

## Human Rights And Wrongs

In a recent case in the Supreme Court, the National Human Rights Commission (NHRC) referred to itself as “a toothless tiger”. The NHRC’s feeling of helplessness and willingness to portray itself in this light is a matter of grave concern. The commission’s complaints may be legitimate, but has it done what it can within its limited powers?

While the NHRC may plead before the Supreme Court about its limitations, the public perception about it has deteriorated. The recent submissions to the Sub-Committee of Accreditation of the Global Alliance of National Human Rights Institutions concerning the NHRC’s review this week speak of its journey from a toothless tiger to a spiritless body.

A case in point is that of Khurram Parvez, a human rights defender from Kashmir who was barred at the Delhi airport from travelling to Geneva on September 14, 2016, where he was to attend the United Nations Human Rights Council (UNHRC) and meet representatives of UN bodies concerning the situation in Kashmir. On September 15, 2016, on his return to Srinagar, Khurram was arrested under the Public Safety Act (PSA).

On September 16, 2016, Human Rights Defenders Alert (HRDA) approached the NHRC to intervene in the case through an independent investigation. Ignoring the recent order of the Delhi High Court in Priya Pillai’s case, the NHRC called for reports within four weeks from the Director General of Police of Jammu and Kashmir (J&K) and the Foreigners’ Regional Registration Office in New Delhi. It did not issue a notice to the Bureau of Immigration, Ministry of Home Affairs (MHA), which is also its parent ministry.

The NHRC received the response only after 12 weeks on December 13, 2016. However, the response was not submitted by the main respondents but by the joint director of the Intelligence Bureau (IB). The IB claimed Khurram has “close links with pro-separatist leaders”, who with an “intention to internationalise the ongoing disturbance in Kashmir and castigate Indian policies had approached the UN High Commissioner for Human Rights and other UN Special Rapporteurs”. The report also cited “four pending criminal cases (against Khurram) for inciting violence and hence damage would have caused to national interest if Khurram was allowed to go out of the country”. The NHRC did not share with the HRDA the response from the IB (which was obtained through the RTI) terming it as “secret” and solely on this basis, closed the case on April 19, 2016.

The IB’s reference to the four criminal cases against Khurram, leading to his arrest under the Public Safety Act, was quashed by the J&K High Court on November 25, 2016 terming it “illegal”, and “arbitrary” as the detaining authority did not elucidate which of his activities was found to be “prejudicial to the security of the State of maintenance of public order”.

In the meantime, on September 16, 2016, two of the UN’s Special Procedures (SPs) jointly wrote to the Government of India (GoI) citing serious concerns of reprisals faced by Khurram for cooperating with the UN of which the Indian state is a member. The GoI responded with the same IB report submitted to the NHRC. As a response on October 11, 2016, five UNSPs jointly wrote to the GoI expressing concerns about the state describing Khurram as someone “operating under the garb of human rights”.

The order by the J&K High Court and communications by the UNSPs all pre-date the response by the IB to the NHRC. The NHRC has on several occasions boasted of its independence, referring to its leadership comprising a former chief justice of the Supreme Court.

The question here is about the nature of the failure of the NHRC: Was it a deliberate failure or an

inability to understand basic human rights laws and standards? What has increasingly become a disturbing norm in the NHRC today is its opaque modus-operandi in cases of grave human rights violations.

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