

HUMAN RIGHTS COUNCIL

(Regd. No. 986/99)

10-36-4, Ramnagar, VISAKHAPATNAM - 530 002.
ANDHRA PRADESH, INDIA

Ph : 0891 - 3593511
Mobile : 09247355266

E-mail : humanrights@mail.com
Website : www.hrcindia.org

Ref. :

Date

Though the Human Rights Council, Visakhapatnam, Andhra Pradesh mentioned in the Public Interest Litigation that the Special Human Rights Courts incorporated under the **Special Courts Act** need to be 'functional' but the High Court of Andhra Pradesh has not considered our plea of our PIL. The basic requirements mandated under various statutes with respect to the special courts are not followed when it comes to its implementation. Special procedures are also not adhered to many a time.

Strengthening judicial governance by formulating model progressive spaces will prove important, as a part of providing a Constitutional remedy for enforcement of human rights. Section 30 in Chapter VI of the Human Rights Protection Act, 1993 provides for setting up of Human Rights Court. But the jurisdiction of such court is restricted to "offences arising out of violation of human rights". And the problem is that "offences arising out of violation of human rights" has not been defined in the Act of 1993.

Nowhere in the country has any State has been able to set up Human Rights Courts and make them functional. Violations of human rights which constitute penal offences are already being tried and punished in the Criminal Courts. Only such violation which is not covered as offences in any criminal law, need to be taken cognizance of, inquired into and redressed by human rights court.

By virtue of Article 32 (3) of the Constitution, it is possible to confer the power of enforcement of human rights or fundamental rights on the District Court or Courts inferior to them. It would then be possible for these courts to function as Human Rights Courts for providing remedies with respect to violations of fundamental rights as well as rights contained in the Universal Declaration of Human Rights (UDHR) and the Covenants to which India is party and signatory.

There is a catena of such rights which were neither provided nor contemplated in the Constitution but have been included in Article 21 by the judgments rendered by Supreme Court of India. Right to Food, Right to Water, Right to Shelter, Livelihood, Education, Travel abroad, Legal aid, Speedy trial, Right to Privacy, Right against Solitary Confinement, Handcuffing, Right to Health and Medical Facilities, Right to Clean Environment, Right to Sleep etc are some such rights.