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Protection of Human Rights (Amendment) Bill, 2019

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This article is based on "Change without reform" that appeared in The Indian Express on 30 July 2019. It critically analyses the Protection of Human Rights (Amendment) Bill, 2019.

Recently, with a view to commemorate the 45th anniversary of the Universal Declaration of Human Rights, the parliament has passed the Protection of Human Rights (Amendment) Bill, 2019. The Bill amends the Protection of Human Rights Act, 1993.

The Act provides for a National Human Rights Commission (NHRC), State Human Rights Commissions (SHRC), as well as Human Rights Courts.

In 1993, the UN General Assembly adopted the Paris Principles on Human Rights. This led to the constitution of the national human rights institutions in India and almost every other country.

What is the need for amendment in NHRC?

NHRC suffers from various structural problems leading to lack of functional autonomy like:

- NHRC decisions are only recommendatory in nature, final discretion lies with the respective governments.
- NHRC's jurisdiction is not extended to J&K and limited in Northeastern states (due to AFSPA- Armed forces special powers act), both regions in India witnesses a large number of human rights atrocities.
- The selection committee tasked with appointing the chairperson and the members to the Commission is dominated by the ruling party.
 - It consists of the Prime Minister, Union Home Minister, Leaders of the Opposition in the Lok Sabha and Rajya Sabha, the Lok Sabha Speaker and the Deputy-Chairman of the Rajya Sabha.
 - So there remains a chance of political interference leading to lack of independency of NHRC.
- There is long pendency of the NHRC requests for additional funds.

- **Conflict of interest:** NHRC doesn't have its own dedicated cadre of officers to investigate the human rights abuse.
 - Police officials investigating for the NHRC are sent on deputation by their forces.
 - This conflict of interest restricts the scope of their work, as they often are charged with investigating abuse of power by law enforcement personnel.
- Also, the jurist-judge V R Krishna Iyer called it **“the biggest post office in India”** (forwarding complaints to the government and its replies to complainants).
- Thereby the Supreme Court called the NHRC a **“Toothless Tiger”**.

Today, international human rights jurisprudence is a fast-growing legal discipline, especially in market dominated society. It is in this context, that the government had revised NHRC law in 2006. This reform agenda continues with the Protection of Human Rights (Amendment) Bill, 2019. **However, the amendments proposed by the bill doesn't check the NHRC's reputation of being dubbed as a toothless tiger.**

What are the issues in the Protection of Human Rights (Amendment) Bill, 2019?

- Under the amended law, the government's choice for the NHRC chair will not be limited to former chief justices of the apex court — it can now hand it over to any of the Court's retired judges.
 - **This increases the fear of nepotism or favouritism.**
- Under the initial NHRC law, NHRC's two non-judge members had to be “persons having knowledge of or experience in matters relating to human rights”. The number of such members has now been raised to three including a woman member.
 - However, these **positions remain under the government's influence.** These non-judge members are often retired officers.
 - NHRC does not have any such specialist or a human rights activist.
- The amendment increased the number of ex officio members to NHRC i.e chairmen of the national commission of backward classes and protection of child rights, along with the chief commissioner for persons with disabilities.
 - The commission will thus have more adjunct than full-timer members.
 - **If the NHRC representatives can be brought in from leading NGOs like Amnesty International, it would provide access to grassroots reality in promoting human rights.**
- Also, the amendments were brought, taking into consideration that every five years, the NHRC has to undergo accreditation by an agency affiliated to the UN Human Rights Council (UNHCR).
 - Thus, if India gets an A-status, the NHRC can play a pivotal role in the decision-making processes of the UNHRC and other important international bodies.
 - This makes NHRC a mere showpiece to convince the world that the government is committed to human rights protection.

Way Forward

- The NHRC could certainly benefit from the grassroots level experience, it should incorporate representatives from NGOs.
- The NHRC requires officers of its own to carry out independent investigations
- There is a need to diversify the selection committee.

The amendments in NHRC are more of a change rather than reform, the NHRC is yet to be assigned its rightful role in the affairs of the country and the society. So the onus is on the government to bestow the Commission which is a toothless tiger with more teeth.

Drishti input:

Critically analyse the amendments made in NHRC by the Protection of Human Rights Bill, 2019 in light of structural and functional issues related to human rights jurisprudence in India?
