

- *RATIONAL BEHIND SETTING UP OF HRC'S*
- *PROTECTION OF HUMAN RIGHTS ACT, 1993*
- *COMPOSITION AND FUNCTIONING OF NHRC / SHRCS*
- *OTHER NATIONAL / STATE COMMISSIONS*



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HUMAN RIGHTS





INTRODUCTION



- **Human rights** in India is an issue complicated, by the country's large size & population, widespread poverty, lack of proper education & its diverse culture.
- Human Rights are rights inherent to all human beings and become operative with the birth of an individual
- Human rights sometimes referred as basic rights , natural right, fundamental rights and birth rights.

DEFINITION

- **HUMAN RIGHTS** is defined as the supreme, inherent, and inalienable rights to life, to dignity, and to self-development. It is concerned with issues in both areas of civil and political rights and economic, social and cultural rights founded on internationally accepted human rights obligations.
- **HUMAN RIGHTS** are the rights that all people have by virtue of being human beings



CHARACTERISTICS

- Universal
- Internationally guaranteed
- Legally protected
- Protects individuals and groups
- Cannot be taken away
- Equal and indivisible
- Obliges States and State actors





CATEGORIES

- Civil – the right to be treated as an equal to anyone else in society.
- Political – the right to vote, to freedom of speech and to obtain information.
- Economic – the right to participate in an economy that benefits all; and to desirable work.
- Social – the right to education, health care, food, clothing, shelter and social security.
- Cultural – the right to freedom of religion, and to speak the language, and to practice the culture of one's choice.

INTRODUCTION TO BABYLONIAN CODE

- The **Code of Hammurabi** is a well-preserved Babylonian code of law of ancient Mesopotamia, dating back to about 1754 BC (Middle Chronology). It is one of the The sixth Babylonian king, Hammurabi, enacted the code, and partial copies exist on a 2.25 metre (7.5 ft) stone stele and consists of 282 laws, with scaled punishments, adjusting "an eye for an eye, a tooth for a tooth" (*lex talionis*) as graded depending on social status, of slave versus free man or woman.

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- Nearly one-half of the code deals with matters of contract.
 - Liability of a builder for a house that collapses. Household and family relationships such as inheritance, divorce, paternity and sexual Impose obligations on an official.
 - This provision establishes that a judge who reaches an incorrect decision is to be fined and removed from the bench permanently].
 - Issues related to military service.

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- The Code of Hammurabi refers to a set of rules or laws enacted by the Babylonian King Hammurabi (reign 1792-1750 B.C.). The code governed the people living in his fast-growing empire. By the time of Hammurabi's death, his empire included much of modern-day Iraq, extending up from the Persian Gulf along the Tigris and Euphrates rivers.
 - There are as many as 300 laws that discuss a wide range of subjects, including homicide, assault, divorce, debt, adoption, tradesman's fees, agricultural practices, and even disputes regarding the brewing of beer.

- After Hammurabi's death, his system of laws became something of a classic in the ancient world, and scholars have found examples of them written on tablets, which were copied as late as the 5th century B.C., more than a millennium after Hammurabi's death.
- The term "Code" of Hammurabi is a modern one, so named after the 19th-century "Code Napoleon." Scholars today debate the meaning behind the stele that is now in the Louvre and whether the rules Hammurabi enacted truly represent a full law code.
- Regardless of the answers to these questions, Hammurabi himself states in the prologue to his laws that his right to make them was one given by the gods themselves.
- **A harsh and unequal law.**



UNIVERSAL DECLARATION OF HUMAN RIGHTS

- On December 10, 1948, the *Universal Declaration of Human Rights (UDHR)* was adopted by the 56 members of the United Nations. The vote was unanimous, although eight nations chose to abstain
- The influence of the UDHR has been substantial. Its principles have been incorporated into the constitutions of most of the more than 185 nations now in the UN.
- Although a *declaration* is not a legally binding document, the Universal Declaration has achieved the status of *customary international law* because people regard it "as a common standard of achievement for all people and all nations."

- The Universal Declaration of Human Rights (UDHR) is a UN General Assembly declaration that does not in form create binding international human rights law.
- More broadly, the UDHR has become an authoritative human rights reference. It has provided the basis for subsequent international human rights instruments that form non-binding, but ultimately authoritative international human rights law.

- The General Assembly of the United Nations adopted the Vienna Declaration and Programme of Action in 1993, in terms of which the United Nations High Commissioner for Human Rights was established.
- In 2006, the United Nations Commission on Human Rights was replaced with the United Nations Human Rights Council for the enforcement of international human rights law.

UNITED NATIONS HUMAN RIGHTS COUNCIL

- The United Nations Human Rights Council (UNHRC) is a United Nations System inter-governmental body responsible for promoting and protecting human rights.



- The UNHRC is the successor to the UN Commission on Human Rights (UNCHR, herein CHR), and is a subsidiary body of the UN General Assembly.
- The General Assembly established the UNHRC .
- The UNHRC addresses human rights-related issues like freedom of association and assembly, freedom of expression, freedom of belief and religion, women's rights, LGBT rights, and the rights of racial and ethnic minorities.



THE NATIONAL HUMAN RIGHTS COMMISSION India

- NHRC of India is an autonomous public body.
- It recommended that 10 December each year be observed as Human Rights Day.
- It was given a statutory basis by the Protection of Human Rights Act, 1993 (TPHRA)
- Responsible for the protection and promotion of human rights, defined by the Act
- "Rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants".

- "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 India. "Commission" means the National Human Rights Commission constituted under section of All human beings are born free and equal in dignity and rights known as Human rights, as commonly understood, are the rights that every human being is entitled to enjoy freely irrespective of his religion, race, caste, sex and nationality, etc. In Declaration of Independence acknowledged the fundamental human rights. Human right means different thing to different people. Human Rights are not static, but are rather dynamic in nature. New rights are recognized and enforced from time to time. Only persons fully conversant with the latest development about the expanding horizons of Human Rights can promote their awareness better than others.



EARLY INITIATIVES BY NHRC

- NHRC undertook a threefold strategy in pursuit of its responsibilities under Section 12(h) of its statute:-
 - **First:** it solicited the support of the leadership of all political parties represented in Parliament or the State Legislatures, to constitute Human Rights Cells at the Centre, State and District levels.

- **Second:** It wrote to Chief Ministers of all States/Union Territories, to sensitize and impart appropriate training in human rights matters, to all public servants in their respective areas.
- **Third:** It initiated a dialogue at the central level with the concerned educational authorities of the Ministry of Human Resource Development, and its associated institutions at the Centre and State levels, to pursue the matter of human rights education at various levels of schooling.

ROLE OF NHRC

- The NHRC pursued with the Government to develop a National Action Plan focusing on :-
 - strategies for raising mass awareness on human rights;
 - sensitization of specific target groups -- law enforcement machinery like the judiciary, police, security forces and others;
 - focus on secondary and higher education, including the establishment of a curriculum revision committee for revision of textbooks;
 - development of training modules for teachers in English, Hindi and local languages;
 - the provision of financial assistance to universities and colleges for development of specific courses in Human Rights; and
 - establish a national resource centre that would develop human rights materials and focus on educational tools.

COMPOSITION OF NHRC

- A Chairperson, should be retired Chief Justice of India
- 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 (Scheduled Castes, Scheduled Tribes, Women and Minorities) serve as ex officio members.
- The sitting Judge of the Supreme Court or sitting Chief Justice of any High Court can be appointed only after the consultation with the Chief Justice of Supreme Court.

RATIONAL BEHIND SETTING UP OF HRC'S

PROTECTION OF HUMAN RIGHTS ACT 1993:

- The **Rights Commission** (NHRC) of **India** is an autonomous public body constituted on 12 October 1993 under the Protection of Human Rights Ordinance of 28 September 1993.
- It was given a statutory basis by the Protection of Human Rights Act, 1993. The NHRC is the **National Human Rights Commission of India**, responsible for the protection and promotion of human rights, defined by the Act as "rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants".

FUNCTIONS OF NHRC/SHRC

- The Commission performs the following functions
- Inquire, **suo motu** or on a petition presented to it by a victim or any person on his behalf, into complaint of
 - a) violation of human rights – *this is extremely obvious*
 - b) negligence in the prevention of such violation, by a public servant.
 - c) intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court.
 - d) visit, under intimation to the State Government, any jail or any other institution under the control of the State Government, where persons are detained or lodged for purposes of treatment, reformation or protection to study the living conditions of the inmates and make recommendations.

e) Review the safeguards provided by or under the Constitution or any law for the time being in force for the protection of human rights and recommend measures for their effective implementation.

f) Review the factors, including acts of terrorism that inhibit the enjoyment of human rights and recommend appropriate remedial measures.

g) Study treaties and other international instruments on human rights and make recommendations for their effective implementation.


- h) Undertake and promote research in the field of human rights.
- i) Spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, the media, seminars and other available means.
- j) Encourage the efforts of non-governmental organizations and institutions working in the field of human rights.

A State Commission may inquire into violation of human rights only in respect of matters in the State list and Concurrent list

CONCLUSION

- The development of state institutions to promote and protect human rights is a critical safeguard to ensure that people can obtain recourse and redress in the face of injustice.
- A dynamic and autonomous human rights commission can play a role in this process.
- For that reason, it is important that existing human rights commissions are encouraged to play an active and central role in the upholding of human rights.
- Human rights commissioners also need to be supported and pushed by the international community to push the limit of their boundaries and to withstand the inevitable resistance from other government agencies.
- This is a process that can only be achieved with sustained national and international attention over a period of time

- More importantly, are the individuals who serve within a human rights commission able to institutionalize their contribution in a lasting fashion or does a dynamic commission fade with the departure of the person heading it. Building an enduring human rights institution that will become an integral part of government is the greatest challenge for human rights commissioners and their proponents.
- The ability of a national human rights commission to function effectively is enhanced by independent judicial and legislative branches as well as a civil society. A weak human rights commission that seeks to absolve or shield a government of its abuses through inaction may do more harm than its token or potential presence may justify. Additionally, international support for human rights commissions should be given as part of an integrated system of support for judicial independence and independent human rights NGOs.




• Finally, it should be noted that a human rights commission is not a prerequisite for a government to uphold the human rights of its citizens.

• Other state institutions, such as an independent judiciary or a representative legislature, can equally provide oversight to ensure recourse and redress to human rights abuses.

• In fact, many countries with strong records of respect for human rights do not have such commissions.

• The creation of a national human rights commission can be an important mechanism for strengthening human rights protection, but it is not enough.



• It can never replace or diminish the safeguards inherent in an independent legal system and disciplined law enforcement forces.

Thank
you



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