



# 75 Years: Laws that Shaped India | The Protection of Human Rights Act, 1993

**For Prelims:** Protection of Human Rights Act, 1993, National Human Rights Commission, State Human Rights Commission.

**For Mains:** Provisions Related to Human Rights, Issues with NHRC and Reforms that can be taken to make it Effective.

## Why in News?

The Protection of Human Rights Act, 1993 defines “**Human Rights**” as 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 courts in India**.

- The National and the State Human Rights Commissions are the **embodiment of India’s concern for the promotion and protection of human rights**.

## How Protection of Human Rights Act came into Being?

- Way back in 1948 India **signed and adopted the universal declaration of human rights** comprising objectives to secure the universal recognition and observance of human rights.
- India also incorporated in the [constitution of India](#) including the [fundamental rights](#) and banking the significance and development of human rights thereafter between 1968 and 1993
- India ratified **several international treaties** in relation to the protection of human rights that includes:
  - [The international convention on the elimination of all forms of racial discrimination](#)
  - [The international covenant on civil and political rights](#)
  - [The international covenant on economic social and cultural rights](#)
  - [The convention on the elimination of all forms of discrimination against women](#)
  - [The convention on the rights of the child](#)
- India through its parliament **passed landmark legislation** namely the protection of human rights act on December 18, 1993.
- [National Human Rights Commission \(NHRC\)](#) was established in conformity with the [Paris Principles](#), adopted for the promotion and protection of human rights in Paris (October 1991) and endorsed by the [General Assembly of the United Nations](#) on 20 December 1993.
  - The Paris Principles is a set of international standards which frame and guide the work of **National Human Rights Institutions (NHRIs)**.

## What is the Protection of Human Right Act, 1993?

- The Protection of Human Rights Act, 1993 came into force with retrospective effect from

September 28, 1993.

- It applies to the whole of India and in the case of J&K, it applies to **matters pertaining to [Union List](#) and the [Concurrent List](#) only.**
- The Protection of Human Rights Act, 1993 was enacted to provide for the constitution of:
  - National Human Rights Commission (NHRC),
  - State Human Rights Commission (SHRC) and
  - Human Rights Courts for the protection of human rights.

## What is National Human Rights Commission?

### ▪ About:

- It is a watchdog of human rights in the country, i.e. the rights related to life, liberty, equality and dignity of the individual guaranteed by the Indian Constitution or embodied in the international covenants and enforceable by courts in India.

### ▪ Establishment:

- Established on 12<sup>th</sup> October, 1993, under the **Protection of Human Rights Act (PHRA), 1993**. It was **amended by the Protection of Human Rights (Amendment) Act, 2006** and **[Human Rights \(Amendment\) Act, 2019](#)**.
- It was established in conformity with the Paris Principles, adopted for the promotion and protection of human rights in Paris (October, 1991) and endorsed by the **[General Assembly of the United Nations](#)** in December, 1993.

### ▪ Composition:

#### ◦ Key Members

- It is a **multi-member body** consisting of a chairman and four members. A person who has been the **[Chief Justice of India](#)** or a judge of the **[Supreme Court](#)** is a chairman.

#### ◦ Appointment

- The chairman and members are appointed by the **[President](#)** on the recommendations of a six-member committee consisting of the Prime Minister as its head, the **[Speaker of the Lok Sabha](#)**, the Deputy Chairman of the Rajya Sabha, leaders of the Opposition in both the **[Houses of Parliament](#)** and the Union Home Minister.

#### ◦ Tenure

- The chairman and members hold office for a term of **three years or until they attain the age of 70 years**, whichever is earlier.
- The **President can remove the chairman or any member** from the office under some circumstances.

### ▪ Role:

- To inquire into any violation of human rights or negligence in the prevention of such violation by a public servant, either **suo motu** or on a petition presented to it or on an order of a court.
- To intervene in any proceeding **involving an allegation of violation of human rights** pending before a court.
- To visit jails and detention places **to study the living conditions of inmates** and make recommendations thereon.
- To **review the constitutional and other legal safeguards** for the protection of human rights and recommend measures for their effective implementation.
- To **review the factors including acts of terrorism** that inhibit the enjoyment of human rights and recommend remedial measures.
- To study treaties and other international instruments on human rights and **make recommendations for their effective implementation**.
- To **undertake and promote research** in the field of human rights.
- To spread human rights literacy among the people and **promote awareness of the safeguards** available for the protection of these rights.
- To **encourage the efforts of [nongovernmental organisations \(NGOs\)](#)** working in the field of human rights.

- To undertake such other functions as it may consider **necessary for the promotion of human rights.**

## What is the State Human Rights Commission?

- **Members & Appointment:** The chairman and the members of the State Commission are appointed by the Governor in consultation with the Chief Minister, State Home Minister, Speaker of Legislative Assembly and Leader of the Opposition in the State Legislative Assembly.
- **Tenure:** The chairperson and members hold office for a **term of three years or until they attain the age of 70 years**, whichever comes first.
- **Removal:** Although the chairperson and members of a State Human Rights Commission are appointed by the governor they can only be removed by the President.

## What are the Limitations Regarding NHRC?

- **Investigation Mechanism:** NHRC does not have any mechanism of investigation. In the majority of cases, it **asks the concerned Central and State Governments to investigate the cases** of the violation of Human Rights
  - A large number of grievances go unaddressed because NHRC cannot investigate the complaint registered after one year of the incident.
- **Decision Enforcing Power:** NHRC can only make recommendations, without the power to enforce decisions.
- **Underestimation & Inadequacy of Funds:** Many times NHRC is **viewed as a post-retirement destination for judges and bureaucrats** with political affiliation moreover, the inadequacy of funds also hampers its working.
- **Neglected Recommendations:** The government often out rightly **rejects recommendations of NHRC or there is partial compliance** to these recommendations.
- **Limitations of Powers:** State human rights commissions cannot call for information from the national government, which means that **they are implicitly denied the power to investigate armed forces** under national control.
  - NHRC's powers are related to violations of human rights by the armed forces that have been **largely restricted.**

## What Reforms can be made to make NHRC more Effective?

- **Need for Restructuring:** There is a need for a complete revamping of NHRC to make it more effective and truly a watchdog of human rights violations in the country.
- **Enforcement of Decisions:** NHRC efficacy can be enhanced by the government if commission decisions are made enforceable.
- **Inclusion of New Members:** There is a need to change in composition of the commission by including members from civil society and activists.
  - NHRC needs to develop an independent cadre of staff with appropriate experience.
- **New Laws & Transparency:** Many laws in India are very old and archaic in nature by amending which government can bring more transparency in regulations.
- **Enhance and Strengthen Participation:** To improve and strengthen the human rights situation in India, state and non-state actors need to work in tandem.

## UPSC Civil Services Examination Previous Year Questions (PYQs)

### Prelims

**Q. Other than the Fundamental Rights, which of the following parts of the Constitution of India reflect/ reflects the principles and provisions of the Universal Declaration of Human Rights (1948)? (2020)**

1. Preamble
2. Directive Principles of State Policy
3. Fundamental Duties

Select the correct answer using the code given below:

- (a) 1 and 2 only
- (b) 2 only
- (c) 1 and 3 only
- (d) 1, 2 and 3

Ans: (d)

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### **Mains**

**Q.** Though the Human Rights Commission have contributed immensely to the protection of human rights in India, yet they have failed to assert themselves against the mighty and powerful. Analysing their structural and practical limitations, suggest remedial measures. **(2021)**

**Q.** National Human Rights Commission (NHRC) in India can be most effective when its tasks are adequately supported by other mechanisms that ensure the accountability of a government. In light of the above observation assess the role of NHRC as an effective complement to the judiciary and other institutions, in promoting and protecting human rights standards. **(2014)**

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