

SHRC

Large vacancies, low funds plague State Human Rights Commissions

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The third India Justice Report continues to compare and track the improvements and shortfalls in each state’s structural and financial capacity to deliver justice. Using the latest available government figures the first ever ranking was published in November 2019. Each state’s ranking is assessed on quantitative measurements of budgets, human resources, infrastructure, workload and diversity within the police, judiciary, prisons and legal aid in 18 large and medium sized states with a population of over 1 crore and 7 small states with less. Data for 8 Union Territories (UTs) and 3 other unranked states is also provided. This IJR assesses the capacity and performance of State Human Rights Commissions (SHRCs) separately and not as part of the overall ranking of a state. The IJR not only provide pillar and theme wise comparisons between similarly situated states but also capture improvements and shortfalls in pillars and themes since IJR 2020 and over 5 years. These mark out clear discernible trends and directions.

Human rights institutions play a vital role in protecting and promoting these rights in myriad ways ranging from auditing legislations, monitoring the national human rights situation, educating the public, handling complaints and issuing recommendations. To ensure the effective realisation of human rights, in 1993 India set up its first dedicated human rights institution, the National Human Rights Commission (NHRC) under the Protection of Human Rights Act (PHRA), 1993. Since then, 25 State Human Rights Commissions (SHRCs) have been established along the lines of the NHRC.

Nearly half the posts vacant across 25 SHRCs

State commissions may be chaired by a former Chief Justice or a judge of a high court. Two members—a former high court or district court judge and the other an expert “with knowledge and practical experience in matters related to human rights”—along with a secretary make up the executive staff.¹ The chairperson and members make up the adjudicating arm of the Commission and the Secretary who is also the chief executive officer (CEO) exercises all administrative and financial functions.

¹ Section 21 of the Protection of the Human Rights Act. Available at: https://nhrc.nic.in/sites/default/files/PHRAAct_2021_0.pdf

As of 2022, six SHRCs were working with one-fourth or more executive staff missing. Nine commissions worked with one or more members missing and Uttar Pradesh, Manipur and Jharkhand functioned without any members. Jharkhand's Commission has, since 2018, functioned with only an acting chairperson and secretary, and the Chhattisgarh Commission, has been functioning with an acting chairperson and one member since 2020. Chhattisgarh, Maharashtra, Telangana and West Bengal commissions worked without secretaries/CEOs.

Overall staff vacancies across 25 SHRCs stood at 43%. 13 commissions worked with more than 25% vacancies in their overall staff.² Punjab and Uttarakhand commissions worked with more than 90% of their staff missing. Only Assam and Sikkim SHRCs had more staff than sanctioned.³

Independent investigation into rights violations is central to a commission's effectiveness. The capacity for this rests on the presence of investigative staff. The statute provides for "such police and investigative staff under an officer not below the rank of an Inspector General of Police and such other officers and staff as may be necessary."⁴ Sanctioned investigative staff varied from state to state, some included the number of constables in their response,⁵ while others like Maharashtra, Odisha, Sikkim and Tamil Nadu did not. All except Himachal Pradesh, Rajasthan and Uttarakhand, reported a shortfall. Eleven Commissions functioned with an investigative staff strength ranging from one to five in 2022.⁶ The Assam, Jharkhand, Manipur and Sikkim commissions reported no investigative staff.

Increasing pendency - delayed justice

The total cases received between 2015 and 2021 is 7,06,011.⁷ SHRCs disposed of 5,84,438 or 83%. In 2020-21 alone, complaints across all SHRCs stood at 1,02,608. At the end of 2020-21 the total number of pending cases stood at 33,312.

² Bihar, Gujarat, Haryana, Himachal Pradesh, Jharkhand, Maharashtra, Manipur, Odisha, Punjab, Rajasthan, Tripura, Uttar Pradesh and Uttarakhand.

³ Data for Bihar, Haryana, Kerala, Odisha and Uttar Pradesh is as of 2022. Chhattisgarh and Gujarat SHRCs provided partial information with regard to staff strengths. Consequently, they have been scored 0.

⁴ Section 27(1)(b) of the Protection of Human Rights Act, 1993. Available at: https://nhrc.nic.in/sites/default/files/PHRAct_2021_0.pdf

⁵ Bihar, Madhya Pradesh, Telangana, West Bengal.

⁶ Data on sanctioned and working strength of investigative staff is based on RTI replies received from state commissions. This has not been ranked as an indicator for this report.

⁷ Data on cases received and disposed of by SHRCs is based on RTI responses by the Commissions. Since the Commissions were established over time, we could not include data from all Commissions in our analysis.

In 2020-21 eight SHRCs disposed of less than 60% of complaints received⁸ with Meghalaya (28%) clearing the least followed by Maharashtra (29%), Rajasthan (30%) and Odisha (50%). Bihar (99%) and Chhattisgarh (94%) cleared almost all the cases they received. **It is unclear how many complaints were rejected outright because they were not within a commission’s mandate or went on to being finally investigated, adjudicated and recommended for corrective measures.**

Meagre budgetary allocations

Since 1993 when the first SHRCs were constituted, budgetary allocations have been low. A five-year (2016-2020) assessment of sanctioned funds signals the low priority afforded to these institutions. Between 2016 and 2020, budget allocations have remained between 25 lakhs to 8 crores while utilisation has recorded an increase. During this period, nine commissions⁹ recorded an increase in utilisation, with Himachal Pradesh (14.42 percentage points) recording the highest increase in utilisation followed by Sikkim (4.73 percentage points) and Jharkhand (4.37 percentage points). But nine¹⁰ recorded a decrease: Rajasthan (-10.21 percentage points) recorded the biggest fall, followed by West Bengal (-10.20 percentage points) and Maharashtra (-5.70 percentage points). Four states—Assam, Madhya Pradesh, Uttar Pradesh and Uttarakhand—utilised their entire sanctioned budgets between 2016-17 and 2020-21.

In 2020-21, sanctioned budgets ranged from Rs. 64 lakh to 8 crore. Haryana’s commission was sanctioned the most (Rs. 8 crore) followed by Telangana (Rs. 7.6 crore) while Himachal Pradesh was allocated the least - Rs. 64 lakh. The total allocation across 25 SHRCs stood at Rs. 105 crore in 2020-21. Eleven commissions,¹¹ recorded an increase in budget allocation between 2019-20 and 2020-21 while 10 recorded a decrease.¹²

Few women across the commissions

The Paris Principles provide for the composition of NHRIs and appointment of its members in accordance with procedure “that guarantees to ensure the pluralist representation of civil society.”¹³ Despite the emphasis on pluralism, the PHRA amendment, however, does not extend to the state commissions. Nationally, the share of women in overall staff across

⁸ Goa, Maharashtra, Manipur, Meghalaya, Odisha, Punjab, Rajasthan and Uttar Pradesh.

⁹ Bihar, Chhattisgarh, Goa, Gujarat, Himachal Pradesh, Jharkhand, Kerala, Sikkim and Tripura.

¹⁰ Haryana, Karnataka, Maharashtra, Meghalaya, Odisha, Punjab, Rajasthan, Tamil Nadu and West Bengal.

¹¹ Haryana, Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Manipur, Meghalaya, Punjab, Rajasthan, Sikkim and Tamil Nadu.

¹² Assam, Chhattisgarh, Gujarat, Karnataka, Kerala, Odisha, Tripura, Uttar Pradesh, Uttarakhand and West Bengal.

¹³ Paris Principles, ‘Composition and guarantees of independence and pluralism’. Available at: <https://ganhri.org/paris-principles/>

commissions, as of 2020-21, stood at 17 per cent. Neither available annual reports nor websites of SHRCs document diversity nor make mention of caste, religion, or gender compositions. As of 2022, only 6 commissions had women as members or as secretaries.¹⁴ There were no women chairpersons and only Kerala, Meghalaya and Punjab had one woman member each. Only Assam, Goa and Uttar Pradesh had women at the secretary level.

About India Justice Report 2022

The India Justice Report (IJR) 2022 remains the only comprehensive quantitative index using government's own statistics ranks the capacity of the formal justice system operating in various states. This IJR is a collaborative effort undertaken in partnership with DAKSH, Commonwealth Human Rights Initiative, Common Cause, Centre for Social Justice, Vidhi Centre for Legal Policy and TISS-Prayas.

First published in 2019, the third edition of the IJR adds an assessment of the capacity of State Human Rights Commissions. It continues to track improvements and persisting deficits in each state's structural and financial capacity to deliver justice based on quantitative measurements of budgets, human resources, infrastructure, workload, and diversity across police, judiciary, prisons and legal aid for all 36 states and UTs.

Visit <https://indiajusticereport.org> for the main report, data explorer and more.

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¹⁴ Assam, Goa, Kerala, Meghalaya, Punjab and Uttar Pradesh.

