Secretary In-charge till 02 February 2019 when Shri Monoranjan Dutta, IAS took over as the Secretary of the AHRC. Presently, Mrs. Medhi, ACS, is the Secretary of the Commission.

Shri Lungriading, IPS in the rank of Additional DGP, Assam, who joined as the Director of Investigation, AHRC continued to hold the office during the period of the report.

STAFFING PATTERN AND MEN IN POSITION OF THE ASSAM HUMAN RIGHTS COMMISSION .

Table No. 15.

Sl. No.	Name of post	No. of sanctioned post	Men in position		Remarks
			Posted	Vacant	
1	Secretary	01	01	00	Placed from the Govt. of Assam in the rank of Secretary to the State
2	Deputy secretary	00	01	00	No sanctioned post. Placed from the Secretariat in the rank of Deputy Secretary to the Govt. of Assam
3	Under Secretary	01	01	00	Placed from the Secretariat in the rank of Under Secretary to the Govt. of Assam
4	Superintendent	01	00	01	Placed from the Secretariat in the rank of Superintendent in Govt. of Assam.
5	Sr. Administrative Assistant	01	01	00	Placed from the Secretariat in the rank of Superintendent in Govt. of Assam.
6	Stenographer Gr I	02	01	01	One Steno was appointed by the AHRC. Once vacant to be placed from the Sectt.
7	Stenographer Gr II	02	02	00	01 appointed by the AHRC. 01 to be placed from the Sectt.
8	Jr. Administrative Assistant	03	04	00	03 nos JAA appointed by the AHRC. 01 placed from the Sectt.
9	Computer Operator	01	01	00	Appointed by the AHRC
10	Driver	05	05	00	Appointed by the AHRC
11	Grade IV	06	06	00	Appointed by the AHRC

STAFFING PATTERN AND MEN IN POSITION OF THE INVESTIGATION CELL OF ASSAM HUMAN RIGHTS COMMISSION.

Table No. 16.

Sl. No.	Name of post	No. of sanctioned post	Men in position		Remarks
			Posted	Vacant	
1	Director, Investigation Cell	01	01	00	Placed from Home Deptt. In the rank of IGP and above
2	Superintendent of Police	01	01	00	Placed from Home Deptt. In the rank of Superintendent of Police
3	Inspector	02	01	01	Placed from the Home Deptt. In the rank of inspector of Police
4	Constables	02	03	00	Placed from the Home Deptt. in the rank of constables of the Assam Police.

Statement of cases registered and disposed of during the year 2019.

Table No. 17

Year	No. of cases brought forward	Cases registered	Total cases	No. of cases disposed of	No. of cases under process
2019	174	317	491	383	108

District-wise Statement of Cases registered during the year 2019

Table No. 18

Sl.No	District	No. Of Cases Registered
1	Baksa	04
2	Barpeta	11
3	Biswanath	02
4	Bongaigaon	03
5	Cachar	27
6	Charaideo	01
7	Chirang	02
8	Darrang	06
9	Dhemaji	02
10	Dhubri	02
11	Dibrugarh	13
12	Dima Hasao	02
13	Goalpara	10
14	Golaghat	12
15	Hailakandi	04
16	Hojai	20
17	Jorhat	14
18	Kamrup	07
19	Kamrup Metropolitan	69
20	Karbi Anglong	10
21	Karimganj	11
22	Kokrajhar	05
23	Lakhimpur	02
24	Majuli	01
25	Morigaon	04
26	Nagaon	10
27	Nalbari	10
28	Sivasagar	11
29	Sonitpur	18
30	South Salmara Mankachar	01
31	Tinsukia	08
32	Udalguri	05
33	West Karbi Anglong	10
34	Others	12
Total		317

District-wise Statement of Cases disposed of during the year

Table No. 19

Sl no.	Month	No. of cases disposed of
1	January	40
2	February	33
3	March	35
4	April	34
5	May	47
6	June	33
7	July	41
8	August	27
9	September	39
10	October	21
11	November	33
12	December	19
Total		383

Inspection of Jail, Detention Centres

Central Jail & Detention Centre, Tezpur, District Sonitpur,

The Assam Human Rights Commission visited the Central Jail and the Detention Centre, Tezpur on 31st January 2019 to study the living conditions of the inmates as required by section 12 of the Protection of Human Rights Act, 1993 as amended from time to time. The jail enclosure covers an area of 26 *Bighas* out of a total area of 85 *Bighas* of land. The Jail has a capacity of 797 inmates which includes accommodation for 692 males and 105 females.

Prison Population of Central Jail, Tezpur as on 31-01-2019:

Table No. 20.

Sl No.	Categories	Male	Female	Total
1.	N.S.A	Nil	Nil	Nil
2.	TADA	Nil	Nil	Nil
3.	U.A. (P) Act	03	01	04
4.	Remands	115	04	119
5.	Foreigner UTP	02	Nil	02
6.	Sessions	43	06	49
7.	Simple Imprisonment	09	Nil	09
8.	Rigorous Imprisonment	154	02	156
9	Rigorous Imprisonment (NDPS)	03	Nil	03
10.	NDPS (UTP)	06	01	07
11.	Declared Foreign National (Declared by FT Court)	178	76	254
12	Actual Bangladeshi Nationals	16	02	18
13.	Myanmarese National	03	02	05
14.	Children			
	a. Children of DFN /UTP	02	00	02
	b. Juvenile of DFN	03	06	09
15	Mentally ill prisoners			
	a. Convict	16	Nil	16
	b. UTP	07	01	08
	c. DFNs	20	05	25
	Total	580	106	686

E. Medical Unit:

There is an 18 bedded Jail Hospital including isolation wards. The details of the jail Hospital is given in the following table:

Table No. 21

Ward No	Capacity of Ward	Number of inmates
Isolation ward No. 1 (For Psychiatric Patients)	36	21 (including 02 convict attendants)
Isolation Ward No. 2 (for Psychiatric Patients)	24	15 (Including 3 Convict attendants)
Isolation Ward no. 3	21	--
Hospital	56	19

F. Interaction with inmates:

1) Medical Unit

The AHRC Team first inspected the Medical Unit and interacted with the patients there. The unit was found to be well kept and airy.

There was found a Life Convict AC/4764 Tahiluddin Seikh, 83 years, male, resident of Dhekiajuli, Gurmara who is serving RI for Life. He was on bail and subsequently was absconding. He has already completed 14 years in prison including the Hazot period on 11/02/2016 and is presently serving 17 years in Tezpur Central Jail. The remission proposal has already been sent by the jail authority to the Government for his release, vide Letter No. CJT/114/2018/2431-2432, dated 08/06/2018.

2) **Psychiatric Prisoner Ward (Male):**

Out of the prisoners, some inmates have a mental illness. On the day of the visit, there were 49 mentally ill prisoners, some of whom are convicts and a few who are under trial prisoners. These prisoners are treated in the Lokapriya Gopinath Bordoloi Regional Institute of Mental Health, Tezpur. The prisoners who have served their terms and are cured are released to their relatives. But in most cases, it was reported that at times no family members come forward to take their custody. In such a situation, the prisoner is escorted to their home address and handed over to the family.

3) **Isolation Ward:** The isolation ward was visited and the following was observed. Out of mental patients admitted: UTP-4 nos., DFN-5 nos., and Convict-3 nos.

4) **Female Ward, (i) UTP-** 7 nos. A few of the inmates observations are as follows-

1. Pinky Saha, hailing from Kharupetia, 2(two) months completed at Tezpur Central Jail, in connection with a case u/s 420 IPC, bail is allowed to her but no suitable bailor is found by the Court.
2. Muni Basumatary, 7(seven) months at Tezpur Central Jail, under NDPS,
3. Reetha Swargiary, 8(eight) months, in connection with militant outfit NDFB.
4. Rita Bora, 16(sixteen) months, in connection with kidnapping case u/s 371.
5. Cristina Bhangra, hailing from Balipara, 8(eight) months;
6. Lidiya Suren, 2(two) years.
7. Albishia Toppno, 1^{1/2} (One and a half) year in connection with murder case u/s 302.
8. Lakhi Bhuyan, 3(three) months u/s 294/323/506/34 IPC.
9. Reboti Khatuwa, less than a month, u/s 379 IPC (theft of mobile).
10. Jaymati Bawri, 13(thirteen) months, u/s 302.

5) DFN Ward

i. Female:-

Smti Mithilesh Devi, a Hindi-speaking inmate, hailing from Mazbat, Tezpur (native State Bihar) is here for the last 3(three) years. On interaction with her, it appears to be a case of mistaken identity. She has all papers, like ration card, voters ID, in the name of Mithilesh Devi whereas the verdict was in the name of Smti Mithi Lekha Devi. She has appeared in the Hon'ble High Court and has been providing legal aid by Advocate Niranjan Sarma, Mangaldai Bar Association.

Another prisoner, namely Tabasum Begum hails originally from the State of Bihar, serving 3(three) months and her husband expired 4 days ago from the day of the visit of the AHRC Team.

Madhabi Das, from Pasanijar, Nagaon District, will complete her 3(three) years sentence at Tezpur Central Jail soon.

All of them are already referred to the District Legal Services Authorities for legal aid. One Nazima Begum, of Udalguri District, is having issues in Court relating to her age mismatch.

ii. Male:

On interaction, it was found that a few of the DFNs as declared by the F.T. Court were Government servants, some even possessing documents like land pattas and passports. Their names are also included in the draft NRC. One such prisoner was Khairul Islam, a teacher in-service for 30(thirty) years at Tanchali Khandapukhuri, Morigaon district, who is a declared foreign national. The jail authority has helped him to prefer an appeal before the Hon'ble Gauhati High Court along with other DFNs of Tezpur Central Jail filed by Mr. Niloy Dutta, Senior Advocate under the aegis of the District Legal Services Authority, as reported verbally by the Jail Authority).

6) **Ward No.14:** Inmates of ward No. 14 numbering 58 nos. were on hunger strike as they were declared foreign nationals despite having all the documents. Hon'ble Mr. Justice T. Vaiphei discussed and counseled these prisoners and advised them to call off their hunger strike. He opined that as their case was taken up in the High Court, these strikes would be construed as an attempt to pressurize the Hon'ble Court. These prisoners thereafter called off their hunger strike in front of the Superintendent of the Central Jail.

7) **Ward No.12:** Two Hindi Speaking inmates are found to be from Lasanda village, Katti P.S., Muzaffarpur, Bihar. They had already submitted their documents to their lawyer but did not know the status of their appeal. Hasim Ansari, Bihar, has been spending 3(three) years in jail and Jan Mohammad, 65 years, Jakhala Bandha, Kaliabor, Nagaon has been spending 4 (four) years in jail as DFN. Their cases were being referred to the District Legal Services Authority for legal aid.

8) **Observation**

(i) **Legal Aid Clinic:** It was reported by the Jail Superintendent that legal counseling and legal aid are periodically provided to the needy inmates inside the jail Campus by the District Legal Services Authority.

(ii) **Bamboo Manufacturing:-** The cane-bamboo manufacturing process was inspected where some readymade products were found to be the handiworks of the skilled inmates. The products appeared to be user-friendly. They were encouraged to manufacture more and more products.

(iii) **Namghar:-** There is also a *Namghar* in the Jail premises for the jail inmates.

iv) **Library:** The Jail inmates also have the access to Library for those who want to read.

The Jail also has sections for Smiths, Weaving, Bamboo, & Cane, Tailoring, and Agriculture.

It is reported that there are no contingency funds for jail inmates for the last 9(nine) months. Also, it is noted that no quarter is available for the Superintendent of Jail and the full-time doctor.

Recommendations

1. **Medical Unit No. 1:** Since the remission proposal has already been sent by the Jail authority to the Government for the release of Tahiludding Seikh, 83 years, he may be released, as per the procedure established by law.
2. **Female Ward (i) UTP:** Ms. Pinky Saha has already completed 02 (two) months at Tezpur Central Jail and since Hon'ble Court allowed her to go on bail, she may be helped to get suitable bailor so that she is released forthwith. In this matter. District Legal Services Authority may be asked to take timely action.
3. **Contingency fund:** Contingency fund for Jail inmates may be made available without any more delay.
4. It is unfortunate that no quarter is made available for the Superintendent of Jail and the full-time Jail Doctor to date.

It is recommended that suitable quarters commensurate with their status be made available to both the Officers.

LOKAPRIYA GOPINATH BORDOLOI REGIONAL INSTITUTE OF MENTAL HEALTH, TEZPUR, SONITPUR VISITED ON 31ST JANUARY, 2019

The Assam Human Rights Commission visited the Lokapriya Gopinath Bordoloi Regional Institute of Mental Health (LGBRIMH) on 31 January 2019 intending to study the living condition of the inmates who are under treatment.

The LGBRIMH, an autonomous Institute under the Ministry of Health & Family Welfare, Government of India is headed by its Director, Dr. S.K. Deuri. This Institute has been playing a major role in providing mental health care

services in the whole of North East India. It was informed during the visit of the AHRC that over and above the services that the Institute is providing on mental health care, it has also established a post-graduate teaching and research center intending to meet the manpower requirements in the field of mental health in the region. Academic courses in Psychiatry, Psychiatric Nursing, and Psychiatric Social Work at PG level, and Diploma in Psychiatric Nursing (DPN) courses are being provided in the institute.

The Assam Human Rights Commission had an interaction with the doctors and officials of the Institute. The Institute has a total of 336 beds out of which 120 beds are occupied currently. On the day of the visit of the AHRC, the Hospital had a total number of 104 indoor patients hailing from different parts of the North-Eastern States. The Director informed that the Institute is not facing any fund problem but is facing a shortage of manpower. The Hon'ble Chairperson questioned its Director

- . There are presently 15 notified NGOs under the Social Welfare Department, Assam.

Table No.22

S1. No.	Name and Address of NGO	Name of districts to be covered
1	PRERONA Pratibandhi Sishu Bikash Kendra, Cinamara, Jorhat	Jorhat, Golaghat and Karbi Anglong, Sivasagar
2	Dhula Regional Physically Handicapped Development Association, Vill - Hirapara, PO Dhula, Darrang	Chirang, Darrang and Kokrajhar
3	North East Voluntary Association of Rural Development (NEVARD), Dakhin Gaon, Kahilipara, Guwahati -781019	Dhubri
4	Ashadeep, Piya Apartments, Kanaklata path, Lachit Nagar, Guwahati - 07	Kamrup (M), Kamrup and Nagaon
5	North East Regional Multi- Purpose School and Handicapped Training Centre, Balipukhuri, Sonitpur	Sonitpur and Dhemaji
6	Zila Bahumukhi Mahila Unnayan Samaj, Vill - Hirapara, Dhula, Darrang	Darrang, Goalpara and Udalguri
7	Destination, Bhagadattapur, Kahilipara, Guwahati, Kamrup (M)	Kamrup, Morigaon
8	Dikrong Valley Environment & Rural Development Society, Vill.No. I, Borpathar, PO Gosaibari, Lakhimpur	Lakhimpur, Dhemaji, Dibrugarh & Tinsukia
9	Wodwichee, Lakhirband, Hailakandi	Hailakandi, Karimganj, Cachar & Dima Hasao
10	Kahara Tarun Shangha, Vill - Kahara, PO Saru peta, Dist. Barpeta	Nalbari, Baska and Bongaigaon
11	Guwahati Youth Society, Dakhingaon Tiniali, Kahilipara, Guwahati - 19	Barpeta
12	HELP-AID, Sivam Hotel Complex, Dispur, Guwahati - 06	Kamrup
13	North Eastern Buddhist Cultural Association Dibrugarh(NEBCA	Dibrugarh
14	Sarvangi Bikash Trust, Bongaigaon	Bongaigaon
15	Gram Vikash Parishad, Nagaon	Nagaon

•There is also provision for the accommodation of family members of the patients @ Rs 100/ - per day. The Institution is now considering providing accommodation along the line of "*Dharmasala*", where patients and their family members can stay together and prepare their food. In this way, the family members can see the improvement of the mental health of the patients.

The AHRC Team took a tour around the hospital. Both the outdoor and indoor patients' areas were found to be clean and well maintained. The toilets were absolutely clean.

The cooks of the Hospital are regular employees and an Ex-Army man as Assistant Administrator. The hospital has a pharmacy where free medicines are provided for the patients. There is also an automated laundry. The infrastructure of the LGBRIMH is being newly developed and newly built buildings could be seen. It was informed that some of these buildings are yet to be handed over to the Hospital authorities. With the infrastructure having been revamped and were still new, the entire surroundings were found to be clean.

RECOMMENDATIONS

- 1.Shortage of manpower can be removed phase-wise.
- 2.Arrangement of Contingency fund may be made available for the patients who are brought by the Government agencies such as Social welfare Department, NGOs, etc.
- 3.Government should take initiative for providing State custody of those patients who are taken outside the Institute for their treatment.
- 4.Government should take appropriate measures for the patients who are not taken back by the respective family members.
- 5.NGOs, those who have arranged shelter homes for the homeless are to be encouraged by giving them financial incentives.

INSPECTION OF CENTRAL JAIL SILCHAR, DISTRICT CACHAR

The team of Assam Human Rights Commission led by Hon'ble Mr Justice T. Vaiphei, Chairperson, Shri N.K. Bora and Shri D.K. Saikia, Hon'ble Members, AHRC, and staff members inspected the Silchar Jail, Cachar on 1-3-2019 and 3-3-2019 to study the living condition of the Jail inmates as stipulated under Section 12 of the Protection of Human Rights Act, 1993 as amended in 2006.

A. Prison Population of Central Jail, Silchar as of 01-03-2019 (Morning Unlocking).

Table No. 23.

SI No.	Categories	Male	Female	Total
1.	UA (P) Act Prisoner	03	Nil	03
2.	Extremist prisoners of Haflong Court.	06	Nil	06
3.	REMANDS (Under trial)	162	10	172
4.	Sessions (Under-trial)	22	00	22
5.	N.D.P.S.	19	00	19
6.	SIMPLE IMPRISONMENT	13	-	13
7.	RIGOROUS IMPRISONMENT	191	01	102
8.	Under Trial of Foreign National Act	05	11	16
9.	Declared Foreign National	70	07	77
10.	Children of Declared Foreign National	-	-	-
11.	Children of Prisoners	06	09	15
	Total	497	38	535
	Registered Capacity	452	27	479

Observation-

The Jail premise is by and large clean and has a hygienic surrounding.

The jail lacks adequate security for guarding the premises or the inmates. For this reason, it is found that the Jail Authorities are utilizing the services of some of the Convicts to keep watch on their fellow inmates. Convicts and UTPs were found to be kept together. Some of the Convicts are even found to be utilized for guarding the Jail Wall and they are paid ₹55 as wage per day for guarding the Jail wall.

Recommendations

- There should be segregation of the Convicts from the Under Trial Prisoners
- The Commission is concerned about the fate of the displaced Rohingya inmates (6 male, 9 female with 14 children) lodged in the Central Jail, Silchar. Even if they are released, they cannot go back to their home until and unless they are accepted by the concerned government. In case they are convicted and sentenced, the state will have to take the burden of feeding and providing medical treatment to them till the completion of their jail term. Even after the completion of their jail term, their repatriation within a short time will not be possible as the process of repatriation is a lengthy and time-consuming one. So, the Government of India and, or Assam will have to provide them food, shelter, medical aid, etc. which will be an additional burden upon the Government. Improving livelihoods and achieving economic inclusion of these refugees cannot be done by the Government alone and requires the engagement of a broad range of stakeholders. It is financially not viable for the Government without external funding from the organization like United Nations High Commissioner for Refugees (UNHCR).

In our considered opinion, the office of the United Nations High Commissioner for Refugees (UNHCR) has to take responsibility for the welfare of these displaced/stateless people who have left their own country possibly to escape

from persecution, armed conflict, or violence. The State Government may have to think of seeking financial help from UNHCR.

As an immediate step, these people may be given vocational training to earn their livelihood for their survival to ease financial burden of the Government.

DISTRICT JAIL, HAILAKANDI ON 02 March 2019

The Assam Human Rights Commission, headed by its Chairperson, Hon'ble Mr. Justice T. Vaiphei, and its Hon'ble Members, Shri N.K. Bora and Shri D. K. Saikia visited the District Jail, Hailakandi, Assam, on 02nd March 2019 intending to study the living conditions of the inmates therein.

Prison capacity and population

The Jail has a total capacity of 58 inmates only which includes 54 males and 04 females. On the day of the visit of the Commission, the total population of the jail was grossly overcrowded by 135 inmates. This included 132 males and 03 females. It was reported that the average daily population of the jail in the past year i.e., 2018, was 121 approximately.

Table No. 24

Sl.No.	Category		Male	Female	Total
1	Convict(R I)		39	01	40
2	Convict (5 I)		02	--	02
3	Under Trials		88	02	90
4	Civil prisoner		01	--	01
5	Detenue	NSA	--	--	--
		Others	--	--	--
6	Children of prisoners		02	--	02
Total			132	03	135

The breakup of Under Trial Prisoners

Table No. 25.

Period	Male	Female	Total
According to their Period of detention			
Less than 03 months	83	02	85
03 months to 06 months	05	--	05
Total	88	02	90

It is informed that health screening is done at the time of admission of the prisoners. The Jail authority reported that one convict was found to be suffering from TB and that he has been given treatment since 12.12.2018. breakup of the population as in 02.03.2019 is detailed as

The Jail premise is built on an area of 01 bigha plot of land. The buildings of the District Jail were found to be quite old and very congested. There are no courtyards between the buildings. It has 07 wards out of which, 06 are Male Wards and 01 Female Ward. There are no Cells in this jail.

Observations

- 1.The Hailakandi district Jail is grossly overcrowded with 135 prisoners as against the capacity of 58 inmates.
- 2.It is heartening to find that most of the UTPs have been incarcerated there for not more than 06 months.
- 3.The Hailakandi district Jail is still using firewood for cooking purposes thereby posing a health threat to the cook and the inmates

4. Mosquito nets are being provided to the inmates. But the windows are very small and the rooms are dark.

5. The Jail Hospital is not enough to cater to the needs of the overcrowding inmates.

6. The Jail is lodged in a very cramped area that does not have much open space for the inmates. It does not have any space for a garden nor does it have any recreation center for the inmates.

7. The Convicts and the UTPs are kept together and mixed up in every cell. It was reported that it is required for security purposes. While the UTPs tend to escape from jail, the convicts do not have such tendencies. So the convicts are kept together with UTPs in every cell to ensure that with the UTPs as securities

Suggestions

1. Vacancy of one Medical & Health Officer, One pharmacist, Jr. Assistant and Head Warder should be filled up as early as possible.

2. Replace firewood with LPG for cooking.

3. Speedy construction of the new Jail is highly essential as the existing jail is not enough to cater to the overcrowding inmates of the jail.

DISTRICT JAIL KARIMGANJ, on 02 March 2019

The Assam Human Rights Commission visited the District Jail, Karimganj on 02 March 2019. Hon'ble Mr. Justice T. Vaiphei led the team which consisted of Shri N.K. Bora and Shri D.K. Saikia, Hon'ble Members, Assam Human Rights Commission. The Commission visited the Jail to study the living conditions of the inmates as provided under section 12 of the Protection of Human Rights Act, 1993 as amended in 2006.

Observation :

As already noted, the infrastructure of the Karimganj District jail, which was established in 1882, is absolutely in a dilapidated condition. The inmates of this jail are living in very inhumane conditions.

The Commission cannot but express its anguish and helplessness in the pathetic conditions of the inmates of the Jail. It appeared that even the available infrastructure is not maintained properly. Even the surroundings are not maintained with minimum cleanliness. The drains, emanating foul smell, needed immediate cleaning and re-construction.

Recommendation

The Assam Human Rights Commission while expressing its dissatisfaction with the pathetic condition of the inmates in the Karimganj district Jail, is constrained to recommend the following and to submit Action Taken Report to the Commission as early as possible.

1. Jail authorities should make an all-out effort to clean the present environment without waiting for the construction of a new building,
2. Construction of the damaged floor of the kitchen is urgently required as it is unhygienic,
3. There is enough scope to give a face-lift/renovate the existing infrastructure to make the place congenial to live,
4. Drains should be cleaned regularly and bleaching powder should be sprinkled in the surroundings,
5. The Convicts serving rigorous imprisonment can invariably be engaged by the authority to keep surroundings clean and hygienic to live in,

6.Land measuring 15 bighas, 11 kathas which is available for the garden is lying unused. The authorities should take steps for the plantations in this available area which will give the environment greenery. It will undoubtedly bring a positive effect in the minds of the inmates and better life quality.

SOME OF THE NOTABLE ORDERS/JUDGMENTS PASSED BY THE COMMISSION

AHRC Case No. 1797/22/16-17

Smti Baby Reid Saikia, wife of one Shri Mukul Saikia of Pholongani No.1, under Bogijan P.S. in Golaghat District alleged in her complaint that 3(three) Police personnel including the Officer-in-charge, Bogijan Police Station, namely, Shri Rajib Gohain and some 3(three) other personnel went to their house on 04.08.2016 at about 1.30 A.M. when she was sleeping along with her son Anupam Saikia. Her husband was sleeping in the outhouse near the vehicle garage, the Officer-in-charge outraged her modesty in the manner described in the complaint in the course of assaulting her son by gun-butts. The Officer-in-charge also threatened to kill her son Anupam before he was taken away in Tata Sumo vehicle bearing Registration No.ML-09-4909. The complainant alleges that the Police tortured her son before he was released by the Officer-in-charge from the Lock-up the following day after extracting Rs.5500/- from her husband. She also alleged that the police snatched away from her mobile phone as well as her gold earrings. Her son was hospitalized for the atrocities committed by the Police Officer.

The Commission, after taking cognizance of the case, asked the District Magistrate, Golaghat to conduct a magisterial inquiry into those allegations and submit his report within 30(thirty) days. The inquiry was conducted by Addl. Deputy Commissioner, Golaghat. The inquiry report of the Additional Deputy Commissioner, Golaghat was submitted to the Commission by the District Magistrate, Golaghat vide his letter dated 9-6-2017. The following are the main findings –

“As stated by Smti Baby Rid Saikia, the police demanded Rs.10,000/- only for release, but since her husband did not have that much amount an amount of Rs.5,500/- was paid. The victim Shri Anupam Saikia stated that the police had a plan to kill him in a false encounter (statement enclosed). After going to the medical treatment at Murphulani Hospital, Anupam Saikia was taken back to Bogijan Police Station. On the way, the vehicle was stopped in the middle of the Tea Garden and he was asked to flee. But since it was very dark, he did not flee & stayed back. He was even asked to hold the gun & O/C Bogijan tried to click Photos. From the statement of Anupam Saikia, we cannot ignore the fact that he was physically tortured. During this inquiry, it was also learned that a case relating to kidnapping was going on in the Judicial Court.

Even though there is no physical evidence to claim that Shri Anupam Saikia was brutally beaten up inside the lock-up, the statements recorded & statements of the eyewitness lead to the fact that there was Human Rights Violation. For whatever reason, Shri Anupam Saikia was wanted by police, the procedure they adopted to put him inside the lock-up was not fair. If it was a necessity to search the house of Shri Anupam Saikia, O/C Bogijan PS should have ensured that the lady police constable should have accompanied them as it was in the early odd hours. But the O/C did not pay heed to all these factors and instead threatened Smti Baby Reid Saikia & her family members. Furthermore, his continuous medical treatment which was required after his release from Police Lock-Up leads to the fact that he was physically tortured which made him sick & weak. The medical treatment documents submitted also prove the fact.”

On perusing the findings so recorded by the inquiry officer, the Commission had tentatively concluded that this is a case where disciplinary action against the Officer-in-charge of Bogijan Police Station is highly warranted and that payment of compensation to the order of ₹2,00,000/- to the complainant for violation of his fundamental right guaranteed under Article 21 of the Constitution is also warranted. As the rights of the charged officer are being adversely affected by such findings, by our order dated 14-8-2018, notice was issued to him, who is now posted at Chungajan P.S. in Golaghat District and also to the Principal Secretary, Home Department, Government of Assam, Dispur to

give their respective comments on or before 25-9-2018 on the disciplinary action against the charged officer and payment of compensation being recommended.

The Commission received the comment of the charged officer dated 14-9-2018 as well as the comment of the Additional Secretary, Home & Political Department, Assam (“Additional Secretary” for short) dated 27-2-2019. The Commission also received a copy of the inquiry report of the Superintendent of Police, Golaghat dated 3-1-2019 submitted by the Assistant Inspector General of Police, Assam PHQ, to the Deputy Secretary, Home & Political Department, Assam.

Ongoing through the report of the Additional Secretary, it is obvious that he, after taking into account the Magisterial Inquiry Report and the report of the Assistant Inspector-General of Police (W&S), Ulubari (“AIG” for short), came to the following conclusions that there is evidence that the charged officer received a sum of ₹5,500/- from Smt. Baby Reid Saikia; that Shri Anupam Saikia @ Babatu was beaten up and that the charged officer went to the house of the complainant at early hours without any lady police personnel, for which he recommended disciplinary action against the charged officer.

The Commission also perused the comment of the charged officer, who denied the allegations of the complainant concerning the receipt of ₹5,500/- from the complainant for releasing her son from the lock-up or of visiting the house of the complainant at odd hours without lady police personnel or of beating up her son. According to him, he accepted the offer of ₹5,500/- from the complainant for buying a new glass of the police vehicle, which was broken by her son. The charged officer further asserted that he visited the house of the complainant at about 9.30 PM or 10 PM only to help her as he had received a piece of information that her son was kidnapped by her husband, who lived separately from her whereas she lived with her son and her daughter separately. On the other hand, the Superintendent of Police, Golaghat (“the SP” for short), while supporting the case of the charged officer, introduced a third case concerning the time of the visit of the charged officer to the house of the complainant. Though the charged officer in his comment claimed that he visited the house of the complainant at 9.30 PM or 10 PM, the SP asserted

that the information of kidnapping of Babatu Saikia was received by the charged officer on 4-8-2016 at 7.30 PM and “forthwith after receipt of information he proceeded to the place for inquiry which is not considered to be sleeping time as that was the too early stage of the night”. The report of the SP is definitely at variance with the story set up by the charged officer. The SP was trying to make out the third case on behalf of the charged officer, which was never the case pleaded by the charged officer! When the charged officer himself stated that his visit to the house of the complainant took place at 9.30 P.M. or 10 PM, it can be truly held that the finding of the SP is perverse and cannot be accepted. One thing is clear now: the charged officer visited the house of a lady-complainant, after dark, maybe at 10 PM or at around 1.30 AM as claimed by the complainant, without lady police, he is prima facie guilty of procedural lapses. This is misconduct on the part of the charged officer.

It is the further case of the complainant that the charged officer demanded and received a sum of ₹5,500/- from her and her husband for releasing their son from the police lock-up. On the other hand, the charged officer claimed that this amount was accepted by him only for immediate repair of their hired vehicle and not for releasing her son from lock-up. But this itself is illegal. Once the charged officer has admitted the receipt of ₹5,500/- from the complainant and her husband, the burden of proving that it was not taken as a bribe by him lies upon him. In our considered view, the conclusions of the Magisterial Inquiry Officer and the Additional Secretary are supported by the materials available on record. Thus, a strong prima facie case of violation of human rights of the complainant and her husband is made out warranting disciplinary action against the charged officer.

The Commission, therefore, strongly recommended immediate disciplinary proceedings against the charged officer for appropriate punishment following the law and for payment of compensation to the complainant. The Commissioner/Secretary, Home & Political Department, Government of Assam, Dispur was called upon to initiate departmental inquiry against the charged officer without any loss of time in the light of our above recommendation. Nothing stated in the foregoing shall, however, be construed as final

observations on the merit of the case, which is yet to be inquired into by the inquiry officer/disciplinary authority following the law, if and when so initiated.

This order passed by the Commission on 11.03.2019 was communicated to the Commissioner/Secretary, Home & Political Department, Government of Assam.¹⁹²

AHRC Case No. 2005/11/17-18

The Commission took up this case *Suo Motu* based on the newspaper report appearing in the local daily "Amar Asom" in its issue dated 16-5-2017 which highlighted public resentment over the death of one youth, namely, Subhas Das at Fakhruddin Ali Ahmed Medical College and Hospital ("FAAMCH" for short) due to wrong treatment by internee when the senior Doctors were absent. According to the report, the patient was admitted into Barpeta Medical College and Hospital at the wee hour of May 15, 2017, around 3 AM as he was suffering from a cold and cough for some time. After his hospitalization, he complained of a breathing problem, but he did not get proper medical treatment due to the absence of senior doctors at that time. Though the internee extended medical assistance to the patient, his condition got worsened. At about 7.45 AM, when his condition did not improve, the attendants of the patient were asked to procure injections from outside. However, the patient died fifteen minutes after administering the injection. The local public blamed his death on the negligence of doctors of the FAAMCH and their irregularity in attending the Hospital.

Notice was issued upon the District Magistrate, Barpeta to conduct an inquiry for ascertaining the facts and circumstances leading to the death of the patient. The inquiry was ultimately conducted by one of the Executive Magistrates of Barpeta, who has submitted his report. In his report, he concluded as follows:

"It seems that Subhash Das was given initial treatment at the Casualty of

¹⁹² Assam Human Rights Commission. Annual Report at 34-39 (2019)

FAAMCH, Barpeta. Along with the interns, senior Doctors also examined the patient. And in seeing that the condition of the patient was deteriorating, Sr. Doctor Humayun Kabir, MO Casualty, FAAMCH, Barpeta referred the patient to Gauhati Medical College and Hospital as ICU management along with intubations and mechanical ventilation was required at that moment. The doctors at FAAMCH, Barpeta had followed due procedure in handling the patient.

However, there seem to be certain lapses on the part of the hospital.

During the period of treatment of Subhash Das at FAAMCH, Barpeta, Senior Doctors were mostly consulted over the phone by the interns. Although senior Doctors arrived on receiving the information of the patient and the interns provided the treatment as per the advice of Senior Doctors, however, there was a loss of valuable time during this process.

Dr. Parvesh Choudhury, Registrar, Medicine, FAAMCH, Barpeta in his report submitted to the Medical Superintendent, FAAMCH, Barpeta has written that it was a suspected case of Stridor and Dysphagia, which was suspected to be malignant. In such cases, where malignancy is suspected, delay in any manner and any amount may turn out to be fatal. In this particular case of Sub hash Das, although Senior Doctors from concerned departments examined the patient they have clearly stated in their statements that they left the patient after examining him. Hence ,no Senior Doctors from ENT and Medicine Department was available for constant supervision of the treatment being given by the interns to the patient Subhash Das.

The brother of the deceased Subhash Das also stated that he was forced by some interns to give his signature on the death certificate. It was uninviting on the part of the hospital authority to act in such a manner with one of the family members of the deceased patient."

After locating the address of the father of the deceased, namely, Krishna Kanta Das, a resident of Dahati village, Majanpara, Barpeta district, notice was sent to him by registered post with AD by enclosing a copy of the said report to make his comment thereon, but he never responded till now. In the absence of rebuttal or assertion of facts that could establish his case of negligence on the part of the attending Doctors, senior or otherwise, we can't make conclusive findings. It may be noted that the complainant in his complaint has stated that during the entire duration of his brother's treatment at the FAAMCH, there was no senior doctor present nor was he introduced to anybody who could be a senior doctor. However, this statement does not stand scrutiny as evident from the non-rebutted statement of Dr. Pervez B. Choudhury, Registrar Medicine, who in his statement before the Enquiry Officer, deposed that after reaching the Casualty at around 4.45 AM, he along with Dr. Hilloi Sarkar, the Visiting Professor (Medicine), examined the patient and found that the distress was due to the swelling of the right side of his neck. According to this witness, as the cause of the swelling could be inflammatory or malignancy, they referred him to ENT Department at around 4.50 AM and as the patient was having an intermittent seizure; at around 7.30 AM, information was received that the patient was collapsing and he had to immediately rush to the Casualty and started CPR injection; that the patient was in the meantime, he was referred to GMCH and 102 Ambulance was accordingly informed and that the patient, however, died at around 8.15 AM. The statement of Dr. Pervez Choudhury is broadly corroborated by Dr. Hilloi Sarkar.

From the statements reproduced above, one disturbing fact has emerged. The case of the patient was referred to the ENT Department at about 4.50 AM of the fateful morning, yet no ENT Specialist was available till about 8.15 AM when the patient died. It is not clear, based on the materials on record, to us as to whether ENT Specialist was posted in that Hospital at all or whether, if so available, no ENT Specialist was willing to turn up to examine or treat the

patient, who was battling for life, during those crucial four hours or so. Either way, it is bad. If no ENT Specialist was posted in that Hospital, it could be said that the Health Authorities failed to discharge their healthcare obligation. If ENT Specialist was available but he refused to examine or treat the patient, then he is negligent in discharging his fundamental duty to protect and save the life of a patient. Be that as it may, in the absence of comment from the complainant, we are not inclined to recommend payment of compensation to the family of the patient/ deceased. After all, some more tangible evidence is required to recommend payment of compensation.

Because of the above, the Commission felt that it will be futile to continue with the proceeding. Subject to the aforesaid observations, the case was closed vide order dated 20-05-2019.

However, the Commission called upon the Health Authorities of the State to review the functioning of the FAAMCH in the light of our foregoing observations to prevent future occurrence of avoidable loss of precious human life.¹⁹³

This order was communicated to the Deputy Commissioner, Barpeta, the Principal Secretary, Health & Family Welfare Department, Government of Assam through their respective e-mail addresses and the complainant by ordinary post for information.

AHRC CASE NO. 2236/9/17-18

This is a complaint lodged by one Md. Shahab Uddin Ahmed of Amingaon village, Pragiyotishpur, Kamrup district, alleging that on 25-2-2018, when he visited Noonmati Police Station along with his son, Shah Nawaj Mustaque Ahmed, to inquire about the progress of Noonmati P.S. Case No. 47/2018, which was registered on the FIR lodged by him on 24-1-2018, the Officer-in-Charge of the Police Station, Rajib Saikia, and the

¹⁹³ Assam Human Rights Commission. Annual Report at 39-42 (2019)

Second Officer showed him two photographs from their laptop and tried to force him to believe that those photographs were of his son stealing a sum of ₹40,000/- out of his SBI account from ATM located at Narengi Tiniali. When his son stoutly denied the allegation, the OC slapped him; the Second Officer then joined him by slapping him. According to the complainant, the assaults by the two police officers caused grievous injuries on the left ear of his son. He further alleged that the OC flatly refused to show him the CCTV footage to substantiate his allegation, but the Second Officer, on the instruction of the OC, rather took him to a separate room and tortured him.

After taking cognizance of the complaint, notice was issued to the Commissioner of Police, Guwahati to conduct an enquiry into the allegations of the complainant and submit a report within one month. The inquiry was conducted by Smt. Purabi Majumdar, the Assistant Commissioner of Police, Noonmati, Central Police District, has now submitted her report bearing Nil. The Enquiry Officer examined the two charged officers and recorded the statements of four witnesses. The following are the conclusions of the Enquiry Officer:

It is a fact that on 15-02-18, the complainant Md. Shahabuddin Ahmed along with his son Shah Nawaz Mustaque Ahmed had come to Noonmati PS to ask about the progress of the investigation of the case which they had submitted on 24-01-2018. In this connection, they met O/C Noonmati PS Inspector Rajeeb Kr. Saikia in his Office Chamber at Noonmati PS.

It is also true that the 2nd O/C SI (UB) Moon Nurul Zaman was present at O/C's chamber when the complainant has visited the PS along with his son Shah Nawaz Mustaque Ahmed. This is substantiated by the statement of all the witnesses.

It is also true that O/C Rajeeb Kr. Saikia and 2nd O/C SI Moon Nurul Zaman suspected that the culprit was the complainant's son on account of the presence of the bearded person in the CCTV footage collected from PO and that they questioned the complainant's son in this regard.

The allegation of taking the complainant's son to a different room for questioning is not mentioned by O/C Rajeeb Kr. Saikia and 2nd O/C Moon Nurul Zaman. However, the

statement of UBC Krishna Sahu who was present in the chamber twice on that day shows that at one point in time, the complainant Md. Shahabuddin Ahmed was alone with O/C Rajeeb Kr. Saikia was in his chamber while SI Moon Nurul Zaman and the complainant's son Shah Nawaz Mustaque Ahmed was (*sic*) not inside. But whether the son was with SI Moon Nurul Zaman or not at that time is difficult to conclude. Nevertheless, there is some deviation found in the statements of O/C Rajeeb Kr. Saikia, 2nd O/C Zaman and UBC Krishna Sahu in this point.

In the statement of the complainant, it is mentioned that his son called him over the phone from a different room saying that SI Moon Zaman was hitting him. But again it is difficult to conclude from this as to whether the call was made from another room where he was being confined and beaten up or whether he had called for some other reason.

There are medical documents of 15-2-2018 enclosed which support the version of the complainant that his son had sustained injury and had been given medicines for injuries sustained by the doctor and that both father and son had visited Noonmati PS on that same date, i.e. 15-2-18 on their own accord and that they left after asking about the progress of investigation but whether the injuries were sustained at Noonmati or elsewhere could not be established.

It is true that simply on the ground that the photo of one bearded person in the CCTV footage bore resemblance to Shah Nawaz Mustaque Ahmed, it was perhaps not correct for O/C Rajeeb Kr Saikia and 2nd O/C SI Moon Nurul Zaman to tell the complainant that the crime was committed by his son.

The Enquiry Officer, therefore, concludes that “[H]owever, the allegation of hitting and slapping of Shah Nawaz Mustaque Ahmed by then O/C Noonmati PS Rajeeb Kr Saikia and 2nd O/C SI Moon Nurul Zaman could not be conclusively proved during the inquiry conducted.”

On 8-10-2018, the Commission passed the following orders:

“On comparative reading of the inquiry report dated 23-4-2018 and the comment of the complainant dated 6-8-2018 and ongoing through the original CCTV video footage of the date of the incident dated 06-01-2018 and of the photograph of the son of the complainant, we are of the considered opinion that there are some materials, which could lead us to make adverse findings against the delinquent officials. Section 16(b) of the Protection of Human Rights Act, 1993 provides that if, at any stage of the inquiry, the Commission has allowed producing evidence

The Commission, therefore, directed the issue of notice to Inspector Rajib Saikia, the erstwhile O/C of Noonmati Police Station, and SI Moon Nurul Zaman, 2nd O/C of Noonmati PS to appear before us on 14-11-2018 to give their evidence on the allegations made against them by the complainant. Both the officials appeared before us on 14-11-2018 and took the time to file their respective comments/replies. Their joint comment dated Nil was received by us on 19-11-2018. In their comment, they have denied that the Enquiry Officer did not go through the CCTV footage; the complainant was not present when the Enquiry Officer went through the CCTV footage available on the laptop. According to the delinquent officials, the CCTV footage was procured from the SBI, Madghariya Branch by requisition, and the video footage was not sent to FSL, Guwahati as the images were not clear and as there is no evidentiary value for the prosecution. The delinquent officials refuted the contention the complainant made in his comment that the Enquiry Officer failed to ascertain from them about the identity of the bearded person, who was behind him on the date of occurrence. The Enquiry Officer indeed asked them whether they had any clue about the identity of the said bearded person, but they simply said that as they were not in the ATM Booth at that time, they could not provide any clue on the identity of the bearded person. The delinquent officials questioned the genuineness of the CCTV footage collected by the complainant as procurement of device could not be legally made by a private person like the complainant and contended that the CCTV footage collected by the complainant did not tally with the one collected officially. The delinquent officials rather theorized that somebody known to the complainant, who remained standing

in a queue behind him at the time of the transaction must have withdrawn the money from the ATM counter on that day by using his ATM card without his knowledge.¹⁹⁴

Though the reason for suspecting the involvement of the son of the complainant projected by the delinquent official does not appear to be sound, we are not, in this case, concerned with this issue. What we are rather concerned about within this case is whether there is a violation of the human rights of the son of the complainant? The law is now well-settled in this country governed by the rule of law that no law authorizes police officials to use third-degree methods upon an accused under their confinement. They are required to use care and caution while performing their official duties.

In this case, though the charged officers flatly denied any wrongdoing or of the use of the third-degree method in the interrogation of the son of the complainant, some notorious facts can be gathered from the materials on record. It is the case of the complainant that the OC forcefully slapped his son three times and was immediately joined by the Second OC by slapping him on both the cheeks of his son whereupon the latter collapsed on the floor of the room of the OC and sustained injuries on his left ear, for which he produced a medical certificate, medicine prescription issued by Dr. Nihar N. Patowary, Specialist and Head & Surgeon of Suna Valle Hospital. Since the genuineness of the medical evidence produced by the complainant is not questioned by the delinquent officials during the inquiry or in this proceeding, there is a prima facie case that the son of the complainant sustained injuries. The question is whether those injuries were sustained by the son of the complainant while in the custody of the Noonmati PS? In our opinion, there are some circumstances that seem to suggest that those injuries were sustained by him while in the custody of the delinquent officials. In the first place, the statement of Md. Habib Ali, who is the driver of the complainant, had stated before the Enquiry Officer that he heard some argument and heated words inside the police station when the complainant and his son went there and that the son of the complainant came out of one room crying and when asked what happened, he replied that he would tell him later. Secondly, the statement of UBC/2361 Krishna Sahu also indicates that the Second Officer and the son of the

¹⁹⁴ Assam Human Rights Commission. Annual Report at 45 (2019)

complainant were not with the OC when he returned to the chamber of the OC. Unfortunately, the Enquiry Officer did not properly question these two witnesses to extract the correct factual position as to what was going on at the police station on the fateful day when the son of the complainant was allegedly sustaining injuries while in custody. The law is now settled that once injuries are sustained in police custody, the burden to explain such injuries is on the police. No such explanation has come from the delinquent officials.

After giving our thoughtful consideration to the report of the inquiry officer and other materials on record, we are of the view that there are some materials against the two delinquent police officials which warrant initiation of departmental inquiry against them for violation of the human rights of the son of the complainant. We, therefore, recommend the drawing up of department inquiry against them by the Home Department as early as possible, preferably, within one month of the receipt of this order. However, nothing stated in the foregoing shall be construed as a final observation on the merit of the case, which is yet to be decided in the proposed DE.

The order was communicated to the Principal Secretary to the Government of Assam, Home Department, Dispur for information and necessary action.

AHRC Case No. 2413/2/18-19

This is about the death of Lt. Kishan Das, who was a child in conflict with law, while he was under confinement in the Observation Home, Silchar. We have received the inquiry report of the Assistant Commissioner and Executive Magistrate, Cachar on 04-08-2018. We have also received the post mortem report of the deceased submitted by Professor & Head, Department of Forensic Medicine, Silchar Medical College & Hospital and Police Surgeon, Cachar District, Silchar dated 11-03-2019. On careful reading of those documents, we have no reason to disagree with the findings of the inquiry officer. The deceased committed suicide by hanging by using a bedsheet and belt. The deceased was apparently in the Observation Home for over 3(three) months before his death. He was an orphan. He avoided eating on the day before his death and confined himself with his inmate CCL Bishal Dutta in the Observation Home by saying, “Will I have to live all my

life in the observation room?” In these circumstances, we are of the view that there was no violation of the human rights of the deceased calling for our interference. However, the following observations of the inquiry officer may be quoted :

“It is indeed sad to lose a young child to suicide and inability of the system to provide a nurturing atmosphere in the observation Centre. Earlier also there have been cases of an escape attempts by the inmates. Superintendent-in-charge pointed to the need for renovation and vacancy of the educator, counselor, full-time Superintendent for the proper functioning of the Observation Home.

Also, it would be helpful if arrangements for television, sports, and books facility is done in the center. Community involvement in providing food, counseling, and guidance should be made available at the observation home.”¹⁹⁵

While disposing of the case, we, in the light of the aforesaid conclusions of the Inquiry Officer request the State Government to take necessary action along the lines suggested hereunder:-

- 1) There is a need for renovation of the observation Centre and for filling up the vacancy for the post of educator, counselor, full-time Superintendent for the proper functioning of the observation home.
- 2) Facilities such as TV, sports and books facilities should be provided to the Observation Homes, were not provided heretofore.
- 3) There should be community involvement to provide food, counseling, and guidance to the inmates at the Observation Home.

The order dtd11.06.2019 was communicated to the Director of Social Welfare, Government of Assam, Uzanbazar, Guwahati, and Deputy Commissioner, Cachar District, Silchar through their respective email addresses within 3(three) days for information and necessary action.

¹⁹⁵ Assam Human Rights Commission. Annual Report at 49 (2019)

AHRC CASE NO. 2083/7/17-18

This case was taken up on transfer from the Hon'ble National Human Rights Commission, and the same was taken cognizance of by this Commission by issuing notice to the Deputy Commissioner, Jorhat District to submit a detailed report regarding the incident complained of. What happened in the case is that one Smt. Sangita Buragohain Lekharu, w/o Bubul Lekharu, the then Additional Deputy Commissioner (ADC), Jorhat District, complained alleging that the said Babul Lekharu was arrested on the evening of 14-5-2017 by Jorhat Police at the behest of three persons, namely, Advocate Rintu Goswami, Advocate Gautam Bora and a tea tribal leader Sanjaykrishna Tati of Jorhat District without the prior permission/intimation of the Department of Revenue and Disaster Management, Government of Assam and without a warrant. The husband of the complainant was arrested on the allegation of misappropriation of the compensation money payable to two minor children for acquiring land for the construction of the four-lane highway. The case was registered as FIR No. 875/17. Some other cases were also registered against the said Bubul Lekharu, among others, for untied fund scam. The main allegations of the complainant are that her husband was arrested without holding a preliminary investigation; that SI Tunbiram Neog and the IO of the case, Shri Shankar Bania misbehaved with her husband at Jorhat Police Station. It is her further allegations that though her husband had health issues like piles, high blood pressure, severe back pain, and stomach pain, the Police did not take him for a medical check-up on 17-5-2017 on the ground that there was no vehicle to take him to the hospital. On the other hand, according to the complainant, her husband was made to sit in a chair continuously from the time of his arrest till the end of police remand thereby depriving him of sleep, and that on 18-5-2017, when her husband, on their constant request, was admitted to a civil hospital, Advocate Rintu Goswami came to the hospital at midnight with media reporters and took away all his medical reports. It is also alleged by the complainant that on 15-5-2017, Advocate Rintu Goswami used insulting words and gestures to her (the complainant) in the courtroom when her husband was produced before the Chief Judicial Magistrate, Jorhat, and that the same lady also

instigated persons who gathered there to verbally abuse him while waiting for a court hearing. These are the main allegations of the complainant.

The inquiry was conducted by Shri FR Laskar, Addl. District Magistrate, Jorhat by examining some witnesses including the complainant and her husband. The Enquiry Officer is said to have made spot verifications and collected evidence from third parties. After the conclusion of the inquiry, the Enquiry Officer submitted his report which ran into 96 pages to the District Magistrate, Jorhat vide his letter dated 24-1-2018 whereafter the latter submitted his report to the Commission vide his letter dated 12-2-2018. The main findings of the Enquiry Officer may be reproduced below:

‘On examination of the records as submitted by the Officer-in-Charge, Jorhat Police Station, it is found that there were several public complaints including Shri Rintu Goswami, Advocate and Shri Gautam Bora, Advocate and the investigations are not completed and before completion of the investigation, Mr. Bubul Lekharu was arrested. The police did not produce any departmental case against him. [Copy annexed as Annexure-X (21 pages)]

It may be noted here that all the cases against Mr. Bubul Lekharu except one to which he was granted bail, were relating to misappropriation of government funds under different programmes. Hence before arresting or prosecuting him, there should have been proper verification of the accounts as well as physical & technical status of each of the schemes through experts but it appears from the instant case that the investigating officers without such formalities in harness arrested Mr. Bubul Lekharu, a Senior Officer and put him to all harassments sustaining him to irreparable losses including placing his services at stake and thus causing damages to him and his family members as well. With due regard to the provisions of law, the revival of case No. 1901/15 against which already FR was submitted is further an instance of mala fide intention of the police. It may be at the behest of an unseen force, was to put Mr. Lekharu into trouble for the reason best known to them (*sic*). Moreover, the police reported that the case had been transferred to CID, but they could not produce whether Notice U/s 41(1) Cr.P.C. and arrest memo and proper information at the

time or during his arrest were either to him or his relatives were issued or not which are the essential direction of the Hon'ble Supreme Court in concerned and thus there had been several lacunas so far observed in the course of the inquiry.

Thus from the findings in the course of the inquiry concerning the above Hon'ble Supreme Court of India, the police excessiveness in arresting and detaining Shri Bubul Lekharu without proper investigation as regards to the gravity of the offense is sustained.

Moreover, nobody turned to appear for adducing pieces of evidence against Mr. Bubul Lekharu during the holding of the inquiry.”

At this stage, it may be noticed that several cases were registered at Jorhat Police Station against the husband of the complainant viz. FIR No. 357/15 U/s 166/167/420/409 IPC FIR No. 1901/15 U/s 409 IPC, FIR No. 2523/16 U/s 409/468/471/420/34 IPC, FIR No. 875/17 U/s 120-B/166/167/420/406/34 IPC and FIR No. 1288/17 U/s 166/167/420/409 IPC. The maximum punishment for the offenses punishable under Sections 409 and 420 is life imprisonment and seven years of imprisonment respectively. As for the remaining offenses, the maximum punishments do not exceed three years.

The law relating to Sections 41 and 41-A have been succinctly summarized by the Apex Court in *Arnesh Kumar v. State of Bihar & Anr.*, (2014) 8 SCC 273. Paras 7.1., 7.2, 7.3., 8, and 11 are relevant and the same in this case.

We are compelled to extensively reproduce the afore-quoted decision of the Apex Court as we are quite aware that such mandates of the law are yet to be substantially complied with by the State police even now. We will now come to the provision of Section 41-B, Cr.P.C. since this is likely to have a bearing on the case at hand. This newly salutary provision, if scrupulously followed by the police, will go a long way in preventing the abuse of arrest power by the police. The arresting authority must, while making the arrest, bear an accurate, visible, and clear identification of his name which will facilitate easy identification. In many cases, the identity of the arresting authority is not known to the person arrested thereby effectively deterring or disabling the victim or his family members

to complain of torture, highhandedness, and harassment committed by the police. Secondly, the arresting officer must prepare a memorandum of arrest which should be attested by at least one witness, who could be a member of the family of the person so arrested or by a respectable member of the locality where the arrest is made. Thirdly, such a memorandum must be countersigned by the person arrested. Fourthly, if such a memorandum is not attested by a member of his family, the arrested person must be informed that he has a right to have a relative or a friend named by him to be informed of his arrest. These are empty formalities but are statutory mandates, which must be complied with by the arresting authority.

In the instant case, as already noticed, the main grievance is that her husband was arrested without holding preliminary investigation; that SI Tuniram Neog and the IO of the case, Shri Shankar Bania misbehaved with her husband at Jorhat Police Station. It is her further allegations that though her husband had health issues like piles, high blood pressure, severe back pain, and stomach pain, the Police did not take him for a medical check-up on 17-5-2017 on the ground that there was no vehicle to take him to the hospital. On the other hand, according to the complainant, her husband was made to sit in a chair continuously from the time of his arrest till the end of police remand thereby depriving him of sleep. As the findings of the Enquiry Officer were likely to be prejudicial to the charged officers, this Court by the orders dated 27-9-2018, 31-10-2018, and again dated 11-3-2019 issued notices to them through the Inspector General of Police, Administration, Ulubari, Guwahati to make their respective comments on those findings against them by enclosing the inquiry report. In response to the notice, Sub-Inspector Tuniram Neog submitted by stating that “[F]urther, I have the honor to state before you that the wife of Bubul Lekharu did not misbehave by me as alleged. I never met her or did not make (*sic*) any communication during the incident.” That is all; nothing more. Sub-Inspector Sankar Bania, however, did not offer his comment.

The inquiry report of the Additional District Magistrate, Jorhat was read and re-read. To check the veracity of the inquiry report, the statements recorded by the Enquiry Officer and other materials on record were carefully perused. In the absence of any comment or

worthwhile comment from the charged Officers as already noticed, we are of the firm view that there are prima facie cases against both the charged officers in respect of the following:

1. On the night of his arrest on 14-5-2017, the husband of the complainant was not even given food nor was he allowed to sleep or take rest at Jorhat Police Station.
2. No memo of the arrest of arrest was prepared nor was he informed of his right to have a relative or a friend named by him to be informed of his arrest as required by Section 41-B(b) and (c) Cr.P.C.
3. During the period of his remand, he was admitted to Jorhat Medical College on 17-5-2017, but on 19-5-2017, he was forcibly dragged out of the Hospital by Sub-Inspector Sankar Bania when his medical examination as prescribed by one Dr. Nath was not even completed.
4. During the said period of his remand to police custody, he was not even provided with bathing facilities.

In our opinion, a prima facie case of violation of the human rights of the husband of the complainant is, therefore, made out against the two charged officers. This calls for departmental inquiry against both of them for their punishment following service law. True, the husband of the complainant has been implicated in several cases of misappropriation of huge public money, which, if proved, could attract maximum punishment available under the law including dismissal from service. However, the fact that such serious allegations are made against him cannot constitute any defense for violation of human rights guaranteed under Article 21 of the Constitution of India. Using any form of torture for extracting any kind of information would not be right, just, or fair and therefore would be impermissible, being offensive to Article 21 of the Constitution. No doubt, such crime suspects must be interrogated and indeed subjected to sustained and scientific interrogation as permissible under the law. The use of torture, harassment, or brute force has no place in a country governed by the rule of law. Person in custody has to

be treated with dignity. We have deliberately refrained from entertaining the complaint against private persons against whom the complainant may have some legitimate grievance as we deem our recommendations for initiating departmental inquiry against the two police officers to be more appropriate on the available facts on record.

The Commission, vide its order dated 24-06-2019, recommended immediate initiation of a departmental inquiry against Sub-Inspector Sankar Bania and Sub-Inspector Tuniram Neog, both formerly of Jorhat Police Station, for violation of the human rights of Shri Bubul Lehkaru to deter others from violating the human rights of any person in future. However, nothing stated in the foregoing shall be construed as final observations on the merit of the case, which is yet to be decided by the disciplinary authority at the end of the departmental inquiry.¹⁹⁶

A copy of this order was transmitted to the Commissioner/Secretary, Home & Political Department, Government of Assam, District for necessary action following the recommendation.

AHRC Case No. 2161/9/17-18,

This Commitment by the order dated 7-11-2018 had passed the following order:

“This is a tragic case. A complaint was lodged by one Kamal Das about the death of his wife, namely, the late Pinky Das, on 13-10-2017 after giving her injections and infusion of saline on the advice of a doctor of Ambari Fatasil Urban Health Centre, namely, Dr. Ghanashyam Thakuria. On receipt of the complaint, notice was issued upon the Director of Health & Family Welfare, Hengerabari for conducting an inquiry into the facts and facts circumstances leading to the death of the deceased. The inquiry was conducted by the Inquiry Committee comprising of the Joint Director of Health Services (name not furnished) and Medical and Health Officer-1, Kamrup Metro, Guwahati-1. After recording statements of Dr. Ghanashyam Thakuria, Smt. Sohagi Khatoon and Dr. Meera Borah, the Medical Officer in charge of Fatasil Ambari Urban PHC, and ongoing through the hospital

¹⁹⁶ Assam Human Rights Commission. Annual Report at 63 (2019)

documents relating to the treatment of the deceased, the Committee concluded that there was no negligence on the part of Dr. Ghanshyam Thakuria in his treatment of the deceased.¹⁹⁷

A copy of the inquiry report was thereupon communicated to the complainant to offer his comment thereon. We have received the comment of the complainant. On reading the inquiry report together with the accompanying statements of the persons so examined and the comment of the complainant in juxtaposition, it is seen that the following undisputed facts have emerged:

1. The deceased complained of backache, mild fever, lower abdominal pain, and burning sensation.
2. At the time of her examination, the deceased had normal BP, normal pulse, felt tenderness over her lower abdomen, and tenderness over on both sides of her back kidney region, which were diagnosed as a urinary infection.
3. Dr. Thakuria prescribed the following medicines for the treatment of urinary infection:

- | | | | |
|-----------------|-----------------|-------|------------|
| (a) DNS | bottle | | One |
| (b) Sig | Drip | | I.V. |
| (c) Gentamycin | 80 mg injection | | 10 |
| (d) Norflox | 400 mg tab | | 10 |
| (e) Sig | twice | | 1tab daily |
| (f) Paracetamol | tab | | 4 nos. |
| (g) ORS | | | 2 |
- (h) The deceased was advised to take plenty of water by mouth.

¹⁹⁷ Assam Human Rights Commission. Annual Report at 74 (2019)

According to the statement of the charged Medical Officer, “[A]fter the prescription, the patient went to injection room. ANM Suhaga Khatun gave the Gentamycine 80 mg IM. After that, the same ANM started DNS IV drip. After about 100ml DNS drip passed, the patient was getting rigor. Then the ANM came to me and informed me. Immediately I went to the patient and found the drip was already stopped. Then I advised ANM Khudeja to give one ampule Dexona and Avil injection. After that ANM Khudeja gave the Dexona injection. But the Avil injection was not available in our hospital. So the attendant brought the Avil injection from outside and pushed the injection by the same ANM. After giving both the injections (Dexona and Avil injections) the rigor stopped. But after sometime the patient started convulsion. Then I advised ANM Khudeja to give one Diazepam IM injection. When the patient became stable and began to sleep, I left the hospital at 1 PM. Though I left the hospital at that time Dr. Mitra Bora in charge MO was present in the hospital. I did my level best to provide good treatment to the patient with limited resources available at the Ambari Fatasil Urban Primary Health Centre at that time. When I left the hospital, the in charge of the hospital Dr. Mira Bora was there. However, later on, considering the health condition of the patient, at 2.05 PM, Dr. Miora Bora referred the patient to MMCH for better treatment. At about 6 PM, I heard from Dr. Mira Bora over the telephone, that the patient expired at MMCH before getting any treatment.”

The charged Doctor asserted that in the complaint dated 13-10-2017 filed by the complainant before the Fatasil Ambari Police Station, no allegation of improper treatment of the deceased was made and the same is, therefore, an afterthought. He, therefore, refuted the case of the complainant that he negligently examined or treated the deceased.

Coming now to the statement of Dr. Mira Bora, she in her statement admitted that the deceased was suffering from UTI and was treated by the charged Doctor. According to her, the deceased was given DNS IV with injection GM 80 mg I/M; after the IV, ½ an hour later, she developed rigor, she was given Dexona and Avil injections; after observing that the deceased was not responding to the above regime, she was 1 amp of Calmpose injection I/M. She further stated that she attended the deceased and found that she was not responding to command, her pulse was feeble and her BP low, she advised the attendant to

shift her to the higher facility for better treatment. She denied that there was undue delay in referring the deceased to a higher facility.

On the other hand, the complainant in his comment against the said inquiry report has, among others, emphasized the fact that the deceased was only having back pain, which was tolerable and she walked up to the Fatasil Ambari Urban Health Centre along with him. He contends that the deceased died just after administering the DNS saline; that both the charged Doctor and the attending ANM Nurse, Ms. Khatin, lied and intentionally kept the dead body till 2.30 PM when the deceased was already dead; that in the inquiry report, the charged Doctor intentionally did not mention about additional 1 amp of Calmpose injection that was administered after the Avil injection; that though the deceased was suspected to have “Urinary Tract Infection”, he was never advised to have any laboratory test done on the urine or blood sample; that the case of the charged Doctor that there was tenderness over the back or over lower abdomen or she having mild temperature were all afterthoughts as nothing like those symptoms persisted on the deceased when she was alive. The complainant, therefore, wants the Commission to obtain the opinion of an independent expert, preferably, from AIIM, New Delhi.

From the versions of the complainant and the charged Doctor, we are of the view that we cannot, as laymen, come to a definite finding as to whether there was medical negligence on the part of the charged Doctor in the treatment and subsequent death of the deceased. Yet, we are also disturbed at the same time that how could a patient suspected of having urinary infection be treated in the manner in which the charged Doctor admittedly administered such drug without first obtaining a laboratory test of her urine and blood. We are also surprised as to how the patient who at the time of her examination by the charged Doctor was admittedly having back pain only could die after administering those drugs. This certainly calls for obtaining the opinion of an independent expert/specialist in Medicine from the Gauhati Medical College and Hospital though the possibility of obtaining the opinion of experts from outside the State in the future cannot be ruled out.”

We had, therefore, requested the Superintendent of Gauhati Medical College and Hospital to detail a Specialist in Medicine to appear before the Commission on 1-4-2019 to give his/her opinion on the cause of death of the deceased. Dr. Nasreen Kausar, Professor of Medicine, GMCH, accordingly, appeared before us on 1-4-2019 and informally gave her opinion after referring to the complete inquiry report including the PME report. She, however, did not find any medical negligence in the treatment given by the charged officer and Dr. Meera Borah of Fatasil Ambari Health Centre and gave a clean chit to them. On perusing the materials available on record including the inquiry report and after hearing Dr. Nasreen Kausar, we are unable to accept the opinions of the inquiry officer and that of Dr. Nasreen Kausar. As there is a possibility of giving adverse findings against them, we, as required by Section 16 of the Protection of Human Rights Act, 1993, issued notice to both the charged officers (Dr. Ghanashyam Thakuria and Dr. Meera Borah) through the Director of Health Services, Hengrabari to appear before the Commission on 13-5-2019. However, the Director of Health Services, Assam by his letter dated 16-7-2019 requested us to fix another date for their appearances. By the order dated 5-8-2019, we acceded to the request and fixed 28-8-2019 for their appearance by observing therein that our order dated 5-8-2019 should be treated as the notice. However, on 28-8-2019, both the charged officers failed to turn up without assigning any reason. Under the circumstances, we have no alternative but to hold that they have nothing to say against our tentative conclusions.

1. To recapitulate the evidence, the deceased at the time of her admission to Fatasil Ambari Urban Health Centre had 1) been able to reach the Fatasil Ambari Urban Health Centre at 11 AM with her husband *by foot*, 2) normal B.P., 3) normal pulse, 4) mild temperature, 5) tenderness over her lower abdomen and 6) tenderness over both sides of her kidney region of her back. The attending Doctor Ghanashyam Thakuria prescribed some medicines and diagnosed her as a case of Urinary Infection and prescribed the following medicines: 1) DNS – 1 Bottle IV drip; 2) Gentamycin injection 80mg – 1 vial IM BD; 3) Norflox 400 mg; 4) Paracetamol tablets and 5) ORS. Smt. Sahagi Khatoon, ANM was instructed to inject Gentamycin, infuse DNS i.v. drip and follow the prescription where medicines were prescribed. After 100 ml DNS drip passed, the deceased started getting *rigor* whereupon

the attending ANM reported to Dr. Thakuria about the condition of the deceased. Dr. Thakuria then advised the ANM Khudeja to give one ample of Dexona and Avil injections, which she did. Soon thereafter, the *rigor* disappeared, but then the deceased started developing convulsions. At this, ANM Khudeja was instructed to inject one Diazepam whereafter the deceased became stable and started to sleep. Dr. Thakuria then left the Fatasil Ambari Urban Health Centre at 12.45 PM of the same day. However, the said Lady Doctor visited the deceased and referred her to Mahendra Mohan Choudhury Hospital on noticing her critical condition. However, before the deceased could get any treatment, Dr. Thakuria received the information that she expired at MMCH at 6 PM. In our opinion, the injection and consumption of altogether 8 medicines prescribed between 11 AM and 1 PM, i.e. within 2 hours is something that could not have been digested by a human being without side effects. Adverse effects of gentamycin can range from less severe reactions, such as nausea and vomiting to more severe reactions including:

- Low blood cell counts
- Allergic reactions
- Neuromuscular problems
- Nerve damage (neuropathy)
- Kidney damage (nephrotoxicity)
- Ear disorders (ototoxicity)

2.As we have already observed, our tentative conclusions have not been refuted by the charged officer. While deciding this case, we make it clear that we are not oblivious to the warning given by Lord Denning in *Roe v. Minister of Health, (1954) 2 All ER 131 (CA)* while determining the negligence of a Doctor, which is reproduced below:

“... we should be doing a disservice to the community at large if we were to impose liability on hospitals and doctors for everything that happens to go wrong.”

3. Negligence *per se* is defined in Black's Law Dictionary in the following manner:

*“Negligence per se.—*Conduct, whether of action or omission, which may be declared and treated as negligence without any argument or proof as to the particular surrounding circumstances, either because it violates a statute or valid municipal ordinance, or because it is so palpably opposed to the dictates of common prudence that it can be said without hesitation or doubt that no careful person would have been guilty of it. As a general rule, the violation of public duty, enjoined by law for the protection of person or property, so constitutes.”

4. Judged against the aforesaid principles, it is obvious that the negligence we speak of in this case is not about the violation of a statute or valid municipal ordinance. The question to be decided rather is whether the conduct of the charged officers was so palpably opposed to the dictates of common prudence that it can be said without hesitation or doubt that no careful person would have been guilty of it. On going through the materials on record, we are disturbed by the fact that how could a patient suspected of having urinary infection be treated in the manner in which the charged Doctor admittedly administered such drug without first obtaining a laboratory test of her urine and blood. We are also surprised as to how the patient who at the time of her examination by the charged Doctor was admittedly hale and hearty and merely having back pain could die soon after administering those drugs. Not only this, as noticed earlier, the injection and consumption of altogether 8 medicines prescribed between 11 AM and 1 PM, i.e. within 2 hours is something which could not have been digested by a human being without side effects. As already noticed, the deceased at the time of her admission to Fatasil Ambari Urban Health Centre had 1) been able to reach the Fatasil Ambari Urban Health Centre at 11 AM with her husband by foot, 2) normal B.P., 3) normal pulse, 4) mild temperature, 5) tenderness over her lower abdomen and 6) tenderness over both sides of her kidney region of her back. Moreover, considering the precarious condition of the deceased, Dr. Thakuria should not have simply left her after her condition was reported to have been stable. It is quite intriguing to find that he was never seen again anywhere near the deceased before her evacuation to MMCH in the evening. In our opinion, absence of due care and attention of

the charged doctor is quite apparent. The maxim *res ipsa loquitur* applies to a case where certain facts proved by the plaintiff, by itself, would call for explanation from the defendant without the plaintiff having to allege and prove any specific act or omission of the defendant. In *Scott v. London & St. Katherine Docks Co.*, (1865) 3 H & C 596, Erle, C.J., succinctly observed:

“... where the thing is shown to be under the management of the defendant or his servants, and the accident is such as in the ordinary course of things does not happen if those who have the management use proper care, it affords, reasonable evidence, in the absence of explanation by the defendants, that, that the accident arose for want of care.”

5. In *Shyam Sunder v. the State of Rajasthan*, (1974) 1 SCC 690, it was held that the principal function of the maxim is to prevent injustice which would result if the plaintiff was invariably required to prove the precise cause of the accident when the relevant facts are unknown to him but are within the knowledge of the defendant. It was also explained therein that the doctrine would apply to a situation when the mere happening of the accident is more consistent with the negligence of the defendant than with other causes.

6. In the absence of proper explanation by the charged officer, we have no alternative but to apply the maxim *res ipsa loquitur* and hold that the charged officer, Dr. Ghanashyam Thakuria is guilty of medical negligence which resulted in the death of Smt. Pinky Das, w/o the complainant, a resident of Fatasil Ambari on 13-10-2017; this is undoubtedly a violation of the human rights of the deceased. We are thus of the considered view that the conduct of the charged officers was so palpably opposed to the dictates of common prudence that it can be said without hesitation or doubt that no careful person would have been guilty of it. The next question to be determined is on the quantum of compensation to be recommended for payment to the complainant. While recommending the payment of compensation, the precise quantum of compensation that should be awarded in any given case cannot and need not be determined with mathematical exactitude or arithmetic precision.— See *Ashish Kumar Mazumdar v. Aisha Ram*, (2014) 9 SCC 256. Considering the age and the position of the deceased, we further hold that the charged Officer (Dr.

Ghanashyam Thakuria) is, therefore, liable to pay a compensation of ₹5,00,000/- (Rupees five lakhs) only to the complainant. However, we do not find any malpractice or negligence in the case of Dr. Meera Borah and accordingly exonerate her of the charge. As held by the Apex Court in *Bijoy Sinha Roy v. Biswanath Das, (2018) 13 SCC 244* that the provisions of Consumer Protection Act, 1986 are in addition to and not in derogation of any other law, we think that the meaning of the restricted term “service” used in Section 2(1)(o) of the Consumer Protection Act, 1986 is not applicable while deciding a case coming within the ambit of violation of human rights contemplated under the provisions of the Protection of Human Rights Act, 1993.

7. We, therefore, recommend the payment by Dr. Ghanashyam Thakuria of ₹5,00,000/- to the complainant by way of compensation within two months from the date of receipt of this order. As the employer of the charged officer, it shall be open to the State Government to pay the said amount on his behalf and may recover the same from his salary by installment or otherwise.

This order of the commission dated 24-09-2019 was communicated to the charged Officer, Dr. Ghanshayam Thakuria, through the Director of Health Service, Assam, Hengrabari, Guwahati-36 for information and necessary action. A copy of the order was also sent to the Principal Secretary, Health & Family Welfare Department, Civil Secretariat, Dispur, Guwahati for information and necessary action.

AHRC CASE NO. 2618 of 2019-20 (24)

This complaint was lodged by one Ramani Kalita, S/O Late Dharani Kalita, a resident of Kochipara village, P.O. Mirza under Palashbari Police Station, Kamrup District is directed against Shri Satyajit Bora, Sub-Inspector of Police of Chandmari Police Station allegedly for wrongfully arresting and imprisoning him to jail for about 15 days resulting from non-application of mind.¹⁹⁸

¹⁹⁸ Assam Human Rights Commission. Annual Report at 82 (2019)

The facts of the case as revealed from the complaint are that a non-bailable warrant of arrest (“NBWA” for short) was issued by the learned Additional Chief Magistrate, Kamrup (M) against the namesake of the complainant, *i.e.* Ramani Kalita but without mentioning the age or the name of his father with the address given as “C/o the Director of Industries, Bamunimaidan, Chandmari, PS Chandmari” in connection with GR No. 1828/05 arising out of Dispur PS Case No. 571/2005 U/s 341/325/307 IPC. Shorn of unnecessary details, what happened is that on 12-3-2019, when the police party led by the charged officer went to the house of the complainant situate at Kochpara village under the jurisdiction of Palashbari Police Station, to execute the said warrant, the complainant repeatedly explained to him that he was not the person they were looking for and that he was innocent and had no involvement in any criminal case. However, the charged officer proceeded to execute the NBWA and produced the complainant before the learned Additional Chief Judicial Magistrate, Kamrup(M) on 13-3-2019 and was remanded to judicial custody for fifteen days. He was released on bail on 28-3-2019. Thus, the complainant was incarcerated in jail for about 15 days. These facts are undisputed.

The short but important question for consideration in this complaint is whether the charged officer is justified in executing the NBWA on the above-admitted facts? As already noticed, the NBWA lacked the particulars of the detail of the person covered by the NBWA, *i.e.* his age, his occupation, his father’s name, and his actual address. To substantiate his case, the complainant examined himself and also examined his witness, namely, one Anil Chandra Kalita. At this stage, it may be mentioned that the charged officer, as required by Section 16 of the Protection of Human Rights Act, 1993 (“the Act” for short) was furnished with a copy of the inquiry report and the complaint to enable him to defend himself. He was also allowed to cross-examine the complainant and his witness.

In his evidence on oath, the complainant asserted that he told the charged officer of his non-involvement in any criminal case; that he was mistaken for another person having the same name, that he again reiterated his identity before the police officers at Mirza PS and Chandmari PS that there was another person by the same name working in the same Directorate, but they did not pay any heed to his explanation. Ultimately, he was remanded

to judicial custody and was released on bail after 15 days. These are the undisputed facts. Another undisputed fact is that the NBWA nowhere mentioned the age and the father's name of the complainant. One Anil Chandra Kalita, a co-villager, was examined as a witness on oath. In his evidence, this witness stated that he told the police officer that the complainant was not a criminal, but a respectable person of the locality; that on his request, the charged officer showed him the NBWA, but he was astonished to notice that the proper address of the complainant was not even mentioned therein; that he asked the charged officer as to how could he arrest a person without his proper address and description, but he could not convince him that the complainant was not the person he was looking for the execution of the NBWA. The charged officer was permitted to cross-examine the complainant and his witness. His cross-examination, however, did not elicit anything to discredit the testimonies of the complainant and his witness.

We have carefully gone through the evidence on record. In our opinion, the charged officer has proved to be guilty of callousness, negligence, recklessness, arbitrariness, and non-application of mind in the execution of such a vague NBWA against the complainant. Against the categorical assertions made by the complainant and his witness that the complainant was not the one he was looking for coupled with the glaring fact that the NBWA did not contain definite information to identify him such as the age of the person to be arrested or of his occupation or his father's name or his proper address, he ought to have made further inquiry before arresting him. At the most, he could have detained him at the police station for some time without producing him before the learned Additional Chief Judicial Magistrate, Kamrup to enable him to verify his identity from the informant of the FIR. Unfortunately, such exercise was undertaken only after the complainant had already languished in jail for some time. In the alternative, he need not have executed the NBWA on the ground of lack of particulars in the description of the complainant and he should have, instead, returned the NBWA to the issuing Magistrate with a prayer to furnish better particulars for easy identification of the person covered by the NBWA. In other words, the charged officer should have properly applied his mind and executed the NBWA only after he was fully satisfied with the identity of the person covered by the same.

Though the law was rendered in the context of jail authorities, the Apex Court in *Sanjay Suri and another v. Delhi Administration and another, 1988 (Supp) SCC 160*, the Apex Court held that it shall be open to the jail authorities to refuse to honour a warrant if the age of the person remanded to judicial custody is not indicated, it would be lawful for such officers to refer back the warrant to the issuing court for rectifying the defect before it is honoured. It further held that since it will create problems in keeping the undertrial or the prisoner during the intervening period, the judicial officer should realize his responsibility in accepting this direction and giving full effect to it and that in exceptional cases, when the warrant is referred back for rectification, the person covered by the warrant may be kept at the most for a week pending rectification and taking responsibility of the situation. In our opinion, the underlying principles are the same in this case. By exceptional cases, it can mean only such of the cases where the NBWA is directed against a hardened criminal or accused involved in heinous crimes such as murder case or terrorist or subversive activities, who could not be easily apprehended by the law enforcement agencies.

In *In Re: Sagarmal Khemraj, AIR 1940 Bom 397*, the Bombay High Court needed to deal with a case of this nature. The warrants, in that case, were addressed to the “O/C concerned” and referred to the persons covered by the warrants merely by their names, the first “Sagarmal Khemraj” and the other “Kaluyram Hirachand”, and in the margin of the warrants was a note initialed by the learned Chief Presidency Magistrate, Calcutta, to the effect: “Forwarded to the 3rd Presidency Magistrate, Bombay, for favour of execution and return”. Holding that the warrants were invalid because they did not sufficiently specify the persons to be arrested, the Hon’ble Bombay High Court further held:

“As I have already said, the warrants only contain the surname and preceding name of the two accused, without reference to address, description, or occupation. There are probably a good many people in Bombay having the names referred to in these warrants, and all those persons could be arrested under the warrants, if valid. In my opinion, the warrants issued in this case are not sufficiently definite either in the name of the persons to whom warrants of arrest were issued or in the description of the person to be arrested.”

The Commission opined that the charged officer did not even bother to make further inquiry in the course of execution of the NBWA and rather exhibited recklessness in undertaking the exercise. He was expected to know and must know, that under Article 21 of the Constitution of India, a person cannot be deprived of his life or personal liberty except following the procedure laid down by law. The complainant was deprived of his liberty for fifteen days due to an avoidable mistaken identity. The charged officer had no regard for the personal liberty of the complainant; he acted as if the task undertaken by him was a routine matter. When the identity of the person covered by the NBWA was seriously in question due to the absence of proper description of his identity coupled with the fact that a co-villager had also told him categorically that the complainant was not who he was looking for, he should have refused to execute the same and returned the same to the issuing Magistrate to rectify the same. This is what a normal police officer is expected to do, and it is within his right to do so. Alas, in his recklessness and his refusal/negligence to make due verification, the complainant had to spend fifteen days in jail. We have observed the conduct and behaviour of the charged officer when he cross-examined the complainant. Unfortunately, the charged officer did not show any semblance of remorse or repentance towards the complainant; he behaved as if he committed no wrong at all by arresting the complainant. He was not even disturbed by the fact that he made the complainant to languish in jail without bothering to make a due inquiry about the identity of the person covered by the NBWA, that too, even after the serious dispute was raised by the complainant and his witness about the identity of the person covered by the NBWA. Needless to say, this should have made him sit up and made some kind of inquiry. We agree with the following pleadings of the complainant in his complaint:

“I have a reputation and social standing in the society. My family and I have to undergo utter humiliation in society as I have been arrested in a case in which I am not involved and that also on a day in which the reception function of the wedding of my brother-in-law was going on. Never in my life have I am subjected to such ignominy. I am a person of good health and suffer from many ailments including diabetes. Anything could have happened to me in jail as I had fallen sick because of tremendous mental stress and agony. No amount

of compensation can return me the 16 days of my life which I had to spend as a prisoner for no fault of mine.”

With due respect, we fail to agree with the conclusion of the Enquiry Officer by stating that no *mala fide* intention on the part of the police was found. This is a case of non-application of mind, gross negligence, recklessness, and arbitrariness on the part of the charged officer in executing the NBWA lacking proper description of the person covered by it. This is a gross violation of the human rights of the complainant and, *ipso facto*, infringement of his fundamental right guaranteed under Article 21 of the Constitution of India. This is no ordinary lapse on the part of the charged officer. The type of incident complained about should not happen again in this state governed by the rule of law. The question to be decided now is what should be the quantum of compensation payable to the complainant for violation of his fundamental right protected by the Constitution of India. In our opinion, considering the indignity, mental sufferings, disgrace, humiliation, loss of social status and reputation, and inconvenience/discomfort suffered by the complainant while he was incarcerated in jail for no fault of his, a compensation of ₹2,00,000/- (Rupees two lakhs only) will meet the end of justice. We are not unmindful of the fact that the untold misery inflicted upon the complainant by the charged officer cannot be compensated for in terms of money. However, this compensation, we hope and trust will bring about changes in the functioning of the State police and in sensitizing the State police personnel so that they do not take lightly the human rights of the citizens and do not arrest them without first ascertaining his correct identity. This reckless arrest can happen to anyone unless the police force is appropriately sensitized while exercising the power of arrest, be it while executing a warrant of arrest or otherwise.

The Commission, therefore, recommended the payment of compensation to the order of ₹2,00,000/- (Rupees two lakhs) by the charged officer (Sub-Inspector of Police, Satyajit Borah of Chandmari Police Station) the complainant. The payment shall be made by the charged officer by 20 (twenty) equal installments of ₹10,000/- per month with effect from 3-2-2020, which will be deducted from his monthly salary by the concerned Drawing & Disbursing Officer. It is, however, open to the State Government to initiate a departmental

inquiry for major punishment against the charged officer instead of payment of compensation so recommended.

This decision of the Commission dated 27.11.2019 was communicated to the Additional Chief Secretary, Home & Political Department, Government of Assam, Dispur through his e-mail address for necessary action. A copy of this decision shall also be sent to the charged officer through the Deputy Commissioner of Police, Central District, Guwahati, for which a letter of request may be written, and the complainant by registered posts for information.

The Commission also requested the Director-General of Police, Assam to give instructions to all the Officer-in-Charge of the Police Stations/Police Outposts to ensure that the full particulars of the accused such as the age, occupation, father's name, and address of the accused are indicated at the time of producing him before the jurisdictional Magistrate or when the charge sheet is submitted before the Court so that the type of unfortunate incident dealt with in the instant case is avoided. Send a copy of this decision to the DGP/Assam for necessary action.

4.8. Conclusion.

The zeal and dynamism that has been displayed by the Assam Human Rights Commission are certainly the progressive steps in the rights direction. Despite the different imperfections, the service of the commission has been quite satisfactory. Activities such as human rights awareness seminar, observation of Human Rights day, Inspection of jail, Internship programme are some of the important steps of the commission for promotion and protection of human rights in the state of Assam.

CHAPTER-V

PERFORMANCE EVALUATION OF

ASSAM HUMAN RIGHTS

COMMISSION

CHAPTER-V

5.1. INTRODUCTION

Performance evaluation is defined as a formal and productive procedure to measure an institution's work and results based on their job responsibilities. How far the activities are beneficial to the society and what are the shortcomings are to measure in this chapter. Examination of all the activities done by the Assam Human Rights Commission is the motto of this endeavor. Efficacy evaluation of the commission is important so far as societal acceptance and expectations are a concern. Whether targeted objectives are addressed by the commission or not are also looked into, as the objectives are to strengthen the institutional arrangements through which human rights issues could be addressed in a more focused manner to note down allegations of excesses independently of the government, in a manner that would undermine the government's commitment to protect human rights and to complement and strengthen the efforts that have already been made in the direction.

After doing an inquiry, AHRC recommends to the appropriate authority to take action against the person who has violated the human rights or it may recommend to the government to provide relief to the victim of human rights violations, hence it is clear that the commission does not have powers of prosecution.¹⁹⁹

However, the credibility of the Assam Human Rights Commission cannot be defined simply in terms of the Commission's own stated goals doing that would undermine the vast roles supposed to play. Thus, the credibility of the Assam Human Rights Commission should be weighted in the Commission effectiveness, efficiency, and Assamese people's confidence in Commission's functioning capacity. Assam Human Rights Commission published Newsletters and Annual reports which are good attempts to assess critically how far the Commission has succeeded in ensuring and protecting and promoting the human rights of the people of Assam and how far the Commission safeguarded these rights.

¹⁹⁹H.O.AGARWAL, INTERNATIONAL LAW AND HUMAN RIGHTS,942-943(15th ed.2008)

5.2. The Performance and the Credibility of AHRC

The Commission has fulfilled though partially what the regulation promised to constitute the State Human Rights Commission. But the other promise, 'for better protection of human rights and matters connected therewith needs further re-examination and re-assessment.

The Assam Human Rights Commission undoubtedly has some laudable achievements to its credit. The Commission has taken up many important cases for the better protection and promotion of human rights in the state of Assam. Some important disposed of cases of the Commission took up for performance evaluation which is the followings:-

5.2.1. Electrocution.

Electrocution becomes a regular phenomenon in the state of Assam for which many people losses their life due to the negligence of different departments wherein erring authorities refused to admit they are guilty and to some extent refused to pay compensation also. Victim family begs justice door to door even matters instituted before the high court for compensation, it takes a long time and huge expenditure wherein victim family become a victim of double jeopardy. In AHRC case No- 858/13-14, Assam Human Rights Commission on 13/09/2013 recommended for granting immediate interim relief Rs- 300000/ (three lakh) compensation Within thirty days by both the Assam Power Distribution Company Limited (APDCL) and the Guwahati Municipal Corporation (GMC) in equal proportion to the next of kin of the deceased Madhab Barman on 12/09/2013 at about 7 PM at Ganeshguri, Guwahati while crossing the road divider near the B K Tower after coming in contact with exposed live electric wire and the victim died.

Meanwhile, APDCL issued an order dated 18/02/2014 wherein it was reflected that APDCL decided to pay an amount of Rs 1, 50,000/ as per order dated 13/09/2013 of the AHRC to Smti Ranjita Dutta Barman, wife of the deceased Madhab Barman. Such payment had also been acknowledged by Smti Ranjita Dutta Barman which is informed by her in her

letter dated 29/05/2014 addressed the commission. However, in the said communication she also informed that GMC has not yet paid their share.

The Commission had ordered for an inquiry of the incident to be conducted by the commissioner, Lower Assam Division (LAD) Guwahati.

5.2.2. Hand-cuffing by police violating the mandate of law.

Indiscriminate hand-cuffing by police violating the mandate of the law becomes a routing work of Assam police violating the mandate of law and guidelines framed by the Supreme Court of India. The Supreme Court discussed in depth the handcuffing jurisprudence. The court banned the routine hand-cuffing of prisoners as a constitutional mandate.²⁰⁰ Assam Human Rights Commission in AHRC case No- 568/14/12-13 recommended Rs- 1 (one) lakh as compensation to victim Durga Prashad Bordoloi.

Smti Jurimoni Bordoloi wife of Shri Durga Prasad Bardoloi of Koliabor Tiniali under Koliabor police station in Nagaon district filed a petition alleging violation of human rights of said Durga Prasad Bordoloi by way of keeping him under handcuff while being under treatment both at Kanaklata Civil Hospital, Tezpur and the GMCH, Guwahati for a couple of days after being arrested on 12-11-2012 at Tezpur in connection of Tezpur Ps case No. 1219/2011.

Being prima –facie a case of clear violation of human rights as guaranteed under article 21 of the constitution of India a single bench of the commission passed an order directing the inspector, Investigation cell of the commission to personally inspect and verify the allegation of handcuffing. The inspector visited the ward MMU-IV of GMCH where said Durga Prasad Bordoloi was then reportedly undergoing treatment in the said state in Bed No- 316 and submitted his report enclosing two photographs taken by him on the spot during his verification and inspection of the fact situation.

²⁰⁰ Prem Sankar Shukla v. Delhi Administration AIR 1980 SC. 1535.(India)

The commission directed the Director-General of police, Assam to cause the removal of handcuffing of the accused and issued notice to cause an inquiry by a responsible officer does not below the rank of Deputy Superintendent of police as to why and under what circumstances the accused Durga Prasad Bordoloi had been put under handcuffing in flagrant violation of human rights as well as directions and guidelines set by the Hon'ble Supreme court. The inquiry report stated that the reserve officer, Tezpur police Reserve S.I Brozen Hazarika deputed two havildars along with handcuff without any direction either from court concern or superior police officer to put the accused under handcuff. Further, the accused was put under handcuff during the period from 16-11-2012 to 29-11-2012 by the escorting party of Tezpur police. Moreover, the SM city police Sri Dharendra Changmai issued a handcuff in the name of UBC 1690 Biren Deka with a written order.

Accordingly, the police party detailed by the city police tied up the accused with the handcuff while in the GMCH. The inquiry also revealed that both Sri Brozen Hazarika and Sri Dhiren Changmai admitted that they did not know clearly regarding the guidelines of handcuffing as issued by the Hon'ble supreme court of India and had violated the guidelines of the supreme court of India without any malafide intention and the handcuff had been issued by them ignorantly and inadvertently.

5.2.3. Mob lynching

Mob-lynching in Assam as well as throughout India becomes a major human rights violation problem. From April /2017 up to 22nd July 2018 46 persons were murdered by a violent mob which is a record of murder in the country in mob lynching.²⁰¹

The Supreme Court bench headed by the then Chief Justice of India Ranjan Gogoi, and comprising Justice Deepak Gupta, issued the order after hearing the public interest litigation filed by the Anti-Corruption Council of India, a non-governmental organization

²⁰¹Dishank Purohit , Rajendra Sharma & Chetna Sharma “Cow vigilantes’ killed man in Rajasthan’s Alwar again, 46th victim of Mob Lynching in country since April/2017”_. The Times of India. July22nd ,2018.at 1&8

(NGO). The notices were issued to the governments of Uttar Pradesh, Jammu and Kashmir, Jharkhand, Andhra Pradesh, Gujarat, Rajasthan, Bihar, Assam, Madhya Pradesh, and Delhi.

The 17 July 2018, the apex court bench, headed by the then CJI Dipak Misra, had issued guidelines for preventive, remedial, and punitive measures for the rampant increase in incidents of lynching in India. The court had held that such an act of mob lynching and violence would “invite serious consequence under the law”.

Assam Human Rights Commission in AHRC case No- 770/08/13-14 considered granting Rs- 3.00(three) lakh as interim relief to the next of kin of the deceased Jhankar Saikia who was killed by some auto-rickshaw drivers on 02-07-2013 at Diphu town Kabi Anglong, Assam.

In pursuance of the order of the commission dated 10/09/2013 Joint Secretary to the Government of Assam vide Letter No- PLA.337/2013/120 dated Dispur the 15th May 2014 communicated to the Deputy Registrar Assam Human Rights Commission that Government of Assam has paid Rs- 3,00 Lakh (Three Lakh) to the Next of kin of the deceased.

In Assam, in another barbaric incident, two youths who were wrongly suspected to be child-lifters were lynched by a mob at Panjuri village under Dokmoka police station in Karbi Anglong district on 08-06-2018. One Nilotpal Das (29) a sound engineer based in Mumbai and his artist Abhijeet Nath. A mob of around 200 people killed them brutally.²⁰²

In another heartbreaking, barbaric mob lynching incident one inhabitant of Assam was brutally killed. It was 5th March 2015 when one Shorifuddin Khan of Korimganj District who was in Dimapur jail for an alleged rape case a mob of thousand people, breaking the outer door of Dimapur jail forcefully entered into jail premise and took the accused into

²⁰² . Correspondent “ 2 City artistes lynched in Karbi Anglong “ The Assam Tribune .June 10, 2018 at 1

their custody. Forcefully walkabout few kilometers with naked body and barefoot and in front of huge gathering brutally killed him.²⁰³

5.2.4. Death in Manhole and relief to next of kin.

Human death in manholes becomes usual in urban areas due to the negligence of the concerned authorities, which is a violation of human rights. Assam Human Rights Commission disposed of many cases pronouncing relief to the victim's family.

In AHRC case No- 334/16/11-12 Assam Human Rights Commission recommended to the Govt. of Assam for payment of Rs-5 (five) lakh to the family of deceased Rajesh Upadhyaya who was a practicing lawyer of Tezpur Bar Association out of an accident fall in an open drain maintained by Tezpur Municipal Board of Sonitpur district and died. The Commission recommended to the Director, Municipal Administration Department, Assam for payment of Rs- 5,00000/(five) Lakh only to the next of the kin of deceased. The Director was given the liberty to recover the compensatory quantum of money from Municipal Board, Tezpur, Assam.

On 22/10/2014, vide letter No- TM/Genl/2013-14/720. Executive Officer Tezpur Municipal Board, make representation respect of the said payment

5.2.5. Police Excesses:

Torture, illegal detention/unlawful arrest, false implications, are some forms of police excesses resulting in the gross violation of human rights in the country. The AHRC has made recommendations for inquiries and compensation and reforms in most of these cases of police excesses. The commission had registered a case

In AHRC case No- 6640/2006, the date of recommendation is -20/11/2012, wherein the commission has decided for a recommendation should be made to the appropriate authority for initiating disciplinary proceedings and taking suitable actions respectively against S.I

²⁰³ Staff Reporter, Dimapurot Talibani Ottacharotkoio Nresongso Kanda, Asomor Jubokok Nanggot Kori Rajhuwa Sthanot Hotta, (Incident of Dimapur is more ferocious than Taliban, Young person of Assam is killed in public place made him naked) Asomiya Khabor, March 7, 2015 at 1&10

Monoj Kumar Borua and inspector Horin Chandra Deka for making police excess. The commission passed a direction to the Director-General of Police, Assam immediately with a copy of these orders passed so that disciplinary proceedings are caused to be initiated for taking appropriate actions respectively against S, I of police (UB) Monoj Kumar Borua the then S.I. Tangla PS and Inspector of Police (UB) currently the O/c- Dhubri PS and them OC Tangla PS in the district of Udalguri.

On 21/01/2013, Disciplinary committee cum Superintendent of Police Udalguri, Assam informed vide Memo No- UDL/R/DP/01/13/2013/463-67, that departmental proceeding No- 01/2013 is drawn up for gross misconduct and indiscipline act.

Similarly in another AHRC Case NO= 1039/7/14-15. On receipt of 2(two) e-mail complaints, one from the Asian Human Rights Commission –Urgent Appeal Programme and another from one Siddhi Bahadur Ranjitkar of Nepal about the one and same subject.ie alleged police brutality on one Sri Bhaben Gogoi at Jorhat. on 06-04-2014 at around 6.30 P.M. The O/C Chinnamora Police Station Jorhat Mayuri Gogoi and his accompanying police personnel near ONGC gate severely assaulted by the rifle butts, inhuman beating using a stick, kicking upon said Bhaben Gogoi aged about 25 years S/O- Gunaram Gogoi of Barbheti Kerani Gaon. During medical diagnosis, it is found that his one of his leg is broken requiring surgery. On 23-04-2014 at Jorhat Medical College insured's right leg was amputated and on 26-04-2014 FIR was lodged against said O/C, the case was registered as Cinnamora Police station case No- 641/2014 u/s- 326/34 IPC.

The commission issued notice to the D.M Jorhat for causing inquiry. Show cause notice was also sent to the O/c and he had submitted replies on 01-12-2014. The commission had perused and considered meticulously the show cause replies and the inquiry reports submitted by the D.M. and pronounced the judgment on 13-04-2015, it was accordingly recommended that- (i). The Director-General of Police, Assam would immediately cause appropriate disciplinary action against the police sub-inspector, the then i/c Chinnamora police Outpost Jorhat, Sri Mayurjit Gogoi and (ii) several Rs- 2,00000/(Two lakh) be paid to said Sri Bhaben Gogoi being compensation by the Government of Assam in the

Department of Home within 3 (three) months which could be recovered from the erring police officer Sri Mayurjit Gogoi.²⁰⁴

Another brutal killing occurred on 6th December 2018 wherein police killed one Jhanendra Rajkhowa at village Habial in the district of Golaghat under Khumtai LAC. The victim was brutally killed by firing, deceased was ex-BSF personnel. FIR is registered against the DSP who leads the police party.²⁰⁵ Assam Human Rights Commission took Suo Motu case and started proceedings.

5.2.6. Hazardous gas leaking incident.

A division bench of the Assam Human Rights Commission, on 24-02-2016 issued notice to the Chief Secretary, Assam, About the ARHC Case No, 1602/9/15-16:- Kamrup (Urban) calling upon him to cause an inclusive inquiry to be conducted into the incident of leakage of some toxic gas through the concerning technological as well as administrative authorities and submit the report thereof before this commission within 30 (Thirty) days of receipt of the Notice.

The Commission took Suo Motu cognizance of a news item which appeared in several local newspapers regarding a Mysterious Gas Leakage of some toxic gas affecting a large number of the residents of Navagraha, Silpukhuti, Chandmari, and Kharghuli of the metropolis of Guwahati on Friday night and thereafter resulting in nausea and vomiting amongst some of the affected people besides the reported death of an elderly woman. The accusation had been made against the Guwahati Refinery for being responsible for the release of the said gas which could have triggered a catastrophe like that of the Bhopal Gas Tragedy. It was expected that the best of the technologies be used by the concerned authorities to prevent any further leakage of such obnoxious substances to avert and evade any possible disaster being detrimental and deleterious of life and property.

²⁰⁴ Annual Report, of Assam Human Rights Commission at 30-36. 2015-2016

²⁰⁵ Reported, Khumtair Jhanendra Rajkhowark guliai hotyer proticriya. Asomiya Protidin Dec 7, 2018. at 1&10
(Reporter, Effects of gunfire and killing of Jhanendra Rajkhowa of khumtai Asomiya Protidin Dec 7, 2018. at-1&10)

5.2.7. Cases related to the Children

On 30 January 2017, the Police arrested three children in conflict with the law (CCL) from Bharlumukh area in connection with Bharlumukh PS case No- 60/2017 filed by one businessman namely Dhiraj Deka. One of the children namely Raja Ali aged about 14 years died on 10th February at GMCH, medical reports revealed all injuries are anti-mortem which is sustained by the CCL during police interrogation at Bharlumukh police station.²⁰⁶ Wherein three police personnel is involved namely- Assam police inspector Umakanta Bora, sub-inspector Azizur Rohman, and Tomijuddin Ahmed all of them were arrested in connection with Bharlumukh Ps case No- 413/2017 U/S- 302/34 IPC for killing the CCL. Guwahati High Court Suo motu initiated PIL NO- 02/2017.

HON'BLE THE CHIEF JUSTICE MR. AJIT SINGH HON'BLE MR. JUSTICE MANOJIT BHUYAN passed an order on 30.1.2018 that One child, Raja Ali, aged 14 years, son of Md. Suleman Ali was arrested by the police of Police Station Bharalumukh for offenses under Sections 457/380 of the Indian Penal Code, vide Case No.60/2017. At the time of arrest, the condition of Raja Ali was normal, but he died on 9.2.2017, while in custody. His post-mortem examination report confirmed that he died due to ante mortem injuries caused by blunt force objects. A letter was sent to this court by the Chairman, Assam State Commission for Protection of Child Rights about the custodial death of Raja Ali, which, we registered as Public Interest Litigation. It is heartening to learn that the police have registered an FIR and booked Inspector Uma Kanta Borah, Sub-Inspector- Azijur Rahman, and Sub-Inspector-Tamizuddin Ahmed (Retired), for an offense under Section 302/34 of the Indian Penal Code. Unfortunately, during custody, Sub-Inspector-Tamizuddin Ahmed has died due to cardiac arrest. The remaining two accused persons, namely, Inspector-Uma Kanta Borah and Sub-Inspector Azijur Rahman are now on bail. Since the police have already registered an offense under Section 302/34 of the Indian Penal Code and a charge sheet is soon likely to be filed against the perpetrators of the

²⁰⁶Reporter, Arokhiye atok kora kishokor mrityu. Asomiya Protidin . March 18,2017.Guwahati,Assam.at .7 (Reporter,child in conflict with law, died in police custody Asomiya Protidin , March18,2017.Guwahati,Assam.at .7)

crime, we do not find any justification to proceed further in the matter. We, however, expect and hope that every endeavor shall be made by the State Police to ensure that the homicidal death of Raja Ali in police custody is not allowed to go unpunished and the perpetrators of crime are brought to justice. The petition stands finally disposed of.

5.2.8. Death of prisoner at Sibsagar District Jail.

This is a case of custodial death of one Putul Saikia who has been spending his sentence of life at Sibsagar District Jail died at AMCH. On the intimation of Superintendent district jail Sibsagar, National Human Rights Commission New Delhi took cognizance of the case. And later on, forwarded to the Assam Human Rights Commission for disposal Vide AHRC case No= 7275/2010. After receiving a report the commission issued a notice to D.C to collect and submit the chemical analysis and the history-pathological report, but the Magisterial inquiry report fails to provide the probable cause of death of the victim, hence the commission decided to close the case on 02-04-2012.

5.2.9. Medical negligence by doctors and death of human life.

On 09-03-2013 wife of one Bidyut Ranjan Bharali during operative delivery resulting in the death of the delivered baby at GMCH. And in the second incident death of a twin baby on 28-05-2013 was delivered by one Mamuni Thakuria of Mukalmua in Nalbari district attending doctors and nurses did not pay heed to the incident. The commission registered AHRC case NO- 72/24/13-14 district magistrate Kamrup (M) had been entrusted by orders passed in two separate cases on -28-05-2013 and 29-05-2013 with the enquires who was directed to submit reports within 30 days.²⁰⁷

On 11-06-2013 death of a baby for want of Oxygen at Swahid Mukunda Kakati Civil Hospital Nalbari leads the AHRC case No- 740/18/13-14. A division bench of the commission passed orders for magisterial inquiry.²⁰⁸

²⁰⁷ . Assam Human Rights Commission Newsletter. Jan-March-. April- June-2013 at .7-8.

²⁰⁸Id, at. 6

5.2.10. Custodial death of the accused.

The custodial death of one Palash Borua at the Jorhat Medical College and Hospital under judicial custody after being arrested in connection with the Moriani P.S case No- 90/013 for being involved in batting over the IPL (Indian Premier League) cricket matches. It was reported that the accused was severely assaulted during police custody. The commission registered AHRC case No- 719/7/13-14 and district magistrate Jorhat was ordered to enquire about the matter and submit a report accordingly in regards to the custodial death.²⁰⁹

5.2.11. Compensation to the students for the negligence of SEBA.

In AHRC Case (Suo Motu) No- 835/0/13-14, the commission recommended Rs-2,000000/ each to four students who could not able to pursue higher education timely due to elevation of positions of three students and one examinee of high Madrassa examination 2013, after inquiry subsequent result was declared by Secondary Education Board of Assam. The commission was constrained under the circumstances after considering the academic loss and injury recommended the above-noted compensation.²¹⁰

The measures taken by the commission are a lesson for the erring employees of the Secondary Education Board of Assam. Though the victim students could not enroll their name in time yet, compensation shall remain an example for fixing the responsibilities of the employees.

5.2.12. Media persons were beaten severely by the Doctors of AMCH.

On 28-09-2011 a group of doctors attacked media persons with Sticks, Hockey-sticks, rods, and other sharp weapons while media persons after taking permission from the superintendent of AMCH. The commission instituted AHRC case No- 18/5/11-12 and directed the chief secretary Assam to enquire about the matter. The inquiry identified the situation and the lapses leading to the incident. The inquiry commission also suggested

²⁰⁹ Id,at.7

²¹⁰ Assam Human Rights Commission News Letter, July-Sep, Oct-Dec, 2013, at 3-4.

measures to be taken to prevent such incidents again. Assam Human Rights Commission considered and accepted the findings. The commission also recommended taking measures at the earliest possible date.²¹¹

5.2.13. Illegal detention of foreigners.

Assam Human Rights Commission in its order dated 10-02-2015 recommended to the S.P (Border), Assam to take necessary, appropriate, and immediate steps to deport one Bangladeshi national being detained in the Karimganj Central Jail about AHRC case No- 1170/10/14-15. It was found that the state government did not initiate the process of deportation before 03 months of completion of the said sentences.

The commission observed that the uncertain detention of the foreigner amounts to a violation of Article 21 of the constitution of India and that he is entitled to immediate deportation.²¹²

As per RTI information supplied by the Office of the AHRC dated Ghy the 17th Feb/2021 vide Letter No- AHRC,308/2019/83 Status of Action Taken Report (ATR) yet not received.

5.2.14. Relief to Indira Awas Yojana beneficiary. (socio-economic issue)

One beneficiary from Tinsukia (Juria) under Juria PS in the district of Nagaon filed a complaint stating that Tinichuia Gaon Panchayat authority deprived her of Indira Awas Yojana and given away her scheme to another person. Assam Human Rights Commission took cognizance in AHRC Case No- 1258/14/14-15 and issued notice to the president of the Gaon Panchayat. Commission recommended to the president to arrange for allotment of IAY house in favour of the complainant at the earliest possible date preferably within 3 (three) months from the date of receipt of this recommendation.²¹³

²¹¹ Assam Human Rights Commission, News Letter, Apr-June, July-Sept, 2014, at .5

²¹² Assam Human Rights Commission News Letter, . Jan-Mar, 2015, at 4-5

²¹³ Assam Human Rights Commission, News Letter, Apr- Dec, 2015, at .6-7

5.2.15. Negligence of Inland Water Department, Assam, and death of Passengers.

- (1) AHRC case No-378/4/12-13 of Dhubri district, Assam revealed that On 30/04/2012 a double Decker ferry carrying more than 380 passengers is on its way to Medertari under Fakirganj police station from Dhubri Town sank in the mighty Brahmaputra and almost all the passengers died in the accident. The Commission took suo motu cognizance of the case. In respect of the tragic accident, The Assam Human Rights Commission issued notices to the chief secretary, Government of Assam, and the commissioner and secretary, Inland water transport Department, Government of Assam to cause separate inquiries into the boat tragedy and to inform the commission if there is any foolproof guideline/norms to ensure safety and security of the boat /ferry travelers and also about the condition of ferries and boats used in ferrying travelers across the mighty Brahmaputra and its various tributaries and are the ferries and boats are equipped with lifesaving equipment, life belts inadequate measures and if any then what are the measures to supervise the safety and security measure. Also, inform the measures to prevent overcrowding in the boat and ferries. Hence the commission recommended to the Government of Assam through its chief secretary forwarding a copy of the entire inquiry report for due and timely compliance. After inquiry, the commission desired modernization of the inland water ferry system and suitable amendment of the Inland Vessels Act, 1917 (amended in 2007), Control and Management of Ferries Rules, 1968 (amended in 1976). And Northern India Ferries Act 1878.²¹⁴

After this incident Inland Water Transport Department, Government of Assam took initiative in respect of modernization of the Ferry and Engine fitted boat of the state issuing notification for lifesaving equipment and other measures.

5.2.16. AHRC starts publishing News Letters.

Assam Human Rights Commission starts publishing “NEWSLETTER” in January 2012 in the name and style of Assam Human Rights Commission News Letter. It's 1st issue VOL.1

²¹⁴ Assam Human Rights Commission Annual Report, at 27, 2015-2016.

NO.1 was published on January-March-2012. The newsletters are very important documents particularly for the people of Assam to Evaluate the Role of the Assam Human Rights Commission in the promotion and protection of human rights because Assam Human Rights Commission News Letters covers its structure, powers, and functions working procedure achievements and statements of notable cases. It is a brave step and beneficial issue adopted by the Commission.

5.2.17. Annual Reports:

Publishing the Annual Reports and submitting the same to the government by the Assam Human Rights Commission is another important activity. These reports have much of their purpose as a means of holding the government accountable and as an advocacy tool of the Commission. However, the AHRC has taken little public action in the last several years to continue to press this issue, and whatever lobbying it may have done behind the scenes appears to have been ineffective.

Nothing in the Protection of Human Rights Act explicitly prohibits the Commission from submitting reports to the Government and also simultaneously releasing them to Assam Legislative Assembly and the public. This would create an image of reliability on the Commission by the people.

5.2.18. Handling of Complaints

The AHRC adequately redresses grievances from individual complainants promptly. Though there is a lack of investigative resources and personnel. It is revealed that the Commission receives a complaint and, instead of asking its personnel to investigate, it merely requests a written report from the police department or other government office. Such governments reports are often accepted by the Commission .complaints address to the AHRC are disposed of with directions to other authorities concerned to take such action as is appropriate. However, the Commission rarely ever follows up to determine whether its instructions have been carried out or not.

It forwards complaints from victims to perpetrators, receives reports from perpetrators denying their allegations, and then forwards its notices to victims explaining that their cases have been closed. Without the resources and will to conduct independent investigations, the AHRC should entertaining individual complaints with its personnel to investigate.

5.3. Working of the Assam Human rights Commission.

The Assam Human Rights Commission has been playing a pivotal role in protecting and promoting human rights in the state of Assam being an independent body since its formation on 19th March 1996. While performing its powers and functions as entrusted upon AHRC it laid stress on its autonomy and transparency. Lodging of more and more numbers of cases reflects the increasing trust of the people of Assam. The commission dealt with diverse nature of cases including that of education, health, drinking water, police excess, sanitation, children, women, minorities, environment pollution, violation of the mandate of law by the authority, and so on. Role and working of the Assam Human Rights Commission can be discussed under the following heads-

(a). The role and working of the Assam Human rights Commission in creating awareness among the people of the state of Assam about human rights is praiseworthy. The commission has organized numerous awareness programmes including meetings, workshops, and seminars among various sections of society within the state. The involvement of non-governmental organizations and institutions working in the field of human rights to promote awareness among the people was the positive side of efforts made by the Assam Human rights Commission.²¹⁵

(b). The Assam Human Rights Commission plays its significant role by taking up Suo Motu cases in the state.

(c). Steps are duly taken by the Assam Human Rights Commission to spread human rights education and disseminate information on human rights education among the people of the

²¹⁵ Assam Human Rights Commission Annual Report, at 9, 2015-2016.

state of Assam mainly through the publication of books and pamphlets. It has published Newsletters and Annual reports.

(d). The commission recommended interim compensation to several victims of human rights violations. At the time of final disposal of the case the commission award adequate compensation to the victim and issued proper direction to the authority concern.

(e). The people of Assam remains the victim of many terrorist organizations operating in the state of Assam and in search of nabbing the militants the armed forces and state police violated the human rights of the common people and in the occurrence of such violation the Assam Human Rights Commission makes an inquiry about the violation in respect of the matters related to any of the entries in list 2 and 3 of the 7th schedule. The Assam Human Rights Commission took up many cases of human rights violation by army and police personnel and after inquiry, the commission recommended taking appropriate action against them. Besides the commission has taken serious views in the cases of custodial death and rape case.

(f). The Assam Human Rights Commission has visited several jails in the state to study the conditions of the inmates of the jail. The commission reported to the Government of Assam about the mismanagement of jails many a time. The commission also lays stress on food, drinking water, medical and other facilities in the jail campus.

(g). The Assam Human Rights Commission also arranges for a short time internship throughout the year in the office of the commission. To spread human rights literacy and summer and winter Internship programme.²¹⁶

(h). Visiting of a state home for women comprising (i) Destitute home (ii) Observation home (iii) Children home (iv) transit home by the Assam Human Rights Commission is also beneficial steps of the people of Assam. Recommendation to the authority concern can correct the mismanagement for the greater interest of the public.

²¹⁶ Assam Human Rights Commission Annual Report, at 9, 2015-2016.

Assam Human rights Commission has been working as the watchdog of human rights violations since the formation of the commission. The categories and nature of the cases include—Death in a police encounter, death in police custody, custodial rape, custodial torture, custodial death in jail, fake encounter, illegal detention, police excess, police negligence, police bribery, violation of rights by Health and Family Welfare Department, Jail condition, violation of rights of the prisoners, dowry death, indignity to women, sexual harassment, violation of rights of the children, the complaint against education department, violation of the legal rights of physically challenged, violation of rights by public health Engineering Department, cases of pollution, violation of the rights to religion, river erosion and threat to life, ragging in educational institutions, deforestation or cutting of hill and threat to life, negligence by the forest department, unlawful eviction by the public authority and so on.

Section 18 (a) of the Protection of Human Rights Act 1993 empowers the commission only to recommend to the concerned authority. So AHRC is not an executor body, It is a body that can recommend the matter to the concerned government. Hence execution of the order which is the recommendation by the commission may take more time for which the victim may suffer.²¹⁷

²¹⁷ The Protection of Human Rights Act, 1993,(Act 10 of 1994) sec.18 India

5.4. Cases taken up by the Assam Human Rights Commission since its inception upto 2019. Table No. 26

Year	Case Registered	Disposed of cases	Balance cases
1996-1997	741	741	0
1997-1998	1358	1358	0
1998-1999	891	891	0
1999-2000	464	434	29

Year	Brought forward	Registered	Total cases under consideration	Disposed of	Under process
2000-2001	29	272	301	252	49
2001-2002	49	379	428	428	0
2002-2003	00	604	604	373	231
2003-2004	231	473	704	315	389
2004-2005	389	397	786	405	381
2005-2006	381	468	849	293	556
2006-2007	556	356	912	327	585
2007-2008	585	357	942	442	500
2008-2009	500	318	818	309	509
2009-2010	509	260	769	372	397
2010-2011	397	255	652	266	386
2011-2012	386	309	695	366	329
2012-2013	329	322	651	297	354
2013-2014	354	337	691	443	248
2014-2015	248	260	508	382	126
2015-2016	126	370	496	328	168
2016-2017	168	310	478	301	177
2017-2018	177	318	495	103	392
2018-2019 (31.03.2019)	392	292	684	478	206

Total Cases registered = 10,111
 Total No. of Cases Disposed of = 9,905
 Number of cases under process = 206

5.5. GOVERNMENT RESPONSE TO THE RECOMMENDATIONS SUBMITTED BY THE COMMISSION

1. AHRC CASE NO-4722/2003

Date of recommendation-29/02/2012

Recommendation of the commission.	Response of the Government.
The commission has recommended to the DGP, Assam being the competent authority to take appropriate disciplinary action against S.I. Mahesh Nath.	Not received yet. (As per information supplied By AHRC in response to RTI. Letter No- AHRC. 308/2019/83 Dated Ghy, 17 th Feb/2021)

2. AHRC CASE NO-6640/2006

Date of recommendation-20/11/2012

Recommendation of the commission	Response of the Government.
As the result, the commission has decided for a recommendation should be made to the appropriate authority for initiating disciplinary proceedings and taking suitable actions respectively against S.I Monoj Kumar Borua and inspector Horin Chandra Deka from the Director-General of Police, Assam immediately with a copy of these orders passed so that disciplinary proceedings are caused to be initiated for taking appropriate actions respectively against S, I of police (UB) Monoj kumar Borua the then S.I. Tangla PS and Inspector of Police (UB) currently the O/c- Dhubri PS and then OC Tangla PS in the district of Udalguri.	Superintendent of Police Udalguri district Vide his letter memo No-UDL/R/DP/01/13/2013/4 63-67 dated 21/01/2013 informed that a D.P vide No- 01/2013 is drawn up against SI (UB) Monoj Kr. Baruah for his gross misconduct and indiscipline act.

GOVERNMENT RESPONSE TO THE RECOMMENDATIONS SUBMITTED BY THE COMMISSION

3. AHRC CASE NO-491/9/2008

Date of recommendation-12/02/2013

Recommendation of the commission Response of the Government to the recommendations of the commission

Recommendation of the commission	Response of the Government.
<p>The commission recommends to the concerned authority i.e. commissioner and Secy. Education Dept. to consider his case sympathetically and allow him to serve to any other suitable place keeping his vocal disabilities in view so that the ends of justice may be satisfied.</p>	<p>Not received yet (as per the information supplied By AHRC in response to RTI. Letter No-AHRC.308/2019/83 Dated Ghy, 17th Feb/2021)</p>

4. AHRC CASE NO-858/9/13-14

Date of recommendation-13/09/2013

Recommendation of the commission	Response of the Government.
<p>Pending disposal of this inquiry meanwhile in the interim in the exercise of the power u/s-18(c) of the Act 1993 grant immediate interim relief of Rs- 3,00000 (Three lakhs) as compensation to the next of kin of the deceased Manab Barman being payable in equal proportion by both APDCL and GMC within 30 days from the date of receipt of this order.</p>	<p>Not received yet (as per the information supplied By AHRC in response to RTI. Letter No-AHRC.308/2019/83 Dated Ghy, 17th Feb/2021)</p>

5. AHRC CASE NO-560/3/ 12-13

Date of recommendation-02/09/2013

Recommendation of the commission	Response of the Government.
The commission has recommended to the Government of Assam for awarding adequate compensation to the next of the kin of the deceased Nandi Singh being the husband of the complainant smrti Sarati Singh within 3 (three) months of receipt of this order.	Rs- 50,000/(Fifty thousand) only has been paid as compensation to the wife of late Nandi Singh as per the order sheet of AHRC Dt-05/02/2014. communicated by the Joint Secretary to the Government of Assam, Home and Political Department.

6. AHRC CASE NO-770/8/ 13-14

Date of recommendation-10/09/2013

Recommendation of the commission.	Response of the Government.
The commission recommended to the next to the kin of the deceased the father Haren Saikia and the amount of compensation is quantified of Rs 3 (Three) lakhs.	Not received yet (as per the information supplied By AHRC in response to RTI Letter No-AHRC 308/2019/83 Dated Ghy, 17th Feb/2021).

7. AHRC CASE NO-803/25/13-14

Date of recommendation-18/06/2014

Recommendation of the commission Response of the Government

Recommendation of the commission	Response of the Government.
The commission has recommended to the Government of Assam Principal administration, Assam Guwahati to do the needful at the earliest possible opportunities towards restoring regular safe drinking water supply to those areas.	Not received yet (as per the information supplied By AHRC in response to RTI. Letter No-AHRC.308/2019/83 Dated Ghy, 17th Feb/2021)

8. AHRC CASE NO-334/16/ 11-12

Date of recommendation-15/05/2014

Recommendation of the Commission	Response of the Government.
<p>The commission has been constraining to recommend to the appropriate authority to pay adequate and reasonable compensation in terms of money which are quantified considering the relevant aspects, to be a sum of Rs-5,0000 (Five lakhs) to the next of the kin of deceased advocate Rajesh Upathyay of Tezpur Bar Association. Through the district Magistrate, Sonitpur. Tezpur within 90 (ninety) days from the date of receipt of the instant recommendation.</p>	<p>Executive Officer, Tezpur Municipal Board, Tezpur vide his letter No-TM/Gen/2013-14/720 date 22/10/2014 communicated to the Hon'ble Chairperson AHRC and prayed for granting and allowing time for payment of an awarded amount to the next to kin of late Rajesh Upadhyaya.</p>

9. AHRC CASE NO-684/7/ 13-14

Date of recommendation-20/05/2014

Recommendation of the commission	Response of the Government.
<p>The commission has been constrained to recommend as follows to the Government of Assam through the commission and secretary, health and Family Welfare Department.</p> <p>i) Smti Minakhi Saikia C/O- Pranjal Saikia of Borbil Gaon Majuli Should be awarded Rs-2,00000/ (Two Lakh), being compensation for her agony and mental sufferings caused during her said tenures of the medical care and treatment received, through the Sub-Divisional Officer Civil, Majuli within 90 (ninety) days of the receipt of the recommendation.</p> <p>ii) Appropriate direction should be given to the ASACS to strictly follow the prescribed rules and guidelines and sincerely endeavor for rendering their best possible service towards controlling AIDS in the State.</p> <p>iii) Immediate steps should be taken on the part of the Government of Assam to establish full-fledged ICTC (Integrated Counselling and Testing Centres) with experts and skilled Medical Staff in the line at every Health Centre of the State.</p>	<p>The Additional project director vides his letter No- ASACS/NACP-IV/ICTC/Misc/2013/174/70 dated 19/07/2014 informed that action has been taken on points No (ii) & (iii).</p>

10. AHRC CASE NO-983/913-14

Date of recommendation-15-22-2014

Recommendation of the commission	Response of the Government.
<p>It is accordingly recommended that a sum of Rs 30,000/ (Thirty Thousand) being compensation be awarded in favour of the complainant bus driver Sri Promod (Probodh) Rajbongshi, within 30 (thirty) days of receipt of this recommendation by the appropriate authority in the Government of Assam. Accordingly recommended. Inform the DGP, Assam with copies of each of the complaints, the inquiry report, the comments of the complainant, and the instant order immediately for complying with the recommendation.</p>	<p>Asstt.Inspector of Assam police, Ulubari Guwahati vide his letter No-HRC/APHQRS/141/2014/18 dated Guwahati the 7th Jan'2014 submit the proposal for making sanction of Rs 30,000/(Thirty thousand) as compensation to be paid to the complainant bus driver Sri Prabodh Rajbonsi S/O- Late Hareswar Rajbonsi Vill- Alia, PO- Bajara Dist- Kamrup, Assam.</p>

11. AHRC CASE NO-1170/10/14-15

Date of recommendation-10-02-2015

Recommendation of the commission	Response of the Government
<p>In what has been discussed, stated, and observed hereinabove, the commission recommends that the superintendent of police (Border), Assam, Srimantapur, Bhangagarh, Guwahati shall make appropriate arrangements and take immediately under the care, guidance, and responsibility of the said Mohammed Yahya Khan is the brother in law of Abdul Hakim, by directing the Superintendent of Police (Border) Karimganj for escorting and guarding Abdul Hakim for his push back to his native place in Bangladesh immediately.</p>	<p>Not received yet (as per the information supplied By AHRC in response to RTI Letter No- AHRC 308/2019/83 Dated Ghy, 17th Feb/2021)</p>

12. AHRC CASE NO-2042/24/17-18

Date of recommendation –21-11-2018

Recommendation of the commission	Response of the Government.
<p>The commission feels that better infrastructure is required to improve the condition of the detention camp/center with a clear distinction between the jail and the detention camp. The commission recommended the Government of Assam through the chief secretary to initiation of the judgment.</p>	<p>Not received yet (as per the information supplied By AHRC in response to RTI Letter No-AHRC.308/2019/83 Dated Ghy, 17th Feb/2021)</p>

13. AHRC CASE NO-2093/7/17-18

Date of recommendation –10-10-2018

Recommendation of the commission	Response of the Government.
<p>The commission has recommended the State Government for payment of at least a sum of Rs 3,00000/(Three Lakh) to the complainant.</p>	<p>Additional Secretary to the Government of Assam, Home and Political Department Dispur vide his letter No- HMA-19029/81/2017-Political (A) /ECF-3824/52 Dated Dispur the 7th March 2019 conveyed the financial sanction of the Governor of Assam several Rs-3,000000/(Three Lakh) only for making payment of compensation to the NOK of deceased person Gudu Bora S/O- Smti. Joya Bora, Tarun Nagar Path W/N-6 PS-Titabor Jorhat district Assam.</p>

14. AHRC CASE NO-1588/8/15-16

Date of recommendation –16-08-2018

Recommendation of the commission	Response of the Government.
The commission has recommended the matter to the government namely the Home and Political department to direct the concern S.P Karbi Anglong to initiate Departmental proceeding against both the sub-Inspector of police namely Raju Duwarah and Bichitra Hajong.	Superintendent of Police Biswanath district, Assam reported vide his order Memo No- BSN/R/DP/17/2019/3036-44 date 09/07/2019 that, a departmental proceeding vide No- 17/2019 has been drawn up against SI (UB) Raju Dowarah.

5.6. Some other important achievements of AHRC.

1. An easy system has been introduced, and computerization and other procedural changes adopted, to deal with the heavy load of casework.
2. Apart from attending to individual complaints, the Commission has also recommended systemic reforms in Police functioning and prison administration.
3. The Commission has also laid down stringent reporting requirements in cases of deaths/rapes in custody.
4. On the recommendation of the AHRC, the Government of Assam has developed the conditions of jail and foreigner's detention camps.
5. According to the Commission's efforts, the subject of human rights has been introduced in the curricula of educational institutions.
6. The AHRC is actively involved, in collaboration with other organizations, in providing human rights sensitization and training to civil servants, personnel of paramilitary forces, judicial officers, and prison officials.

7. In collaboration with the Department of Social Welfare, Government of Assam, and UNICEF, the Commission has been working for sensitizing society.
8. Recognizing the crucial linkages between public health and human rights, the Commission has made significant recommendations on healthcare.

Besides these, the AHRC has made significant major recommendations for better protection and promotion of human rights in the State of Assam.

AHRC is still characterized by-

1. Lack of jurisdiction to independently investigate human rights violations perpetrated by the armed forces.
2. Negligible powers of enforcement.
3. Complete financial dependence on the State Government.
4. A politicized appointment process that all but assures reliable and government-friendly Commission members.
5. A staff hiring process that borrows most staff members from other government departments for relatively short assignments at the Commission.
6. A chronic shortage of well-trained and resourced staff.
7. A lack of capacity to dispose of the individual complaints promptly, and
8. Having no own campus.

5.7. Conclusion

The performance of the Assam Human Rights Commission as a protector and promoter of human rights in the state of Assam is not always satisfactory. Having meager powers in the execution stage is seems to be the hindrance of the commission. Assam Human Rights

Commission has so far served its intended purpose of presenting a positive human rights story about Assam. The credibility of such a public institution depends upon a high degree of public confidence. The commission through its holistic activities able to acquire public confidence over the people of Assam.

It has done a lot. And, it is the only such body that has the potential and capacity to protect human rights in the State. Moreover, the Commission has succeeded in cultivating a 'human rights culture in the state of Assam to a significant extent by arranging human rights awareness programme, observation of human rights days, and routine institutional visits. Rule of law and its maintenance is entrusted to the state and other instrumentalities, including statutorily recognized public servants. Constitutionally guaranteed human rights such as – life, liberty, equality, and dignity of individuals by its public servants is a golden step for better protection of human rights and mandate of the Protection of Human Rights Act 1993.

The Assam Human Rights Commission has now completed almost twenty-five years of its meaningful existence, as the commission was constituted on 19th March 1996. But it has been suffering from inadequate infrastructure and financial autonomy. It is observed that due to the active and effective role of the commission, quick relief and fruitful results were meted out to the applicant and the commission had proved meaningful existence by its activities.

CHAPTER-6

FINDINGS, CONCLUSION, AND

SUGGESTIONS.

CHAPTER-6.

6.1. INTRODUCTION-

“Every state is known by the rights that it maintains. Our method of judging its character lies above all in the contribution that it makes to the substance of men’s happiness”²¹⁸

It is the demand of humanity that every human being must overcome from all types of narrowness. Being human is the sole religion of humanity for mankind. Hatred, intolerance, and ignorance to any particular religion, name, and gender, itself in a crime against humanity. Gender injustice and behavioral differences between males and females are also inhuman. Communal thinking and intolerance per hases the two bombs in the human body which can destroy humanity. Human rights are those basic rights to which every man, woman, and child is entitled under his being born as a human being.²¹⁹

Some golden words for promotion and protection of human rights always enlighten the gray area of human rights such as---

- i. Law is equal to everybody.
- ii. Nobody is above law.
- iii. Everyone is equal in the eye of the law.
- iv. All human beings are born equal in dignity and rights.
- v. The state shall not discriminate against any citizen on the ground only of religion, race, caste, sex, and place of birth, or any of them.

Generating negativity, hatred, anger, and carelessness to anybody is a violation of human rights norms. Conversion should be from impurity to purity, from hatred to love. Condemning any religion and praising one’s own creates the problem of inequality in

²¹⁸HAROLD J LASKI, A GRAMMAR OF POLITICS, 89(4th ed. 1960).

²¹⁹ROBERTSON.A.H. HUMAN RIGHTS IN THE WORLD,175(1972)

society. Respect for each other, co-existence, and universal brotherhood and sisterhood is urgently required for human existence. Human Rights are already established legal rights enriched through legislation or common law.²²⁰

Ground research revealed that discrimination in the name of religion, race, cast, place of birth is a 'De Novo method used by some stakeholders and executing as the main weapon of human rights violation.

'Vasudhaiv- kutumbakam 'i.e. the entire universe is a family is the philosophy of the Indian society. The whole human family should recognize the inherent dignity; equal, inalienable rights of all members of the human family should be the basic foundation of freedom, justice, liberty, and peace.

Mob lynching on mere allegation, assumptions, and presumption should not be the disease of any society. In the name of cow vigilantes, 46 people were killed by mob lynching in India from 2014 to 2017.

In the Northeastern state, mob lynching reached its peak, In Dimapur (Nagaland) one resident of Assam (Korimganj district) accused, namely Shorifuddin khan who has been detaining in jail- hajot since 24 Feb/2015 was forcefully taken away on 5th March/2015 by barbaric mob breaking the main gate of central jail, Dimapur. The accused was brutally killed using blades, rods, knives, and pointer iron sticks by thousand mobs which is a self-styled trial procedure that seems more powerful than the government.²²¹

In Assam in the name of Witch-hunting hundreds of the people were killed situation was out of control despite all precautionary measures incidents occurred time and again,

²²⁰ AMARTYA SEN, THE IDEA OF JUSTICE,358-359(Penguin Books,2010.)

²²¹ Staff Reporter, Murder of young Assamese person on the street in naked condition Asomiya Khabar, Guwahati March 7,2015,at 1-3 (Asomor Jubokok Nangot Kori Raj Pothot Hotya Asomiya Khabar, Guwahati ,March 7,/2015.at1-3)

2.Correspondent, city artistes lynched in Karbi Anglong, The Assam tribune ,Vol, 80, Guwahati June 10, 2018,at1

Government at last bound to enacted “The Assam Witch Hunting (Prohibition, Prevention and Protection) Act 2015. To save the life and property of some innocent people of Assam. On mere suspicion of being child-lifters, two talented young artists were brutally beaten to death on 9th June 2018 Both of the victims were known as Nilotpal Das (29) a sound engineer, and his artiste friend Abhijeet Nath (30) who went to a picnic spot Kangthilangso in the district of Karbi Angling. People mistook the youth as child lifters and at Panjuri village under Dokmoka police station they become a victim of mob lynching. Society loses two talented human resources.²²²

False allegations and false encounters remain a technique of some stakeholders to harass the innocent and to preserve the criminal record of a particular area. It is also executed for showing the obedience in performing duty by the authority for this purpose. False allegation and fake encounter is also a major violation of human rights. Non –government organizations (NGO’s) can play an important role in giving a new shape to human rights jurisprudence. The world Conference on Human Rights 1993, had emphasized the need for the active role of NGOs in checking human rights violations and promoting human rights consciousness among the masses.²²³

Sometimes human rights are violated by white-collar criminals who are intelligent, stable, and successful, and men of high social status as compared with ordinary criminals which are difficult to detect.²²⁴

6.2. RESEARCH FINDINGS-

The findings of this research work are given bellow-

1. Efforts are being made by the Assam Human Rights Commission for the development of the prisons as the result of jail visits, examination of the holistic condition, and forwarding of recommendations to the competent authority.

²²³N.V PARANJAPE, STUDIES IN JURISPRUDENCE &LEGAL THEORY,428-429(5th ed. Reprint .2008)

²²⁴N,V PARANJAPE,CRIMINOLOGY AND PENOLOGY,127-129(13th ed.Reprint,2008)

2. Assam Human Rights Commission has been striving to spread human rights awareness among the various sections of the society organizing awareness programme, observing human rights days amongst people of the state of Assam.
3. It appears from this research work that certain naturally conferred rights of a person cannot be snatched away in any other ways except according to the procedure established by law.
3. If we trace back to the past culture of India we realize that during that period also emphasis on the promotion and protection of human rights was also given importance.
4. Having shown its commitment to the International human rights scenario, India incorporated the protection provisions underparts III and IV of its constitution.
5. As the last resort of seeking justice, Article number 32 and 226 of the constitution of India provides protection and promotion of human rights.
6. The Human Rights Commission of Assam has shown its deep concern for suppressing crime in society. It is also keenly observed that justice is served to the afflicted people belonging to a weaker section of society.
7. The Assam Human Rights Commission tried its level best to protect and promote human rights awareness.
8. The commission disposed of many human rights violation cases and forwarded recommendations to the competent authority.
9. To protect and promote human rights in the state some golden steps of the commission as find out by the investigator is - awareness and training programmes, observation of World human rights day, International women's day, foundation day, worlds environment day, Inspection of jail and recommendations.
10. It is found through this investigation that, the commission is only a recommendatory body and it has no executor powers, which is clearly stated under section 18 in the heading

of Steps during and after the inquiry. Hence victim's family suffers for compensation or waits for punishment whatsoever awarded upon the violators.

11. Another important finding of this research work is that the Commission never hesitate to start proceeding within no time taking Suo Motu cases for the greater interest of justice.

12. Lack of permanent campus and in absence of adequate powers especially in the execution stage Assam Human Rights Commission seems to be a weak institution.

13. As per the interview and annual reports of the commission it is observed that the cases of different domains such as child-related cases, women-related cases, Health-related cases, service-related cases, police, and armed force-related cases are not categorized systematically.

6.3- ACCOMPLISHMENT OF OBJECTIVES.

As narrated in the different chapters of this thesis it is clearly showing that the objectives stated at the beginning of this study have been fulfilled.

Objectives 1: To study the human rights provisions of human rights documents.

Chapter 2 'Human Rights- The Concept and its Evolution' exclusively discussed the different human rights provisions of human rights documents. The chapter covers the Magna Carta and other important development of human rights. The chapter also discussed the Universal Declaration of Human Rights along with International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic, Social, and Cultural Rights (ICESCR). Thus the first objective of the research has been fulfilled under chapter 2.

Objectives 2: To study the provision of human rights in the Indian constitution.

The latter part of chapter 2 'Human Rights in Indian Context'. In this chapter historical background of the human rights of Indian society, the teaching of Gita, Mahabharata, Puran, human rights in India before independence, and reports of Motilal Nehru which are some milestones of human rights for the Indian Constitution also taken into consideration.

Enactment of the Protection of Human rights Act 1993 for the establishment of National Human Rights Commission, State Human Rights Commission, and Human Rights Courts under Indian Constitution particularly part-III and part IV and its discussion fulfilled objective number 2 of this research.

Objectives 3: To study the origin, development role, functions, and activities of the Assam Human Rights Commission.

This objective has been achieved in Chapter-3: ‘The Assam Human Rights Commission, Organisation, Powers, and Functions. In this chapter detailed discussion has been made about the historical background and organizational setup of the Assam Human Rights Commission. All the Chairpersons and the members of the commission are mentioned in the chapter. Procedural aspects of appointing chairpersons and members are also addressed. The chapter also discussed the composition powers and functions of AHRC.

Objectives 4: To evaluate the efficacy and weakness of the Assam Human Rights Commission.

Chapter -5: ‘Performance Evaluation of Assam Human Rights Commission’ exclusively concentrates on the efficacy and evaluates the performance of Assam Human Rights Commission in respect of the promotion and protection of human rights in the state of Assam. The chapter also discusses the various types of human rights violations wherein the commission passes the final order awarding compensation and forwarded recommendations to the competent authority for the shake of protection of human rights of the people of Assam. Thus the researcher fulfilled the fourth objective of the research.

Objectives 5: To analyze the justice delivery system of AHRC.

Chapter – 4 ‘Activities carried out by Assam Human Rights Commission’ This chapter traces the justice delivery system by disposing of the human rights violation cases by the commission. The chapter also addresses the procedure U/S 14 of the Protection of Human Rights Act 1993 wherein the investigation process of the commission is discussed. It

covers the awareness camps of human rights, jail visits, Home visits, and observation of human rights day. The commission also institutes Suo-Matu cases and followed proceeding for the shake of promotion and protection of human rights. Victims of human rights get justice and violators punish as per the provision of law. Thus the researcher has achieved the fifth objective of the research.

6.4.- HYPOTHESIS TESTING.

The hypothesis of the present research work is, “ The Role of Assam Human Rights Commission in dealing with the Promotion and Protection of Human Rights in the State of Assam is Effective”

Testing of this hypothesis is based on visits to the office of the Assam Human Rights Commission time and again for collecting authentic data from the case record of the commission and also interactions with the chairperson of AHRC and also performing field visits to the different districts of Assam for collection actual information from the victims of human rights violation cases. People of Assam got an independent impartial body wherein no fees are required for filling human rights violation cases. The commission in many instances started proceeding Suo- Matu, wherein no complainant come forward for filling a complaint.

The study proves that Assam Human Rights Commission holds an awareness programme on human rights in different districts of Assam wherein academicians, police personnel, advocate, members from NGOs, government officials, students, and the general public took part and received information about human rights. Visiting jails, observation homes, and foreign detention camps and forwarding required recommendations to the competent authority are some important activities towards the protection of human rights. Observation of World human rights day, International women's day and World environment day are also some effective roles of the Assam Human Rights Commission for the promotion and protection of human rights in the state of Assam. Thus, the hypothesis formulated by the researcher in this research work stands proved.

6.5. CONCLUSION-

The concluding chapter is an attempt to provide a summary of the topics worked upon, findings on the topics, observation, and comments on the working of the Assam Human Rights Commission

The data collected through the investigation and its analysis shows that there is an effective role of the Assam Human rights Commission in the promotion and protection of human rights in the state of Assam. The investigator has tested the hypothesis during his investigations in the State of Assam.

While dealing with the human rights violation case, Assam Human Rights Commission skillfully carrying out the duties assigned by the NHRC as well as the regulations.

The researcher during the investigation found that the officers of other state human rights commissions and representation of different organizations speak high about the functioning of the Assam Human Rights Commission. The commission also remains successful in building public awareness by arranging awareness programme in the different districts of Assam.

The Assam Human Rights Commission was constituted on 19th March 1996 under the Protection of Human Rights Act 1993 and has been rendering valuable service to the state of Assam in curbing human rights violations.

Unlike court, the function of the commission is very simple transparent, and speedy one case file a complaint without any court fees.

The commission rendered its recommendations to the government of Assam for granting immediate interim relief.

The AHRC is at present overburdened with work such as hearing on the human rights violation, jail and hospital visits, conducting seminars, bench sitting, observation, and conferences on human rights.

During the investigation, the researcher found that Assam Human rights Commission encouraged non –governmental organizations for the promotion and protection of human rights.

It is observed that before the amendment of the human rights act 1993, due to the non-availability of retired chief justice the post of the chairperson of AHRC remains vacant. 2016 to 2nd May/2018.

The police and other government department are the main violators of human rights in the state of Assam.

This study reveals that the Assam Human rights Commission played its role quite efficiently and has always upheld the basic principles of human rights by promoting, protecting, and implementing human rights. Serious human rights violation cases have been investigated by the AHRC, and recommendations are submitted to the government of Assam suggesting measures to curb such human rights violations. However, the work of the commission is yet to go a long way for satisfactory heights. Hence the following suggestions are forwarded by the researcher to ensure the efficacy and efficiency of the Assam Human Rights Commission. The suggestion will strengthen AHRC so that people of Assam can live in a society availing all human rights with dignity.

6.6. Suggestions-

The Assam Human Rights Commission has some shortcomings for which it suffers from certain drawbacks. Hence, some remedial measures to overcome those shortcomings are suitably needed. Following suggestions are forwarded for this purpose ---

1. As Assam Human Rights Commission has no permanent campus and building of its own, it has been running in GMDA building 2nd-floor Bhangagarh near Guwahati Medical College and Hospital since its inception. (Though Government of Assam has allotted a plot of land measuring 1B 0K 0 L at Rupnagar Guwahati -32 Kamrup (Metro) Vide Dag No 1868 (New) in the year 2013. Construction of AHRC started in the year 2019 for which the

Government of Assam sanctioned RS- 20, 9800000/ (Twenty crores and ninety-eight lakhs) only). The commission should shift its office to the permanent campus as early as the construction is completed.

2. There are no separate human rights courts in the state of Assam for the trial of human rights cases except that the Courts of District & Session Judge and Additional District and Session Judge of Assam which is designated to try the cases u/s 30 of the Protection of Human Rights Act 1993 as per notification No-JDJ(E)/62/2000/153 dated 16.09.2011.

3. The commission should sit in every district periodically with

(a) Single bench

(b) Division bench and

(c) Full bench.

4. Assam Human Rights Commission has only one investigation cell constituted with one Director, One Superintendent of police, one inspector, and Two constables. The State having above three crores of people with thirty-three districts depending on only one investigation cell is quit, unfortunately. So adequate required numbers of investigation cells should be established to tackle the pressure of complaints filed by the victim and waiting for justice.

5. All the vacant posts including the post of Research Assistant and driver should be filled up by appointing the employee thereon.

6. An amendment is required in the act, for the impartial appointment of all the staff of Assam Human Rights Commission for which appointing authority can be collegiums of the judges of with Chief Justice of the state concern.

7. The Assam Human Rights Commission is only a recommendatory and investigatory body having no power to punish or taking decisions binding on the Government. The

commission should empower to punish the erring employee including the imposition of cost and compensation to the victim.

8. To ensure full autonomy to The Assam Human Rights Commission there should be an amendment in the section to ensure that the opinion of the commission is determinant.

9. To stop political manipulation in the appointment, The act should suitably be amended to provide for appointment by a collegium of the judges of respective High court of the state.

10. Salaries of the employees of the State Human rights Commission should be fixed by the Act itself. Lifting the matter to the government may dilute the autonomy of the commission.

11. The commission should have free access to all parts of Jails, detention camps without prior intimation to the officials or state government. Prior permission or intimation to the officials defeats the actual motto of visiting by the Commission.

12. There should be a provision in the act that there must be a state human rights commission in every state. But, PHR Act gives the option to the state government that they may or may not establish a state human rights commission. For which a lot of the states have not yet established human rights commissions in their state.

13. National Human Rights Commission should have supervision and monitoring power to each state human rights commission to facilitate and immediate action and more direction like Supreme Court for India to the all High courts of India.

14. Assam Human Rights Commission may be empowered to entertain a matter for inquiry beyond one year. This is necessary for past human rights violation cases depending upon the nature and gravity. The present one-year limitation is tantamount to natural justice.

15. To create public awareness there should be interactive sessions with Gram panchayat, Anchalic Panchayat, and Zila Parishad. So that grass-root level people could be involved.

16. For wide publication Doordarshan Kendra, Guwahati, and All India Radio should increase their involvement in human rights awareness.

17. Education Department, Government of Assam such as primary, secondary and higher should include human rights-related chapters, prose, poetry, story, an essay so that student community could be made conscious about human rights its protection and promotion.

18. Education minister of Assam should be given the charge Human Rights minister to look after the entire human rights violation, promotion, and protection of human rights in the state of Assam.

19. Assam Human rights Commission should arrange systematically the cases of the different domains registered by them as cases related to children, women, police, health, service, jail, pollution, etc. and it should be published in the annual report.

20. Assam Human Rights Commission should be given a charge to made state police people-friendly police with periodical refreshers course in respect of human rights giving a realization of accountability and service like an obedient servant.

21. Assam Human Rights Commission is only a recommendatory body as per U/S-18 (i), (ii) & (iii) of The Protection of Human Rights Act 1993. It can recommend to the concerned Government or authority. Sometimes Government or concern authorities either delay in initiating the execution or did not comply with the recommendation, hence there should be an urgent amendment in the act providing the power of execution upon the state commission so that execution could be done promptly for the greater interest of the victim people.

The researcher concludes by quoting the following-

“The world is my country. All mankind are my brethren and to do good is my religion”--
Thomas Paine

BIBLIOGRAPHY

BIBLIOGRAPHY

NEWS PAPERS (SELECT ISSUE):

- The Assam Tribune.
- The Sentinel.
- The Hindu.
- The Times of India.
- The Hindustan Times.
- The Telegraph.
- Asomiya Pratidin.
- Asomiya Sadin.
- Amar Asom.
- Khabar.
- Axom Bani.
- Niomiya Barta.
- Amar Axom.
- Dainik Agradoot.
- Sadin (weekly)

CONSTITUTION.

- The Constitution of India, 1950.

OFFICIAL DOCUMENT AND REPORTS.

- Motilal Nehru committee Report, 1928
- Government of India Act, 1935.
- United Nations General Assembly Resolutions.
- Covenant on Civil and Political Rights, 1966.

- Covenant on Social and Economic Rights, 1966.
- Charter of the United Nations Organization.
- Constituent Assembly Debate, Vol.VII and IX.
- Sapru Committee Report, 1945.
- The Constitution of India, 1950.
- The Universal Declaration of Human Rights, 1948.
- Assam Human Rights Commission, Annual Report, 2012.
- Assam Human Rights Commission, Annual Report, 2013.
- Assam Human Rights Commission, Annual Report, 2014.
- Assam Human Rights Commission, Annual Report, 2015.
- Assam Human Rights Commission, Annual Report, 2016.
- Assam Human Rights Commission, Annual Report, 2017.
- Assam Human Rights Commission, Annual Report, 2018.
- Assam Human Rights Commission, Annual Report, 2019.

BOOKS:

- Agarwal H.O, Human Rights, Central Law Publications. Allahabad. 13th ed.20011
- Anand V.K, Human Rights, Allahabad Law Agency. 2001
- Antony M.J. Landmark Judgments on Illegal Custody and Police Torture, Indian Social Institute. New Delhi. 2001
- Ashford. E, A Moral Inconsistency Argument for a Basic Human Right to Subsistence, Oxford University Press. (eds.), **2015**
- Begum S. Mehartaj, Human Rights in India Issues and perspectives. (ed) 2000 A.P.H. Publishing Corporation. New Delhi.
- Beitz, C., The Force of Subsistence Rights, Oxford University Press. (eds.), 2015

- Buchanan, A., Human Rights, Legitimacy, and the Use of Force, Oxford University Press., 2010
- Chandelle R.P, History of Indian Freedom Movement, RBSA Publisher, Jaipur. 1988
- Chandra U. Human Rights, Allahabad Law Agency Publications. 2004
- Chowdhury Nitai Roy, Indian Prison Laws, and Correction of Prisoners, Deep and Deep Publications Pvt. Ltd., New Delhi, .2002
- Caney S.“Climate Change, Human Rights and Moral Thresholds,” in Humphreys, S. Human Rights, and Climate Change, Cambridge University Press. (ed.), 2010.
- Cohen, J. Globalization and Sovereignty, Cambridge University Press. 2012.
- Claude, R. and Weston, B. Human Rights in the World Community, 3rd edition, Philadelphia: University of Pennsylvania Press. (eds.), 2006.
- Crisp, R. Griffin on Human Rights, Oxford University Press. . (ed.), 2014.
- Das Asish Kumar, Human Rights in India, Mohanty Prasant Kumar Sarup & Sons. New Delhi 2007.
- Dhamala Ranju R. Human Rights and Insurgency, Bhattacharjee Suklpa (North-East India), Shipra (ed) 2002 Publications, Delhi.
- Dikshit R.C, Police the Human Face, Gyan Publishing House. New Delhi. 2000.
- Dutta K.N, Landmark of the Freedom Struggle in Assam. Lawyers Book Stall, Ghy. 1988
- Donnelly, International Human Rights, Philadelphia: Westview Press. 4th edition, 2012.

- Dworkin, R, Justice for Hedgehogs, Cambridge, MA: Harvard University Press. 2011.
- Freeman Michael, Human Rights (An Interdisciplinary approach) Atlantic Publishers & Distributors. New Delhi 2002.
- Fellmeth, A., Paradigms of International Human Rights Law, New York, Oxford University Press,2016.
- Finnis, J. Natural Law, and Natural Rights, Oxford: Oxford University Press. 2nd edition 2011
- Grover Verindev, Encyclopedia of International Terrorism, (Terrorism, History, and Development), Deep & Deep Publications Pvt. Ltd. 2002.
- Gewirth. A Reason and Morality, University of Chicago Press. 1978.
- Gilbert. P, Human Dignity and Human Rights, Oxford University Press. 2018.
- Gould, C., Globalizing Democracy and Human Rights, Cambridge University Press. 2004.
- Griffin, J, On Human Rights, Oxford University Press. 2008.
- Hazarika Sanjoy, Strangers of the Mist (Tales of War and Peace from India's N.E), Penguin Books India (P) Ltd New Delhi 1994.
- Holder, C. and Reidy, D, Human Rights: The Hard Questions, Cambridge University Press. (eds.), 2013.
- Hayward, T, Constitutional Environmental Rights, Oxford University Press,2005.
- Henkin, L. The Rights of Man Today, West view Press. 1978.

- Kapoor S.K., Human Rights under International Law and Indian Law, Central Law Agency, Allahabad. 1999.
- Kapoor Subhi, Human Rights in 21st Century, Mangal Publications, Jaipur (India), 2003.
- Khanna, D.P.: Reforming Human Rights, Manas Publications, New Delhi. 2001.
- Kumar Raj C, Human Rights, Justice & Constitutional Empowerment, Oxford University Press, New Delhi. (ed) 2007.
- Kumar Ram Narayan, Critical Readings in Human Rights and Peace, Shipra Publications, Delhi.2006
- Kateb, G., Human Dignity, Harvard University Press. 2011.
- Kennedy, D. The Dark Sides of Virtue: Reassessing International Humanitarianism, Princeton University Press. 2004.
- King, J. Judging Social Rights, Cambridge University Press. 2012.
- Kymlicka, W., Liberalism, Community, and Culture, Clarendon Press. 1989.
- Lacroix, J. and Pranchere, J. Human Rights on Trial: A Genealogy of the Critique of Human Rights, Cambridge University Press. 2016.
- Lauren, P., The Evolution of International Human Rights, Philadelphia: University of Pennsylvania Press. 2nd edition, 2003.
- Lockwood, B. Women's Rights: A Human Rights Quarterly Reader, Johns Hopkins University Press. (ed.), 2006.
- Luban, D, Human Rights Pragmatism and Human Dignity, 2015,

- Maliks, R. and Schaffer, J, Moral and Political Conceptions of Human Rights, Cambridge University Press. 1979.
- Malik Mohinder Singh, Human Rights, and the Security Forces. The Bright Law House, New Delhi, 2004
- Mishra R.C, Human Rights and Policing, Authors press. New Delhi. 2005.
- Misra Dharmendra, Participatory Governance through NGOs. Aalekh Publisher, Jaipur 2005.
- Mohanty Jagannath, Human Right Education, Deep, and Deep Publications Pvt. Ltd., New Delhi 2003.
- Mohanty Jagannath, Teaching of Human Rights, (New Trends and Innovations). 2005.
- Maliks, R. and Schaffer, J. Moral and Political Conceptions of Human Rights, Cambridge University Press. (eds.), 2017.
- Meyers, D., 1985, Inalienable Rights: A Defense, Columbia University Press, New York, 1985.
- Miller, R., Global Justice: The Ethics of Poverty and Power, Oxford University Press. 2010.
- Morsink. J, Universal Declaration of Human Rights: Origins, Drafting, and Intent, University of Pennsylvania Press. 1999.
- Moyn, S., The Last Utopia: Human Rights in History, Harvard University Press, 2010.
- Mutua, M, Human Rights: A Political and Cultural Critique, University of Philadelphia Press. 2008.

- Nozick. R., Anarchy, State, and Utopia, New York: Basic Books. 1974.
- Nussbaum, M., Women, and Human Development: The Capabilities Approach, Harvard University Press. 2000.
- Normal Chiranjivi J: Human Rights in India. (Historical. Social and Political Perspectives), Oxford University Press, New Delhi. 2000.
- Nizami. A Human Rights in Third World Countries. Paul Devika (ed) 1994.
- Pachauri S.K: Prisoners and Human Rights, A.P.H. Publishing Corporation. 1999.
- Chakraborty Somen, Indian Social Institute, New Delhi. (ed) 2000.
- Pogge. T, World Poverty, and Human Rights: Cosmopolitan Responsibilities and Reforms, Cambridge: Polity Press. 2002.
- Patil, V.T, Human Rights (Third Millennium Vision), Authors Press, New Delhi, 2001.
- Quddus Abdul, The Mirage of Terrorism, Guwahati, Assam. 2003.
- Ray Arun, National Human Rights Commission of India (Formation, Functioning, and Future Prospects) Khanna Publishers, New Delhi,.2004.
- Rawls, J, A Theory of Justice, Harvard University Press. 1971.
- Reinbold. J, Seeing the Myth in Human Rights, University of Pennsylvania Press. 2017.
- Shue. H., Basic Rights, Princeton University Press. 2nd edition, 1996.
- Simmons, B, Mobilizing for Human Rights: International Law and Domestic Politics, Cambridge University Press. 2009.

- Sumner. L, The Moral Foundation of Rights, Clarendon Press. 1987.
- Saini Kamal, Police Investigations (Procedural Dimensions. Law and Methods), Deep & Deep Publications, New Delhi. 2000.
- Sastry T.S.N, India and Human Rights Reflections, Concept Publishing Company, New Delhi. 2005.
- Sen A.N, Human Rights, Sri Sai Publication, Delhi. 2002.
- Sharma D.P, Victims of Terrorism, A.P.H. Publishing Company, New Delhi. 2003.
- Singh Arun Kumar, Human Rights, and Human Rights Education. (Issues and Challenges in North East). Himalayan Publisher, New Delhi, (ed), 2002.
- Sondhi M.L, Terrorism and Political Violence (A SourceBook), Anand Publications Pvt. Ltd, New Delhi, (ed) 2000:
- Srivastava Aparna, Role of Police in a Changing Society, A.P.H.Publishing Corporation, New Delhi. 1999.
- Subbian.A.Human Rights and Terrorism (Universal Dimension and Jurisdiction), Deep and Deep Publications Pvt. Ltd., New Delhi, 2005.
- Talbott. W, Human Rights, and Human Well-Being, Oxford University Press. 2010.
- Talbott, W.Which Rights Should be Universal, Oxford University Press2005.
- Tuck, W, Natural Rights Theories: Their Origin and Development, Cambridge University Press. 1979.
- Thomson, J. The Realm of Rights, Harvard University Press. 1990.

- Upadhyay Chandra Mohan, Human Rights in Pre-trial Detention, A.P.H. Publishing Corporation, New Delhi, 1999.
- Vadackumchery James, National Police Commission (Issues and Rethinking), APH Publishing, Corporation. New Delhi. , 1998.
- Vadackumchery James, Human Rights Friendly Police: A myth or Reality, APH Publishing Corporation, New Delhi, 2000.
- Vadackumchery James, Police Criminology and Crimes, Kalpaz Publications, New Delhi. , 2002.
- Vadackumchery James, Society, Police, and Crimes : (Tasks and Challenges), Indian Publisher Distributors, New Delhi. , 2002
- Vajpei J.N, The Extremist Movement in India. Chugh Publication, Allahabad. 1974.
- Wellman. C., Real Rights, New York: Oxford University Press. 1995.
- Wolterstorff, N. Justice: Rights and Wrongs, Princeton University Press,2008.
- Yasin Adil-ul, Human Rights, A.P.H. Publishing Corporation. New Delhi. 2004.

Articles and Journals

- Aiyer, Manishankar. “Human Rights in India.” National Herald (3rd December 1991).
- Ahmadi. A.M. “inaugural address of Fakruddin Ali Ahmed memorial Lecture on “Democracy. Liberty and Changing political scenario” Ghalib Institute, Aiwah –e-Ghalib Marg.Delhi (29th July 2000).
- Bhagwati. P.N. “Human Rights in the Criminal Justice System” Journal of the Indian Law Institute. Vol.27.NO. 1 (Jan- March.1985).

- Dhavan Rajeev, Law a struggle, Public Interest Law in India, Indian Journal of International Law.Vol.36.1994.
- Third Concept.
- The PRP Journal of Human Rights.
- South Asia Politics.
- Frontline.
- India Today.

WEB SOURCES

- www.ahrc.gov.in
- www.nhrc.in
- www.humanrights.asia
- www.indiankanoon.org
- www.humanrightsobserver.org
- www.humanrightsinitiative.org
- www.justdial.com
- www.ohchr.org
- www.unhumanrightscommission.nic.in

ACTS, LEGISLATIONS,RULES AND REGULATIONS.

- The Protection of Civil Rights Act, 1955

- Suppression of Immoral Traffic in Women and Girls Act, 1956
- Maternity Benefit Act, '1961
- Dowry Prohibition Act, 1961
- Equal Remuneration Act, 1976
- Bonded Labour (Abolition) Act, 1976
- Employment of Children Act, 1938 (Amended in 1985)
- The Child Labour (Prohibition and Regulation) Act, 1986
- Indecent Representation of Women (Prohibition) Act, 1986
- Sati (Prevention) Act, 1987
- The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989
- The National Commission for Women Act, 1990
- The National Commission for Minorities Act, 1992
- The National Commission for Safari Karamcharis Act, 1993
- The National Commission for Backward Classes Act, 1993
- The Mental Health Act, 1993
- The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.
- The Protection of Human Rights Act 1993.

- Assam Human Rights Commission (Procedure) (Amendment) Regulation-2014
- Indian Penal Code.
- The Code of Criminal procedure.
- The Juvenile Justice (Care and Protection of Children), Act 2015
- The Juvenile Justice (Care and Protection of Children), Model Rules, 2016
- The Foreigners Act, 1946.
- The Citizenship Act, 1955.
- The Employees' Compensation Act 1923.

APPENDICES

APPENDIX - 1

FORMAT OF THE INTERVIEW SCHEDULE



1. Name: *Ms. Amiya Nargery*

2. Profession / Designation: *Dy. Secretary, Assam Human Rights Commission, Guwahati*

3. Age and educational qualifications:

4. Could you please explain the main achievements of the A.H.R.C in respect of promotion and protection of human rights in Assam. *The AHRC has been organising awareness programmes in various districts of Assam thereby garnering awareness among the masses for promotion & protection of human rights.*

5. Have there any systematic procedure followed by the commission wherein cases are categorized as – Child related case, women related case, pollution related case etc. *No*

6. Do you think that the Commission is useful to the general public? *Yes*

7. Do you agree with the criticism that the A.H.R.C is an ineffective or impotent body? *No*

8. It is pointed out that a good number of cases are pending in the Commission for disposal. What may be the reason for this? *A complaint when registered, needs to be investigated, statements recorded from both the parties and then witnesses. The time taken for disposing the case is referred to as "Under Process".*

It takes only that much time for carrying out the process. At times the reports/investigation by the concerned authority take a certain period of time.

9. Do you think that the A.H.R.C is suffering from procedural and structural weaknesses? *Yes. The AHRC is in the process*

[Signature]

Deputy Secretary
Assam Human Rights Commission
Guwahati - 5



10. To strengthen the Commission, is it necessary to effect amendments in the Protection of Human Rights Act, 1993? *Yes. The Parliament has already carried out 02. amendments, one in 2006 and another 2019.*
11. Has the Commission submitted any recommendation to the Government of Assam to persuade the Union Government to initiate amendments in the Act? *No. But requirements for amendment were discussed in Annual Meetings of the NHRC and SHRCs' Chairpersons and Secretaries.*
12. The non-availability of a retired Chief Justice to serve as Chairman of the Commission is a grave problem. Has the Commission taken any step in this regard? *The Amendment of PHRA in 2019 has provided that a Judge may also be a Chairperson of the Commission.*
13. To avoid accumulation of pending cases in the A.H.R.C. do you think that the augmentation of membership of the Commission from three to five as stipulated in the Act is necessary? *It is necessary. Proposal for the such amendment was discussed. But the Amendment in 2019 did not incorporate the same.*
14. Does the A.H.R.C., especially its investigation wing, suffer from any political and administrative pressures? *None. It is an independent wing solely under the AHRC.*
15. Do you subscribe to the opinion that the Assam Government is neglecting many of the recommendations of the Commission? *No. There is no reason to believe that. Of course at times it may take 2-3 months more than whether the compliance period.*
16. ~~It is alleged that the~~ differences of opinion among the members of the Commission affect its smooth working. Do you agree? *No.*
17. During the period of 2005 to 2015 at least 20 numbers of the people from Mankachar area was kidnapped and killed by Meghalaya based militant. Have there any case instituted by any person or any Suo-Mato case initiated in this regard. *No.*

AN
28/8/2020
Deputy Secretary
Assam Human Rights Commission
Guwahati - 6



18. Can you suggest remedies to curb the human rights violations committed by the agencies of the state? Vigorous awareness campaigns/training on human rights for the public servants is necessary. In this regard A.A.S.C has already incorporated HR issues in their training programmes.

19. Section 18(2) of the Protection of Human Rights Act, 1993 clearly lays down that the Commission has the right to approach the Supreme Court or the High Court for such directions, orders or writs as that court may deem necessary for the enforcement of the orders of the Commission after the enquiry held under the

Act. Why does the Commission refrain from invoking such a provision? Till date, ~~the~~ no body/aggrieved person has approached the AHRC leading to such actions.

20. What suggestion and recommendations would you make to remedy the structural and procedural weaknesses of the Commission and make it an effective body for the protection human rights?

The AHRC has submitted proposal for strengthening the manpower including Investigation Wing. The same is under process with the Govt. of Assam.

PON
২৪/০২/২০

Deputy Secretary
Assam Human Rights Commission
Guwahati - 5

APPENDIX – 2

OFFICE OF THE ASSAM HUMAN RIGHTS COMMISSION
GMC ROAD, BHANGAGARH, GUWAHATI - 781 005
PH: 0361-2527076, 2529450, Email : secy-ahrc@nic.in

No. AHRC.308/2019/83

Dated Ghy, the 17th February, 2021

From : Shri Dipak Sarma,
SPIO & Under Secretary,
Assam Human Rights Commission.

To : Sri Abdul Kuddus,
C/o- Dhubri Bar Association, Dhubri,
PO, PS, Dist- Dhubri, Assam-783301



Sub : Information under RTI Act, 2005.

Ref : Your RTI application dated 11.11.2020.

Sir,

With reference to the subject cited above, I am directed to furnish herewith the information i.e., recommendation/Action Taken Report (ATR) in fifteen (15) nos. of AHRC case as mentioned below:

Sl. No.	AHRC Case No.	Recommendations/order	Status of ATR
1	4722/2003	Dated 29.02.2012 (Annexure 1)	Not received yet.
2	6640/2006	Dated 20.11.2012	Received (Annexure 2)
3	491/9/12-13	Dated 12.02.2013 (Annexure 3)	Not received yet.
4	858/9/13-14	Dated 04.12.2014 (Annexure 4)	Not received yet.
5	560/3/12-13	Dated 02.09.2013	Received (Annexure 5)
6	770/8/13-14	Dated 10.09.2013	Received (Annexure 6)
7	803/25/13-14	Dated 18.06.2014 (Annexure 7)	Not received yet.
8	334/16/11-12	Dated 15.05.2014	Received (Annexure 8)
9	684/7/13-14	Dated 20.05.2014	Received (Annexure 9)
10	983/9/13-14	Dated 22.12.2014	Received (Annexure 10)
11	2042/24/17-18	Dated 21.11.2018 (Annexure 11)	Not received yet.
12	2093/7/17-18	Dated 10.10.2018	Received (Annexure 12)
13	1588/8/15-16	Dated 16.08.2018	Received (Annexure 13)
14	1170/10/14-15	Dated 12.08.2015 (Annexure 14)	Not received yet.

15	1/26/11-12	Dated 03.05.2016 (Annexure 15)	Sub judice under Gauhati High Court
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Yours Faithfully


SPIO & Under Secretary
Assam Human Rights Commission
Assam Human Rights Commission
Guwahati 5

Memo No. AHRC.308/2019/84
Copy to :

Dated Ghy, the the 17th February, 2021

The P.S. to the Hon'ble Chairperson, Assam Human Rights Commission.

By Order etc.


SPIO & Under Secretary
Assam Human Rights Commission

APPENDIX – 3



Researcher has been seen interacting the chairperson, AHRC(T.Veiphei,Retired Chief Justice, Tripura High Court) at the office of the AHRC,Guwahati,on 29-10-2019

APPENDIX-4

INTERVIEW WITH THE VICTIMS OF HUMAN RIGHTS VIOLATIONS

DISTRICT, KAMRUP (M) Guwahati, AHRC case = 558/9/ 12-13 (matter related to harassment by police)

Telephonic talk with the complainant advocate Bipradip Dev(Presently FT Member Morigaon) on 05/08/2021 at 9.15 Pm

1. whether you have filed the complaint before AHRC?

Ans. yes, I have filed the complaint before the Commission.

2. Have there any investigation team from the commission that appeared before you to collect information?

Ans. No,

3. Have you got any interim relief due to the passing of any interim order by the commission?

Ans- No.

4. Do you think that AHRC is an efficient body to protect human rights?

Ans- I don't think so.

5. Whether erring police officers were punished?

Ans- Only one police was transfer outside the district from the Police accountability commission.

6. Whether the commission forwarded any recommendation for suspension of the erring police personnel.

Ans- No.

9. Whether you have received a copy of the judgment?

Ans- No.

10. What do you think about the role of AHRC for the promotion and protection of human rights?

And- I am not satisfied.

DISTRICT, KARBI ANGLONG AHRC case = 770/8/13-14 matter related to the murder of Jhankar Saikia on 25/6/2013

Telephonic talk with Advocate Haren Saikia (father of the victim) on 28/07/2021 at 9.15 am

1.. whether you have filed the complaint before AHRC for the saddest murder of your son JhankarSaikia by some Auto-driver for only Rs-10 at DiphuTawn of Karbi Anglong District?

Ans- No, the commission has started Suo Motu case.

2. Whether any investigation team from the commission appeared before you to collect information?

Ans- No, the commission call me at their office and took the statement.

3. Have you received any compensation due to the passing of any interim order of AHRC?

Ans- No.

4. Do you think that AHRC is an efficient body to protect human rights?

Ans- I don't think so.

5. According to you who is responsible for the tragic murder of your son JhankarSaikia? Whether police is responsible to control law and order situations or the miscreants is powerful due to the inactive role played by police and he became the victim of lawlessness?

Ans- Both are responsible.

6. Whether the commission forwarded any recommendation for suspension of the erring police personnel performing law and order duty/

Ans- The government of Assam suspended police personnel who were on duty and due to their negligence my son JhankarSaikia was beaten to death by miscreants.

7. Whether you were also accompanied by your son?

Ans- Yes. I was accompanied by my son and both of us were mercilessly assaulted by a mob of about 20-25 miscreants.

8. Have there any criminal cases registered against the accused persons and whether there were arrested?

Ans- Yes, there is a criminal case against the criminals and they were arrested.

9. Whether court pronounced judgment? And whether convicted or acquitted the accused.

Ans- Yes, judgment is pronounced and some accused are convicted. But accused filed a criminal appeal before Guwahati High Court. The matter is sub-judice yet.

10. What do you think about the role of all stakeholders in the promotion and protection of human rights?

And- I am not satisfied.

DISTRICT- SONITPUR, AHRC=334/16/11-12 (matter related to the death of practicing advocate Rajesh Upathaya falling in an open drain maintained by Tezpur Municipal Board)

Telephonic talk with Krishna Upadhaya (brother of the victim) on 27/08/2021 at 6.20 am

1. Whether from your end, any complaint has been filed?

Ans- No, AHRC took the case Suo Motu.

2. Have you received any compensation as the case was monitor by AHRC?

Ans- Yes, we have received part compensation as ordered by the AHRC to the erring authority.

3. Whether erring authority is punished in your case?

And- So far the judgment is a concern, Tezpur Municipal Board was held liable for maintaining an open drain for the tragic death of my brother.

4. What is your opinion regarding the role played by the AHRC?

Ans- We have yet not received full compensation as awarded by the commission, I don't understand why so many times are required.

DISTRICT- DIMA HASAO.

AHRC case No-3014 of 2020-2021(13)

(Matter related to irregular payment of a PHE employee)

Telephonic talk with the son of the victim on 22/08/2021 at 10.15 am

1. whether you have filed the complaint before AHRC?

Ans.- yes

2. What was the role of AHRC?

Ans- The role of AHRC in our case is very prompt and effective. AHRC directed the PHE engineer to release all arrear salaries.

3. Have you received a salary after the direction of AHRC?

Ans- Yes we have received all arrear salary.

4. Are you satisfied with the activities of AHRC?

Ans- Yes.

DISTRICT- KOKRAJHAR (BTAD),ASSAM

AHRC case No- 2653 of 2019-2020 (11)

(Matter related to the complaint against social welfare department)

Telephonic talk with the president of all BTAD, Disabled Adhikar Suraksha Mansa on 22/08/2021 at 11 am

1. How you are connected with AHRC?

Ans- I have filed a complaint against the social welfare department of Assam

2. What was the response of AHRC?

Ans.-AHRC took prompt initiative directing the department which is also communicated to us.

3. Are you satisfied with the activities of AHRC?

Ans- Yes.

4. Do you think that AHRC is a competent body to protect human rights violations in the state of Assam?

Ans- Yes.

DISTRICT- NAGAON,ASSAM

AHRC case No- 2969 of 2019-2020 (14)

(Matter related to the pension of a retired person)

Telephonic talk with the retired employee Sri Jogonnath Mahanta on 22/08/2021 at 1. 45 am

1. Have you filed the complaint to AHRC?

Ans- Yes, I have filed a complaint about my pension yet to be started as I have retired on 31/07/2019.

2. Whether AHRC has taken any measures to solve your problem?

Ans- Yes, AHRC pronounced judgment on 11/02/2021 directing the commissioner of finance and PWD department which is also communicated to me.

3. Are you satisfied with the activities of AHRC?

Ans- Yes.

4. Do you think that AHRC remains a success in protecting human rights violations in the state of Assam?

Ans- Yes. I think so.

5. Whether the commission disposed of the cases within the required time?

Ans- In my case I find the AHRC disposed of the matter within the expected period.

DISTRICT- JORHAT, ASSAM

AHRC case No- 553/7/12-13/14/18-19

(Matter related to selling of own child due to old age pension)

Telephonic talk with the complainant, Mr. Bubumono Goswami, on 25/08/2021 at 7.20 Pm

1. Are you the complaint to AHRC?

Ans- Yes, I have filed a complaint non-furnishing of old age pension for which extremely poor parents sold out their child.

2. What is the action taken by the AHRC?

Ans- AHRC has done nothing in this regard.

3. Are you satisfied with the activities of AHRC? If not why?

Ans- No, due to their slow process.

DISTRICT- DHUBRI, ASSAM

AHRC case No-4116 of 2021-22(4)/5

(Matter related to Police harassment)

Interview with the victim Monowara Khatun on 28th August/2021 at 9 am at her residence.

1. Have you filed any complaints to AHRC?

Ans- Yes, I have filed a complaint against the O/C Gauripur police station who harass our whole family without any case.

2. What are the Stapes taken by the AHRC?

Ans- AHRC promptly issued a notice to the SP Dhubri calling the report in this regard.

3. Are you satisfied with the activities of AHRC? If not why?

Ans- Yes, I am satisfied since the date of receiving the Summon from AHRC O/C Gauripur Police station never enters our residence as he uses to enter often to harass us.

4. Whether the role of the commission in the promotion and protection of human rights, is effective?

Ans.- yes.

6. Whether Assam Human Rights Commission is an efficient body for the protection of human rights violations in the state of Assam?

Ans- Yes, I think so.

3. What are the measures taken by the Commission for the protection of human rights?

Ans- AHRC has taken a lot of the steps for protection and promotion of human rights in the state of Assam such as holding human rights awareness programme, visiting a home, jail, and other institutions, disposed of human rights violation cases, and forwarder recommendations to the competent authorities.

4. How the Commission has been workings for the protection and promotion of human rights?

Ans- AHRC has been working as per the provision of law.

6. How does the commission remain successful in curbing human rights violations in the state of Assam?

Ans- AHRC remain successful in applying its procedure

7. What are the activities performed by the Commission in regards to public awareness of human rights?

Ans- Activities like seminar, observation of human rights day, and another routine sitting of benches.

8. Whether the investigation cell of the commission is adequate and efficient to meet the requirements of prompt investigation to find out the outcome?

Ans- Yes.

9. Whether victims of human rights violations are satisfied by the working of the commission?

Ans- Yes.

10. whether erring person or authorities of human rights violation punished as per provision of law?

Ans- Yes.

11. Whether the commission disposed of the human rights violation cases within the required time?

Ans- Yes in most of the human rights violation cases.

12. Whether the recommendation forwarded by the commission has complied with the competent authority?

Ans- Not sure.

13. Whether due to lack of executive power the commission seems to be a weak institution?

Ans- Yes, the commission should have full execution power so that erring person/authorities could be punished.

2. DISTRICT- Kamrup (M) Murder of Nilotpal Das on 09/06/2018

Telephonic talk with Gopal Chandra Das (father of the victim) on 04/08/2021 at 8 pm

1.. whether you have filed the complaint before AHRC for the saddest murder of your son Nilotpal Das mob at Dokmoka?

Ans- No, the commission has started Suo Motu case.

2. Whether any investigation team from the commission appeared before you to collect information.

Ans- Yes, a total of 5 members including members from NHRC and AHRC appeared at my residence and took the statement.

3. Have you received any compensation due to the passing of any interim order of AHRC?

Ans- No. But KarbiAnglong district administration in 2019 donated Rs- 5,00000/ (Five lakh) to Abhi- Nill Memorial Trust.

4. Are you satisfied with the activities of AHRC?

Ans- Not satisfied.

5. According to you who is responsible for the tragic murder of your son Nilotpal Das? Whether police is responsible to control law and order situations or the miscreants is powerful due to the inactive role played by police and he became the victim of lawlessness?

Ans- Yes, due to lawlessness, the barbaric and shocking incident occurred and my young educated son was beaten to death.

8. Have there any criminal cases registered against the accused persons and whether there were arrested?

Ans- Yes, there is a criminal case against the criminals and they were arrested.

9. Whether court pronounced judgment? And whether convicted or acquitted the accused.

Ans- No, the Matter is sub-judice yet.

10. What do you think about the role of all stakeholders in the promotion and protection of human rights?

And- I am not satisfied.

8. DISTRICT -NAGAON, ASSAM

AHRC case No- 2279/14/18-19

(Matter related to child labour)

Telephonic talk with Mr. Debo Kumar Kalita, General Secretary All India Human Rights on 22/08/2021 at 12. 15 am

1. Are you the complaint to AHRC?

Ans- Yes, I have filed a complaint against child labour in our district.

2. What is your experience with the procedure of disposing of cases by AHRC?

Ans- Slow, giving ample time to the erring authorities.

3. Are you satisfied with the activities of AHRC?

Ans- No.

Sources-

(Due to continuous inter-district movement restrictions imposed by the competent authority from 22nd May/2021 to 2nd Sep/2021 in Assam, data collected over telephone)

APPENDIX-5

THE UNIVERSAL DECLARATION OF HUMAN RIGHTS, 10th DECEMBER 1948

PREAMBLE...

Whereas recognition of the inherent dignity of the equal and inalienable rights of all members of the human family is the foundation of freedom justice and peace in the world, Whereas disregard and contempt for human rights resulted from barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy the freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people. Whereas it is essential if may is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law, Whereas it is essential to promote the development of friendly relations between nations, Whereas the people of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom, Whereas the Member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms, Whereas a common understanding of these rights and freedoms, is of the greatest importance for the full realization of this pledge. Now, therefore,

THE GENERAL ASSEMBLY PROCLAIMS THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common standard of achievement for all peoples and all nations to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international secure their universal and effective recognition and observance, both among the peoples of Members States themselves and among the peoples of territories under their jurisdiction.

Article 1.

All human beings are born free and equal in dignity and human rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2.

Everyone is entitled to all the rights and freedom outlined in this declaration, without distinction of any kind, such as race, colour, sex, language religion, political or another opinion, national or social origin, property, birth, or another status. Further, no distinction shall be made based on the political jurisdictional or international status of the country or territory to which a person belongs, whether it be independent trust, non-self-government, or under any other limitation of sovereignty.

Article-3

Everyone has the right to life, liberty, and security of person

Article-4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article-5

No one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment.

Article-6

Everyone has the right to recognition everywhere as a person before the law.

Article-7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against an incitement to such discrimination.

Article-8

Everyone has the right to an effective remedy by the competent national tribunals or acts violating the fundamental rights granted him by the constitution or by law.

Article-9

No one shall be subject to arbitrary arrest, detention, or exile.

Article-10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and any criminal charge against him.

Article-11

(1) Everyone charged with a penal offense has the right to be presumed innocent until proved guilty according to the law in a public trial at which he has had all the guarantees necessary for his defence

(2) No one shall be held guilty of any penal offense on account of an act or omission which did not constitute a penal offense, under national and international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offense was committed.

Article-12

No one shall be subjected to arbitrary interference with his privacy family, home, or correspondence, not to attach upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article-13

(1) Everyone has the right to freedom and residence within the borders of each State.

(2) Everyone has the right to leave any country, including his own, and to return to his country.

Article - 1 4

(1) Everyone has the right to seek and to enjoy in another country ie Asylum from persecution.

.(2) The right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purpose and principles of the United Nations

Article - 1 5

(1) Everyone has the right to a nationality.

(2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article - 1 6

(1) Men and women of full age without any limitation due to race, nationality, or religion have the right to marry and to found a family. They are entitled to equal rights as to marriage and its dissolution.

(2) Marriage shall be entered into only with the free and full consent of the intending spouses.

(3) The family is the natural and fundamental group unit of the society and is entitled to protection by the society and state.

Article - 17

(1) Everyone has the right to own property alone as well as association with others.

(2) No one shall be arbitrarily deprived of his property.

Article-18

Everyone has the right to freedom of thought, conscience, and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private to manifest his religion or belief in teaching, practice, worship, and observance.

Article-19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article-20

(1) Everyone has the right to freedom of peaceful assembly and association.

(2) No one may be compelled to belong to an association.

Article-21

(1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

(2) Everyone has the right to equal access to public service in his country

(3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article-22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international cooperation and following the organization and resources of each state, of the economic, social, and cultural rights indispensable for his dignity and the free development of his personality.

Article-23

(1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work, and to protection against

Unemployment.

(2) Everyone, without any discrimination, has the right to equal pay for equal work,

(3) Everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social

Protection.

(4) Everyone has the right to form and to join trade unions for the protection of his interests.

Article-24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article-25

(1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food clothing, housing, and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability widowhood, old age or other lack of livelihood in circumstances beyond his control.

(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article-26

(1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all based on merit.

(2) Education shall be directed to the full development of the human personality and the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance, and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

(3) Parents have a prior right to choose the kind of education that shall be given to their children.

Article-27

(1) Everyone has the right to participate in the cultural life of the community, to enjoy the arts, and to share in scientific advancement and

its benefits.

(2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article-28

Everyone is entitled to a social and international order in which the rights and freedoms outlined in this Declaration can be fully realized

Article-29

(1) Everyone has duties to the community in which alone the free and full development of his personality is possible.

(2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely to secure due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality public order, and the general welfare in a democratic society.

(3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations

Article-30

Nothing in this Declaration may be interpreted as implying for any State, group, or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein

APPENDIX - 6

List of Do's and Don'ts about the application of the Armed Forces (Special Powers) Act 1958 as directed by the Supreme Court in Naga People's Movements of Human Rights vs. Union of India in 1997

DO'S

1. Action before Operation.

- (a) Act only in the area declared 'Disturbed Area' under Section 3 of the Act
- (b) Power to open fire using force or arrest is to be exercised under this Act only by an officer/JCO/WO and NCO.
- (c) Before launching any raid/search, definite information about the activity is to be obtained from the local civil authorities.
- (d) As far as possible co-operate with the representatives of local civil administration during the raid.

2. Action during Operation

- (a) In case of necessity of opening fire and using any force against the suspect of any person acting in contravention of law and order, ascertain first that it is essential for the maintenance of public order. Open fire only after due warning.
- (b) Arrest only those who have committed the cognizable offense or who are about to Commit the cognizable offense or against whom a reasonable ground exists to prove that they have committed or are about to commit the cognizable offense.
- (c) Ensure that troops under command do not harass innocent people, destroy the property of the public or unnecessarily enter into the house/dwelling people not connected with any unlawful activities.

(d) Ensure that women neither are nor search/ arrested without the presence of female police. Women should be searched by female police only.

3. Action after Operation

(a) After arrest prepares a list of the persons so arrested.

(b) Hand over the arrested persons to the nearest police station with the least possible delay

(c) While handing over to the police a report should accompany detailed circumstances occasioning the arrest.

(d) Every delay in handing over the suspects to the police must be justified and should be reasonable depending upon the place, time of arrest, and the terrain in which such person has been arrested. The least possible delay is 2-3 hours extendable to 14 hours or so depending upon a particular case.

(e) After the raid makes out a list of all arms, ammunition, or any other incriminating material/document taken into possession.

(f) All such arms, ammunition, stores, etc. should be handed over to the police station along with the seizure memo.

(g) Obtain receipt of persons and arms/ammunition, stores, etc. so handed over to the police.

(h) Make a record of the area where operation is launched having the date and time and the persons participating in such raid.

(i) Make a record of the commander and other officers/JCOs/NCOs forming part of such force.

(k) [sick] Ensuring medical relief to any person injured during the encounter, if any person dies in the encounter his dead body be handed over immediately to the police along with the details leading to such death

4. Dealing with civil court

- (a) Directions of the High Court/Supreme Court should be promptly attended to
- (b) Whenever summoned by the courts, the decorum of the court must be maintained and proper respect paid.
- (c) Answer questions of the court politely and with dignity
- (d) Maintain a detailed record of the entire operation correctly and explicitly

DON'TS

1. Do not keep a person under custody for any period longer than the bare necessity for handing over to the nearest police station.
2. Do not use any force after having arrested a person except when he is trying to escape.
3. Do not use third-degree methods to extract information or to extract confessions or other involvement in unlawful activities.
4. After the arrest of a person by a member of the armed forces, he shall not be interrogated by the member of the armed force.
5. Do not release the person directly after apprehending on your own If any person is to be released, he must be released through civil authorities
6. Do not tamper with official records.
7. The armed forces shall not take back a person after he is handed over to civil police.

List of Do's and Don'ts while providing aid to civil authority

Do's

1. Act in closest possible communication with civil authorities throughout

2. Maintain inter-communication if possible by telephone/radio
3. Get the permission/requisition from the Magistrate when present
4. Use little force and do as little injury to person and property as may be consistent with the attainment of objective in view.

5. In case you decided to open fire.

- (a) Give warning in the local language that fire will be effective.
- (b) Attract attention before firing by bugle or other means.
- (c) Distribute your men in firing unit with specified Commanders
- (d) Control fire by issuing personal orders.
- (e) Note the number of rounds fired.
- (f) Aim at the front of the crowd rioting or inciting to riot or at conspicuous ring leader i.e, do not fire into the thick of the crowd at the back.
- (g) Aim low and shoot for effect.
- (h) Keep Light Machine Gun and Medium Gun in reserve.
- (i) Cease firing immediately once the object has been attained.
- (j) Take immediate steps to secure wounded.

6. Maintain cordial relations with civilian authorities and paramilitary forces

7. Ensure a high standard of discipline.

DON'TS

8. Do not use excessive force.
9. Do not get involved in a hand-to-hand struggle with the mob.
10. Do not ill-treat anyone, in particular, women and children.
11. No harassment of civilians.
12. No torture.
13. No communal bias while dealing with civilians.
14. No meddling in civilian administration affairs.
15. No Military disgrace by loss/surrender of weapons.
16. Do not accept presents, donations, and rewards.
17. Avoid indiscriminate firing.

(Source: Naga People's Movement of Human Rights v Union of India [1997])

ICHR 117 (27 November 1997)

APPENDIX-7

KNOW YOUR RIGHTS

FIR:

In case of any offense, file, an F.I.R. and duly receive a Copy of the Same.

Arrest:

- i) The police arresting you must have clear and visible name tags and uniforms.
- ii).you must be told why you are arrested of your right to bail and of your right to a lawyer of your choice.
- iii). Memo of arrest to be made, with the date and time of arrest, and signed by a family member/respectable neighbor.
- iv). The police must inform any person interested in your welfare (or the legal Committee, if such person lives outside the area). Your arrest and the location of the place at which you are kept while under arrest.
- v). An accurate list of things seized from you must be prepared and you are entitled to a copy immediately. Legal advice:
- vi). If poor, you have a right to demand competent counsel at state expense from the court.
- vii). If your lawyer is not competent you have the right to change your lawyer

You have a right to interviews, visits, and confidential communication with your lawyer.

Search :

- i). Two independent witnesses should always be present when you/your premises are searched.

ii). Call two witnesses (not from your family) to witness the search.

Bail:

Apply to the court for release on bail immediately on the arrest.

a) Keep the following ready for production on grant of bail. Proof of identity Kheraji Patta land revenue receipt, salary slips, rent receipts, ration cards, bank passbooks, etc. sureties with the above documents.

Interrogations :

You can consult with your lawyer when you are being interrogated whether you are arrested or not. You cannot be forced to confess to the police or magistrate.

Torture:

Torture is illegal No. solitary confinement, punitive cells, hard labour, change in diet a transfer without the permission of the judge.

If a confession has been taken after torture, inform the judge immediately and retract it.

Complain to court about torture/ beating and show any injuries. The state must pay compensation for illegal arrest/torture.

Production in the court:

You can demand a chair from the court to sit during the trial.

You have the right to get legible copies of all documents of accusations filed against you in court.

You have to be produced before a magistrate within twenty-four hours of arrest. If you are not produced within 24 hours complain to the magistrate

You cannot be remanded to custody in your absence.

Prison Custody :

Prison below the age of 18 must be sent to an observation home.

You have the right to write and receive letters.

You have the right to meet with your family and friends.

You can receive books, newspapers, and other publications

You may have a journalist interview you.

You have to get reasonable wages for your labor while in prison

Decent food, soap, clothing, bedding, etc.

Transfer to prisons in faraway places is not to be done.

Female prisoners:

No arrest after sunset and before sunrise.

Search by a female officer only. A female constable must be present when you are arrested.

Examination by a female doctor only.

The police must place you in a women-only lock-up.

No female can be called to a police station for investigation.

Children - a) Child in Conflict with the law (CCL) and b) Child in Need of Care and Protection (CNCP)

In case of persons under 18 years of age, age to be verified by documents 01

medical examination.No remand to jail or police lockup. Must be sent to juvenile homes.
All investigation to be completed within 4 months of complaint/FIR and

inquiry before the juvenile justice board disposed of in 6 months No

Imprisonment/death sentence to be awarded to the child. Children of destitute prisoners, who have no one to take the case of them, must be taken care of by the state.
MedicalExamination: Request immediate medical examination on the arrest. The medical examination on the arrest. The medical examiner must record all injuries in a written form. Only sign an accurately filled form. Ask for a copy of this form. Ask the magistrate to send you to the hospital before police custody is granted a medical examination every 48 hours while in custody. If you are under 18 years of age and your age is recorded wrongly, if there is no documentary proof of your age, insist on medical examination to determine your age. Make an application for medical treatment in case of unstable health conditions

HIV+ or Terminal illness:

You may be entitled to premature release.

Furlough/parole :

According to rules, you may leave prison for certain periods for specific reasons

APPENDIX -8

NHRC Guidelines Regarding Arrest

A letter no. 7/11/99-PRP & P dated 22nd November, 99 sent to the Chief Secretaries of all States/Union Territories by D. R. Karthikeyan DirectorGeneral, NHRC, New Delhi on NHRC guidelines regarding the arrest. In the letter, it was informed that certain guidelines approved by the Commission were enclosed and the request all the State governments to translate these guidelines into their respective regional language and make them available to all police officers and in all Police stations. Senior officers visiting the police station may ensure the availability of such guidelines with respective police officers and the police station and ensure their compliance.

The NHRC guidelines regarding arrest are divided into five sections. They are-Need for Guidelines, Pre-Arrest, Arrest, Post-Arrest, and enforcement of Guidelines.

Need for Guidelines:-

Arrest involves the restriction of liberty of a person arrested and therefore, infringes the basic human rights of liberty. Nevertheless, the constitution of India as well as International Human rights law recognize the power of the state to arrest any person as a part of its primary role of maintaining law and order. The Constitution requires a just, fair, and reasonable procedure established by law under which alone such deprivation of liberty is permissible although Article 22 (1) of the Constitution provides that every person placed under arrest shall be informed as soon as may be the ground of arrest shall be informed as soon as may be the ground of arrest and shall not be denied the right to consult and be defended by a lawyer of his choice and Section 50 of the code of Criminal Procedure 1973 (Cr. PC) requires a police officer arresting any person to 'forthwith communicate to his full particulars of the offense for which he is arrested or other grounds for such arrest'. In actual practice, these requirements are observed more in the breach. Likewise, the requirement of production of the arrested person before the court promptly which is mandated both under the Constitution [Article22(2)] and the Cr.PC (Section 57) is also not adhered to strictly. A

large number of complaints about human rights violations are in the area of abuse of police powers, particularly those of arrest and detention has, therefore, becomes necessary, intending to narrow the gap between law and practice, to prescribe guidelines regarding arrest even while at the same

time not unduly curtailing the power of the police to effectively maintain and enforce law and order and proper investigation.

Pre-Arrest Guidelines:-

The power to arrest without a warrant should be exercised only after a reasonable satisfaction is reached, after some investigation as to the genuineness and bonafides of a complaint, and a reasonable belief as to both the person's complicity as well as the need to effect the arrest. [Joginder Kumar's case (1994) 4 SCC 260] Arrest cannot be justified merely on the existence of power, as a matter of law, to arrest without a warrant in a cognizable case. After Joginder Kumar's pronouncement of the Supreme Court, the question of whether the power of arrest has been exercised reasonably or not is justifiable. Arrest in cognizable cases may be considered justified in one or other of the following circumstances:

- (i) The case involves a grave offense like murder, dacoity, robbery, rape, etc, and it is necessary to arrest the suspect to prevent him from escaping or evading the process of law.
- (ii) The suspect is given to violent behavior and is likely to commit further offenses.
- (iii) The suspect requires to be prevented from destroying evidence or interfering with witnesses or warning other suspects who have not yet been arrested.
- (iv) The suspect is a habitual offender who, unless arrested, is likely to commit similar or further offenses. [3rd Report of National Police Commission] Except in heinous offenses, as mentioned above, an arrest must be avoided if a police officer issues notice to the person to attend the police station and not leave the station without permission.

(v) The power to arrest must be avoided where the offenses are bailable unless there is a strong apprehension of the suspect absconding.

(vi). Police officers carrying out an arrest or interrogation should bear clear identification and name tags with designations. The particulars of the police

(vii). personnel carrying out the arrest or interrogation should be recorded contemporaneously, in a register kept at the police station.

Arrest Guidelines:-

Force should be avoided while effecting the arrest. However, in case of forcible resistance to arrest, minimum force to overcome such resistance may be used. However, care must be taken to ensure that injuries to the person being arrested, visible or otherwise, is avoided

a). The dignity of the person being arrested should be protected. Public display or padding of the person arrested should not be permitted at any cost

b). Searches of the person arrested must be done with due respect to the dignity of the person, without force or aggression, and with care for the person's right to privacy. Searches of women should only be made by other women with strict regard to decency. (S.51 (2) Cr. PC).

c). The use of handcuffs or leg chains should be avoided and if at all, it should be reported to strictly following the law repeatedly explained and mandated in the judgment of the Supreme Court in PremShankarShukla V. Delhi Administration [(1980)3 SCC 526] and Citizen for Democracy v. the State of Assam [(1995/ 3 SCC 743),

d). As far as is practicable women police officers should be associated where the person or persons being arrested are women. The arrest of women between sunset and sunrise should be avoided. Where children or juveniles are sought to be arrested, no force or beating should be administered under any circumstances. Police officers, May for this purpose,

associate respectable citizens so that the children or juveniles are not terrorized and minimal coercion is used.

e). Where the arrest is without a warrant, the person arrested has to be immediately informed of the grounds of arrest in a language which he or she understands again, for this purpose, the police, if necessary may take the help of respectable citizens. These grounds must have already been recorded in writing in police records. The person arrested should be shown the written reasons as well and also given a copy on demand. (S 50(1) Cr. PC).

f). The arrested person can, on a request made by him or her, demand that a friend, relative, or other person is known to him be informed of the fact of his arrest and the place of his detention. The police should record in the register the name of the person so informed. [Joginder Kumar's case(Supra)].

g). If a person has been arrested for a bailable offense, the police officer should inform him of his entitlement to be released on bail so that he may arrange for sureties(S. 50(2) Cr. PC).

h). Apart from informing the person arrested of the above rights, the police should also inform him of his right to consult and be defended by a lawyer of his choice. He should also be informed that he is entitled to free legal aid at state expenses (D.K. Basu's case (1997) 1. SCC],

i). When the person arrested is brought to the police station he should, if he requests in this regard, be given prompt medical assistance He must be informed of this right where the police officer finds that the arrested

j). The person is in a condition where he is unable to make such a request but requires medical help, he should promptly arrange for the same. This must also be recorded contemporaneously in a register. The female requesting medical help should be examined only by a female registered medical practitioner. (S. 53 Cr. PC)

k). Information regarding the arrest and the place of detention should be communicated by the police officer affecting the arrest without any delay to the Police Control Room and District/State Headquarters. There must be a monitoring mechanism working round the clock.

l). As soon as the person is arrested; the police officer affecting the arrest shall make a mention of the existence or non-existence of any injury (s) on the person of the arrestee in the register of the arrest. If any injuries are found on the person of the arrestee, full description and other particulars as to how the injuries were caused should be mentioned in the register, which entry shall also be signed by the police officer and the arrestee. At the time of the release of the arrestee, a certificate to the above effect under the signature of the police officer shall be issued to the arrestee.

m). If the arrestee has been remanded to police custody under the orders of the court, the arrestee should be subjected to a medical examination by a trained medical officer every 48 hours during his detention in custody by a doctor on the panel of approved doctors appointed by Director, Health Services of the concerned State or Union Territory. At the time of his release from the police custody, the arrestee shall be got medically examined and a certificate shall be issued to him stating therein the factual position of the existence or nonexistence of any injuries on his person.

Post Arrest Guidelines:-

i). The person under arrest must be produced before the appropriate court within 24 hours of the arrest (Ss 56 and 57 Cr. PC).

ii). The person arrested should be permitted to meet his lawyer at any time during the interrogation.

iii). The interrogation should be conducted in an identifiable place, which has been notified for this purpose by the Government. The place must be accessible and the relatives or friends of the person arrested must be informed of the place of interrogation taking place

.iv). The methods of interrogation must be consistent with the recognized rights to life, dignity, and liberty, and the right against torture and degrading treatment

Enforcement of Guidelines:-

(1) The guidelines must be translated into as many languages as possible and distributed to every police station. It must also be incorporated in a handbook which should be given to every policeman.

(2) Guidelines must receive maximum publicity in print or other electronic media. It should also be prominently displayed on notice boards in more than one language, in every police station.

(3) The police must set up a complaint redressal mechanism, which will promptly investigate complaints of violation of guidelines and take corrective action

(4) The notice board which displays guidelines must indicate the location of the complaints redressal mechanism and how that body can be approached

(5) NGOs and public institutions including courts, hospitals, universities, etc must be involved in the dissemination of these guidelines to ensure the widest possible reach.

(6) The functioning of the complaint redressal mechanism must be transparent and its reports accessible.

(7) Prompt action must be taken against errant police officers for violation of

the guidelines. This should not be limited to departmental enquired but also set in motion the criminal justice mechanism.

(8) Sensitizations and training of police officers are essential for the effective implementation of the guidelines.

(V) NHRC Guidelines relating to Administration of Polygraph Test²⁰:

[Lie Detector Test]

Another letter no. 117/8/97-98 dated 11 January 2000 was sent to the Chief Secretaries of all States/Union Territories by S.K. Srivastava, Assistant Registrar (Law), NHRC (Law Division - III) on NHRC Guidelines relating to the administration of the Polygraph Test (Lie Detector Test). In the letter, it was stated that the Commission adopted the guidelines and decided it is circulated to all concerned authorities for being followed scrupulously. The guidelines are as followed -

- (i) No Lie Detection Test should be administered except based on the consent of the accused. An option should be given to the accused whether he wishes to avail of such a test.
- (ii) If the accused volunteers for a Lie Detector Test, he should be given access to a lawyer, and the physical, emotional, and legal implications of such a test should be explained to him by the Police and his lawyer.
- (iii) The consent should be recorded before a Judicial Magistrate.
- (iv) During the hearing before the Magistrate, the person alleged to have agreed should be fully represented by a lawyer.
- (v) At the hearing, the person in question should also be told in clear terms that the statement that is made shall not be a 'confessional statement to the Magistrate but will have the status of a statement made to the police.
- (vi) The Magistrate shall consider all factors relating to the detention including the length of detention and the nature of the interrogation.
- (vii) The actual recording of the Lie Detector Test shall be done in independent agency (such as a hospital) and conducted in the presence of a lawyer.

(viii) A full medical and factual narration of the manner of the information received must be taken on record.

The above guideline should be properly followed by the State authority to avoid human rights violation of the arrestee person, custodial torture, and Deaths.

Sources: NHRC, New Delhi, a Published book titled, 'Important Instruction/Guidelines- 2000, pp.-53-60.