



The Human Rights Institutions In India Are Mere ‘Paper Tigers’ – Assess. (250 Words / 15 M) (GS-3 Statutory Bodies)

Approach:

1. Intro – about the NHRC & SHRCs.
2. Mention the limitations – (a) Structural-functional; (b) Practical.
3. Conclusion – need for urgent reforms.

The establishment of India's National Human Rights Commission in 1993 resulted from the culmination of a number of national and international factors. In this context, the **Protection of Human Rights Act, 1993** was enacted, which enabled the establishment of the National Human Rights Commission in Delhi and **14 state human rights commissions** around the country. The Act lays down a broad mandate for human rights commissions, which includes: inquiries into instances of human rights violations by public servants; research; supporting efforts to increase awareness about human rights; and inspecting police lock-ups, prisons and juvenile homes where people are interred.

While human rights commissions have contributed greatly to human rights in India, it is debatable whether they can currently do more, considering the **structural** and **practical limitations** that are faced.

Structural-Functional limitations:

- **Recommendatory only** : They can only make recommendations, **without the power to enforce decisions**. This **lack of authority** to ensure compliance has unfortunate consequences.
- **Composition criteria** : The Act requires that three of the five members of a human rights commission must be former judges but **does not specify** whether these judges should have a **proven record of human rights activism** or **expertise** or qualifications in the area. Regarding the other two members, the Act is **vague**. Commissions therefore sometimes become **post-retirement destinations** for judges, police officers and bureaucrats with political clout.
- **Time bar** : Under the Act, human rights commissions **cannot investigate** an event if the complaint was made **more than one year** after the incident. Therefore, a large number of **genuine grievances go unaddressed**.
- **Cannot probe Armed Forces' violations** : 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. Even the powers of the National Human Rights Commission relating to violations of human rights by the armed forces have been **restricted** to simply **seeking a report** from the Government, and then issuing recommendations.

Practical limitations:



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- **Non-filing 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.
 - **Nonavailability 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.
 - **Bureaucratic style of functioning** : As human rights commissions primarily draw their staff from government departments - either on deputation or reemployment after retirement - the internal atmosphere is usually just like any other government office. **Strict hierarchies** are maintained, which often makes it difficult for complainants to obtain documents or information about the status of their case.

There is an urgent need for civil society and defenders of human rights to immediately advocate for changes in the structure and functioning of human rights commissions to improve their functional efficiency as protectors and promoters of human rights. *The National Human Rights Commission in fact submitted to the national Government in March 2002* a set of **proposed amendments** and has reiterated these in successive annual reports. Sadly, as yet **no action** has been taken to bring about this reform.

If human rights commissions are to truly protect and promote human rights in India, changes must be made to enable them to become more effective institutions.