



# National Human Rights Commission (NHRC)

*To deny people their human rights is to challenge their very humanity.*

**Nelson Mandela**

## About

- NHRC of India is an independent statutory body established on **12 October, 1993** as per provisions of Protection of Human Rights Act, 1993, later amended in 2006.
- NHRC has celebrated its Silver Jubilee (25 years) on October 12, 2018. Its headquarter is located in New Delhi.
- It is the watchdog of human rights in the country, i.e. the rights related to life, liberty, equality and dignity of the individual guaranteed by Indian Constitution or embodied in the international covenants and enforceable by courts in India.
- 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 on 20 December, 1993.

## What are Human Rights?

- As per UN definition these rights are inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status.
- Human rights include the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education, and many more.
- These are entitled to everyone, without any discrimination.

## Background

- **Universal Declaration of Human Rights (UDHR)** was adopted by the United Nations General Assembly in Paris on 10 December 1948.
- It is a milestone declaration in the history of human rights which sets out, for the first time, fundamental human rights to be universally protected.
- **Human Rights Day** is observed every year on **10 December**, which is the anniversary of the UDHR. In 2018, Human Rights Day marked the 70th anniversary the declaration.
- In due time the growing importance of strengthening national human rights institutions has been recognized and in 1991, a UN meeting in Paris has developed a detailed set of principles i.e. **Paris Principles**. These principles became the foundation for the establishment and operation of national human rights institutions.
- In pursuant to these principles, India has enacted the **Protection of Human Rights Act, 1993**, with a view to bring about greater accountability and strengthening of the human rights in the country.
- This act also authorized State Governments to establish State Human Right Commission.

## The Human Rights Council

- The Human Rights Council is an inter-governmental body created by the United Nations General Assembly resolution on 15 March 2006.
- It has replaced the former United Nations Commission on Human Rights.
- It is responsible for strengthening the promotion and protection of human rights around the globe and for addressing situations of human rights violations and make recommendations on them.
- It has the ability to discuss all thematic human rights issues and situations that require its attention throughout the year. It meets at the UN Office at Geneva.
- The Council is made up of 47 United Nations Member States which are elected by the UN General Assembly.

## Composition of NHRC

- **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.
- **Removal:** They can be removed only on the **charges of proved misbehavior or incapacity**, if proved by an inquiry conducted by a Supreme Court Judge.
- **Divisions:** Commission also has five **Specialized Divisions** i.e. Law Division, Investigation Division, Policy Research & Programmes Division, Training Division and Administration Division.

## State Human Right Commision

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

## Role and Function of NHRC

- It has all the **powers of a civil court** and its proceedings have a judicial character.
  - NHRC investigates grievances regarding the violation of human rights either **suo moto or after receiving a petition**.
  - It has the **power to interfere in any judicial proceedings** involving any allegation of violation of human rights.
- It is **empowered to utilise the services of any officer or investigation agency** of the Central government or any state government for the purpose of investigating complaints of human rights violation.
- It can look into a **matter within one year of its occurrence**, i.e the Commission is not empowered to inquire into any matter after the expiry of one year from the date on which the act constituting violation of human rights is alleged to have been committed.
- The functions of the commission are mainly **recommendatory in nature**.
- It has **no power to punish** the violators of human rights, nor to award any relief including monetary relief to the victim.
- It has **limited role, powers and jurisdiction** with respect to the violation of human rights by the members of the armed forces.

It is **not empowered to act when human rights violations through private parties** take place.

- It **can visit any jail or any other institution** under the control of the State Government to see the living conditions of the inmates and to make recommendations thereon.
- It can **review the safeguards provided under the constitution** or any law for the protection of the human rights and can recommend appropriate remedial measures.
- NHRC **undertakes and promotes research** in the field of human rights.
- NHRC works to **spread human rights literacy** among various sections of society and promotes awareness of the safeguards available for the protection of these rights through publications, media, seminars and other means.
- **Annual reports of the Commission:**
  - The Commission shall submit an annual report to the Central Government and to the State Government concerned.
  - The Central Government and the State Government, as the case may be, shall cause the annual reports of the Commission to be laid before each House of Parliament or the State Legislature respectively, as the case may be, alongwith a memorandum of action taken or proposed to be taken on the recommendations of the Commission and the reasons for non-acceptance of the recommendations, if any.

## Limitations of NHRC

- NHRC does not have any mechanism of investigation. In majority cases, it asks the concerned Central and State Governments to investigate the cases of the violation of Human Rights
- It has been termed as 'India's teasing illusion' by Soli Sorabjee (former Attorney-General of India) due to its incapacity to render any practical relief to the aggrieved party.
- NHRC can only make recommendations, without the power to enforce decisions.
- Many times NHRC is viewed as post-retirement destinations for judges and bureaucrats with political affiliation moreover, inadequacy of funds also hamper its working.
- A large number of grievances go unaddressed because NHRC cannot investigate the complaint registered after one year of incident.
- Government often outrightly rejects recommendation of NHRC or there is partial compliance to these recommendations.
- 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.
- National Human Rights Commission powers related to violations of human rights by the armed forces have been largely restricted.

## Suggestions

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