



All India Network of NGOs and Individuals working with National and State Human Rights Institutions (AiNNI)

NATIONAL SECRETARIAT

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To,

Mr. Rajnath Singh
Minister of Home Affairs,
Government of India,
North Block, Central Secretariat,
New Delhi – 110001.

Respected Sir,

Subject: AiNNI – Memorandum – Concerns regarding pending vacancies in positions of senior functionaries of the National Human Rights Commission – Posts of Secretary General, Director General (Investigation), Registrar (Law) Joint Registrar law, Director Research, Joint Director Research – Upcoming SCA/GANHRI accreditation on Nov’2017 - Regarding

All India Network of NGO’s and Individuals working with National and State Human Rights Institutions (AiNNI) is a national forum of individuals and organisations from across the country to monitor and strengthen the functioning of human rights institutions.

We are writing now to express serious concerns with regard to the vacancies of important positions in the National Human Rights Commissions (NHRC) – Secretary General, Director General (Investigation), Registrar (Law), Joint-Registrar (Law), full-time Director Research and Joint-Director Research. The situation is of grave concern as the heads of the administrative, investigation, legal and research wings of the Commission are all presently vacant.

On July 31, 2017, there were media reports based on a government notification that Mr. Ambuj Sharma IAS has been appointed as the Secretary General of the National Human Rights Commission.

We would bring to your kind attention and knowledge about the November 2016 report of the Sub-Committee on Accreditation (SCA) of the Global Alliance of National Human Rights Institutions (GA-NHRI) to which NHRC is a member, where it had stated that “**Where an NHRI’s staff members are seconded from the public service, and in particular where this includes those at the highest level in the NHRI, it brings into question its capacity to function independently.**” The report further states that a fundamental requirement of the Paris Principles is that a national human rights institution such as NHRC should be able to operate independent of government interference.

Though the Protection of Human Rights Act, 1993 mentions that an officer of the rank of Secretary to the Government of India shall be the Secretary of NHRC, the manner in which the recent appointment has been made even subsequent to the SCA recommendations of 2006, May 2011 and finally of November 2016 raises serious questions whether those recommendations have ever been placed before your good selves for your kind consideration and action.

The SCA in its report recommended that:

- *the Secretary General be recruited through an open, merit-based selection process; and*
- *the NHRCI consider policy options to address the perceived independence issue created by having former police officers investigate complaints, for example, by providing for civilian oversight of these activities.*

The current vacancies of important positions in NHRC raise serious questions on Government of India's intentions to let the NHRC function independently. Therefore, we request the Government of India to call for applications in public from the eligible candidates for these senior posts vacant in the NHRC as per the recommendations of the Sub-Committee on Accreditation of GA-NHRI and ensure transparency in the appointment process.

It is also important to mention that the High Commissioner for Human Rights has addressed a letter to the Hon'ble Minister for External Affairs dated April 12, 2017 and marked a copy of the same to your good selves to support the National Human Rights Commission of India (NHRC) in strengthening its ability to promote and protect human rights. The UNHCHR states in this letter,

'Developing a strong NHRC which is able to fulfil its mandate independently in accordance with the Paris Principles is vital. National Human Rights Institutions (NHRIs) do work to strengthen good governance and the rule of law in their countries. They act as important bridges, linking governments, parliaments, the judiciary and civil society. They advocate strongly for legal and institutional reforms, monitor places of detention and security institutions and publish regular reports. NHRIs are uniquely placed to monitor and prevent human rights violations through national inquiries into these violations.'

During the review of NHRC in November 2016, the Sub-Committee on Accreditation of the Global Alliance of NHRIs made recommendations to the NHRC which, if implemented, would allow it to function fully in accordance with the Paris Principles. Therefore, I would like to encourage your Government to consider the following recommendations for amending NHRC's legal basis, namely the 1993 Protection of Human Rights Act (PHRA), in order for it to fully reflect NHRC's core functions:

Establishing an open, transparent and merit based selection process for the members of the governing body of the NHRC by giving equal representation to all sections of the society.

Appointing an advisory council to the governing body of NHRC without voting rights comprising NGOs, civil society actors and independent experts.

Empowering NHRC to issue independently its own rules of procedure and guidelines with provisions for citing any person for violations for these procedures and guidelines.

Establishing three additional offices of NHRC in Eastern, Western and Southern parts of India and providing the Commission with appropriate funds to carry out its mandate.

Establishing a toll-free-national- helpline for contacting NHRC in emergency and urgent situations of grave violations of human rights.

Empowering NHRC to cover all relevant cases involving paramilitary forces and the army, including in the Jammu & Kashmir state.

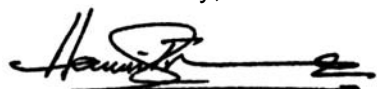
Empowering NHRC to inquire into alleged human rights violations and abuses by the armed forces of India. With a suggest as "If adopted, those measures would improve the international standing of the NHRC and would have a high deterrent value, since the NHRC will have jurisdiction on all cases"

If adopted, these measures would improve the international standing of the NHRC and could have a high deterrent value, since the NHRC will have jurisdiction on all cases. I would very much appreciate for this letter to be shared will both Houses of Parliament. Minister of Home Affairs and Chairperson of the NHRC. My office stands ready to provide continued technical support to the Government of India and the NHRC in these matters.

It is pertinent to note that the NHRC will be evaluated by the Sub-Committee on Accreditation in November 2017 for its accreditation. If the SCA if of the view that the recommendations made in its report on November 2016 has not been followed, it might lead to down grading of the NHRC.

AiNNI is deeply concerned about the status of the NHRC and calls upon the Hon'ble Minister to call for an urgent process within the country in which AiNNI is also engaged to be able to demonstrate our sincerity to firmly equip the NHRC with more independent hands and a diverse staff and ensure that our task to protect and promote human rights is carried out sincerely in line with our international commitments and adherence to Paris Principles.

Yours Sincerely,



Henri Tiphagne
National Working Secretary
AiNNI