



LEGALEAGLE
LAW FORUM

LEGALEAGLE
LAW FORUM

Review Document

Protection of Human Rights Act, 1993

Author- Ms. Divya Soni

Protection of Human Rights Act, 1993

Significance

The Protection of Human Rights Act, 1993 was enforced on 28th January 1993. After having a deliberate discussion on the subject of Human Rights Commission Bill, 1993 was introduced in the Lok Sabha on 14.05.93 and was referred to the standing committee of Parliament on Home Affairs. In view of urgency of the matter, Protection of Human Rights Ordinance, 1993 was introduced on 28.09.93 by the President of India. Later, on 8.01.94, the Protection of Human Rights Act was enacted which extends to whole of India.

Objective

The main objective of protection of Human Rights Act 1993 is protecting human beings from violations. The purpose of securing human rights as such is to provide protection to these rights against the abuse of power committed by the organs of state to establish institution for the promotion of living condition beings and for the development of their personality and at the same time to provide effective remedial measures for obtaining redress in the event of those rights are violated.

Important provisions

Section 2: “Human Rights” means 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.

NHRC

Section 3: Central Government shall constitute a body known as the ‘National Human Rights Commission’ to exercise powers confirmed upon and assigned to it under the said act.

To safeguard the Human Rights of every individual in the country, the National Human Rights Commission (NHRC) was established on 12 October 1993. NHRC is an independent statutory body constituted under the Protection of Human Rights Act (PHRA), 1993 as amended by the Protection of Human Rights (Amendment) Act, 2006.

The NHRC consists of:

- A Chairperson
- One Member who is, or has been, a Judge of the Supreme Court of India
- One Member who is, or has been, the Chief Justice of a High Court
- Two Members to be appointed from among persons having knowledge of, or practical experience in, matters relating to human rights
- In addition, the Chairpersons of four National Commissions of (Minorities, SC,ST, Women) serve as ex officio members.

Functions and powers of the commission

Section 12

- 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 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.
- The Commission takes an independent stand while providing opinions for the protection of human rights within the parlance of the Constitution or in law for the time being enforced.

Section 13

- It has the powers of a civil court and can grant interim relief.

- To require any person to furnish information on such points or matters subject to any privilege this may be claimed by that person under any law for the time being in force.
- Enter into any building or place where the commission has reasons to believe that any document relating to the subject matter or inquiry may be found and may seize any such document or make extracts or copies there from subject to the provisions of section 100 of Criminal Procedure Code, 1973.

Section 14: The Commission is bestowed with investigation powers while taking help of government officer's.

Procedure

Section 17 to section 20 deals with the procedure after a complaint has come into notice of Commission. The Commission shall after receiving a notice of violation of human rights shall inquire into the matter.

Section 17

The Commission shall after receiving a notice of violation of human rights shall inquire into the matter. The State or Central Government shall inform commission of any such violation in case there is no such notice from the Government the Commission shall suo-motu look into the matter.

Section 18

- Where the inquiry discloses the commission of violation of human rights or abetment thereof by a public servant it shall notify the government and demand compensation to complainant and initiate proceedings against such officer.
- Commission may also approach Judicial courts for any directions such as writs, orders etc.
- Recommend government authorities to look into the matter and initiate relief to victims.
- The commission shall make a report on inquiry and send the same to concerned authority.

Section 19: Commission is granted special powers with respect to human right violations made by armed forces.

State Human Rights Commissions

Section 21 of the act provides for establishment of state Human Rights Commission headed by Chairperson who shall be retired Chief justice of a High Court, there shall be one other member who shall be a judge either in High Court or district Court.

Section 22

The chairperson of commission shall be appointed by the Chief Minister, the members shall be appointed by speaker of legislative assembly, minister in charge of department of home and leader of opposition.

Section 24

The members shall be appointed for a period of five years.

Section 28

The State Commission shall submit an annual report to the State Government and may at any time submit special reports on any matter which, in its opinion is of such urgency or importance that it should not be deferred till submission of the annual report.

The State Government shall cause the annual and special reports of the State Commission to be laid before each House of state Legislature where it consists of two Houses, where such Legislature consists of one House, before that House along with a memorandum of action taken or proposed to be taken on the recommendations of the State commission and the reasons for non-acceptance of the recommendations if any.

Section 29

The State Commission is empowered to perform all those functions, which have been entrusted to the National Human Rights Commission. However, this Section excludes the study of treaties and other international Instruments on human rights from the purview of S.H.R.C. The study of

such treaties and the eligibility to make recommendations for their effective implementation are the exclusive domain of the N.H.R.C.

Human Rights Courts

Section 30 of the Act provides for the setting up of Human Right Courts by the State Governments, with the concurrence of the Chief Justice of the High Court by Notification, specifying for each District a Court of Sessions to be a Human Rights Court.

Section 31: For every Human Rights Court, the State Government in accordance with the Act shall appoint a Public Prosecutor or an advocate who has been in practice as an advocate for not less than seven years for the purpose of conducting cases in the Humans Rights Courts. Such a person shall be called a 'Special Public Prosecutor'.

Finance, Accounts and Audit

The Central and State government shall provide the commission with grants of which the state and the national commission shall maintain proper accounts which shall be audited by auditor general. The Commission shall not inquire into matters pending in State Commission. The State and Central from time to time shall make rules of regulation for the commission.

Section 34

Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India. The accounts of the Commission as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Commission and the Central Government shall cause the audit report to be laid as soon as may be after it is received before each House of Parliament.

Section 35

The accounts of the State Commission, as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the State Government by the State Commission and the State Government shall cause the audit report to be laid, as soon as may be after it is received, before the State Legislature.

Section 36(1) of the Act, however, states that the State Human Rights Commission shall not enquire into any matter which is pending before a National Commission or any other statutory Commission duly constituted under any law in force.

Recent amendments

The Protection of Human Rights (Amendment) Bill, 2019 was introduced in Lok Sabha by the Minister of Home Affairs, Mr. Amit Shah, on July 8, 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.

To make the National Human Rights Commission (NHRC) more inclusive and efficient, Lok Sabha passes the Protection of **Human Rights (Amendment) Bill, 2019**.

Loopholes

1. **Non-filling of vacancies:** Most human rights commissions are functioning with less than the prescribed five Members. This limits the capacity of commissions to deal promptly with complaints, especially as all are facing successive increases in the number of complaints.
2. **Non-availability of funds:** Scarcity of resources - or rather, resources not being used for human rights related functions - is another big problem. Large chunks of the budget of commissions go in office expenses and in maintaining their members, leaving disproportionately small amounts for other crucial areas such as research and rights awareness programmes.
3. **Too many complaints:** A common problem faced by most human rights commissions is that they are deluged with complaints. In the year 2000-2001, the National Human Rights

Commission received over 70,000 complaints. State human rights commissions too, are finding it difficult to address the increasing number of complaints.

Conclusion

The N.H.R.C. is a statutory body and derives its power and authority from an Act of the Indian Parliament. Its work in the field of prevention of custodial deaths, rape and torture has been quite praiseworthy.

Headed by a former Chief Justice of India and consisting of Judges of the Supreme Court and chief justices of High Courts, it commands great respect.

References

<https://www.humanrightsinitiative.org>

<https://www.prsindia.org>

<https://www.drishtiiias.com>

<https://www.latestlaws.com>

<https://frontline.thehindu.com>

<https://shodhganga.inflibnet.ac.in>

<http://www.rplegalindia.com>



LEGALEAGLE
LAW FORUM

About the Author



I'm Divya Soni from Indore Institute of Law and I had the opportunity to undergo a one-month internship at LeaglEagle Law Forum. I must say this was an enriching experience for me. Mainly this was an online internship and bare act review program. Each intern was provided with six bare acts to review which we have to submit at the 20th day. It was difficult and interesting for me to review each bare act as I haven't read few bare acts before. In general, I can say that this internship was an invaluable experience for me, and the knowledge and skills I gained during this period will certainly help me in the future.