



## NHRC and Associated Challenges

**For Prelims:** [National Human Rights Commission](#), [Supreme Court](#), [Protection of Human Rights Act \(PHRA\), 1993](#), [United Nations \(UN\)](#)

**For Mains:** Role and Functions of the [National Human Rights Commission \(NHRC\)](#) Emerging Human Rights Challenges.

[Source: TH](#)

### Why in News?

Recently, **Justice (Retd.) V Ramasubramanian**, a former [Supreme Court judge](#), has been appointed as the **Chairperson** of the [National Human Rights Commission \(NHRC\)](#) by the [President](#) of India.

- The post had been vacant since Justice (Retd.) Arun Kumar Mishra completed his tenure on 1<sup>st</sup> June 2024.

### What is the National Human Rights Commission (NHRC)?

- **About:**
  - The **NHRC** of India is an **autonomous [statutory body](#)** established to **promote and protect [human rights](#)**.
- **Establishment:**
  - It was constituted on **12<sup>th</sup> October 1993** under the [Protection of Human Rights Act \(PHRA\), 1993](#), which was later amended in 2006 and 2019.
  - The Commission was established in conformity with the **Paris Principles**, which are international standards adopted for promoting and protecting human rights.
    - The [Paris Principles](#) are the set of international standards adopted for the **promotion and protection of human rights** in **Paris (October, 1991)** and endorsed by the **General Assembly** of the [United Nations \(UN\)](#) on 20<sup>th</sup> December, 1993.
    - These principles guide the work of National Human Rights Institutions (NHRIs) across the world.

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# NATIONAL HUMAN RIGHTS COMMISSION (NHRC)

According to NHRC, Human Rights are 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

- Watchdog of Human Rights in India
- **Estd:** 1993 (in conformity with Universal Declaration of Human Rights)
- **Act:** Protection of Human Rights Act (PHRA), 1993

## State Human Rights Commissions

- Also constituted under the PHR Act, 1993
- **Appointment of Members:** by Governor
- **Removal of Members:** by President

## Human Rights Day: 10 December

### Functions

- ⌚ Investigates Complain of human rights violations
- ⌚ *Suo Moto* cognizance of cases
- ⌚ Reviews and recommends human rights implementation
- ⌚ Spreading human rights awareness
- ⌚ Conduct studies, publish reports on human rights issues

### Powers

- ⌚ Summon individuals, examine witnesses, and receive evidences
- ⌚ Inspect prisons and other institutions to ensure conditions are humane
- ⌚ Intervene in court proceedings relating to human rights

## Members of NHRC

### Composition

- ⌚ 5 full-time members and 7 deemed members
- ⌚ **Chairperson:** Retired CJI/Judges of the SC
- ⌚ **Administrative Head:** Secretary-General

### Tenure

- ⌚ 3 years / till age 70 (whichever is earlier)

### Appointment

- ⌚ All members appointed by **President** on recommendations of a **6-member** committee (PM, Speaker of LS, Deputy Chairman of RS, Union Home Minister and Leaders of Opposition of both Houses of Parliament)

### Removal

- ⌚ President can remove the chairman or any member
- ⌚ **Ground:** Charges of proved misbehaviour or incapacity

### Global Alliance of National Human Rights Institutions (GANHRI) Status

- NHRC has been accredited '**A**' Status since 1999
- **Retained 'A' Status:** 2006, 2011 and 2017
- **Suspension of 'A' Status:** 2023 and 2024



Drishti IAS

- **Role and Functions:**
  - **Intervention in Court Proceedings:** It **intervenes in court cases** involving allegations of human rights violations, with prior approval from the concerned court.
  - **Review of Safeguards:** It **analyzes constitutional provisions** and existing laws related to **human rights** protection and **proposes measures** for their effective enforcement.
  - **Evaluation of Inhibitors to Human Rights:** It examines factors, including **terrorism**, that hinder the enjoyment of human rights and suggest appropriate remedies.
  - **Study of International Instruments:** It also analyzes **treaties and international conventions on human rights**, offering recommendations for their implementation in the Indian context.
  - **Research and Promotion:** It undertakes research in human rights and encourages its study across disciplines.
    - It also promotes **human rights literacy and awareness** through publications, seminars, media, and other means.
- **Powers of NHRC:** NHRC is vested with powers equivalent to those of a **civil court** as per the **Code of Civil Procedure, 1908**. These powers include:
  - Ordering the discovery and production of **documents**.
  - **Receiving evidence** presented through affidavits.

- Requisitioning **public records or certified copies** from any court or office.
- Issuing commissions for the examination of **witnesses or documents**.
- Exercising any **additional powers** prescribed under relevant laws.
- **NHRC Investigation Team:** The NHRC has its own investigation team led by a [Director General of Police](#).
  - It can also utilize the services of Central or State Government officers and **collaborate with NGOs** for investigations.

## What are the Challenges Related to NHRC?

- **Non-Binding Recommendations:** The NHRC can **only make recommendations** to the government, which are **not legally binding**. This limits its ability to enforce its decisions and ensure compliance.
  - The Commission has been referred to as a "**toothless tiger**," by **former Chief Justice H.L. Dattu**, who served as its chairperson in 2016, due to its perceived passivity in addressing human rights violations.
- **Jurisdictional Limitations:** The NHRC's jurisdiction is limited to human rights violations committed by **public and private authorities**.
  - It cannot address violations by **private individuals or entities**. It also has **limited jurisdiction over cases related to armed forces**.
- **Lack of Enforcement Power:** The NHRC **does not have the authority to penalize** authorities that fail to implement its recommendations.
- **Resource Constraints:** The NHRC often faces **resource constraints**, including **inadequate funding and staffing**, which hampers its ability to investigate and address human rights violations effectively.
- **Heavy Workload:** The NHRC receives a large number of complaints and petitions, which can overwhelm its capacity to handle cases promptly and thoroughly.
- **Awareness and Accessibility:** Many people are unaware of the NHRC's existence and its mandate, which limits the number of complaints it receives.
  - Additionally, the process of filing complaints can be cumbersome and inaccessible to marginalized communities.
- **Lacking Recognition at Global Stage:** The [Global Alliance of National Human Rights Institutions \(GANHRI\)](#), a UN-affiliated body based in Geneva, has **deferred the accreditation of India's NHRC**, highlighting concerns regarding its compliance with international standards.
- **Exceptions:** The NHRC **does not consider cases** that are **older than one year, anonymous, pseudonymous, or vague**.
  - It also **excludes frivolous cases** and those **related to service matters**, as they fall outside its jurisdiction or mandate.
  - It is also observed that sometimes **NHRC takes politically influenced cases** and leaves another.

## What Measures Should be Taken to Enhance the Effectiveness of the NHRC?

- **Granting Enforcement Powers:** Empowering the NHRC to **enforce its recommendations** would enhance compliance and ensure **greater accountability** in addressing human rights violations.
- **Expanding Investigative Authority:** The NHRC's mandate should be extended to include **violations by private individuals or entities**, especially in the **corporate and healthcare sectors**.
- **Time-bound Investigations:** Introducing **time limits** for the completion of investigations would expedite justice for victims and ensure timely resolutions of complaints.
- **Increasing Financial Autonomy:** Allocating a **dedicated, independent budget** for the NHRC, free from government control, would increase its operational efficiency and reduce external influence.
- **Addressing Emerging Issues:** The NHRC must adapt to emerging human rights challenges such as [digital privacy](#), [artificial intelligence](#), and [environmental rights](#).
  - Establishing **specialized committees or research divisions** within the NHRC to address these issues would enable a proactive response to contemporary challenges.
- **Regular Training and Capacity Building:** Continuous **training and skill development** for

NHRC members and staff would ensure they are well-equipped to handle complex and evolving human rights cases effectively.

- **Institutional Accountability:** India needs to **adopt international standards** and **recognitions from global bodies** like UNHRC.
  - This would ensure that the NHRC's performance is continuously assessed, improving its effectiveness in achieving its mandate.

## Various National Commissions Related to Protection of Vulnerable Sections

- **National Commission for Scheduled Castes (NCSC):**
  - The **NCSC** was established by Article 338. It consists of a chairperson, a vice-chairperson and three other members appointed by the **President**.
- **National Commission for Scheduled Tribes (NCST):** The **NCST** was established under Article 338 A.
  - It consists of a chairperson, a vice-chairperson and three other members appointed by the **President**.
- **National Commission for Backward Classes (NCBC):** The **102nd Amendment Act of 2018** elevated the Commission from a statutory body to a **constitutional body** by inserting **Article 338 B**.
  - The Commission consists of a **chairperson, a vice-chairperson** and 3 other members.

**Note:** The aforementioned trio of Commissions (NCSC, NCST, NCBC) possess the authority equivalent to that of a civil court.

- **National Commission for Women (NCW):** The NCW was set up as a statutory body in 1992 under the **National Commission for Women Act, 1990** to review the Constitutional and Legal safeguards for women.
  - The Commission shall consist of a Chairperson, 5 Members, at least 1 Member from SC and ST and a Member-Secretary nominated by the Central Government.
- **National Commission for Protection of Child Rights (NCPCR):** The NCPCR has been constituted under the **Commission for Protection of Child Rights (CPCR) Act, 2005**.
  - The commission includes a chairperson and 6 members, at least 2 of whom are women.
- **National Commission for Minorities (NCM):** The Minorities Commission was renamed and became a statutory body under the **National Commission for Minorities Act, 1992**.
  - Section 2 (c) of NCM Act, 1992 stipulates that 'Minority' for the purposes of the Act, means a community notified as such by the Central Government.
    - The government recognized **Muslims, Christians, Sikhs, Buddhists, Zoroastrians and Jains** as minority communities.
  - The Commission consists of a Chairperson, a Vice- Chairperson, 5 Members.
  - Each Member holds office for a period of 3 years.
- **Office of Chief Commissioner for Persons with Disabilities:** Section 74 of **Rights of Persons with Disabilities Act, 2016** provides for appointment of a Chief Commissioner for Persons with Disabilities and two Commissioners to assist the Chief Commissioner at the Centre.

### Drishti Mains Question

What are the key limitations in the functioning of the National Human Rights Commission (NHRC) with respect to enforcing its recommendations? How can these limitations be overcome?

## 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)**

**Q. Consider the following: (2011)**

1. Right to education
2. Right to equal access to public service
3. Right to food.

**Which of the above is/are Human Right/Human Rights under “Universal Declaration of Human Rights”?**

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

**Ans: (d)**

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**Mains:**

**Q.** Though the Human Rights Commissions 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)**